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VOL. V. No. 981.

HONOLULU, H. I., THURSDAY, AUGUST 4, 1898.

PRICE 5 CENTS.

## BISHOP ESTATE ACCOUNTS

Receipts and Expenditures Are Each  
Between \$300,000 and \$400,000.

Important Doings of Trust for Past Year—  
Lease Homesteading of Lands—The  
Kamehameha Schools

The annual account of the Trustees under the will of Bernice Pauahi Bishop, for the year ending June 30, 1898, has been filed in the office of the Clerk of the Judiciary. It exhibits receipts amounting to \$362,362.70, and expenditures to \$359,724.48, leaving a balance to the good of \$2638.22. The report of the Trustees is attached. It relates the doings of the Trust, some of which were published at the time of happening.

Hon. S. M. Damon's resignation as a trustee when he went to England to attend the Queen's Jubilee is noted, also his reappearance upon his return. Hon. W. O. Smith was appointed in Mr. Damon's place, but the retirement of Hon. Cans. R. Bishop, owing to constant residence from Honolulu, made another vacancy, which Mr. Damon filled. Referring to Mr. Bishop's retirement the report says: "This action, although known by Mr. Bishop's co-trustees to have been taken for the best of reasons, caused sincere regret, as it was appreciated that no one on the Board was as familiar with the Trust, its inception and objects, as Mr. Bishop."

Reference is made to the decision of the Board that it was for the best interests of the Trust to sell the Molokai Ranch, and to the realization at public auction of \$251,000 for the property.

The powers of the Trustees under the will of Mrs. Bishop, in disposing of property, had been declared in their favor by the Circuit Court, whose decision had been carried to the Supreme Court for jurisdiction by that body.

Certain lands in Kona, Hawaii, held for sometime past as one tenancy by a hui of native Hawaiians, have been subdivided into lots ranging in area from three acres to one hundred acres each. Many of the lots of lesser area have been taken by the Hawaiians, members of the former hui, on leases for terms of twenty-one years. The remaining lots are being taken by outsiders.

Mention is made of the beautiful chapel on the grounds of the Kamehameha School for Boys, completed during the year and formally transferred to the trustees by Hon. Charles R. Bishop as a gift to be known as the "Bishop Memorial Chapel" in memory of Hon. Bernice Pauahi Bishop, foundress of the schools. The three schools—Manual, Preparatory and Girls'—now use the splendid building for union Sabbath services. The grounds around the building have been improved, at an expense of some \$7202.46.

Professor Theodore Richards' retirement as principal, with the succession of the former vice principal, Professor U. Thompson; also the creation of the Agricultural Department, under the charge of Professor T. S. Sedgwick, a graduate of the State University of California and a practical agriculturist and horticulturist, are noted.

An inventory shows the property acquired in the year, including rights of way in Hotel and Vineyard streets by deeds of exchange with the Government. Also property conveyed, which includes the lot on Queen street and the harbor front, condemned and taken by the Government for \$12,000. The personal property consists of cash on hand \$2638.22 and bills receivable \$231,273.20, making a total of \$233,911.42. Bills receivable are all secured by mortgages and other securities.

Remnant day tomorrow Sachs'

## THAT PROTEST.

Mr. Carter Corrects a Statement—Hawaiians Will Act.

Mr. J. O. Carter requests us to modify the statement credited to him in the BULLETIN's issue of Wednesday. He is aware that a draft of a protest against annexation was made sometime since; that he is not advised of its formal adoption by the Hawaiian Patriotic Societies.

[Leaders among the Hawaiians opposed annexation state there is no doubt of the protest being adopted and presented to the proper authorities. How, when or where this will be done is not stated.—Ed.]

## TRIAL FOR ROBBERY.

Other Matters at Circuit Court Term and Chambers.

Keawe and Koi were put on trial by a Hawaiian jury before Judge Stanley yesterday afternoon for robbery in the second degree. They are alleged to have made a Chinaman stand and deliver, the booty amounting to \$7.90. Chillingworth assisting prosecution; Kaulakou and Da Bolt for defendants. Trial still on.

John Braun V, on his plea of guilty to the charge of assault with intent to rape, was sentenced by Judge Stanley to be imprisoned at hard labor for six months with costs. Defendant had no counsel, said he was too poor to employ any. Through Mr. Grau as interpreter he said he knew no reason why the Court should be lenient with him. Braun is a German who came here from San Francisco five years ago.

Sentence was suspended on Soy, a Japanese boy, for larceny second degree, until the November term, when "the Court expects said defendant to be present." Kaulakou appeared for the boy.

Harry T. Mills, a foreigner who has been a school teacher on Hawaii, has been admitted to practice law in the courts of the Republic of Hawaii. His character certificate is signed by T. B. Murray, Ed. Towse and J. Egan.

The Kahului Railroad Co. by its attorneys, Kinney & Ballou, files a joinder in demurrer in its action for debt against the Hawaiian Commercial and Sugar Co. Kinney & Ballou file exceptions of defendant to the decision of Judge Perry in the case of Charles Notley vs. Kukaiiau Plantation Co.

## IT'S THE FRANCHISE.

Does Not Appear that Native Societies Considered a Protest.

There was a joint meeting of representatives of the Hai Kalaiaina and the Aloha Aina, native patriotic societies, yesterday afternoon. A man from Maui who attended says a memorial was considered to be presented to the Hawaiian Commission under the Newlands resolution. Its subject was the electoral franchise. From the same source it is gathered that there was nothing done about a protest against the raising of the American flag. The BULLETIN's informant, who talked with the man from Maui, says the protesters chiefly come from Maui. Perhaps Maui is playing for a local garrison and heavy gun defenses on the summit of, Haleakala.

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## TRANSPORTS HAVE SAILED

City of Puebla and Peru Now on Way to Manila.

Crowds on Wharves Say Aloha—Men Cheer for Red Cross Society—Major Otis Visits Admiral Miller.

Aloha oukou!  
The last two of the four transports have sailed for Manila with their hundreds of men under the banner of Uncle Sam.

The Peru men were all aboard ship by 10 o'clock and in the places on the wharves were crowds of warm friends made during their stay here, present to wish them a successful trip.

The City of Puebla men were more reluctant about going and it was not until officers and members of the guard had run about the wharves for fully fifteen minutes that all the men were safely aboard. There was a last word here and a tender farewell there. Then came letters to be posted and fruit and other provisions to be bought from vendors on the wharf.

While all this was going on Major General Otis and members of his staff were paying their respects to Admiral Miller aboard the Philadelphia before departure for Manila. At the termination of the call and as General Otis was being rowed ashore, a salute of twenty-one guns was fired.

Upon arrival aboard the Peru General Otis sent orders over to the City of Puebla and in a short time she had cast off her lines and was steaming out of the bay. When she was well out the Peru cast off her lines and followed.

There were crowds on both the Irmgard and Brewer's wharf before the departure of the transports. Young ladies with leis besieged the boys in blue.

On the latter wharf there arrived just before departure, a large number of pineapples and coconuts for the boys from the Red Cross Society which brought forth many a cheer for that organization.

While people were busy passing the fruits aboard the Puebla, Jim Kupibe, one of the harbor policemen, was busy hunting up intending stowaways. Three native Hawaiians were brought ashore. One was on deck and two more were in the bunks of soldiers as if they belonged there. All three said it was their intention to go to Manila as soldiers if such a thing were possible.

The Peru boys were crowded up against the rails and into the rigging of the ship. About twenty men got together and sang "On the banks of the Wabash." Among those who were on the wharf to say good bye were Mrs. H. M. Sewall and Consul General Haywood.

Just before the departure of the City of Puebla the measles patients who were taken to the quarantine station a few days since were returned aboard ship and placed in comfortable quarters.

## Let the People Sing.

It is suggested by a musician, in view of the difficulty of getting a trained chorus for patriotic songs on flag-raising, that the singing be left to the people at large.

Just let Professor Berger lead with the band accompaniment, and leave the rest to civilians, the Hawaiian military, blue-jackets and any boys in blue that may be present. Judging by the good account given of "America," "Star Spangled Banner," etc., on recent social occasions, as well as on former glorious Fourth's, perhaps this musician is more than half right. One reason for the difficulty in getting regular choristers enlisted is the absence of many of them from town.

## ADMIRAL MILLER RECEIVED

He Pays a Friendly Visit to President Dole and Cabinet.

Nothing Was Said About Flag Raising—Indications Put Event Some Days Hence—Executive Council.

Admiral Miller, attended by his staff, paid a formal visit of courtesy to President Dole and the Cabinet shortly before noon. The President was attended by his military staff in full uniform, and a guard of honor under command of Captain Zeigler was paraded.

As the Admiral and his staff were descending the front steps after the reception, a representative of the BULLETIN going up was cordially accosted, first by Lieutenant Winterhalter and then by Admiral Miller. The Admiral in a pleasant manner answered an allusion to the keen anxiety of the community about his auspicious errand to Honolulu on this occasion.

He said in effect that this was a place where people should not be in great haste about anything. Everything in Honolulu flowed along so smoothly. There was no occasion for hurry, and more than a day should be allowed to arrange an important event.

The pleasantries were taken by the reporter as a happy way of intimating to the community, through the BULLETIN, that the formal transfer of sovereignty over Hawaii to the United States would not take place tomorrow.

Replying to an acknowledgment of his kindness in bringing San Francisco files to the local press, the Admiral mentioned that all naval vessels were now required to carry mail between San Francisco and Honolulu.

Minister Cooper was asked after the reception if anything had been done about the flag-raising. He answered there had been nothing whatever. It was not mentioned during the Admiral's visit, which was purely a friendly call. No, the Executive had as yet had no conference with Minister Sewall. It had not even reached the stage of making an appointment.

Minister Damon, in conversation later, said that Admiral Miller had mentioned that he would make an official call on the President and Cabinet, in company with Minister Sewall, "in the course of a few days."

Altogether, it would appear as if the ceremony of raising the flag may not take place—as the information of the Call quoted yesterday had it—until after the arrival of the American members of the Commission.

Minister Sewall was seen in regard to the flag raising and spoke as follows: Not even the preliminaries have been reached. Admiral Miller made two formal calls on me this morning, but nothing was done in regard to the flag raising. I have been busy all morning with my mail. As soon as the Government, Admiral Miller and myself can settle on a program, something definite can be done. The flag will not go up tomorrow. It is doubtful if it will go up on Saturday. The early part of next week is a more likely time.

## Bicycle Repairs

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## MATTER OF JURISDICTION

Brief of Attorney Davis to Support His Contention.

Submitted that All the Proceedings Against an Accused Person Are Void for Want of Jurisdiction.

In the matter of the application of W. D. Hamilton for a writ of habeas corpus.

Before the Honorable Chief Justice of the Hawaiian Islands, in Chambers.

## BRIEF ON ARGUMENT.

It is submitted, 1st. That by a joint resolution passed by the Congress, senate, and signed by the President of the United States, on the sixth day of July A. D. 1898, all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands was ceded and transferred to the United States of America, which said cession was accepted, ratified and confirmed by the Government of the Republic of Hawaii and that after the signing of these resolutions by the President of the United States the Hawaiian Islands became annexed as part of the Territory of the United States and subject to the sovereign dominion thereof.

It is also submitted that all the proceedings against this petitioner are absolutely void for want of jurisdiction:

First. The act of Hamilton and the commission of the alleged offense was committed against the sovereignty of the Government of the Republic of Hawaii, to wit on the day of , and before the signing of the Resolution by the President of the U. S.

An act to be criminal must be alleged to be an offense against the sovereignty of the government, this is the very essence of crime punishable by human law.

The act of Hamilton was done in the jurisdiction of the Republic of Hawaii and against the sovereignty of the Republic of Hawaii, therefore, this act done in one jurisdiction cannot be an offense in the sovereignty of another. 1 Bishop New Criminal Law Section 114. State v. Carter, 3 Datcher 499, 501; State v. Kelly, 76 Main 331; 49 American Report 620; 47 American Report 247; Green v. State 65, Alabama 40, 45; 41 American Report 744.

The alleged offense of Hamilton was committed in a foreign country, to wit: the Republic of Hawaii and against the sovereignty of that Republic, and the United States of America and the Republic of Hawaii at the time of the commission of the alleged offense were as separate and distinct as the Republic of Mexico and the United States of America. An act done in one jurisdiction is not an offense against the sovereignty of another. In general and prima facie the government of one country has neither interest nor power to enforce its will within the limits of another country or outside of its own territorial bounds, therefore neither written or unwritten law has any extra territorial force.

Second: It is submitted that Hamilton must be discharged and that a writ of Habeas Corpus is the proper remedy beyond question. The Court or Judge on Habeas Corpus when an Indictment has been preferred and is pending may proceed to inquire whether it charges any offense known to the law, for this goes to the jurisdiction and is always a proper subject of inquiry in a proceeding of this character. If it appears that the process was issued and an Indictment found in a case not allowed by law and in which therefore the Court had no jurisdiction to commit the prisoner may claim his discharge as a claim of right. Church on Habeas Corpus, 316; 22 Cal. 178. Third: But there is a serious

and fatal defect in these proceedings. The petitioner is charged with a capital offense, to wit, murder, and a bill of indictment was preferred against him by the Attorney General of the Republic of Hawaii in the name of the Republic of Hawaii and against its sovereignty. The Second Judge of the Circuit Court of the First Circuit of the Hawaiian Islands, it is claimed without authority of law or jurisdiction and contrary to Article 5 of the amendment to the Constitution of the United States, found a true bill upon this indictment. The resolutions annexing this country provide that municipal legislation of the Hawaiian Islands not contrary to the Constitution of the United States shall remain in force until the Congress of the United States shall otherwise determine. The finding of a true bill by a Circuit Judge or any other person or body except a grand jury properly and legally summoned and acting at a term of Court is a direct violation of Article 5 of the amendment to the Constitution of the United States. The declaration of Article 5 of the amendment to the Constitution that no person shall be held for a capital or an infamous crime unless on a presentment or indictment of a grand jury is jurisdictional and no Court in the United States has authority to try a prisoner without indictment or presentment in such cases. See *ex parte Bain* 121 U. S. Reports.

This case holds that a writ of habeas corpus is the proper proceeding and that unless an indictment is presented by a grand jury the prisoner is entitled to his discharge.

The Hawaiian Islands it is contended are a part of the United States and subject to the sovereign dominion thereof absolutely, and the resolutions by which this country became annexed expressly provide that any law which is contrary or inconsistent with the Constitution of the United States shall not remain in force. What power then or authority has a Circuit Judge to find a true bill against a prisoner for murder and place him upon his trial? Such an act is a direct violation of the Constitution of the United States and has been so declared and decided by the Supreme Court of the United States. In the case of *ex parte Bain* 121 U. S. Reports.

It is therefore submitted that outside of the question of where the act was committed and against whose sovereignty, these proceedings are absolutely void for want of jurisdiction and that Hamilton must be discharged from custody.

Respectfully submitted,  
GEO. A. DAVIS,  
Counsel for the petitioner, W. D. Hamilton.  
Dated Honolulu, August 6, 1898.

"Does your cook make any trouble when you presume to go in the kitchen and tell her how to do things?" "Oh, no; she doesn't take any notice!"

Reactor—Remember, my young friend, there are things in life better than money. Young friend—Yes; I know that; but it takes money to buy them.

Additional Local News on eighth page.

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