

THE CIRCUIT COURT WORK

Below is given in full the annual report of First Judge De Bolt on the work of the Circuit Court of the First Circuit. It is loaded with suggestions of legislation on matters that the author has earnestly studied, for the improvement of the administration of justice. Increase of pay for clerks, stenographers and jurors are advocated. The report will no doubt be made a special subject of study by the members of the Legislature, in connection with their present consideration of business for the coming session. Judge De Bolt, in the record of work accomplished in the circuit for the past year, shows a substantial reduction of the calendar from its former congested state:

To the Honorable W. F. Frear, Chief Justice Supreme Court. I have the honor to submit the following report for the year 1906 relative to the work of the Circuit Court, First Circuit, together with a few suggestions. I will take up the suggestions first.

SUGGESTED LEGISLATION.

I would respectfully suggest for your recommendation to the ensuing Legislature the following legislation: Salaries of all the clerks of this Circuit be increased to a sum commensurate to the value and importance of their duties and services in the administration of justice. And, in harmony with this view, I would suggest that the three court clerks of the Circuit Judges of this Circuit each be allowed a salary of \$150 per month.

As to the character and value of such services, as viewed by the Congress of the United States, the salaries of the clerks of the U. S. District Court of this Territory may be referred to. The work of the clerks of this Circuit is very important and involves long hours and close application.

A clerk of a court of record must necessarily possess an education, experience and intelligence, as well as personal honor and integrity, far in excess of the requirements of an ordinary amanuensis, or other employee whose duties are merely routine and mechanical in character. His educational qualifications, as well as his station in life, and the manner in which his position requires him to clothe himself, as well as the character and value of his services, being considered, he is entitled to an emolument commensurate with his employment.

In the mainland states and territories, where the actual cost of living is far less than in this jurisdiction, the average pay of the ordinary court room clerk is equal to or exceeds the present salary here, and I am satisfied that an increase in the monthly salaries of all the clerks of this court to the sum of \$150, is necessary and just to make their compensation equal to that for those performing similar services on the mainland, in view of the increased cost of living in this Territory.

The duties of the clerks absolutely demand that they be in attendance and at work long before and after the hours during which court may be in session and during which the clerk's office is open. It is not unusual for the clerks to be at the office and at work in the discharge of their official duties as early as seven o'clock in the morning, and to continue working, with short intervals for meals, until eleven or twelve o'clock at night, and in cases of importance, involving intricate questions of law, it is sometimes necessary for the clerks, as well as the other officers of the court, to remain in attendance all night awaiting the deliberations of the jury, in order to provide for the giving of additional instructions should such instructions be requested. There is no additional compensation, provided by law for these extra hours of labor, and in justice to these officials, these extraordinary and unusual services should be taken into account in fixing their annual compensation and fixed salaries. If the salaries of these officials were fixed at an amount commensurate with the value of the services rendered by them, the Judges could well dispense with the custom and practice of appointing these officers to fill special positions, involving extra compensation, in recognition of such services and the intrinsic value thereof.

And, in this connection, I would suggest such appropriate legislation as may be necessary to the end that no clerk of any court may be appointed commissioner, trustee, executor, guardian or other such officer, except possibly that of master. If this view should be adopted, i. e., clerks to be appointed masters only, then, perhaps a salary of \$125 per month might meet the requirements; otherwise, as already stated the salary should be \$150 per month.

In my opinion, it would also tend to better service and more satisfactory results if there were an absolute and total separation of the offices of the clerks of the Supreme and First Circuit Courts.

Bailiffs. That the bailiffs of the Judges of this Circuit be made ex officio assistant clerks and that their salaries be fixed at \$100 per month each. In addition to their usual duties as bailiffs, there are many ways in which they can assist the regular clerks. Such duties will readily suggest themselves to the minds of one having a practical knowledge of such matters. Moreover, the duties are not conflicting, but are such that they can as well be performed by one person as by two.

Stenographers. That the shorthand reporters of the Circuit Court, First Circuit, be allowed a salary of \$200 per month each, which had been, I believe, their salaries for years, until the Legislature of 1905, saw fit to reduce it. It requires but a moment's reflection to bring to the mind of one experienced in court work the value and necessity of the services of a first-class shorthand reporter. In the work and administration of justice in the trial courts, involving as it does the life, liberty and property of the citizen, it becomes the plain and absolute duty of the Territory to provide the means

Offenses.	CRIMINAL CASES 1905-1906.					
	Nationality of Con. Victims.					
	American	Canadian	Chinese	Japanese	Hawaiian	Others
Adultery	4	1				
Affray	3	1				
Assault	1	1				
Assault and battery	45	20	9	3	2	4
Assault with dangerous weapon	23	14	3	3	1	7
Assault with intent to murder	7	4		2		1
Assault on public officer	1					
Branding, felonious	1	1				
Bribery	8					
Burglary	32	16		1		6
Conspiracy	19	1				
Contempt of court	3	3				
Disorderly house keeping	3	1				
Drunkenness	4	2				1
Embezzlement	45	11				19
Explosives, violating law as to use	1					
Extortion	4					
Forgery	2	1				
Gambling	125	7	5	1		
Gambling house keeping	1					
Gross cheat	7	3				2
Larceny first degree	7	4	2	1		
Larceny second degree	23	5	1			2
Laundry laws, violating	1					
Libel	3	1				
Libidinous solicitation	1					
License laws, violating	19	6				
Liquor selling	46	14	6	4	3	1
Liquor law, other violations	1	1				
Lottery schemes, maintaining	1	4				
Maiming	1	1				
Malicious injury	5	5				
Manslaughter first degree	5	5		1	1	2
Manslaughter second degree	3	2				2
Manslaughter third degree	1	1				
Murder	10	6		3		2
Nuisance	6	4	2	1		1
Perjury	10	2				2
Profanity and obscenity	3					
Rape	1	1				1
Robbery	1	1	1			
Sabbath law, violating	2					
Sexual intercourse with female under 14 years	5	4	1			2
Sodomy	2	1				1
Vagrancy	8					
Totals 1905-6	508	150	48	27	11	36
Grand total, civil and criminal cases	1805					

for obtaining and requiring the testimony and other proceedings had therein, to be accurately, speedily and skillfully taken down and faithfully transcribed.

Indispensable skill, ability and experience should be duly and amply compensated.

The duties of the shorthand reporter in courts of record require the exercise of special abilities and attainments, which are not only possessed by but very few of the many who make their living by shorthand writing but also necessitate immense practice and constant study in their development, at times calling for excessive speed and endurance. He must possess a wide and varied knowledge of such subjects as arise in the court-room, for he must of necessity understand what is said in court in order to report it, and frequently, in trials involving technical subjects and expert testimony, has to give long hours to study and special preparation as counsel de.

The reporter is engaged at all times from the opening of court to adjournment, being under constant nervous strain. His duties have also been increased since the last session of the Legislature by reason of the Supreme Court's decision in reference to transcription ordered by the Attorney General's Department (16 Haw. 483) and also by the rule of the Circuit Court requiring him to make and file transcripts of the evidence in probate and guardianship matters. (Rule 23, Amended May 9th, 1905).

Interpreters. That the Hawaiian, Chinese and Japanese interpreters each be allowed a salary of \$125 per month, and that the pay of special interpreters be fixed at \$5 per day.

Terms of Court. That the terms of Circuit Court be abolished, and that the Circuit Courts shall always be open and in continuous session, except on non-judicial days.

Costs on Appeal. That costs, in appeals from the District and Circuit Courts, be increased, with the view of thereby tending to prevent frivolous appeals, those without merit, or for time only. And all such costs to be paid as a prerequisite to the perfection of the appeal.

Fees of Jurors as Costs. That, in addition to the usual costs, the fees of jurors, or a substantial portion thereof, be taxed against the losing party in civil actions, and against the defendant, when convicted, in criminal actions, except, of course, where the sentence is death or for life. To these fees there should also be added the charges for lodging, meals, hack hire, etc., for jurors.

And a party in a civil action desiring a jury trial to be required to deposit in advance a sum of money sufficient to cover the fees of twelve jurors for one day, and that he be further required to give timely notice of his desire for a jury trial; otherwise he will be presumed to have waived trial by jury. Also, a jury case having been reached for trial and the parties then, without previous notice to the court, waive a jury, or having settled the case out of court, and without previous notice to the court, shall be taxed each to one-half of the fees for all jurors in attendance, unless another case can be substituted. Moreover, all civil cases on the calendar at the opening of a term might be taken as jury waived, unless trial by jury be asked for prior thereto. This would afford all an opportunity to the constitutional right of a jury trial.

Fees of Jurors. That jurors be allowed \$3 per day as fees for their services, and one dollar for their verdict. Act 37, Laws 1905. That, in the event terms of court are not abolished, then the proviso in said act, "that no jury trial, in any civil action, shall be commenced at any term of said Circuit Court for the First Circuit, after sixty (60) days of such term have elapsed, unless, etc.," be repealed or stricken out.

Section 2230, R. L. That said section be amended so as to clearly prescribe the form and character of the summons to be issued in suits for divorce and the time within which the same shall be returnable.

Section 2331, R. L. That said section be amended so that the publication now thereby required to be "at least six times," shall clearly prescribe whether such publication shall be six days, six weeks, six months, or other definite periods of time.

Act 84, Laws of 1905. That the County Sheriffs and Deputy County Sheriffs be given the same powers in matters of attachment that the High Sheriff and his deputy now have under said act.

Assignment of Counsel. That in criminal cases where the defendant is charged by indictment with murder in the first degree and has no money, property or means with which to employ counsel, and is otherwise unable to secure counsel for his defense, the court, in assigning counsel in such case, shall also order that all reasonable and necessary expenses incurred in such defense, including a transcript of the shorthand reporter's notes, together with a fee for his counsel, not to exceed the sum of one hundred dollars, to be paid out of the public funds.

Shortage in Court Funds. During the year 1905 a shortage occurred in the funds of this court amounting to \$1,636.83, which shortage involved two deputy clerks, one of the Supreme Court and one of this court. Both clerks were removed from office. While the occurrence of the shortage, particularly the manner in which it came about, was to be greatly regretted, however, I am pleased to be able to report that the full amount of the shortage has been refunded by the clerks in question after each had been indicted by the grand jury, one upon a charge of embezzlement and the other one on various charges, including forgery, gross cheat, etc. A nolle prosequi was entered by the Attorney General as to the one charged with embezzlement, and he was discharged; while as to the other, he pleaded guilty to one of the charges against him and was accordingly sentenced to imprisonment at hard labor for one year, whereupon a nolle prosequi was entered by the Attorney General as to the other charges against him. Without any way excluding the acts of these clerks, I am inclined to the opinion that the system of handling the court funds during the period from 1900 to May 1, 1906, was bad and contributed more or less to the difficulty.

Prior to 1900 the Clerk of the Judiciary Department was the sole custodian of the court funds. In 1900, however, this system, which had long prevailed, was changed by making it the duty of the clerk (any clerk) receiving money paid into court to deposit it in the First National Bank of Hawaii to the credit of the Circuit Court, First Circuit, to be drawn out by check signed by one of the Circuit Judges, countersigned by any clerk. No particular clerk was custodian of the bank or check book, and all had access thereto, thus dividing an important duty and responsibility and inviting constant error as well as endangering the safety of the funds.

On May 1, 1906, by a rule of this court, the system as to the court funds which had existed prior to 1900 was again adopted, i. e., the Clerk of the Judiciary Department was once more made the sole custodian of the court funds, bank and check books, and thereby authorized to sign checks, with the approval of one of the Judges. No other clerk has anything whatever to do with the funds, bank or check book, except that all money paid into court shall immediately be paid over to the Clerk of the Judiciary Department by the clerk receiving the same.

In addition to the requirements of this rule as stated, the Clerk of the Judiciary Department is also required to make monthly reports to the Judges of this court concerning the funds and to have the bank book regularly written up; all of which, on his part up to the present time, has been carefully complied with. Under the present system as thus briefly outlined, I feel that the court funds are about as safe as it is practically possible to make them.

The duty and responsibility for the accurate and honest handling of the funds being thus concentrated in one clerk would seem to be a sufficient guarantee against error or loss.

I am authorized by the Second and Third Judges of this court to say that they concur in the foregoing suggestions.

CIVIL CASES 1905-1906.	
With jury—	
Ejectment and quieting title	15
Suits on contract	11

CONSUL SAITO HAS NO NEW ADVICES ABOUT SQUADRON



MATSUMISHIMA, FLAGSHIP OF THE COMING JAPANESE CRUISERS.

If any later news has been received here relative to the Japanese squadron it is not to be obtained at the Consulate. Consul Miki Saito was indisposed yesterday when a reporter for the Advertiser called. His representative said, however, that the consul had no definite information beyond what had already been given out. "Our advices received some time ago were to the effect that the squadron would arrive here on the 23rd inst. Later we were informed by cable that the departure had been postponed for one week, so unless further changes in the program have been made the vessels will be here about the end of the month.

"We have been informed that Admiral Very has been notified officially by the military attache at the United States Embassy in Tokio to the same effect. This information came to him

in a cablegram and he so notified us in the usual exchange of courtesies. The original program was for the squadron to stop at this port en route to San Francisco, remaining here one week on the way out and to stop again as the vessels were returning home. This plan has been changed, however, and now it is understood that they will not go to San Francisco so that the time of their stay here is indefinite. Whether the change has been caused by any differences between the citizens of San Francisco and Japanese residents of that city I am not informed but I do not believe it is the case.

"You know the history of the vessels forming the squadron, the Matsushima, Itsukushima and the Hashidate. They are good for the purpose and will no doubt be inspected with interest by people of all nationalities wherever they go."

Others	13
Without jury—	39
Ejectment and quieting title	12
Suits on contract	145
Others	68

Discontinued or otherwise disposed of	225
Equity disposed of 90, dismissed and discontinued	25
Divorces granted 133, denied 6	139
Separation dismissed 1, discontinued 1	2
Annulment of marriage	3
Mandamus	11
Summary possession of land	1
Habeas corpus	13
Quo warranto	2
Miscellaneous chambers matters	5

PROBATE.	
Letters of administration granted 83, dismissed 1	84
Letters of guardianship granted 65, refused and revoked 3	68
Wills admitted to probate	51
Sales of real estate	27
Annual accounts 82, final accounts 105	187
Adoptions	2
Admeasurement of dower	2
Miscellaneous	20
Total 1905-6	997

CALENDARS 1905-1906 COMPARED.

The congested condition of the calendar, as it existed two or three years ago, has been greatly relieved. This will be made apparent by a reference to and comparison of the calendars, respectively, for the terms of January, 1906 and January, 1907, a summary of which is as follows:

January term, 1906—	
Criminal cases	125
Jury civil cases	171
Jury waived cases	106
Total	402
January term, 1907—	
Criminal cases	55
Jury civil cases	144
Jury waived cases	36
Total	235

Thus, notwithstanding that many new cases were placed on the calendars during the past year, this court has been able to handle all those cases, together with many equity, probate and other chambers matters, and to reduce the number of cases from 402 to 235, a decrease of 167.

Respectfully submitted,
J. T. DE BOLT,
First Judge, Circuit Court, First Circuit,
January 11, 1907.

NORTON AND BRAY IN U. S. SERVICE.

After twenty-five years' service as engineer in the inter-island steamers, and ten consecutive years as chief engineer of the Mikahala, Benjamin H. Norton has resigned his position in the company, to enter the employ of the U. S. Marine Hospital Service, as engineer of the Quarantine boarding steam launch Oahu.

This gives to the latter service, what Dr. Cofer has been endeavoring to secure, both an engineer and captain with unlimited U. S. Marine license.

Capt. Bray, for seven years past Superintendent of the Sailors' Home, entered the U. S. Service as pilot last June, but has still supervised the work and shipping of the Home till the close of the year, when his resignation took effect.

The Anti-Saloon League will engage the services of an expert on liquor legislation from the mainland for work in connection with the session of the Legislature.

DELEGATE A SICK MAN

(From Sunday's Advertiser)
That C. W. Ashford is a staunch friend of Delegate Kalaniana'ole will not be doubted by any one who has heard him express himself as to the complaint that the Delegate should have been in Washington instead of Honolulu since the session of Congress began.

"It seems out of place in any man to make such charges as I saw quoted in the Advertiser this morning unless the man who makes them is familiar with the facts which he would criticize," Mr. Ashford remarked yesterday. "The Delegate contracted a cold during his campaign on the island of Hawaii and it gradually grew worse. Anyone who heard him speak here at the political gatherings must have noticed that he was so stuffed in his lungs and his bronchial tubes were so inflamed as to make it a hardship for him to deliver a speech.

"This condition was aggravated as the campaign progressed so that when it was time for him to leave for the Capital his health was such that Mr. Colburn and myself called upon him at his residence and persuaded him to consult a physician. He acquiesced and we stopped at the Moana hotel and called Dr. Humphris who immediately visited him and cautioned him against leaving the islands at that time, adding that he was in a condition bordering on pneumonia and if he went into anything like a severe climate he, the doctor, would not be responsible for the result. Now then, it was upon the advice of his physician that he remained in Hawaii and not upon the solicitation of his friends."

Mr. Ashford remarked that he did not care to "butt in" to politics, as he had enough other business to attend to, but he believed the commercial bodies of Honolulu are goading the Delegate by keeping in Washington a paid lobby.

"It seems to me that the Prince needs no better testimonial to his friendly, almost angelic, disposition than his actions toward the men and measures of Hawaii. Matters that should be placed in his hands go over his head and he is afterward expected to work for them. I can not imagine what has kept him from giving everyone of them a black eye. What do you suppose the people of California or Oregon would say to the keeping a paid lobby in the interest of any branch of trade? We know there are lobbyists in every legislative hall but not as Hawaii has one. I do not believe in it and would not blame the Delegate from this Territory for kicking over the traces and closing the door to any measure not passed through his hands and without interference from other parties."

AHLO INTERESTS INCORPORATED

All of the rice planting interests of the estate of the late L. Ahlo, which were bought at auction by Jas. F. Morgan, trustee, on Monday last for \$30,155, have been incorporated. They comprise fee simple and leased lands in Ewa, Wai'alua and Koolau, eight parcels in all, and a rice mill. It is a close corporation, the only particulars regarding it being obtained from official sources. Neither the officers nor the allotment of shares are made public, other than the fact that the incorporators constitute the board of directors.

Arlin Haneberg, W. Pfothenauer, George Rodlek, August Humburg and P. Bartels have filed articles of association of the Kaneohe Rice Mill Co., Ltd. Its principal office is at Honolulu and its term is fifty years.

The capital stock is \$50,000 divided into 5000 shares of the par value of \$10 each, with the privilege of extension to \$100,000. The privilege is also reserved to reduce the capital stock to an amount not less than \$10,000.

The stated purposes are to engage in manufacturing, mercantile and agricultural pursuits, including the cultivation of rice and its preparation for market and all business incidental thereto. Powers relative to irrigation works, transportation, dealing in merchandise, entering into partnership, acquiring, holding and disposing of real and personal property, etc., are conferred by the charter as filed in the office of the Treasurer.

Until late Friday afternoon Judge De Bolt had, for some days, been embarrassed in continuing his duties as usual from the fact that he had received no word of the confirmation by the United States Senate of his reappointment. It was on this account that he excused his jurors the other day until Monday next, so that there would be no difficulty from such a contingency as finding himself without a commission in the middle of a trial. His present commission will expire at midnight of tomorrow.

An Advertiser reporter, after interviewing Judge De Bolt on the subject, mentioned the difficulty to Secretary Atkinson. The Secretary was much surprised at the absence of any advices to Judge De Bolt from Washington and at once consulted the Congressional Record. There he found that Judge De Bolt was confirmed, along with other presidential appointees, as long ago as December 19. In other cases of Federal appointments it has been customary, when there was a possibility of the delay of a commission beyond the time when an appointee should assume his office, for instructions to be sent from Washington to the official to qualify by taking the oath in due time. Quite likely Judge De Bolt's commission is in the belated Alameda's mail, and if not no doubt arrangements can be made by cable for his qualifying in time to hold court on Monday.

COLDS.
Colds are quickly cured by Chamberlain's Cough Remedy. It acts on nature's plan, loosens the cough, relieves the lungs and opens the secretions, effecting a permanent cure. It counteracts any tendency of a cold to result in pneumonia. It is pleasant to take. Children like it. For sale by Benson, Smith & Co., Ltd., agents for Hawaii.

Women's Woes

It's Hard for Any Honolulu Woman To Keep Up and Around When Her Back Is Constantly Aching.

When a woman's back aches, When it throbs day and night; Or she is tired and worn out; Unable to stoop without pain. When urinary troubles annoy her, And she is nervous and irritable. It's hard to keep up. Can't be well until the kidneys are well.

Doan's Backache Kidney Pills cure these ills. Cure the kidneys and kept them well. Honolulu testimony proves it. Mrs. N. Joseph lives at the corner of Liliha and King streets, this city. She says: "I was troubled for seven months with a lame back, and also suffered from occasional attacks of chills. These various complaints made my condition by no means a happy one, so that I much desired some remedy which would bring relief. This I found in Doan's Backache Kidney Pills, some of which I obtained at the Hollister Drug Co.'s store. I am pleased to say that they gave me not merely temporary but permanent relief and I have not the least hesitancy therefore in recommending Doan's Backache Kidney Pills. They are a good kidney medicine."

Doan's Backache Kidney Pills are for sale by all dealers at 50 cents per box, (six boxes \$2.50). Mailed by the Hollister Drug Co., Ltd., Honolulu, wholesale agents for the Hawaiian Islands.

VARIOUS HEARINGS.
The Supreme Court heard and denied the motion of defendant in Mills v. Walker to establish bill of exceptions. A. S. Humphreys for plaintiff, G. A. Davis for defendant.
Judge De Bolt overruled the demurrer of defendant in the case of H. May & Co., Ltd., v. W. C. Peacock.
There was no appearance for David L. Manu when his motion to set aside the divorce obtained by his wife came before Judge Lindsay. L. A. Dickey, opposing, stated that David had married again on December 21. If he should have his divorce voided he would put himself in the box as a bigamist. The motion went over for the present.