



No dark room is needed to develop films if you use the Kodak Developing Machine. Its operation is to the last degree simple and the results are better than those obtained by the darkroom method of development. With the Kodak Developing Machine one can develop at the hotel, in camp, on shipboard or even on a train.

**HONOLULU PHOTO SUPPLY CO.**  
FORT ST.

## HORSE SHOEING!

**W. W. Wright Co., Ltd.**

have opened a horse-shoeing department in connection with their carriage shop, etc. Having secured the services of a first-class shoer, they are prepared to do all work entrusted to them in a first-class manner.

## GERMAN

## FRENCH Table Dainties

A new importation that has just been opened. The following is a partial list of the choice goods.

- BRAUNER KOHL—Mit Frankfurter Bratwurst.
- BRAUNER KOHL—Mit Pinkeln.
- Cepes in Oil.
- Hamburg Eels in Jelly or smothered Truffle Liver Sausage.
- Bombay Duck (Genuine).
- Mettwurst (Hamburg).
- Saddelen-wurst.
- Saucisohen.
- Truffelwurst.
- Pate de Foie Gras Truffie.
- Puree de Foie Gras.
- Game Pates (assorted).
- French Mushrooms and peas.
- Pumpernickel.
- German and French vegetables in jars and tins.

**HENRY MAY & CO.**  
LIMITED.  
22—Telephones—92

## THE DOUGLAS



## BATH, THE PLUMBER.

314 King Street, opposite Young Hotel.  
PHONE 61.

FOR TWO WEEKS  
Special Sale

**Genuine Panama Hats**  
AT  
**GLOBE CLOTHING COMPANY**  
Hotel St., near Bethel.

## MANY NEW BOOKS

The best Summer reading will be found in our new stock of popular books just received.

**Hawaiian News Company.**  
Alexander Young Building Store.

## New Restaurant

JUST OPENED.

Everything New and First Class.  
**THE KAIULANI**  
1185 Fort St., oppo. Club Stables.

## REMOVAL NOTICE.

The TOWNSEND UNDERTAKING CO. and HONOLULU MUTUAL BURIAL ASSN. have moved next door to the more commodious quarters formerly occupied by Pacific Vehicle & Supply Co. Roomy office and parlors are nicely and comfortably arranged.

## Y. MAN SING

1117 NUANU STREET.  
**FASHIONABLE DRESS-MAKER**  
LADIES' UNDERWEAR.  
Dresses made to order. Sewing guaranteed. If the stitches break I will repair without extra charge.

# CHOP TIN SHUT OUT ON HIS OWN EVIDENCE

## Judge Dole Takes Jurisdiction on Account of Apparent Injustice but Finds the Case Was Too Weak to Help the Man.

Judge Dole rendered a Chinese Exclusion Act decision yesterday, on the petition for a writ of habeas corpus for Chop Tin. While the court takes jurisdiction, against the demurrer, on the ground that Chop Tin did not have a fair deal in his examination by the Immigration officers, it sustains the demurrer on the ground that the evidence of facts which Chop Tin would have produced in the examination he should have been accorded does not show that he was entitled to enter the country. Chop Tin's claim was that he was a merchant, from an interest he possessed in a store at Kapaia, Kauai, and hence entitled to re-enter the Territory after an absence therefrom. Following is Judge Dole's decision in full, the sub-headings being the Advertiser's:

In the District Court of the United States, in and for the District and Territory of Hawaii. April Term, A. D. 1904.

In the Matter of the Petition of Yip Chong for a Writ of Habeas Corpus for Chop Tin.

C. W. Ashford, attorney for petitioner; J. J. Dunne, Assistant U. S. Attorney, for the Government.

**THE CASE STATED.**

The petition in this case is by Yip Chong who alleges that he is a cousin of Chop Tin in whose behalf the writ is prayed for. The petition complains that Chop Tin, a person of Chinese birth, is restrained of his liberty by the respondents, F. M. Bechtel or J. K. Brown or both of them; the respondents being officers of the Department of Commerce and Labor or Inspectors of Immigration. That on or about June 1st, 1904, he arrived at Honolulu on his return from China and was thereupon detained by the respondents and has since been held in imprisonment on the ground that he is a Chinaman and not included in any of the exceptions of the Exclusion Laws of the United States, and therefore not entitled to land in Hawaii. When the case came on to be tried, the District Attorney demurred to the petition, the first two allegations of his demurrer being as follows:

"1. Said court has no jurisdiction herein over either the subject-matter or the person.

"2. Said court has no jurisdiction herein either to receive, entertain or adjudicate said petition or to make any order, judgment or decree thereon."

**JURISDICTION DISCUSSED.**

The question of jurisdiction in this case depends on the facts. "An alien immigrant, prevented from landing by any such officer (Collector of Customs and Inspectors acting under their authority) claiming authority to do so under an Act of Congress, and thereby restrained of his liberty, is doubtless entitled to a writ of habeas corpus to ascertain whether the restraint is lawful." Nishimura Ekiu vs. United States, 142 U. S. 651, 656; Lem Moon Sing vs. United States, 158 U. S. 538, 543.

Under Section 2 of the Chinese Exclusion Act of April 29th, 1902, (32 Stat. L. 1st part, 176), the Secretary of the Treasury was empowered to make rules and regulations "not inconsistent with

### THE TRUTH ALWAYS.

"When you are in doubt tell the truth." It was an experienced old diplomat who said this to a beginner in the work. It may pass in some things, but not in business. Fraud and deception are often profitable so long as concealed; yet detection is certain sooner or later; then comes the smash-up and the punishment. The best and safest way is to tell the truth all the time. Thus you make friends that stick by you, and a reputation that is always worth twenty shillings to the pound everywhere your goods are offered for sale. We are able modestly to affirm, that it is on this basis that the world-wide popularity of WAMPOLE'S PREPARATION rests. The people have discovered that this medicine is exactly what it is said to be, and that it does what we have always declared it will do. Its nature also has been frankly made known. It is palatable as honey and contains all the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites and the Extracts of Malt and Wild Cherry. A combination of supreme excellence and medicinal merit. Nothing has been so successful in Anemia, Scrofula, Bronchitis, Influenza, Loss of Flesh and Wasting Diseases, Weakness and Low Nervous Tone, and all complaints caused by Impure Blood. Dr. Austin D. Irvine, of Canada, says: "I have used it in cases where cod liver oil was indicated but could not be taken by the patient, and the results following were very gratifying." It cannot deceive or disappoint you, is effective from the first dose and comes to the rescue of those who have received no benefit from any other treatment. It represents the dawn of progress. Sold by all chemists everywhere.

the laws of the land" for carrying out the provisions of such Act and other Chinese Exclusion Acts and the Chinese treaty, and, with the approval of the President, to appoint such agents as he might deem necessary for the execution thereof. This authority was transferred to the Secretary of Commerce and Labor and to such officers under the control of the Commissioner-General of Immigration as the Secretary might designate, by Section 7 of the Act to establish the Department of Commerce and Labor of February 14th, 1903 (32 Stat. L. 1st part, 828-9). Under the Appropriation Act of August 18th, 1894 (28 Stat. L. 390), every decision of the appropriate immigration or customs officer excluding any alien from admission to the United States is final unless reversed on appeal to the Secretary of the Treasury.

### WHERE JURISDICTION EXISTS.

It is not disputed that the courts have no authority to review the decisions of immigration officers made under the authority of the statute affecting the right of aliens to enter the country. If, however, the facts should show in a case like the one before the court, where a Chinaman applies for admission on the ground that he formerly did business as a merchant in this country, that he was not allowed a reasonable opportunity of producing the two non-Chinese witnesses required by the statute in proof of such fact, the courts would have jurisdiction to interfere upon a proper showing. Rex vs. Young and Pitt, 1 Burr., 556, 551-2; Bradley vs. Thurston, 7 Haw. 530.

Rule 7 which provides that the examination of the applicant for admission "shall be separate and apart from the public, in the presence of government officials and such witness or witnesses only as the examining officer shall designate" confers no authority upon such officer to exclude such two non-Chinese witnesses as the applicant for admission may desire to produce, or either of them, or to deprive him of a reasonable opportunity of procuring them. A contrary construction of the rule would be inconsistent with the statute referred to, requiring the applicant to establish by such witnesses the fact that he conducted the business of a merchant for one year before his departure from this country and that during such time he did no manual labor except what was necessary to the said business (28 Stat. L., Sec. 2); but if such latter construction is required by the words of the rule, then it would follow that the rule is invalid, as being inconsistent with the "laws of the land."

### TREASURY RULES.

The rules and regulations provide in the sixth, seventh, ninth and tenth rules, among other things, that upon the arrival of Chinese persons, it shall be the duty of the proper officer to segregate them from other persons than officials, and to have them promptly examined "as by law provided" touching their right to admission; that such examination shall be in the presence of officials only and such witnesses as the examining officer shall designate, and, presumably, counsel for the applicants if they have any, and if the decision shall be unfavorable, the applicants shall be advised of their right of appeal, and their counsel permitted, after filing notice of appeal, to examine but not copy the evidence upon which the decision is based. The notice of appeal acts as a stay of the deportation of the appellant until a final decision is made. Within three days after such notice of the record of the case, with such briefs, affidavits and statements as are to be considered in connection therewith, are to be forwarded to the Commissioner-General of Immigration, with the written views of the officer in charge, unless further delay shall "be allowed only in those instances" in which the above limit of three days "would occasion injustice to the appellant or the risk of defeat of the purposes of the Act."

### HARD CONDITIONS.

In this case, so far as the allegations of the petition go, the prompt examination of the said Chop Tin took place upon his arrival on the 1st day of June, without opportunity on his part to procure or produce witnesses or to make any showing other than his statement through an interpreter, and apparently without counsel. Upon this examination a decision was rendered refusing Chop Tin the right to land. Notice of appeal was given and perfected on the 3rd of June. At this stage, through the efforts of petitioner, counsel was obtained on the 4th of June, and the Inspector in charge thereupon extended the time in which the said Chop Tin might make a further showing of his mercantile character and of his right to land, until June 7th. It would appear from the rules above referred to that so much time at least was allowed by them for further preparation. Such extension of time allowed no possible opportunity for Chop Tin to produce the evidence required, without chartering a steam vessel. The necessary evidence was on the island of Kauai, 100 miles away, that being his former residence. The 4th of June came on Saturday. I think the court may take judicial notice of the fact that there are no regular departures of vessels for Kauai from the port of Honolulu on either Saturday or Sunday and that there are no regular departures for Honolulu from the island of Kauai on either Sunday or Monday. Under these circumstances it was impracticable for Chop Tin's counsel to produce the evidence in question within the three days ending June 7th. It might and should have been produced June 11th, although the explanation of the failure to do so is some excuse it was not produced until June 15th and then, according to the allegations of the petition, was not

considered by the Immigration officer, Mr. Brown or any other person authorized to act in the premises.

### RULES ARE DEFICIENT.

The rules referred to above, however reasonable they may be in regard to other classes of applicants for admission, are singularly inappropriate for the investigation of applications for admission on the ground that the applicant was formerly engaged in this country as a merchant, in which class or cases, as stated above, the statute requires the applicant to establish the necessary facts by two non-Chinese witnesses, which implies, in all fairness, that the applicant shall have a reasonable opportunity to produce such witnesses. The failure of the Immigration officer in this case to allow sufficient time for the applicant for admission to produce the proof required by the statute would have "occasioned injustice" to him if his evidence had been sufficient. The provision of Rule 10 for an allowance for further time does not make it a matter of discretion with the Inspection officer, whether such further time shall or shall not be allowed. In a negative way it requires such delay if in the judgment of the officer a refusal would result in injustice to the applicant. The statute, by implication, requires an opportunity to be given the applicant to produce the proofs which it makes necessary to his admission. That injustice must result to a bona fide applicant for admission on the ground of former occupation as a merchant in this country, who has made a long voyage with such an object in view, and who is ready to offer sufficient statutory proofs, and is arbitrarily refused an opportunity to do so, cannot admit of a doubt, and such must be the judgment of any intelligent and unbiased person.

### DECISION ON FACTS.

The other grounds of the demurrer are upon the insufficiency of the facts alleged.

Copies of affidavits of two non-Chinese witnesses are made a part of the petition. These affidavits make the case as prepared for the consideration of the Immigration officer, and which it is alleged he refused to receive and consider. The allegations of these affidavits are insufficient in the judgment of this court to prove that the said Chop Tin was a merchant within the meaning of the said Act of November 3rd, 1893, in that it is not shown that the business of the firm of Lung Tai Jan of which he claims to be a partner, was conducted in his name, which words, under the leading authorities, require "that the interest of the merchant must be real and appear in the business and partnership articles in his own name." Lee Kan vs. United States, 62 Fed. Rep., 914, 918. The law requires this fact, among others, to be established by two non-Chinese witnesses and that "in default of such proof (the applicant) shall be refused landing." Act of November 3rd, 1893, Sec. 2. If the Immigration Inspector had received and entertained the affidavits in question, he must have refused admission to the applicant, for the reasons stated above, i. e., the absence of any evidence tending to show that his interest in the firm of Lung Tai Jan was real and appeared in the business and partnership articles in his own name.

This being the case it does not appear that the said Chop Tin has anything to complain of as to his detention.

The demurrer is allowed on this ground.  
(Signed) SANFORD B. DOLE,  
Judge U. S. District Court.  
Honolulu, July 29th, 1904.

## Remember!

Monday, August 1st, 1904, at 12 o'clock noon, at Morgan's salesrooms, 857 Kaahumanu street.

Property of the Estate of W. L. Wilcox, deceased.

- No. 1. An elegant lot on Mt. Tantalus, 60-100 acre, nicely improved.
- No. 2. Beach lot at Waikiki, 221 1-10 feet on beach and 170 feet deep. A fine lot, can be sub-divided.
- No. 3. The Wilcox residence at Waikiki, nearly 100 feet on the beach. Dwelling house, large lanais, fine grounds.
- No. 4. A fine warehouse site on Queen street near Alakea, 703 feet on Queen street. Buildings on the lot now.
- No. 5. Lots 15 and 16, block 14, at Pearl City.
- No. 6. 4 60-100 acres at Kahana, Koolau. Also 2 shares in the Hul.
- No. 7. About 82 57-100 acres at Pukoo, Molokai.
- No. 8. Hialina of Punaula, Molokai.
- No. 9. Interest in Abner Wilcox's Estate at Kauai.
- No. 10. 4 37-100 acres at Kalihi-kai, Honolulu.
- No. 11. Wilcox Poi Factory, with machinery, buildings, lands, etc.
- No. 12. House and lot at Kalihi. A good residence.

Sale subject to confirmation by the court.

Further particulars of William O. Smith, Executor, 207 Judd building, or

**JAS. F. MORGAN,**  
AUCTIONEER.



IT IS A MISTAKE to neglect your hair. Dandruff is the forerunner of baldness, but Pacheco's Dandruff Killer forestalls the forerunner.  
Sold by all Druggists and at the Union Barber Shop. Tel. Main 232.



## Announcement of Auctions

**THIS DAY**

## Auction Sale

OF  
Buggies, Surreys, Wagons, Horses,  
Harness,

**SATURDAY, JULY 30, 1904.**

AT 12 O'CLOCK NOON,  
HAWAIIAN STOCK YARDS, KING STREET.

I am instructed by the proprietor of The Hawaiian Stock Yards to dispose of his surplus stock of Rigs, Horses, Harness, etc., on Saturday next, 30 July, at 12 o'clock noon.

- This list comprises—
- 4 Single Buggies,
  - 4 Hacks,
  - 5 Delivery Wagons,
  - 3 Drays,
  - 1 Horse, Hack and Harness,
  - 1 Farm Wagon,
  - 1 Shetland Pony, suitable for children,
  - 1 Saddle Pony, suitable for children,
  - 1 Horse, Harness and Delivery Wagon,
  - 1 Ladies' Driving Horse,
  - 6 Horses, suitable for buggies,
  - 3 Horses, suitable for dray or wagon,
  - 1 Automobile (steam); cost \$1500; in perfect order. Will be run at the sale by a small boy.
- No reserve on any goods.

**JAS. F. MORGAN,**  
AUCTIONEER.

## AT AUCTION

**THIS DAY**

AT 12 O'CLOCK NOON,

At my salesroom, 857 Kaahumanu street, I will sell at Public Auction, for account of whom it may concern,

18 SHARES METROPOLITAN MEAT CO., LTD. Par value, \$100.00 each.

**JAS. F. MORGAN,**  
AUCTIONEER.

## Auction Sale

**MONDAY, AUGUST 1**

AT 10 O'CLOCK A. M.,

## Dry Goods

Jordan & Co., Ltd., sold their up-town stock at a sacrifice. You get the benefit.

I will sell on Monday, August 1, 1904, at 10 o'clock, the stock of Dry Goods, etc., in the store formerly occupied by Jordan & Co., Ltd., Fort street, next to the Island Meat Market, consisting of—

- Carpets, Curtains,
- Linoleum, Table Cloths,
- Portieres, Dress Goods,
- Hammocks, Shirts,
- Mattings, Ladies' Hats and Bonnets,
- Hocks, Ladies' Waists,
- Trunks, Corsets,
- Tin Hat Boxes, Child's Sailor Suits,
- Parasols, Laces,
- Jap Screens, Ladies' Hose,
- Comforters, Children's Hose, Etc.

**JAS. F. MORGAN,**  
AUCTIONEER.

## FINE Household Furniture

At Auction.

**ON THURSDAY, AUGUST 4,**

AT 10 O'CLOCK A. M.

At the residence of Mrs. K. Vida, King street, near Thomas Square, I will sell at public auction, the entire Household Furniture, comprising in part:

- Large B. W. Bookcase.
- A Library of Choice Books by celebrated authors,
- Handsome Turkish and Axminster Rugs,
- Carved Parlor Chairs,
- Fine Koa Settee,
- Black Walnut Bedroom Set,
- Hair Mattresses,
- Black Walnut Wardrobes,
- Carved Oak Bedroom Set,
- Large Oak Sideboard,
- Koa Sideboard,
- 1 Handsome Koa Center Table,
- A very Valuable Collection of Cut Glass and Decorated China Ware,
- 1 Antique Buffet,
- Oak Dining Table and Chairs,
- A nice Collection of Palms and Ferns,
- And a large collection of other valuable Household Furnishings.

All articles will be on view Wednesday, August 3rd, from 9 a. m. to 3 p. m.

**JAS. F. MORGAN,**  
AUCTIONEER.

## CASHE & COOK, LTD.

HONOLULU.  
**Commission Merchants**  
**SUGAR FACTORS.**  
—AGENTS FOR—  
The Ewa Plantation Co.  
The Waialua Agricultural Co., Ltd.  
The Kohala Sugar Co.  
The Waimea Sugar Mill Co.  
The Fulton Iron Works, St. Louis.  
The Standard Oil Co.  
The George F. Blake Steam Pumps.  
Weston's Centrifugals.  
The New England Mutual Life Insurance Co., of Boston.  
The Aetna Fire Insurance Co., of Hartford, Conn.  
The Alliance Assurance Co., of London.

## M. S. Grinbaum & Co.

LIMITED.  
Importers and Commission Merchants

SOLE AGENTS FOR

## Little Jack

Smoking Tobacco. 5c. and 10c. Packages.

Agents for  
**BRITISH AMERICAN ASSURANCE COMPANY**, of Toronto, Ontario.  
**DELAWARE INSURANCE CO.**, of Philadelphia.

## W. W. AHANA & CO.

Limited  
**Merchant Tailors**

Waity Building, King St.  
Phone Blue 2741

Opposite Advertiser Office  
**American and Foreign Worsteds**

## EAGLE CLEANING AND DYEING WORKS

Fort St., Opposite Star Block.  
Have your old SUITS MADE TO LOOK LIKE NEW. Dyeing and pressing. Tailoring. The renewing of ailed clothing a specialty. Prices very low. Phone White 230.

## PERFECTION Home Bakery

Beretania St., near Emma.  
All kinds of HOME BAKING made from only the BEST MATERIALS.  
Tel. Blue 211.

## Roofs Repaired

BY  
**WM. T. PATY.**  
Carpentry of all kinds attended to. Give us a call.

## SMOKE GENERAL ARTHUR CIGARS

★★  
**GUNST-EAKIN CIGAR CO.**  
DISTRIBUTORS.

## AH PAT & CO.

103 South King, near Alakea.  
MERCHANT TAILORS.  
Expert cutter, formerly with J. D. Tregloan. Cleaning and repairing a specialty.

Phone Blue 646. P. O. Box 1

## Kwong Yuen Hing Co.

36 and 38 N. King Street.  
Importers and Dealers in Chinese Silks, Fine Mattings, Teas, Ebony Furniture, Bamboo Stools, Rattan Arm Chairs,  
Grass Linens, and color, at very low prices.

HOME MADE CAKES, PIES, BUNS, ROLLS, AND BREAD. HOT MINCE PIES EVERY SATURDAY AT

## MILLER'S on Hotel St.

Courteous treatment.  
Prompt attention.  
Best quality and lots more at

## CONSOLIDATED SODA WATER WORKS

PHONE MAIN 71

## COTTON BROS. & CO.

ENGINEERS AND GENERAL CONTRACTORS.  
Plans and Estimates furnished for all classes of Contracting Work.  
Boston Block, Honolulu.

## ALL KINDS OF Rubber Goods

**Goodyear Rubber Co.**  
R. H. PEASE, President,  
San Francisco, Cal., U. S. A.

## PACIFIC HOTEL.

Union Street, oppo. Pacific Club.  
First Class Accommodations for Board and Lodging.  
1180 and 1188 Union Street.