COMMERCIAL.

HONOLULU, DECEMBER 19, 1883.

Since last writing business has been very quiet, the prevalence of a heavy storm which lasted—without intermission from the 16th to the 18th inst.—tended to retard the expected increase in business in general lines of trade and which was naturally to be expected at this season of the year. Besides the dullness in local trade, business commercially has also suffered from the bad weather prevalent, few vessels arriving from windward and many of those without cargoes of our chief product. The steamer Kinau was one of the vessels that returned to port without bringing sugar, and as a consequence the O. S. S. Mariposa sailed eastwards with a lighter cargo than was expected.

An event of more than usual importance occurred during the week and relative to the $130,000 Hawaiian coin brought hither by the Mariposa and for which it was intended by the "powers that be" to exchange Government 6 per cent. Bonds. On the presentation of a petition, objecting to the intended transfer as being illegal etc. the Court upheld the petition and the coin is yet undistributed. As a good pro quo the Government now demands the payment of 25 per cent. of customs duties and taxes in U. S. gold, a measure intended as retaliatory and in reality subject, the Government not complying itself with the law in relation to the payment of gold coin.

The arrivals during the week from foreign have been all. The departures consist of the Mariposa and Catherine both for San Francisco, and the German bark Mazatlan for Mexico.

The O. S. S. Alameda sailed also now from San Francisco on the 23d inst. with dates to the 19th inst., and the Australia is due from the Colonies the next day, Dec. 20th, probably sailing immediately for San Francisco.

PORT OF HONOLULU.

Sailed.

Dec. 16—OSS Mariposa, Howard, for San Francisco
17—Am bk Catherine, Hubbard, for San Fran.
17—Ger bk Mazatlan, Sander, for Mexico

Vessels in Port.

MERCHANTMEN.

Am bk Spartan, Crossby
Br bk Henry James, Lattimore
Ger bk Christine
Am bk D C Murray, Underwood
Am brig Hazard, Hersey
Am schr Annie Larsen, Larsen
Am bk C O Whittemore, Calhoun

IMPORTS.

From San Francisco, per Mariposa, December 16—[illegible] barrels sugar, 2019 bunches bananas, 400 bags rice, 400 bags green apples, 1 case machinery, 1 case passengers, 22 sacks beans, 1 box tacks, 1870 bags potatoes, 15 bundles dry hides, 5 bundles sheepskins, 3 bundles goatskins, 26 pkgs merchandise.

From San Francisco, per Catherine, December 17—[illegible] bags sugar, 230 bbls molasses, 3242 bags rice, 2 bags coffee, 21 bbls salmon, 5 bbls fish, 1 bbl gin, 120 bundles Dakotas.

PASSENGERS.

For Kauai, per Jas Makee, Dec 14—D D Baldwin.

From Windward Ports, per Kinau, Dec 15—M C Parke, Miss Parke, A H Parke, J G Dowsett, G F Benton, E A Burchardt, W Weaver, Rev H P E Whiting, T J Lynch, Mrs M E Newton, 2 children and 2 consular, H Vida, Master F Vida.

For San Francisco, per Mariposa, Dec 16—H P Wood, A Hoffmann, Mrs Sherwell, D R Graham, A C Dowsett, C W Stoddard, D Keyes, R Sterling and wife, E Waterman, J Burke, J Murphy, J H Barnes, S D Tenney and wife, H Netter, F M Hoffer, E J Nicholls, J W Foster and wife, W Lindhop, J Hollis, C A Doody, O Pandorf, J Hopkins, C Harris.

From Kauai, per Iwalani, Dec. 17—Q N Wilcox, Otto Isenberg, W H Rice, W E Rowell, G Irwin, Miss Hahn, Miss F Farris, J Dixon, Donald, and 15 deck.

For Hamakua, per C R Bishop, Dec. 17—L A Thurston, Paul Jarrett, Miss A Rickard, and 15 deck.

BORN.

In Honolulu, Dec 9th, to the wife of David Simpson, a son. [San Francisco papers please copy.]

In Honolulu, Dec. 12th, to the wife of F. H. Powers, a son.

In Honolulu, December 16th, to the wife of M. Hyman, a son.

In Honolulu, December 14th, to the wife of A. Fernandez, a son.

MARRIED.

O'BRIEN—WILSON—In Honolulu, December 9th, by the Rev. Alex. Mackintosh, THOMAS O'BRIEN to Miss LIZZIE WILSON. Troy, N. Y. papers please copy.

DIED.

SHAW—In Honolulu, December 12th, of heart disease, EDWARD SHAW, third son of the late John Shaw, aged 2[illegible] years and 10 months.

WOODS—At his residence, Pauhoa, Kohala Ranch, Hawaii, on Sunday, the 9th instant, JAMES WOODS, Esq., aged 86 years.

ISLAND LOCALS.

ABOUT TOWN.

The "independent ticket" is meeting with much favor among native voters.

Paul Neumann Esq., has been appointed to the position of Attorney-General.

The general public have probably greatly blessed the condition of the streets and sidewalks, during the late storm.

Attention is directed to the location of the letter boxes in the city, as per Post Office notice in another column.

A Christmas tree will be given to the pupils of the St. Andrew's Sunday School on the evening of December 28th.

The barometer at noon on the 13th during the prevalence of the Kona storm indicated 29.60 and rose afterward.

What is to be done relative to the bringing in of the Mariposa contrary to the rules of the Board of Health, anything?

Mr. A. Hoffmann, of London, after transacting his Immigration business here, left by the *Mariposa* on Sunday last.

A good many thousand dollars will be required to be expended in placing the sea wall in as good condition as it was before the *Kona*.

Dr. Parker the secretary of the Board of Health has been appointed to fill the duties of Port Physician *vice* Dr. Trousseau resigned.

His Majesty is reported to have forwarded to England an order for a steam yacht, the estimated cost of which is given at £7,500 or $37,500.

Tree trimming is most necessary, the overhanging branches in many parts of the city being uncomfortable to pedestrians, especially at night.

The children attending the Government Schools will commence their Christmas and New Year's vacations on the 21st inst. ending January 9th, 1884.

The President of the Humane Society has issued circulars inviting citizens to join the organization and it is to be hoped that his appeal will be effectual.

Col. George Macfarlane was decorated on the evening of the 14th inst., with the insignia of a Knight Commander of one of the Orders of the King of Siam.

The road supervisor Mr. T. Lloyd is continually making improvements to the roads in the district of Koolaupoko and but little growling is heard in consequence.

Kaneohe bridge is now finished, cement foundations having been put in, and all the approaches bulkheaded. Two new bridges have been put in place at Heeia.

A. Kaulia is the Government candidate for the Legislature for the district of Koolaupoko. Last year's representative intends to try his fortune in the capital city.

The remains of the late Hon. J. Moanauli were buried from his late residence, on the 12th inst, and were followed to the grave by a large concourse of mourning friends.

Great damage has been done in Koolau, by the storm of last week. The Episcopal Church at Kaneohe has been destroyed and the cane throughout the district considerably injured.

A fine portrait of the late Mr. E. O. Hall is on exhibition at Williams & Co.'s. It is the work of Mr. Hasselman, who has enlarged it from a photograph taken in Rome four years ago.

Col. John Russell, the well known criminal lawyer has decided to place his fate in the hands of the voters of Honolulu and hopes to be returned as a candidate to the next Legislature.

The cane fields in and around Kaneohe are reported to be "purple with flower and everything seems favorable for the coming crop. Some cane of Mr. H. Parker's is especially fine."

Judge Hartwell has again got into harness, resuming the practice of his profession, and has opened an office in the rooms formerly occupied by the U. S. Consul, over Bishop & Co.'s bank.

The fair held in the Hall of the Y. M. C. A., in aid of the Association, on the evening of the 12th inst, resulted quite successful in adding to the funds of the organization, nearly $400 being netted.

Kawaiahao Church looks very well after its recent repairs and thorough painting. A capital platform has been put up, it is by far the largest permanent platform in any of our public buildings.

The edge of the P. M. S. S. wharf was somewhat chafed by the barks *Macedon* and *Catherine* during the storm of the 13th, they lying broadside to and the heavy sea coming in the harbor causing them to roll considerably.

The Amateur Dramatic Society will most probably give a performance in the last week of the month. The programme will include a comedy and a farce, and several new faces will be seen among the players.

The vice-president (Crowley) of the Workingmen's Union considered the advice of the GAZETTE to "leave politics to voters," so good that he resigned from the committee on "Legislative Candidates" and advised his fellow associates to place only voters on such committees.

Messrs. Benson, Smith & Co., are putting up a cologne of their own manufacture, they have copyrighted the label which reads "Maile Cologne." This is a new departure in home manufacture. The bottles are suitable for Christmas presents.

The Chamber of Commerce met on Monday, when the coinage of this country and questions of exchange were discussed. No resolutions were adopted, but the Chamber will meet again to-day and will probably agree upon a plan of action.

Notwithstanding the prevalence of the strong wind from the southward accompanied with occasional rain showers, the Band, on the evening of the 14th inst., gave a concert at the Palace grounds, the occasion being a dinner given by His Majesty to Mr. Hoffmann.

Mr. and Mrs. Stirling left by the *Mariposa*. The former has three months leave of absence. He will accompany Mrs. Stirling to England and return almost immediately. It is to be hoped that the change to a colder climate will have a beneficial effect on Mrs. Stirling's health.

That $30,000 worth of cannon, &c., which was ordered in Europe some time since is now on its way hither on board the *Kale*. Of course it is needless to say that it has *not* been paid for, and that this will be another of those nice little bills which the country will have the pleasure of paying.

Those who were absent from the sale of furniture held at the warerooms of the California Furniture Company on the 12th inst., under the auspices of Mr. Adams, Mr. Ellis presiding, missed the opportunity to obtain many good bargains. So also the absentees from the morning sale of Messrs Lyons & Levey, held at their rooms on the 12th inst.

The trustees of the Queen's Hospital held the regular semi-annual meeting on the 15th instant, Hon. S. G. Wilder was elected to fill the position made vacant on the Board by the death of E. O. Hall. It was decided to hold in abeyance the proposition to build a special ward for foreign female patients. The report of Dr. McKibbin the resident physician shows that the number of patients at present under treatment is 65. During the past quarter there have been 138 admissions; 110 have been discharged and 14 have died.

Col. Geo. W. Macfarlane gave a party at his Waikiki residence, in honor of Mr. A. Hoffmann which was largely attended, and a pleasant and enjoyable evening was the result. The Colonel also accompanies Mr. Hoffmann as far as San Francisco.

As Christmas Day falls on a Tuesday, the *Kinau* will not sail till the following day, Wednesday, December 26th. The sailing day for the next week will also be altered from Tuesday, January 1st to Wednesday, January 2nd. Mr. S. G. Wilder believes in giving his employees a holiday.

The closing examinations and exercises of the first term of the year 1883-4, of Kawaiahao Seminary, were commenced in the school-room of the institution yesterday and lasted from 9 a.m. till 1 p.m. To-day the examination will be continued and rhetorical exercises will be given from 12 till 1. Friends of the institution are invited to attend.

Stephen Langherne Desha was married last Wednesday to Hattie Kanaka. The wedding took place in Kawaiahao Church, Revs. H. H. Parker and C. M. Hyde officiating. After the ceremony a reception was given in the Hall of the Pacific Missionary Institute, at which Mr. Desha is a student. A number of friends assembled to wish the young couple joy.

The Workingmen's Union held their regular weekly meeting on the evening of the 11th inst., and decided that the election of officers should take place on the 20th inst. Mr. Danielewicz resigned entirely from the Society. A debate night was set for January 3d, 1884 on which occasion the subject of "The best method of getting rid of the Chinese so as to give other laborers a chance on the Islands" will be argued.

The O. S. S. *Mariposa* was delayed in port here from the 15th inst., her regular sailing day, until noon of the 16th, the prevailing lees preventing the arrival of expected freight. She sailed at noon of the latter date for San Francisco, the outgoing passengers being bade adieu by quite a crowd of residents who had, notwithstanding the rain, assembled to witness the departure.

St. Alban's College, closed on Friday the 14th The term has been an exceptionally successful one, and Mr. Atkinson feels gratified at the generous support that he has received from his many friends. Examinations were held during the last week and the pupils acquitted themselves remarkably well. The new term will commence on Monday, January 7th, 1884. Pupils desiring to enter should give early notice to the Principal.

The contracts which many agencies of sugar planters, in this city, have entered into with Col. Claus Spreckels, compels the shipment of sugar from this port in *his* vessels. As a consequence Messrs. Hackfeld & Co. have been made the agents of several vessels which were formerly held by merchants, who, under the existing state of things cannot find freights. Monopoly is regarded as the curse of California. Can it be a blessing to Hawaii?

Quite a crowd of people assembled on the P. M. S. S. wharf on last Saturday afternoon the ostensible object of the gathering being to view the steamer *Kinau*, Capt. King, make the passage of the bar, which was breaking from reef to reef. The bottle steamer, guided by the steel nerved Captain took the first breaker just beyond the spar buoy and the sudden sheer of the vessel showed a strong undertow to contend with. Safely and speedily however the bar was crossed and in passing the lighthouse the vessel and Captain were heartily cheered.

A telephonic message from a lady residing on Beretania street near Fort street, on the evening of the 15th instant, requesting police assistance to quiet a disorderly gang of foreign convivialists, was answered from the Station and two captains of police and five officers formed a relief squad and proceeded to the place. Arriving there an entrance having been made into the room where the shouting proceeded from, one of the captain's mildly reproved the quartette of *bonbons*, and then in a majestic manner he and his *confreres* took a back track for the station. No arrests.

The Planters' Labor and Supply Co. held a meeting on the 11th inst., and the members discussed the labor question, relative to the continuance of the importation of any more South Sea Islanders, at present. Portuguese immigration was regarded as beneficial to the country and Mr. A. Hoffmann who was present at the meeting, by invitation, gave the assembled planters his views on the subject. No action further than a declaration of intention to obtain the opinion of planters generally on the labor subject, was taken, after which the meeting adjourned.

Captain King, commander of the new steamer *Kinau* met with a severe accident just previous to the boat leaving this port for windward on the 11th inst. He was standing near the windlass, on which a line was being hove in, a portion of an iron pin broke off striking him in the forehead, knocking him senseless and cutting quite a gash from which the blood flowed freely. Medical assistance was at once obtained and it was at first thought that Captain King was too severely injured to go in command. However, he quickly recovered, and, although in great pain, declared his intention to stay on duty, and did go in command of the vessel on the up trip. His escape was a narrow one, from what might have been a most serious injury.

Judge R. F. Bickerton has received news from Mr. and Mrs. McWayne, both old residents and well known in this community, and it will be a pleasure to his friends to know that the gentleman has passed a most successful examination as a medical student, and is now A. McWayne, M.D. He immediately received an appointment as assistant physician at Ward's Island, New York, but, Mrs. McWayne not being permitted to reside on the island, Dr. McWayne declined that appointment, accepting instead one to the Cumberland street Hospital at Brooklyn, N.Y., where he is now located. It is said to be Dr. McWayne's intention to continue his practice there for a few years, after which he will return again to Honolulu, where he will be gladly welcomed.

When anything went wrong lately with the papers at the Government House, it is said to be very amusing to watch the many titled Premier hunt through his pockets. "Want the copy of that indictment," says he! "Oh yes! here it is," and he dives into the left hand pocket; a bundle of papers produced. "Other, that is the Board of Health pocket." The right hand pocket is for the Foreign Office papers; the coat-tail pockets contain the Board of Education documents and only after a long hunt is it that the many titled one finds out that the document in question is pigeon holed, say in the *P.C.A.* office. Hard on official documents this.

The Premier when he came into office remarked to one of his friends that he did not care for public opinion. "What is public opinion in this country?" said he. Since he has been in office he has begun to think that there is something in it. Last Friday showed him that there was not only a public opinion but that the law and the public opinion in his case were at one. The man who is so many things to the King, from bootlicker upwards, is just now beginning to find out that there is a solid phalanx in this country which means to have its rights, and that a public opinion, which may have been dormant, can be aroused in our community as easily as in any other. Hawaiians and foreigners agree upon the utter venality, and total want of either honor or honesty in the present *sic distinct* Premier of Hawaii.

Screams of a lady indistress roused the occupants of the Hotel at an early hour on the morning of the 16th inst., and an investigation as to the cause revealed, that the lady who had uttered the scream had had an interview with a real robber, who, she says, made an attempt to capture some diamonds which were in a bag and hanging to her neck. A thorough search was made for the reported intruder but unavailing, and now there is a reward offered by Dr. McGrew, Mr. Graham, and G. Fassett, for information that may lead to the arrest and conviction of the unknown party. Since writing the above the case was given into the hands of Captain Mehrtens, who, to the surprise of the proprietors of the hotel, arrested the night clerk, one Joseph Young, who has made a confession that he was the man in the room, but not there to commit robbery.

HAWAII.

The steam chimney at the Union mill has been blown down.

The bark *Lizzie Marshall*, Capt. Bargman, sailed from Hilo, on Monday, Dec. 10th, in ballast for Port Townsend. Mrs. Kelly and children took passage on the bark.

"E. Kekoa," as a correspondent writes, seems to be throwing and pretty freely at the Board of Tax Appeals of Hilo for daring to decide against him—but Hilo people know E. Kekoa pretty well.

During the whole of last week a heavy *kona* gale blew, with heavy squalls of rain. The *Kinau* was unable to call at Mahukona, or Kawaihae and passengers had to get on board at Niulii.

The Police of Hilo surprised and captured a large gang of Chinese at Amaula, Hilo, on Sunday, Dec. 9th, smoking opium and gambling. Opium and gambling utensils and Chinamen were all locked up.

A lot of natives from the New Hebrides, recently arrived and at work at Ookala Plantation, stole a couple of canoes on Saturday night, Dec. 8th, and left for parts unknown, probably with the intention of going home. One canoe load reached Hakalau but the other has not been heard from.

Helemanno was tried in the Police Court, at Hilo on Tuesday, Dec. 11th, for stealing $57 from Mr. L. E. Swain, on the morning of Nov. 22nd. He was found guilty and sentenced to one year's hard labor for the Government and a fine of $57 the amount stolen. Twenty-six dollars was returned to Mr. Swain by the thief, the balance having been squandered.

About half past two p. m., on Thursday last, during the *kona* gale, the trash houses of the Kohala plantation took fire, presumably from a spark from the chimney, and with two laborers' houses below them, were all burned to the ground. The trash houses were four in number, and each 300 feet or more in length, filled largely with trash. The mill had been grinding but a few days, and the loss of those houses full of fuel is a serious item. Had the mill building not been sided and roofed with iron, it would probably have taken fire from the intense heat, although the fire was 100 feet distant, and the wind took the flames in a direction away from the mill.

Hilo tax payers have not quite got done with E. Kekoa, the tax assessor. In a great many cases where appeals were taken and judgment rendered in favor of the appellent, no notice has been taken of it by E. Kekoa, and taxes have to be paid without the just reduction. Not only has he left their amounts on the tax books, after having been ordered by the Court of appeals to take them off, but in some cases he has altered the books, adding thereto various sums as his fancy, or perhaps personal spite, has dictated. In one case $1,000 has been added to the valuation on a small plantation, after the books had been examined by the owner and manager. Such is the report.—Kekoa claims that the amounts are all deducted from the sum total—but they are not deducted from the separate accounts. How is that for an assessor? The end is not yet.

KAUAI.

The gale has done considerable damage at Lihue, several houses have been blown down, one being carried one hundred feet down a bank. A great deal of the cane has been laid flat, but as it is not twisted it will recover. This is the heaviest gale on the island since 1875.

MAUI.

There has been a tremendous *kona* on Maui with very heavy rain. Many trees are uprooted and branches torn off. Over two inches of rain fell. There has been great destruction of high flumes, the trestle-work being blown down and reduced to kindling wood. Paia has lost a mile or more, and other plantations in like manner. The force of the wind was very great. Nothing like it has occurred for some years. All the gulches are in a flood. Wind abated on the morning of December 14th The vessels in Kahului Bay rode out the storm quite comfortably.

THE GOVERNMENT BOND CASE

A Cause Celebre

What has already proved a "celebrated case" as far as it has gone at this writing, is the petition signed by Messrs. S. B. Dole, W. O. Smith and W. R. Castle, which was presented and heard before Her Honor Chief Justice Judd on the 13th instant. The court room was crowded with representatives of the mercantile and planting interests of the country, and Her Britannic Majesty's Commissioner, and the Consul for Portugal were also present; all the spectators seemed deeply interested in the arguments of counsel, and the decision of Judge Judd was given amidst breathless silence.

Messrs. Neumann, Preston, and Whiting appeared for the Minister of Finance and A. S. Hartwell, Esq., for the petitioners.

THE PETITION.

In a petition of W. R. Castle, S. B. Dole and W. O. Smith, for writ of Mandamus against His Ex. John M. Kapena, Minister of Finance.

The petition of the undersigned, petitioners shows: That your petitioners are taxpayers, citizens and residents of Honolulu in the Island of Oahu and such residents, citizens and taxpayers are pecuniarily interested and concerned in the several matters and things hereinafter stated and set forth.

That your petitioners are informed and believe and so aver in their information and belief that His Excellency John M. Kapena, the Minister of Finance, defendant hereto, has caused to be prepared and is now about to issue certain coupon bonds of the Hawaiian Government to the amount of One Hundred and Thirty Thousand Dollars bearing interest payable semi-annually at the rate of six per cent. per annum, the said bonds being by their tenor payable, principal and interest in United States gold coin or its equivalent.

And your petitioners further aver that the bonds aforesaid purport to be issued under and by authority of the provisions of an act entitled "An Act to authorize a national loan and to define to what uses such loan shall be devoted, approved on the fifth day of August, A. D. 1882."

That the said Minister of Finance is about to issue said bonds below par and to receive therefor silver coins of less than equivalent value in United States gold coins, that is to say for silver coins which are only about eighty-two per cent. of the value of United States gold coin.

That it is the duty of the said Minister of Finance to issue said bonds only at par and upon receipt of their equivalent value in United States gold coin.

That it is the right of your petitioners, as such taxpayers as aforesaid, that there be no misapplication of the public moneys; whereas the issue of the aforesaid bonds for less than par as aforesaid would operate as a misapplication of the public moneys and thereby injure the petitioners as citizens and taxpayers, and that by reason of such issue of the bonds aforesaid at less than par as aforesaid the public good and administration of justice would suffer.

And your petitioners further aver that they have requested the said Minister of Finance not to issue said bonds at less than par as aforesaid, but that he refuses and neglects to comply with such their reasonable request.

Wherefore your petitioners pray that a writ of mandamus do issue out of this Honorable Court requiring the said Minister of Finance to accept for such bonds only United States gold coin or its equivalent and not to accept therefor the silver coins aforesaid, and not to issue such bonds except for the par value in United States gold coin or its equivalent and for such further and appropriate relief as justice and reason require and to Your Honor shall seem meet.

And your petitioners will ever pray.

WILLIAM R. CASTLE,
By S. B. DOLE,
SANFORD B. DOLE,
WILLIAM O. SMITH.

MOTION TO QUASH THE WRIT.

In a petition of W. R. Castle, S. B. Dole and W. O. Smith, for writ of Mandamus against His Ex. John M. Kapena, Minister of Finance.

The respondent herein moves the Court to deny the application of the petitioners and vacate the writ issued because the petition for said writ and application therefor is made by said petitioners and petitioners have neither nor any of them have any personal or direct interest in the act to be restrained and this respondent is a public officer of the Government of this Kingdom.

EDWARD PRESTON,
W. A. WHITING,
PAUL NEUMANN,
Attorneys for Respondent.

Mr. Neumann, argued in support of the motion, that the animus of the petitioners was not good, when their motives were rather political than patriotic. Waiting until the eleventh hour, when it was generally known long ago that a contract for these bonds had been made, showed a desire to embarrass in Government. Counsel cited cases for his view that individual tax-payers cannot institute such proceedings to prevent illegal action by a Government officer, and spoke of the injury to the national credit if this writ were allowed. The bonds were not all taken with eagerness, and this was the only way to issue them.

Mr. Hartwell argued *contra* that if there was animus, or wrong motive, this was the first he had heard of it. That he had never heard until yesterday of the contract, referred to, but he had been informed that an agent of things was last year employed by the Government to place these bonds, and was about to do so when the business was taken out of his hands. He did not take so sombre a view as did counsel for the Ministry, if these bonds be issued only at par, as the statute requires. If the contemplated action of the Minister would not stand judicial investigation, let it be known. If the tax-payers of the country have the right to appear in court to demand that no illegal issue of bonds be made, why should they not do so? He cited the mandamus ing of 1876, the decisions of the Supreme Court of the United States, Connecticutt, and New Hampshire, Dillon on Municipal Corporation and Cooley on Taxation (referring to the decision of other courts) to the effect that such remedy exists for tax-payers. If not such remedy, there is none, and the Constitution is powerless, which declare that "Ministers are responsible."

The court denied the motion to dismiss the petition ruling that by the authority of the Supreme Court of the United States, and by the great preponderance of authorities, the petitioners had a right to appear in court. Mr. Neumann said that the respondent took no exception to this ruling, and he thereupon filed the following return.

THE RETURN.

And now comes John M. Kapena and makes this his answer and return to the above entitled cause and says:

That the writ of Mandamus should not issue because the matters and things set forth in the petition are insufficient in law and that there is no neglect of duty on the part of the defendant set forth in said petition, because that said petition does not show a demand to perform a duty required of him by law.

And the respondent further answering says that he is about to issue Hawaiian Government Bonds to the amount, and at the interest stated in the petition under and in accordance with the provisions of an Act entitled "An Act to Authorize a National Loan, and to Define to what Uses such Loan shall be Devoted," approved on the 5th day of August, A. D. 1882.

Denies that he is about to issue said bonds below par but avers that he is about to issue said bonds at par and in accordance with the provisions of said Act last above mentioned.

Denies that it is his duty as such Minister of Finance to issue the said bonds only upon receipt of equivalent value in United States gold coin, but avers that his duty in this respect is fully set forth in said act as follows:

Section 1. The Minister of Finance under the direction of the King in Cabinet Council is hereby authorized to borrow on the credit of the Hawaiian Government from time to time, during the period of three years after the passage of this Act, such sums not exceeding in the whole the sum of $2,000,000 for the purposes in the Act hereinafter set forth, for which sums the Minister of Finance may cause coupon bonds to be issued from time to time for such amount each as he may deem advisable, such bonds to be issued at not less than par, and to bear interest not exceeding six per cent. per annum, payable semi-annually."

And the Respondent avers that he has in all respects conformed to the provisions of said Act, and that said bonds are to be issued at par in accordance with such provisions of said Act.

And denies that he is about, or intends to, or will issue said bonds mentioned in the petition or any bonds below par or to receive or accept therefor coins of less value than the equivalent of the lawful money of the Kingdom of the Hawaiian Islands as is provided in the Act aforesaid.

And the defendant further says that the demand made upon him is in the words following:

Honolulu, 12th December, 1883.

To His Ex. Jon. M. Kapena, Minister of Finance.

DEAR SIR:—The undersigned, citizens and taxpayers of the Hawaiian Kingdom, respectfully request that you do not issue Hawaiian Government Bonds at less than par, but only for United States gold or its equivalent.

Respectfully yours,
SANFORD B. DOLE,
W. O. SMITH.

And avers that by this law this defendant cannot comply with such demand and further denies that he has ever refused to comply with any lawful demand as his duty in respect to the issuance of gold bonds under said Act of 1882.

Wherefore the respondent prays that the application of the petitioner herein be denied, that the writ heretofore issued herein be vacated, that the respondent be hence dismissed without delay, and recover costs and disbursements herein incurred from the petitioners.

EDWARD PRESTON,
W. A. WHITING,
PAUL NEUMANN,
Attorneys for Respondent.

Duly subscribed and sworn to by John M. Kapena, Minister of Finance.

Mr. Hartwell then filed exceptions to the return, and argued that it failed to raise an issue of law on which the court could decide the case. The only question now was whether the bonds would be issued *at par* if sold for certain silver coins as alleged in the petition. This averment must be admitted or denied by the return. Mr. Preston argued *contra*, that the averment about silver dollars was immaterial, and therefore need not be denied. Mr. Hartwell in reply said that this was the only fact which was of any importance and until it was settled, the case could not be heard.

The Court ruled that the return was bad for the reason named, whereupon the counsel for the respondent amended this return, by inserting an averment that he intended to accept for the bonds, "silver coin in half dollar pieces of equal weight and fineness with United States silver coins of the same value and lawful money of the Government of the Hawaiian Islands."

Mr. Hartwell filing a demurrer to this amended return, the argument was at once taken up on the main question, viz.: whether the issuing of the bonds for such coins was a compliance with the statute that they be "not issued below par." Counsel cited a case from New York, holding that certain state bonds which were so issued that the state lost some $15,000 on the interest, were not issued "at par," and that these words meant that the bonds would be sold for the same value in which they were payable. The currency Act and the coinage Act were not in question, silver could still pass current for all this case has to do with the matter, but if these silver coins are worth only a little over 80 cents in United States gold, there would not be an issue at par.

Mr. Preston argued for the amended return, that the statute requirement to issue the bonds only at par meant that they be sold for the current coin of the kingdom.

OPINION OF THE CHANCELLOR.

W. R. CASTLE, W. O. SMITH AND S. B. DOLE, vs. HIS EXCELLENCY J. M. KAPENA, H. H. M's MINISTER OF FINANCE.

Before Chief Justice Judd. Petition for a writ of Mandamus.—Opinion on the motion to quash the writ.

I am of the opinion that the petitioners, as citizens and taxpayers, have the right to use out this writ. They have, as taxpayers, the right to endeavor to prevent a public officer from doing what is an injury to the public good. There are authorities on both sides of the question, but the current seems to be in favor of the right and especially the case of Crampton v. Zabriskie, cited in 101 U. S. 609. This is a case decided in 1879 by the Supreme Court of the United States, and Mr. Justice Field for the Court says: "Of the right of resident taxpayers to invoke the interposition of a Court of Equity to prevent the illegal creation of a debt which they in common with other property holders of the county may otherwise be compelled to pay, there is at this day no serious question."

To deny this right to a taxpayer would be to say that there is no remedy and no way by which a Minister of the Crown can be prevented from doing an illegal act. Impeachment is too shadowy and uncertain to be thought of as an adequate remedy. If only the Attorney General can promote such a matter, the answer is that there has been no Attorney General since May last and it would be idle to expect an Attorney General who is one of the Cabinet to commence proceedings against his own colleague.

A Minister is responsible to the King for his acts and he is also responsible to the people for the faithful discharge of his duties. The respondent's motion to quash, which is more properly a demurrer, is overruled.

JUDGMENT ON THE CASE.

Having given this matter considerable study and attention and having arrived at a clear and decided opinion upon the question involved, I give my decision now, knowing also that delay would be injurious to the respondent.

I remark here that the petitioners are not amenable to criticism for having brought this action so late. They could have no standing in Court until the act complained of was about to be committed, and if proceedings had been commenced months ago it could be well answered that the application was premature and the respondent was not about to act in the manner alleged. Moreover, if the act complained of is illegal at all, it was so at the inception and continues so throughout and it loses none of its illegality by lapse of time.

I remark here that the ability of the government to borrow money under the Loan Act of 1882 does not affect the vitality or existence of the government. The authority was given by this act to borrow money for certain specific purposes named in the Act and by Section 3 "no part of the money (thus raised) shall, on any pretence, be paid, used or applied, directly or indirectly, either temporarily or otherwise, to or for any public use or purpose other than the purposes respectively to which the same is hereby directed to be applied."

I presume the Legislature felt that the ordinary resources of the government would be sufficient for its ordinary expenditures and so have not authorized the borrowing of money for its ordinary expenditures.

So my decision in this case cannot affect the life or credit of the government.

Whether the bonds of the government have or have not been difficult of sale is foreign to this issue. If they have not been eagerly sought for, possibly it is because the interest, being only six per cent. is too low, being three per cent. lower than the legal rate of interest.

The authority of the Minister of Finance in the premises is to be found within the four corners of this Act.

Section 1 authorizes the Minister of Finance under the direction of the King in Cabinet Council to borrow on the credit of the Hawaiian Government during a period of the three years, sums of money not exceeding Two Million Dollars,—and the bonds to be issued therefor, are (1st) to be issued *at not less than par*; (2d) they are to bear interest not exceeding six per cent. (3d) they are to be exempt from government taxes, (4th) they are to be redeemable in not less than five nor more than twenty-five years and (5th) they are payable principal and interest in *United States gold coin or its equivalent*. The bonds must be issued in exact compliance with the law. They must be issued, says the Act, at not less than par. What is par? All the lexicographers say that par is "exact equivalence without discount or premium;" that is, there must be received for these bonds the exact equivalent of the sum secured to be paid by them. They are to be paid in *United States gold coin or its equivalent* and this must therefore be received for them.

If a promissory note calls for payment of £500 sterling, the par value would be £500 sterling and nothing less. Now, if the Minister of Finance proposes to dispose of these bonds for anything less than their face in United States gold coin or its equivalent, it is a violation of the law. It matters not if the silver half dollars which the respondent proposes to take for the bonds be current as money in this State. The law says most distinctly that the bonds must not be sold for less than par and as the silver half dollars are far less in intrinsic value than their face value in United States gold coin, to sell the bonds thus is selling them for less than par.

The law of this kingdom makes United States gold the standard of value and legal tender. This law must be administered by the Court even if the community and the government by common consent ignore its existence. No law is a dead letter to the Court. I may here say that the Act of 1881 providing for a National Coinage, authorizes the Minister of Finance, "to purchase gold and silver bullion *with any money which may from time to time be in the Treasury* and to cause to be coined therefrom gold and silver coins" of equal weight and fineness with United States gold and silver coins of the same denominations. That is, foreign coin already in circulation might thus be changed into Hawaiian coin and this the Legislature thought would not probably disturb the currency very seriously. Silver is a commodity fluctuating in value and it has been declining in value for some years and the standard half dollar of the United States is by the latest quotations not worth in United States gold much more than 40 cents. Being of the opinion that the bonds are proposed to be issued by the respondent for less than par, I grant the writ of mandamus.

I ought to say further that the 70th Article of the Constitution requires the Supreme Court to give its opinion to the King and the Cabinet "upon important questions of law and upon solemn occasions." And so? He cited the Supreme Court are always ready to give their opinions to the Government when important steps are contemplated. In this instance the opinion of the Court was not asked.

A. S. Hartwell for the petitioners; Messrs. Neumann, Whiting and Preston for respondent.

Honolulu, December 14, 1883.

Respondents' counsel noted appeal to the full court.

A GENUINE KONA

A Three Days Storm and the Results

On last Wednesday evening the wind, which had been quite variable for a few days, worked around to the southward and the balmy breeze from that quarter prevailed until nearly midnight. At the latter hour the strength of the wind increased, the barometer falling from 30.20 to 29.90, the suddenness of the alteration causing old sailors to keep a sharp lookout to windward, and by 1.30 a.m. on the 13th, the wind was blowing strong, creating quite a swell in the harbor, and breakers being visible on the bar. The blow continued with but little change in the form of the wind, except in occasional squalls, during one of which, on the night of the 14th, the steamer *Likelike's* shed surrendered and flattened out, until the midnight of 15th inst., when a final heavy rain squall accompanied with vivid lightning and loud thunder seemed to produce the exit of the storm sprites that had held high revel for the preceding forty-eight hours.

The damage in the city proper, as far as reported is mostly confined to the water front; there the ravages of the high tides, which were prevalent during the continuance of the storm, being apparent in undermined wharves and washed out breakwaters, especially noticeable in the spaces between the P. M. S. S. wharf and the Inter-Island S. N. Co.'s wharf. At the rear of the P. M. S. S. Co.'s wharf the made ground has been gradually washed away until nine deep holes and extended cracks are found where previously was seemingly hard ground. His Majesty's boat house had the southwest veranda washed away, and, at one time on Saturday morning, the whole structure seemed shaky. The boats, and furnishings of this royal resort were removed to a more safe place, but the building managed to weather the storm. The landing at the Immigration depot is one hundred feet shorter than before the storm, and the outhouses and fences of the depot are damaged.

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