By Authority.

APPOINTMENTS.

By the King. It has pleased His Majesty to appoint Robert Moffitt, Esq., to be a Circuit Judge for the First Judicial District, or the Island of Oahu.

By the Minister of the Interior. Messrs. J. F. B. Marshall, J. P. Griswold and S. P. Kalama to be Commissioners of Private Ways for the Island of Oahu.

TENDERS FOR LOANS ON EXCHEQUER BILLS.

The undersigned hereby gives notice that sealed tenders will be received by him up to the first of August next ensuing, from all parties willing to make loans on Exchequer Bills for two years, the bills to be payable to bearer, and the interest to be paid every six months, and to be so provided for by four coupons to each bill.

Fifty Bills of Five Hundred Dollars each, One Hundred and twenty-five Bills of One Hundred Dollars each, and Two Hundred and Fifty Bills of Fifty dollars each, will be issued, so as to complete the sum (not to exceed Fifty Thousand Dollars).

Each tenderer is to state the rate of interest per annum which he demands—to write at top of his letter, "Tender for Exchequer Bills"—to seal it, and address it to the undersigned.

The undersigned will not accept tenders where the rate of interest desired appears to him to be too high.

L. KAMEHAMEHA,
6-7t Acting Minister of Finance.

THE POLYNESIAN.
SATURDAY AUGUST 2, 1856.

The 31st of July.

This Anniversary was according to custom observed as a public holiday. Their Majesties the King and Queen received visits from the Foreign Representatives and Consuls at 12 o'clock noon.

H. B. M.'s Commissioner, H. I. M.'s Commissioner and the Commissioner of the United States, successively offered their felicitations. Dr. Lathrop did so for himself and the other Foreign Consuls, and Messieurs Melchers, Moll and Reiners were introduced upon their several appointments as Consuls of Bremen, Hamburg and Prussia.

☞ The new steam propeller tug-boat was launched on the 31st ult., and, by Her Majesty the Queen, christened *Pele*, a very appropriate name, as those people will confess who are acquainted with our Hawaiian mythology. The King was present on the occasion, as were their R. H. the Princess V. Kaahumanu and L. Kamehameha, with crowds of less conspicuous beholders. The *Pele* though very substantial has not been long in building. The specifications, having by some accident been left in the U. States, were only received on the 26th of April. Tenders to build her were immediately advertised for, and on the 3rd of May, those received were opened. The proposition of Mr. James Munroe proved the lowest, whilst the testimonials of his capabilities as an efficient ship builder were very decided, and his tender was accordingly accepted. So far as we can gather, there is a universal feeling of approval as to the manner in which he has executed the contract. Nothing has been slighted, and whether or no Mr. Munroe has made money by this particular vessel, it is quite clear that he has gained the confidence of the public and those with whom his agreement was entered into. The *Pele* will in a few days be thoroughly prepared to set about her destined work. She is a pretty little thing to look at, although in her case, appearances are of course, but a secondary consideration.

The Runaway Chinamen.

Of the two missing chinamen hitherto alluded to in this paper as being under suspicion of having had a hand in Kauwa's murder, one is already dead and the other in the Fort, having yesterday been committed for trial, at the next term of the Supreme Court, for the murder of Hoopii. The particulars of the second act of the tragedy lately performed amongst us have been so generally disseminated that it becomes unnecessary to give here more than the leading facts. On Monday, then, two natives, Kailiulaula and Hoopii by name, went farther up Manoa Valley than the place where their houses were situated, to gather some ohias or native apples. They took with them a rope and hatchet, for Hoopii who had been up there before on the same morning had a very strong suspicion that the chinamen were near at hand, having seen some plucked hen's feathers in an out of the way place. Presently the two companions came upon the entrails of some fowls, and soon saw a chinaman go down to a stream for water, having at the time a bowl in his hand. Hoopii caught him before he had time to escape and told Kailiulaula to pursue the other chinaman who appeared behind a large tree. He did so and having seized him by the hair received a wound in his hand from some sharp instrument in the possession of the man he was trying to arrest. Just then Hoopii called him back, giving him to understand that the chinamen he had grappled with was killing him. Kailiulaula returned accordingly, letting the hunchback go, and found Hoopii stabbed in one arm and the right breast. The chinaman had two wounds on his forehead. This latter Hoopii bound, tieing his hands behind him and his ancles on the further side of a Kukui tree which was encircled by his legs. Kailiulaula went for help carrying Hoopii's hatchet and the chinaman's knife; when he returned with others Hoopii had been stabbed through the heart three or four times, and the chinaman released from his bonds and missing. Presently he appeared sliding down a bank close by, not dead at that time, although he expired a few minutes afterwards. His wounds were those which Hoopii had originally inflicted with his hatchet. The latter during Kailiulaula's absence, as we stated, had been stabbed again and with a different weapon. The hunchbacked chinaman escaped on that occasion but was taken on Wednesday in Pauoa Valley by Mr. Murray and others, information having been given by a countryman of his who had afforded him lodging the night before. It would seem pretty clear that during the time of Kailiulaula's being away in quest of help he (the hunchback) gave Hoopii his death blow. Nothing but violent exertions on the part of the public officers, prevented the natives from taking his life at the time of his discovery in Pauoa.

☞ The Royal Hawaiian Agricultural Society met for the transaction of business on Thursday the 29th. The President, J. F. B. Marshall Esq., read his annual report, which was encouraging. The Treasurer Mr. G. Williams then read his report, showing that the Society had $2,000 invested, and had lost $820 by theft. This deficiency was discussed, and the Treasurer released from his responsibility to make it good. A report on coffee, and another on Indigo having been read, the President called the attention of the meeting to the difficulties in the way of making the annual fairs exhibitions of the produce and industry of the islands in general. He thought the money spent in premiums would be better employed in introducing what was new and valuable, whether in seed, stock, implements or any other way. It was left for the Board of Managers to decide whether or not there should be another Fair: the duty of employing the funds of the Society, for the furtherance of its objects to devolve upon them if they decided against an exhibition for premiums.

The following officers were elected.

President, JAMES F. B. MARSHALL.
Vice Presidents, B. PITMAN, } Hawaii.
P. CUMINGS, }
L. L. TORBERT, Maui,
R. W. WOOD, Oahu,
H. A. WIDEMANN, Kauai,
S. C. DWIGHT, Molokai,
Corresponding Secretary, W. Hillebrand,
Recording Secretary, E. O. Hall.
Treasurer, Geo. Williams.
Executive Committee, J. H. Wood, S. N. Castle, C. R. Bishop, A. B. Bates, M. C. Monsarrat.

Judges to decide at the Fair next day on the merits of the various articles were then chosen. In the evening the Annual Address was delivered in the Bethel by Dr. W. Hillebrand, whose remarks fully deserved the epithet applied by Mr Wyllie in moving a vote of thanks, when he spoke of them as "highly learned and scientific." The address was prepared with great care, and as a literary effort ought to take an honorable place. The authorities introduced and instances quoted are confined to no circumscribed field of literature or insignificant portion of the earth's surface, and this fact gives to the Doctor's views an interest less local than universal.

We subjoin a list, not quite complete, some of the judges having been delayed a little, of the premiums awarded, from which it will appear that although the Fair was not what could have been wished, the specimens of produce were, notwithstanding, tolerably numerous. We also insert one of the Reports which is good in itself, and valuable for what it contains. The Exhibition of the Native Hawaiian Agricultural Society took place at the same time and place, of the doings of which we presume an account will appear in the *Hae*.

List of Premiums Awarded in 1856.

J. Meek, best imported Bull, cup or $15.
C. G. Hopkins, best native Bull, silver medal $8.
do. 2nd do. bronze medal or $5.
do. best native Cow, silver medal or $8.
R. Armstrong, best fat Ox over 4 years, bronze medal or $5.
C. G. Hopkins, best fat Steer, under 4 years, bronze medal or $5.
J. Meek, best imported Stallion, "Oregon," certificate.
J. Meek, 2nd best imported Stallion, "Glencoe," silver cup or $10.
S. P. Ford, best native Stallion, "Democrat," cup or $10.
P. J. Gulick, 2nd best native Stallion, "Young Oregon," silver medal or $8.
T. Cummins, best native Mare, "Scarlet Feather," silver medal or $8.
T. Cummins, 2nd best native Mare, "Jilt," bronze medal or $5.
J. Meek, best 1 year old Mare, "Fanny," book or $3.
R. Moffitt, best native gelding, "Emerald," bronze medal or $5.
P. J. Gulick, best pair horses in harness, cup or $10.
T. Cummins, best imported Ram, "Boki," cup or $10.
R. Moffitt, best native Ram, bronze medal or $5.
Mr. Sparks, best 2 Merino Ewes, book or $3.
R. Moffitt, best 3 Fleeces, bronze medal or $5.
J. Meek, best imported Boar, bronze medal or $5.
do. do. do. Sow, do. do.
do. do. lot of Pigs, bronze medal or $5.
Mr. Sparks, best Butter, 3 firkins, cup or $10.
H. A. Widemann, 2nd best Butter, bronze medal or $5.
Mr. Sparks, best Cheese, bronze medal or $5.
E. M. Plantation, best 100 lbs. Sugar, silver cup or $15.
Lihue Plantation, 2nd best do., cup or $10.
Brewer Plantation, best Syrup, silver medal or $8.
P. Cummings, best 75 lbs. Coffee, cup or $10.
T. E. Taylor, 2nd best do. do., silver medal or $8.
Kekaha, best sample Wheat, cup or $10.
J. T. Gower, 2nd best do., medal or $8.
A. Archer, best Corn, 20 ears, bronze medal or $5.
V. Kundsen, best bushel do., bronze medal or $5.
J. T. Gower, best peck of white Beans, bronze medal or $5.
J. T. Gower, best variety of Beans, bronze medal or $5.
J. Makee, best variety of Vegetables, cup or $10.
F. A. Oudinot, 2nd do. do. silver medal or $8.
F. A. Oudinot, best Sweet Potatoes, foreign seed, silver medal or $8.
F. A. Oudinot, best 10 heads of Kalo, bronze medal or $5.
J. Makee, best 12 white Turnips, book or $3.
H. Stangenwald, best 12 Carrots, book or $3.
J. Makee, best 12 Radishes, book or $3.
L. Andrews, best 6 Beets, book or $3.
W. Goodale, best 3 Squashes, book or $3.
W. Goodale, largest Squashes or Pumpkins, book or $3.
F. A. Oudinot, greatest variety of Potatoes, book or $3.
F. A. Oudinot, best Grapes, bronze medal or $5.
S. C. Damon, largest Watermelon, book or $3.
F. A. Oudinot, best Bannanas, book or $3.
F. A. Oudinot, 2nd best do., book or $2.
Mrs. Hillebrand, best variety of Flowers, cup or $10.
Mrs. Hillebrand, 2nd best do., silver medal or $8.
Miss Anna McKibbin, best Floral Design, silver medal or $8.
Mrs. Wm. Ladd, best Bouquet, vases or $5.
Mrs. O. H. Wood, 2nd best do., bouquet holder or $3.
Mrs. J. H. Wood, best basket of Flowers, bouquet holder or $3.
Mrs. Stangenwald, 2nd best do., book or $3.
Mrs. Makee, greatest variety of Roses, book or $3.
Mrs. Makee, best collection of Verbenas, book or $2.
Mrs. Makee, best collection of Coxcombs and Pinks, book or $2.
Mrs. B. Judd, best knit Stockings, book or $2.
Miss Gilson, best crochet Collar, diploma or $2.
Miss Montgomery, best wrought flowers, diploma or $2.
Mrs. Melchers, best leather flowers, diploma or $2.
M. R. Packer & Co., best Soap, bronze medal or $5.
Mr. Brinig, best Bread, cup or $10.
M. J. Armstrong, 2nd best, silver medal or $8.
C. A. Hall, 3d best do., bronze medal or $5.
J. H. Wood, best tanned native Goat Skins, bronze medal or $5.
J. H. Wood, best tanned native Cow Hide, bronze medal or $5.
Robinson & Hughes, best Saddle, bronze medal or $5.
Robinson & Hughes, best Bridle, book or $3.
H. A. Widemann, best Kukui Oil, silver medal or $8.

Report on Domestic Manufactures.

To the President, Officers and Members of the R. H. Agricultural Society.

GENTLEMEN:—The undersigned judges on farming implements and domestic manufactures at the annual exhibition of this day beg leave to present their report.

Beforehand we wish to express our regrets, at having observed so very little competition, nay, in most branches of this department no competition at all. Of a variety of articles, which to our own knowledge are now and have been for years manufactured on these Islands, not any samples were exhibited, such as Arrow Root, Pickles, Cigars, Salt Beef, Salt Tongues, Bacon, Straw Hats, Brooms &c. Domestic manufactures of all kinds compose certainly a branch of industry, the development of which is decidedly very desirable and cannot be urged upon the people too eagerly. Surely, in the list of premiums, domestic manufactures are represented in great variety and with great liberality; why then such a limited degree of competition was exhibited to day, we are unable to explain. May the interest which the people ought to take in the Society, but which indeed seems to have decreased considerably in this department as well as others, in comparison with former years, revive henceforth and bring forward at the next show a lively competition, leaving the meagre exhibition of this year far behind itself.

Of all the farming implements for which prizes have been set apart in the catalogue, we find not a single article exhibited. We are the more pleased, however, to notice several pairs of Ox Bows, a new article, the manufacture of which at these Islands, was entirely unknown to us heretofore. The Board of Managers, we are inclined to think, were like ourselves not aware of the manufacture of this article within this Kingdom, and did from this reason not include any premium for Ox Bows in the catalogue. We never supposed that there was any kind of wood on the Islands suitable to be worked into Ox Bows; but are now informed, that those exhibited were made on Hawaii, from a wood which the natives call Neneleau, bearing a similarity to the Sumac; they have been tried by Mr. Metcalf, who recommends them as very superior and authorizes us to say that he uses them entirely. They certainly do appear to us very recommendable in shape as well as quality, and we think they are well worthy of the premium of a Bronze Medal or $5.

We notice a lot of Niihau Mats, exhibited as No. 62; they are the only ones exhibited, and as they are not as superior as we have seen them formerly we are constrained to withold the premium.

A very nice sample of domestic manufactured Soap is exhibited, and although there is no competition in this line, we feel bound to recommend for this lot (No. 6.) the premium mentioned in the list; we leave it however to the Board of Managers to judge in their discretion about it. The Soap exhibited is certainly a good quality, and if any branch of industry ought to be encouraged it is the manufacture of this useful and needful article.

Nos. 19, 20, 21, are samples of Salt of a decidedly good quality; but there is no competition shown, and as we do not think it so *very* superior to the samples of the article of the same works in former years, we do not feel justified to award the premium; moreover we think that the Salt from the same works as the sample exhibited now (Puuloa) took the premium at last year's exhibition. We may mention that we noticed on the Native Table several calabashes of Salt, some of which were of very good quality; but the Puuloa would seem to us superior to all of them.

Bread made of Hawaiian flour was exhibited in three different lots, all of which have undergone a fair trial and careful examination by us. It certainly ought to reflect credit upon the respective bakers, if we say that we should have liked to indulge in the consumption of the samples to the full extent of our appetites, had not the duties of our office limited our time and called us elsewhere much against our wishes. In awarding the prizes (premiums) we grant the first premium cup or $10 to lot No. 5; the 2nd premium, medal or $8 to lot No. 60; and the 3rd premium, medal or $5 to lot No. 54.

We mention samples of nice Poha Marmalade, Peach Preserve, Pineapple Preserve, and Guava Jelly, but there being no competition, we cannot award any premium to either of them.

Of Tanned Native Goatskins several samples were exhibited, all of surprisingly good appearance; we award the prize of a Bronze Medal or $5 to lot No. 48; tanned Native Goatskins finished on the grain.

Of Tanned Native Cowhides, No. 49 takes the premium of a Bronze Medal or $5; being two sides of Sole Leather, which would do credit to any tanner in the old countries.

The lot of Shoes which was exhibited was good but nothing superior.

We notice a very superior Saddle manufactured at the Islands, a beautiful piece of workmanship, and although there was no competition, we cannot but strongly recommend to the Board of Managers to award to it a premium of a Bronze Medal or $5; as we think it would defy competition anyhow.

Bridle and Bit, both manufactured at these Islands are certainly excellent and fully entitled to a premium of $3, or a book.

We now came to several articles, the manufactory of which is more or less a novelty on these Islands, but bids fair to become a very important branch of industry in the course of time.

No. 78 is a sample of a kind of Meal or Farina prepared from the root of the "Jatropha Manihot;" it resembles the Tapioca, and Cassava of the Portugese. Mr. Oudinot, the exhibitor, informs us that he has prepared a sample lot of about 100 lbs., and that the natives are manufacturing it on Maui in place of arrow-root; its cultivation and preparation being much easier than that of the latter. We are sorry not to have seen any arrow-root in the Exhibition to enable us to draw a comparison between the two kinds of meal. Certainly the Jatropha Meal is worthy of notice, and its preparation ought to be encouraged.

Small samples of Fecula (or farina) made from sweet potatoes, and from kalo, which are exhibited are of a very interesting character, and worth mentioning.

We now mention the several samples of Kukui Oil exhibited, in its different stages of refinery. Lot No. 4 is by far the best among them, and we do not hesitate to say that we are of opinion the Board of Managers will do but justice by awarding to this lot a premium. Kukui oil is an article, the importance of which is an acknowledged fact; its manufacture ought to be encouraged, and we are sure whatever quantity will be brought to market wil find a ready sale. We notice a small sample of the Kukui Oil as this lot No. 4, refined by a peculiar process of Dr. Frick's.

We see two boxes of Indigo exhibited by Dr. Frick, and take the liberty to seize this occasion to make some remarks in regard to this article, which, we regret to say, may perhaps in some degree darken the favorable light in which the manufacture of this Indigo has appeared up to this time. We would say that samples of this same Indigo, manufactured last year were, at the special request of Dr. Frick, forwarded to Hamburg for examination, and the result has been anything but satisfactory. We only mention here that it was pronounced to be an article somewhat resembling the Indigo, but far from being Indigo itself; the article had no value at all in the market of Hamburg, where large quantities of real Indigo are bought and sold during the year. Not to discourage however, the bold pioneer of the Indigo manufactory on these islands, we will state that there are now on the way to the islands, in the brig "Emma," a few serrons of good Guatamala Indigo as a sample, to furnish us with an idea of what good Indigo is. We ourselves do not in the least profess to be judges of Indigo—in the above we only quoted the communications of our friends in Hamburg, where knowledge of the article is beyond doubt.

A very fine sample of Cotton was received at the Exhibition after most of the Committees of Judges had already finished their work and left the rooms. By leave of the President we will make a few remarks about it. It is certainly a very superior article, very white, of long staple, and very soft. If such cotton can be produced on the islands, and the fact lays now before us, its cultivation ought certainly to be promoted in every possible manner. Mr. Oudinot, the exhibitor, informs us that hitherto he has cultivated only a small quantity as a trial experiment. He speaks very favorably of the cotton trees found on Maui, and feels confident that planters could pick for five successive years from the same tree without any decrease in quantity or quality of the cotton.

We recommend this branch of domestic produce to the special attention of the Board of Managers.

Respectfully submitted,
GUST. REINERS,
W. A. ALDRICH,
H. A. HOWLAND.

SUPREME COURT---In Probate.

In the matter of the Estate of A. F. Turner, deceased.*

Judge Robertson delivered his decision as follows:

The settlement of this estate belongs properly to the Circuit Court of Kauai, but for the convenience of the parties interested, and at their request I have consented to act for Judge Hardy in the premises.

It appears that, at the time of his decease, Mr. Turner was jointly interested with Mr. John Montgomery of Honolulu, in a dairy farm on the Island of Kauai, which Mr. Turner as managing partner conducted on their joint account. Shortly after Mr. Turner's death, his surviving partner Mr. Montgomery, applied for and obtained letters of Administration on his estate from Judge Bond of Kauai; proceeded to dispose of a portion of the personal property of the partnership—and all the personal effects of Mr. Turner; and paid off the debts of the firm and the private debts of Mr. Turner. On the 20th of May 1854, the Administrator obtained from Judge Bond an order to sell the undivided interest of Mr. Turner in the Wailua Falls Estate. After public notice, the whole estate including the cattle, was sold at auction, and bid off by Mr. Duncan McBride at $2,500, which sale was approved by Judge Bond on the 11th of August following. It is now alleged on behalf of the heirs at law, and admitted by the Administrator, that Mr. McBride did not bid off the estate for himself, but purchased it for Mr. Montgomery, who resold it to Mr. Hoffschlaeger, in September 1854, for $5,950; and the heirs at law ask that Mr. Montgomery be made to account, as Administrator, for one half the proceeds arising from the second sale. It is also claimed on behalf of the heirs at law that Mr. Montgomery is not entitled to any commissions on the proceeds of the real estate, and that he is chargeable with interest on any funds belonging to the estate of Mr. Turner, appearing to have been in his hands from the time he was required by Judge Hardy to account as Administrator.

I deem it unnecessary to rehearse all the points raised by the respective counsel at the hearing, and will proceed to consider the main point made for the heirs at law, in regard to the profits arising from the re-sale of the estate. It is contended on the part of the Administrator that the first sale was a fair one; that public notice was previously given in the usual way, and every opportunity afforded to parties desirous of bidding, that no fraud or unfair dealing is alleged by the heirs at law, and that the sale having been confirmed by the Court, can not now be disturbed.

It is true that the sale was confirmed by the Court, but it was reported by the Administrator as a sale to Mr. McBride, and not to himself, as it is now admitted to have been; and to hold that the sale could not be disturbed on that account, would be to allow the Administrator to gain an advantage under the confirmation of the Court, based upon a mis-representation of the actual facts in the case. But independent of this consideration, I do not think the confirmation of the sale by the Court of much weight, so far as the interests and rights of the heirs at law are concerned, inasmuch as they were at that time un-represented here, except by the Administrator himself. It cannot be said that those heirs have ever acquiesced in or ratified the sale up to this day, although they are now willing to let it stand on condition of their being allowed to share in the profits of the re-sale. It is not contended on the part of the Administrator that it was necessary to sell the real estate, in order to raise funds to pay off either the partnership debts, or the private debts of Mr. Turner, in fact it appears that the proceeds of the furniture, horses and other effects, were more than sufficient for that purpose.

But, apart from any consideration as to the fairness of the sale, or its necessity, it is contended by the counsel for the heirs at law, that Mr. Montgomery could not, under any circumstances, be allowed, whether he is to be regarded as Administrator or surviving partner, to become personally interested in the purchase of the estate, of which he was a trustee for sale. I am clearly of opinion that this position is a sound one, and that it is sustained by the great weight of both English and American authorities. The Administrator is to be regarded in the light of a trustee for all the parties interested, and as such he could not be permitted, while selling property for the benefit of others, to become himself the purchaser. I do not say that where the Administrator becomes interested in the purchase, this renders the sale absolutely null and void, but that in every such case the *cestui que trust*, may, unless he has subsequently, with full knowledge of the facts, acquiesced in such sale, come into Court within a reasonable time, and ask that it be set aside, and the property re-exposed to sale, under the direction of the Court. If a trustee will purchase, he does so subject to this Equity of the *cestui que trust*.

In the case of Davone vs. Fanning et als., cited by the learned counsel for the heirs at law, this doctrine was broadly asserted by Chancellor Kent, after a careful review of many adjudged cases. In that case the executor did not purchase for himself, but procured a third party to purchase the property in trust for his wife, and executed a deed accordingly. He subsequently erected buildings on the land, and mortgaged it to raise money for that purpose. The learned Chancellor decreed that the sale should be set aside and the property, with the improvements thereon, re-exposed to public sale, subject to the mortgage. (See Davone vs. Fanning et als, 2 John Ch. Rep. 251, and cases therein referred to.) I am aware that dicta are to be found in the books, which may be understood as relaxing the doctrine here asserted, but the highest names which have ever adorned the Equity bench, concur in the propriety and wisdom of adhering strictly to the rule, that a trustee shall not unite in himself the character both of seller and buyer. The rule which strikes at the root of the evil, has its foundation in sound policy, and is calculated to guard against the hazard of abuse, by removing the trustee from the temptation to make a gain to himself from his fiduciary capacity. The question in any case is not whether the sale was public or private; whether the property has realized a fair price, or whether any fraud is charged against the trustee. He cannot protect himself from the operation of the rule, as is attempted in the present case, by saying he gave as good a price for the property as could be got from any one else. The *cestui que trust* may say, in all cases, that he will try whether the property will sell to better advantage; and he has a right to whatever profit the trustee has made by the purchase.

This is a peculiar case and demands at the hands of the Court the strictest scrutiny. Mr. Montgomery was doubly clothed with a fiduciary character, being at once the surviving partner and administrator of Mr. Turner. His position in sustaining, in his own person, these diverse characters, while the heirs at law of Mr. Turner reside in a foreign land, was peculiarly calculated to touch and awaken the suggestions of self interest, unconsciously, it might be, to himself. Under these circumstances he became the purchaser of the property, through the intervention of a third party. No case ever came more fairly within the reason of the rule than the present, and it must be dealt with accordingly.

It is argued on the part of the Administrator that the Court cannot now interfere in the matter, because the sale to Mr. Montgomery cannot be set aside, and a re-sale of the property ordered, without disturbing the rights of third parties, and that this is the only relief which the Court can give in any case. I am clearly of opinion that this argument cannot be sustained, either upon principle or authority. It is in the power of the Court to suit the relief to the exigencies and circumstances of the case, and that can be best accomplished in the present instance, by requiring the Administrator to account for a share of the profits arising from the sale to Mr. Hoffschlaeger. In this way substantial justice may be done between Mr. Montgomery and the heirs at law, without disturbing the rights of other parties. Such was the mode of giving relief adopted in the case of Fox vs. Mackreth, 2 Bro. C. C. 400; and in the case of Randall vs. Errington, 10 Vesey's Rep. 423. In the latter case, Sir Wm. Grant, M. R., although the sale was fair at auction, and the purchase by the trustee for a full price, opened the sale at the request of the *cestui que trust*, as to such parts of the property as had not been re-sold by the trustee, and held him to account for the profit made on the part he had sold; and this after the lapse of a number of years.

It is claimed on the part of the Administrator, that if he is held liable to account for a share of the proceeds of the second sale, he ought to be allowed the amount of a pre-existing mortgage on the Estate, paid off by him between the time of the first and second sales, and also for certain improvements made during the same time, calculated to enhance the value of the estate. I think he is justly entitled to this allowance, and an opportunity must be afforded him of showing what amount he is thus entitled to off set.

The next question is as to whether or not Mr. Montgomery ought to be allowed commissions on the sale of the real Estate. It is contended on the part of the heirs at law, that he ought not to receive any such commissions, on the ground that the sale was not necessary to raise funds for the payment of debts. The counsel for the Administrator says he submits the question of commissions entirely to the discretion of the Court, but argues that Mr. Montgomery had a right, as surviving partner, to dispose of the partnership property, and that it was necessary to do so in order to wind up the business. My opinion is that if Mr. Montgomery had disposed of the Estate, as surviving partner, he would not be entitled to any commission, as it is a duty incumbent upon every surviving partner to settle up the partnership business, and account faithfully with the representatives of the deceased. In this case had the partnership business been wound up in that way, and the estate of Mr. Turner been administered upon by the public administrator, there would have been no commissions to pay upon the sale of the real estate, and I do not think Mr. Montgomery is justly entitled to claim any. He did not in fact receive any money, in his character of administrator, either from the first or second sale.

Finally, it is claimed by counsel for the heirs at law, that the Administrator should be charged with interest on the funds in his hands, after the 7th of November last, at which date he was ordered by Judge Hardy to account. It is admitted by the Administrator that he is chargeable with interest, from the time that there was any person within the Kingdom, authorized to receive the balance belonging to the heirs at law.

I think there is no doubt that, in every case where an Administrator having surplus funds in his hands, has mixed up those funds with his own, so as to derive therefrom an increased amount of credit, or has used them in any way so as to gain interest thereon, he is chargeable with interest in favor of the estate; and where it does not appear that the money has been kept separate from that of the Administrater, ready to be paid over when called for, it is fair to presume that he has made use of it, and the rule applies that he ought not to derive any advantage to himself from the trust property. (See Haslar vs. Haslar, 1. Bradford's Rep. 252; Ogilvie vs. Ogilvie, ib. 358; Rocke vs. Hart, 11 Vesey's Rep. 59.) In the present case, it appears that the Administrator has had a considerable balance in his hands, ever since the sale of the estate to Mr. Hoffschlaeger, and even before that time, and I do not see any great force in the argument that, because no one here was at that time authorized to represent the heirs at law, he cannot be charged with interest. If the Administrator wished to relieve himself from the responsibility for interest, he might at any time have paid the funds into Court. I think the great question is, has he used the funds himself? If so, he must be charged with interest, and the *onus* is upon the Administrator to show that he has not done so. I think he is liable, beyond a question for interest from the 7th of November at least. The decision in each case must depend, in some measure, upon its own peculiar circumstances, and in this case I think the Administrator may fairly be called upon to pay interest from the date indicated above, upon any balance then appearing to have been in his hands.

C. C. Harris, and J. W. Marsh, Esqs., for the Administrator.

P. C. Ducorron, Esq., for the heirs at law.

[IN ADMIRALTY.]

Edward Moll and Gustavus Reiners, Assignees of Swan & Clifford, *vs.* Bark *George* and G. B. Post & Co., intervening.

CHIEF JUSTICE LEE, delivered his decision as follows:

On the 12th of March last, a writ of attachment issued out of this Court against the Whaling Bark *George*, her tackle, apparel, furniture and outfits, at the suit of the libellants, who filed a claim to recover possession of the same, and damages for her wrongful detention.

At the hearing on the 22d of March, Joseph A. Post, on behalf of himself, G. B. Post and E. H. Allen, known as the firm of G. B. Post & Co., of San Francisco, intervened, and claimed that the said G. B. Post & Co., were rightfully in possession of the vessel; that she was registered in their names, and that they were the true and lawful owners of the same; and their counsel asked for time to procure evidence of their ownership from San Francisco. Accordingly letters rogatory were issued to procure the necessary testimony. On the 14th of June they withdrew their claim, and the counsel for the libellants now moved the Court for judgment of possession and damages for the wrongful detention of the said vessel. No objection is made to the motion of judgment for possession, but the counsel for G. B. Post & Co., contends that this Court has no jurisdiction to award damages for the wrongful detention of the vessel; and that the libellants should be compelled to seek their remedy for damages in a separate action in another Court.

I am clearly of opinion that this court has jurisdiction in this case to award not only possession of the vessel, but damages for its wrongful detention; and that to drive the libellants to a new action for that purpose, would be inconsistent with reason, justice and the law.

"No doubt exists," says Judge Story, "that the Admiralty possesses authority to decree restitution of ships, wrongfully withheld from the owners; and if so, it ought to possess plenary jurisdiction over all the incidents." De Lovio *vs.* Boit, 2 Gall. Rep. 398. Jurisdiction of the principal matter, carries with it jurisdiction of all the incidents thereto, and we know of nothing more clearly incident to an action for possession of a vessel, than damages for its wrongful detention. Possessory actions in Admiralty, to recover ships or other property, are analogous to the action of replevin or detinue at the common law, (Benedict's Admiralty, Sec. 276,) where judgment is given, not only for restitution of the property, but for damages for its detention. It does not follow from this doctrine that damages will be awarded in every case where possession is decreed; for that rests in the sound discretion of the court, which may give damages or not, as justice and the circumstances of the case may require.

In the case of G. B. Post *vs.* Schooner *Lady Jane*, the court decreed possession, but refused damages, thinking that none could be justly claimed. Now, how stands this case? Have the claimants, G. B. Post & Co., shown any good claim or *bona fide* title to the vessel; have they given any good reason for interposing their claim, or for withdrawing the same? I think not. But on the contrary, it appears in evidence that they stated to Capt. Brown, in February last, that they had no right, title or interest whatever in the Bark *George*; and also to Mr. Coady in December last, after the *George* had sailed, that they had no property in the Bark, or claims against her, that they were the registered owners, but merely held her for Swan, because he was a Hawaiian subject and could not have an American vessel registered in his own name. So far as the evidence goes, it does not appear that Post & Co. had the least right or property in the *George*, at the time of filing their claim, and I do not see upon what principle of reason or justice they can expect to escape the payment of damages for depriving the libellants of possession.

It now remains to determine what amount of damages the libellants are entitled to recover. It is contended on one side that the true measure of damages in cases like the present, is the depreciation in market value of the property, between the time of refusing the possession of the same, and the time of rendering judgment for its restitution; while on the other side it is claimed to be simply the interest on the value of the property. I think neither of these rules is right, for it will be seen at a glance, that while the property has really deteriorated in value, and the owner suffered a real loss, yet its market value may have risen. The owner of the property may not wish to sell it, and in such case will it be said that he shall have no compensation for his loss? If he had made a contract for the sale of the vessel at a certain price, and had been unable to carry out that contract on account of the wrongful detention of the vessel and had subsequently been compelled to sell her at a less price, the court might award the difference as damages, together with interest. But such is not the present case. Neither is the view that interest on the value of the property is a sufficient compensation, a just one; for in that case the owner would receive no allowance whatever for the injury his property may have sustained. The true rule I believe to be that adopted in cases of replevin, namely, that the plaintiff is entitled to recover, as damages for the detention of the property, the interest on its value and compensation for any deterioration in value of the property during its detention. (Sedgwick on Damages 50[illegible])

Now, what are the damages as measured by the rule? The value of the vessel as the time of the intervention of Post & Co. has been variously estimated at from $8,000 to 14,000, and from the evidence I think a fair valuation would be $10,000. The interest on which, during the detention, would amount to $276 77. The deteriation of the vessel, her apparel and outfits, during the detention, is not so easily ascertained. We have had a great number of witnesses on this point and they vary in their estimates any where from $300 to $2000. The average of these estimates is in round numbers of $1,100. The best evidence on this point, I think, is that of Mr. Holt, Mr. Emmes and Capt. Downs, who went on board the vessel, examined her thoroughly, and who are fully competent to pass upon the question of her deterioration. The average of their estimates is $933 33, and this we decide to be her deterioration. The account will stand then as follows:

Interest on value of Ship, -	$276 77
Deterioration, - - - -	933 33
Total, - - - -	$1,210,10

Let judgment be entered in favor of the libellants for possession of the vessel; and also judgment in their favor against G. B. Post, J. A. Post & E. H. Allen, for the sum of $1,210 10, together with the costs arising from their intervention.

A. B. Bates, and J. Montgomery, Esqs. for Libellants.
C. C. Harris, Esq., for Claimant.

Correspondence.

To the Editor of the Polynesian:

Permit me to call the attention of your readers, to the smoky condition of the atmosphere, which, since yesterday morning, obscures the outlines of our nearest hills and hides the distant mountains entirely from our eyes. It seems to be equally thick from all quarters of the compass, over sea and over land. Last year, about the time, when the volcano in Hawaii was most active, a similar haze was observed here. The warmth and dryness of the air forbid us to call it mist or fog. We should be glad to hear from other parts of the islands, if the same phenomenon has been noticed, and the precise time when it began. On inquiry we have heard it referred by some to the volcano, by others to a large grass fire on East Maui, but it seems to us neither of the assigned causes gives a satisfactory explanation. The natives do not consider its occurrence very uncommon, and from the fact that they call it "uahi a Pele," appear to trace it to volcanic action, although they deny its being owing to a real eruption. Any information by old residents about previous occurrences of this haze and its probable cause will be most welcome.

Yours truly,
Honolulu, Aug. 1, 1856. W. H.

FOREIGN NEWS.

By the *Boston*, 22 days from Acapulco we are in receipt of New York papers to the 20th of June.

Mr. J. Buchanan had been nominated for President and Mr. J. C. Breckenridge for Vice President, by the Democratic Convention.

The Republican nominees were Messrs. J. C. Fremont and W. L. Dayton of New Jersey.

[NEW YORK, JUNE 18th.]

By the United States Mail steamer *Arago*, Capt. LINES, arrived yesterday, with the French and English mails, we have dates from Havre and Southampton to the 4th inst.

The *Arago* left Havre on the 4th of June, and Cowes at midnight same date. She brings 175 passengers, the usual mails, $45,000 in specie, and 230 tons merchandise. The French steam propeller *Alma*, which left Havre dock June 3, for New York, was at anchor off Havre when the *Arago* left, something being the matter with her screw. Forty of her passengers left and came by the *Arago*.

The *Atlantic* was telegraphed off Holyhead at 2 P.M. on Wednesday, June 4.

Ex-President FILLMORE was passenger on board the *Arago* from Havre to Cowes, and will return to America by the *Atlantic*, leaving Liverpool June 11.

The U. S. Mail steamer *Hermann* arrived off Cowes *en route* to Bremen, on the 31st ult.

The Royal Mail Steamer *America* reached Liverpool on the 1st inst.

The yacht *Sylvie*, sailed on the 4th from Southampton to New York, in charge of Capt. Comstock.

The Central American question was assuming a feature of considerable interest and importance in England. The news received by the *Hermann* and *Asia* having added not a little to the excitement previously existing, was the means of calling forth the fiercest powers of the various English journals.

The *Times*, in a leader of some length, scoffs at the idea of war on the part of Spain with Mexico, and considers it more like a dream to amuse the imagination than a serious incident in the sober domain of reality. It says that not a month would pass from the day that the first of the half-dozen ships which constitute the Spanish Navy had driven into Vera Cruz the brig which constitutes the navy of Mexico, when swiftly and sharply the Government at Washington would intervene in the discussion and remove its solution to the bay of Havana.

The question of the Danish Sound Dues is at last be brought under the consideration of Parliament. The Chancellor of the Exchequer had given notice that on the 6th inst., he should move for a Select Committee to inquire into their operation, and to consider in what degree they were detrimental to the commerce of this country.

The failure of M. HENRI PLACE, one of the administrators of the *Credit Mobilier*, and until recently member of the well-known banking firm of Non[illegible] PLACE, of Paris had a depressing influence on the Paris Bourse. The liabilities are stated at about three quarters of a million sterling, and to meet this enormous sum the assets available are exceedingly small. The *Credit Mobilier* will, it is stated, be involved the loss to a small amount only. The failure has been caused not from any sudden change in the value of securities, but from speculations of long standing—recent fluctuations at the Bourse having merely brought matters to a crisis.

On the 2d June Her Majesty laid the foundation stone of a new Military College to be erected to the memory of F. M. Duke of WELLINGTON.

Although the poisoner, Palmer has been tried, convicted, and sentenced to be hung, yet many doubts existed in some of the English minds as to the actual proof of the prisoner's guilt. The medical profession are in part annoyed at the preference which was given to the testimony of some of the witnesses, and requests have been made to have the body of Cook exhumed, so as to make another analysis, it being guaranteed that if poison was administered it is possible of detection.

The great International Exhibition of Agriculture was opened at Paris on the 1st June, and the show was crowded throughout the day.

No disturbances have resulted in London from the withdrawal of the military bands from the parks on Sundays. The people have obtained a substitute for their amusement, and private bands are in regular attendance.

The Paris correspondent of the London *Times*, writing on the 2nd of June says: "The difference between the French and Belgian Governments, which has led to a certain degree of estrangement between them, is, I am told, in a fair way of settlement; or, rather, is almost settled as far as the Cabinets are concerned. The latter has engaged to bring in a bill to render more stringent the provisions of the law on the press. The great difficulty was in the Chamber, but the Belgian Government makes sure of having a majority to pass the measure."

The Vienna correspondents of the *Times* writes that the visit of the Emperor ALEXANDER to the King of Prussia is there considered a regular demonstration against Austria.

In consequence of the intelligence from the United States confirming the recognition of Walker's Government in Nicaragua, the funds had consequently declined. The closing prices on the 3d were, Consols for money, 84 1-8a94 1-2. For the 10th July last the regular price was 95a95 1-8, and later transactions took place at a slight reaction. New loan scrip 1 1-8 prem. Bank Stock, 216 1-2a217 1-2.

There was no alteration in the Corn market from previous rates.

The trade reports from the provincial towns for the week show a tendency to dullness which has been partially checked by the reduction in the Bank rate of discount. The weather and the holidays were some of the causes which had interfered with business.

In the Evening Edition of the London *Times* of the 4. Consols for money are quoted at 94 1-8a94 1-4.

☞ We call attention to the advertisement of Messrs. Redington & Co., of San Francisco. They are the Pioneers in the wholesale Drug business on the Pacific, and from their seven years experience in the trade, have the greatest facilities for supplying the wants of dealers. Those in want of articles in their line will do well to send them an order.