

### HACKFELD MATE VERY LIVE MAN

(From Thursday's Advertiser.)

Another mystery has been cleared up. The missing second mate of the German ship H. Hackfeld, whose body was supposed to have been supplying the crabs in the harbor with sustenance, is back again on the vessel, the fatted calf has been served, the captain's watch ticks again in the pocket where it belongs, and all's well aboard. The sea gave up its dead yesterday morning, during the early hours of the dog watch, when the mate slid out of the hole he had hidden in since Sunday, under the chain locker in the fore peak, uncurled his six feet of height and crawled up on deck to get a drink.

Although afraid that it was the ghost of his shipmate that confronted him, the watchman challenged and was delighted to hear a real voice, although somewhat faint, respond. Then it came out that there had been no mad dive into the harbor on the part of the mate, but a dive into the hold instead, where, curled up, the missing man had escaped discovery while the police were searching for him.

On Tuesday morning a Federal warrant had been sworn out against Wedel, but it is unlikely that it will be served on the regained officer, the Marshal having received a telephone message from Hackfeld & Co. yesterday asking that the case be dropped. It is pointed out that it will be necessary to have a second mate aboard who has German papers and the penitent has been reinstated. Any prosecution which may follow can come as well after the ship is back in her home port as it could here, the whole affair having taken place aboard the German vessel.

### HOLT ACQUITTED ON DIRECTED VERDICT

Judge Lindsay yesterday directed the jury in the case of the Territory vs. William Holt to return a verdict of not guilty. This was done on the motion of Holt's attorney, A. G. M. Robertson. John Marks, the principal witness in the case, completely went back on the testimony he gave before the grand jury. There he testified that he had assisted Holt to kill the stolen animals and had at Holt's direction cut the brand from the hide, and that the cattle belonged to the Dowsett Company.

In court yesterday he testified that the cattle belonged to Robert Holt and that he had testified as he did before the grand jury because of the intimidation and terror exercised on him by Sheriff Iaukea and other police officers.

The Territorial grand jury were called together yesterday and indicted Marks for perjury, as it is clear that either his testimony before the grand jury or before the court is false.

The police department feels very indignant at Marks' testimony charging them with intimidation.

On her outward trip, the Claudine was unable to land her mail at Lapaehoe owing to the northerly swells prevalent at the time.

Of course you know this old, safe, and sure beacon. For over sixty years its light has been guiding and suffering back to the harbor of health and strength. Isn't that a record to be proud of? For more than sixty years

### AYER'S Sarsaparilla

has been the source of good health to many thousands of people in all parts of the world. Their testimonials come in by every post. They all assert the great fact — "Ayer's Sarsaparilla cured me." Weak, weary women, men who had been tired out and discouraged, — all write gratefully of the good it has done them.

There is a lesson for you in this. Why not heed it? Begin at once to take Ayer's Sarsaparilla.

As now made, it contains no alcohol.

There are many imitation Sarsaparillas.

Be sure you get "Ayer's."

Prepared by Dr. J. C. Ayer & Co., Lowell, Mass., U.S.A.  
AYER'S PILLS, the best family laxative.

HOLLISTER DRUG CO., AGENTS.

### WILL WORK FOR PEARL HARBOR

(From Thursday's Advertiser.)

A special meeting of the trustees of the Honolulu Chamber of Commerce was held yesterday afternoon at 3:30 to consider the advisability of sending a representative to Washington to assist in the work of obtaining an appropriation for the dredging and widening of the channel at Pearl Harbor. The meeting was called by President Morgan especially for this purpose, and no other business came up.

A general discussion took place among the members, which showed that all were in favor of the sending of a representative business man, who thoroughly understood the situation and could answer any questions which might be asked him by members of Congress who desired information. The fact that it was a commercial necessity and should be put forward in every way possible was urged by the speakers, who advanced many reasons for the urging of the proposition.

One of the speakers cited the Bremer navy yard as an object lesson of what good would come to this city through the establishment of a naval station in Pearl Harbor and stated that an immense amount of business had been brought to Brooklyn in the same way. The fact that the "Big Four" while here spent in the neighborhood of \$160,000 was also spoken of and how, should there be a naval base on this island, it would mean that naval ships would come here continually.

The trustees present were unanimous in their decision that it was a matter which required immediate attention and President Morgan was authorized to appoint a committee of three, who should look into the matter thoroughly, discuss the ways and means whereby the matter should be handled and report as soon as possible also selecting, if possible, the most suitable man for the position.

Yesterday evening President Morgan announced the appointment of the following committee to take charge of the matter: E. E. Paxton, F. B. Me-Stocker and E. H. Wodehouse.

### SMALL FARMING IS BOOMING MAUI

Senator Coelho and Judge Kepoikal of Maui arrived in the city yesterday on private business and will return to their home before the end of the week. In speaking of the prospects on this island, Senator Coelho is enthusiastic.

"The white people of Maui have set the Hawaiians a good example in cultivating small portions of their holdings in pineapples, grapes and rubber, and I am glad to say that many of the natives are following the good example set them," he said.

"The Baldwin's, through their encouragement given the pineapple planters, have led many Hawaiians into going into that industry, and they are making good money out of it, on an average three hundred dollars an acre. Further encouragement is given the natives in the neighborhood of the cannery from the fact that the Baldwin's are hiring all the hauling of pine done and giving all the owners of teams work.

"The fact that we passed a law at the last Legislature exempting pineapple land from taxation is also a great incentive to many of the Hawaiians and it is probable that next year many more of them will go into this industry.

"The planting out of vineyards is also going ahead in splendid shape, and in this also the Hawaiian small landowners are taking an active part. As a consequence, much of the lands held by the natives, so far in idleness, is now coming into use. The returns on grape culture promise to be big and the growers are feeling much encouraged.

"The good results which have followed the planting of rubber trees in the Nahiku district, which is something the credit of belongs in a great way to the people of Wailuku, has also interested a good many Hawaiians, and now there is a big demand among them for rubber seeds and saplings. A large number will be put out by the Hawaiians of Maui within the next year.

"I think that encouraging the Hawaiians to cultivate their lands is the proper thing to do, much better than encouraging them to come into the towns and cities and selling out their holdings. By encouraging them to get back to the land the Hawaiian leaders would be doing their duty towards their own people."

### LAST OHIA PILES ARE ON THE WAY

Nine ohia piles, the last of a shipment of 118 which have been awaiting transportation at Hilo since last July, are due to arrive Friday by the Like-like. They are to be used for the Alakea street dock, which it is expected will be completed before Thanksgiving, with the exception of the building of the shed, for which an appropriation of \$40,000 was made by the last Legislature.

### MARSTON CAMPBELL SUCCEEDS C. S. HOLLOWAY



MARSTON CAMPBELL, THE NEW SUPERINTENDENT OF PUBLIC WORKS.

Marston Campbell has been appointed Superintendent of Public Works, by Governor Frear, to succeed C. S. Holloway. He has accepted the appointment and will take office tomorrow.

The appointment of an assistant has not yet been made, and perhaps may not be for some days. There is in fact no such position as assistant, and the arrangement of duties in the department, with the assignment of subordinates to these duties, is largely a matter of administration for each superintendent to settle for himself.

The appointment of Campbell comes largely, it is believed, on the recommendation of the business men whom the Governor called into counsel day before yesterday. Campbell himself had a conference with Governor Frear yesterday afternoon, and at its conclusion he announced that he had been appointed and had accepted the office.

"Governor Frear has appointed me Superintendent of Public Works," he said, "and I have accepted the appointment. I shall take office November 1.

"Who my assistants will be has not yet been decided, or even discussed. I have no policy to outline as yet. I shall try to perform the duties of the office in such a way as to justify the Governor in appointing me and to meet the approval of the public."

Marston Campbell came here from Oakland, California, in 1899, in charge of Cotton Bros. contracting work here. He had been City Engineer of Oakland.

### Taxpayers Respond Nobly to Appeal of Assessor

Forty-five thousand dollars were turned into the Territorial treasury yesterday by the taxpayers in answer to the request of Assessor Holt that people pay up and avoid the necessity of the Territory having to issue registered warrants today without the ready cash behind them. On Tuesday twenty thousand dollars came in, which with the balance of ninety thousand dollars places the treasury today in a position to meet all the obligations that may come. Assessor Holt had asked the taxpayers to pay now and relieve the financial situation and the principal debtors of the Territory came through splendidly, as the figures show.

### HART ESCAPES WITH THREE-YEAR TERM

Lionel Hart yesterday pleaded guilty to malicious burning in the second degree and was sentenced to three years' imprisonment by Judge Lindsay. The sentence is considered a very light one and there is a widespread belief that there was latent in the judge's mind a feeling that perhaps the grand jury had not got to the bottom of things in its investigation of the burning and the other matters connected with it, and that perhaps Hart was not the only one concerned in irregularities. W. A. Kinney appeared for Hart; J. W. Cathcart for the Territory.

### SOMETHING FOR THE CHILDREN.

The purity of Chamberlain's Cough Remedy has long been an established fact. Give it to the little ones. It contains no opium or other harmful drug and will cure their coughs, colds and croup. For sale by all dealers. Benson, Smith & Co., agents for Hawaii.

### NO SITE PICKED FOR NEW HOME

Nothing definite has as yet been done by President Pinkham, of the Board of Health, toward selecting another location for the proposed home for the boys born in the Molokai settlement. His choice of a location on the Waimea plains was not approved at the consultation with a number of the members of the Legislature, although the matter has been more or less lost sight of by the public owing to the other affairs of a more spectacular nature with which the Board has since had to deal. Now that this matter has for the time being gone back into a semi-obscurity the question of the home has again come up.

At the consultation referred to, held some weeks ago, the members of the Legislature, headed by Senator W. O. Smith, advocated the locating of such a home somewhere in the vicinity of Honolulu, as being better for the children and more accessible by the friends of the parents of the inmates. It was urged that the fact that the children would be here within reach of friends would lessen the grief of the parents in having to part from their children.

The idea of the President of the Board of Health had been to locate the home somewhere in the country district where government lands in sufficient quantity would be procurable. Here he proposed to have the boys engage in practical farming operations so that when they were ready to leave the home they would have inculcated in them the habits of industry and be able to go out and make their own living from the soil. Mr. Pinkham proposed in short to have not only a home where the little ones could be kept removed from contagion but also a training school for small farmers.

"I have not been able to find any government land on this island anywhere near Honolulu where the rainfall is sufficient to make any farming work practicable," said Mr. Pinkham yesterday. "Of course, I have had lots of land offered me for sale at anywhere from one to five thousand dollars an acre, but I have not been able to consider any of the offers. I do not think much of the various reasons advanced why the home ought to be here in the city. My idea was to train the boys to be able to make their own living, but the other idea is the old one of spoiling the Hawaiians and giving altogether on sympathy. I don't know what to do about it."

In the meanwhile the work of supplying the settlement with a hospital is going ahead in good shape. The requested appropriation for a hospital building for the settlement had been turned down by the Legislature, but the Board of Health has gone ahead with the matter nevertheless, saving wherever possible and purchasing building material with the savings. Now the hospital is built and is almost ready for the furnishings. The picking out of whatever is needed in the furnishing line is the main object of Superintendent McVeigh's visit to Honolulu at this time. The hospital building is now being painted and will be ready for the installing of the furnishings within ten days, so soon as the painters are through.

### DROGGED DOWN BY DESPAIR

Hundreds of Others in the Same Plight.

Mrs. John H. Cole, of 82 Arlington street, South Framingham, Mass., was for years a martyr to kidney trouble, but at last found a cure in Doan's Backache Kidney Pills. She writes:

"I suffered greatly with periodical headache, terrible bearing-down pains and a whole train of minor symptoms. My back was always weak and the kidneys terribly disordered. I could not rest at night and in the morning would get up feeling ill, tired, and discouraged, and without the least ambition to go about my household duties. If I sat down I felt as though I never wanted to get up again; I grew thin and haggard and developed deep circles beneath my eyes. My appetite grew less and less as the days went by until at last I did not eat enough to keep a child alive.

"During all this time I was doctoring and dosing myself with first one remedy and then another until my stomach fairly rebelled. I called in a doctor but soon saw that he did not understand my case. Well, you may believe I was in despair for I had come to that state where I did not care what happened, when a friend told me what a fine remedy and cure for kidney disease Doan's Backache Kidney Pills were. I bought a box and before I had taken all of it I felt much better, my back felt stronger and I rested much easier at night and was not troubled with nightmares and fits of wakefulness as formerly. After that first box was gone I bought another and still another, each one helping me and making me stronger and better, until I had taken twelve boxes. By that time I had a vestige of my old trouble remained and it is the greatest pleasure to my life to say that Doan's Backache Kidney Pills saved me from an early breakdown."

Doan's Backache Kidney Pills are for sale by all dealers. Price 50 cents per box, six boxes for \$2.50, or mailed on receipt of price by the Hollister Drug Co., Ltd., Honolulu, wholesale agents for the Hawaiian Islands.

### FISHERY RIGHTS IN REVIEW

The rights given by law to various persons and corporations for the exclusive privileges of fishing in certain waters were reviewed in a decision of the Supreme Court, handed down yesterday in the matter of the claim of the Kapoian Estate to fishery rights in the Hanapepe river, Kaula. The decision is that these rights are not included among those established by the Organic Act. It also decides the question of the power of a Circuit Court to change the venue in an action with the consent of both parties, deciding this in the affirmative. The opinion, written by Justice Wilder, is in part as follows:

This is an action instituted in the Fifth Circuit Court to establish a fishing right under Section 95 of the Organic Act, which action, by consent of all parties, was transferred to the First Circuit Court, which last court reserved two questions for the consideration of this court.

The first reserved question is whether the Fifth Circuit Court had power with the consent of both parties to change the venue and transfer the record to the First Circuit Court.

Plaintiff claims that this is an action to quiet title in real property and is triable only in the Fifth Circuit, in which the fishery claimed is situated. Assuming, but not deciding, that an action to quiet title in real property is triable only in the circuit in which the real property in question is situated, and that the venue of such an action can not be changed, it does not follow that the venue of this action can not be changed to the First Circuit. This is an action specially authorized by Section 96 of the Organic Act, which provides that "any person who claims a private right to any such fishery shall, within two years after the taking effect of this act, file his petition in the Circuit Court of the Territory of Hawaii, setting forth his claim to such fishing right, service of which petition shall be made upon the Attorney General, who shall conduct the case for the Territory, and such case shall be conducted as an ordinary action at law."

It is not alleged that defendant claims an interest in the property adverse to the plaintiff, and the declaration as a whole shows that it is not a statutory action to quiet title in real property. The first reserved question is answered in the affirmative.

The second reserved question is whether the fishery claimed in this action is included under Sections 95 and 96 of the Organic Act.

The fishery claimed is entirely within the Hanapepe river, on the Island of Kaula, where the tide to a certain extent rises and falls, the water being a mixture of sea water brought into the river by the action of the tide and fresh water coming down the river. The fish taken are sea fish coming from the ocean. No weir or artificial inclosure exists across the mouth of the river. The title to the fee of the bottom of the river is in the plaintiff. Section 95 of the Organic Act is as follows:

"That all laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii not included in any fish pond or artificial inclosure shall be free to all citizens of the United States, subject, however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this Act unless established as hereinafter provided."

It is then provided by Section 96 of the Organic Act that one who claims a private right to "any such fishery" shall file his petition to establish the same, etc. We take it that "any such fishery" means the fishery or fishing right referred to in Section 95.

Congress intended to do away with all fisheries in the sea waters of the Territory belonging to private individuals and not included in any fish pond or artificial inclosure and to provide for the condemnation of such of them as were vested rights.

It is not the kind of fish caught that determines the question, but it is the place where the fish are caught. So the fact that the kind of fish taken in this river are sea fish which have come in from the ocean is immaterial. In this case no claim is made that there was a grant of a fishing right as such.

In 1839 King Kamehameha III resumed possession of all the fishing grounds in the islands and redistributed them, giving those without the coral reef, namely, the Kilohee ground, the Luhee ground, the Malolo ground, and the ocean beyond, to the people, and those "from the coral reefs to the sea beach are for the landlords and for the tenants of their several lands, but not for others." Subsequent statutes, which, with few changes, have continued in force until repealed by the Organic Act, confirm this division by enacting that "the fishing grounds from the reefs, and, where there happen to be no reefs, from the distance of one geographical mile seaward to the beach at low water mark, shall in law, be considered the private property of the konoheks, whose lands, by ancient regulation, belong to the same," and further setting out the rights and restrictions of the konoheks and tenants in regard thereto. R. L. Ch. 38. See Damon v. Hawaii, 194 U. S. 154, 158; Hasleien v. Montgomery, 2 Haw. 62, 65. No reference is made to fishing rights of the kind claimed in this action.

The conclusion is that whatever fishing right the plaintiff may have in this case is not included in the provisions of the Organic Act.

The second reserved question is accordingly answered in the negative. B. L. Marx (Kinney & Marx on the brief) for plaintiff; W. L. Whitney, Deputy Attorney General (C. R. Hemenway, Attorney General, also on the brief), for defendant.

There will be a luncheon at the residence of Mr. Paoo, Ena road, Waikiki, 3 p. m. Saturday, by card invitation only.