

The Pacific Commercial Advertiser

U. S. WEATHER BUREAU, MAY 1.—Last 24 hours' rainfall .26. Temperature, max. 78; min. 63. Weather, variable.



ESTABLISHED JULY 2 1856

SUGAR.—96 Test Centrifugals, 4.6175c; Per Ton, \$92.35. 88 Analysis Beets, 12s 10 1-2d; Per Ton, \$95.60.

VOL. XLI, NO. 7092.

HONOLULU, HAWAII TERRITORY, TUESDAY, MAY 2, 1905.

PRICE FIVE CENTS

CITIZENSHIP OF ONE THOUSAND IS QUESTIONED

Judge Matthewman of Kailua Raises the Question of Whether Territorial Circuit Courts Have Power to Naturalize.

A legal question has been raised by Judge Matthewman of the Circuit Court at Hilo which involves the legality of the naturalization of not less than 1000 citizens of Hawaii.

In effect, the matter of the legality of almost every man who has been naturalized since annexation, in the Circuit Courts of the Territory, is made a matter of doubt by the point raised. The United States statutes, Section 2165, provide that a man of foreign birth seeking to become a citizen of this country, "shall declare on oath, before a circuit or district court of the United States, or a district or Supreme Court of the Territory, or a court of record of any State having common law jurisdiction and a clerk and seal" his intention to renounce his allegiance to any foreign prince or potentate, and all the rest of it in the legal verbiage.

In the selection of a jury at the last term of his court in Hilo, Judge Matthewman raised the point that there was nothing in the law to provide for naturalization by courts constituted as the Circuit Courts of the Territory are. In all other Territories, the Circuit Courts are made up after the pattern of the Circuit Court of the United States, somewhat. That is to say, the judges of the Circuit Courts, in banc, constitute the Territorial Supreme Court. The Justice of the Supreme Court, as every lawyer and most lay Americans know, go on circuit for a part of the year, and sit in the district courts of their several circuits with the district and circuit judges.

There is nothing analogous to this in the Hawaiian system, although circuit judges are called to sit in the Supreme Court in case of the absence or temporary disqualification of supreme judges.

Now, there is no question that the Territorial Supreme Court has power to naturalize under the statute in part

quoted above. Neither, of course, is there any question of the power of the United States District Court. But the United States District Court, it is said, has admitted only about 70 citizens, whereas the Territorial Circuit Courts, being much more convenient to a great many inhabitants, have admitted about 1000 voters to citizenship. If the contention of Judge Matthewman holds, all of these men have been illegally admitted, have cast illegal votes at elections in the past, and some of them have held office illegally—although, of course, all this has been done innocently. One District Magistrate, George Clark, of North Kona, has been on the bench for two terms, his second term just expiring, and yet he was naturalized by the Territorial Circuit Court.

It is a question, of course, for lawyers. The United States statute upon the point having been passed in 1802, was on the statute books before Hawaii was thought of, and before any Territory now existing was organized. In this particular feature, it has never been amended. But it is questionable whether, even if the law should be strictly construed, anything would invalidate acts done by men who had violated the law innocently, acting in all good faith.

"I think you would find that the courts have construed the naturalization law liberally, and rather with a view to its intent than anything else," said a well known attorney yesterday. "The decisions all run that way. There is one even holding that a city magistrate had power to naturalize. But of course I am not familiar enough with the circumstances under which Judge Matthewman made his ruling to speak upon it off-hand. In my opinion, the intent of the law was to have naturalization done by courts, wherein a record of the transaction could be preserved, and it would probably be held that that was sufficient. The Territorial Circuit Courts are courts of record."

WHY AND HOW THE COUNTY ACT WILL BE ATTACKED

The Executive Committee of the Civic Federation hopes to begin proceedings to test the validity of the County Act on Wednesday, but the members of the committee have not yet determined what form this proceeding shall take.

The committee held a meeting yesterday afternoon at which were present Messrs. C. H. Dickey, Attorney General Lorrin Andrews, A. F. Griffiths, David Ai, Perley L. Horne, Ed. Towse, F. J. Lowrey, R. H. Trent and D. L. Withington. This is the entire membership of the committee, excepting four.

The Committee on Legislation reported on the County Act, and asked for instructions. The committee reported that eminent lawyers had expressed grave doubts as to the validity of the act, and the members felt it a public duty to have the law tested before the Territory had incurred the large expense incident to an election, and in order to save the community from the humiliation of finding out, possibly, after putting the act into operation, that it was held invalid by the courts.

After considerable discussion, it was decided by the committee to take action at once, in view of the fact that under the by-laws of the Federation it would take at least five days to call a full meeting of the society. There was felt to be the greatest need for haste, but every one expressed considerable regret that there could not be a general meeting for the expression of opinion. It was the sense of the meeting, however, that the final result of a general meeting would be the same, and the committee accordingly felt perfectly justified in taking action.

The following preamble and resolutions were unanimously adopted:

Whereas, The Legislature, pursuant to public pledges and in accordance with the wish of the people of this Territory has passed a County Act; and

Whereas, Doubt has been expressed by competent legal counsel as to the constitutionality of said Act; and

Whereas, There is great uncertainty as to the status of the finances of the Territory by reason of this legislation; and

Whereas, The matter should be settled before the expense of the special election is incurred, and before the Legislature, now in special session, shall have acted on appropriations, in order to avoid the calling of still another session, should said County Act prove to be invalid; therefore,

Resolved, That the committee on legislation be instructed to take immediate steps to have the County Act tested before the Supreme Court of the Territory.

In the meantime, the Attorney General yesterday asked two members of the late County Act Commission to appear and assist him in sustaining the validity of the County Act. Mr. Cooper and the other member of the Commission, Mr. Stewart, accepted the opportunity, although Mr. Andrews made the distinct statement to them that the fee for such service could be of the

(Continued on Page 7.)

BRAY AND ROSENBERG ARE BOTH INDICTED

Charged with Making False Declaration About Seamen's Allotment Notes--Bray Accused of Graft on Sailors.

Captain Isaiah Bray, Superintendent of the Sailors' Home, and Morris Rosenberg were both indicted by the Federal Grand Jury yesterday for making false statements of the nature and amount, respectively, of debts claimed by them to be due from seamen.

Both are charged in similar terms except that Captain Bray is accused of embezzling the sailors for commissions, which Rosenberg is not. Further, Captain Bray's case is noteworthy from the fact that, a short time ago, when the chief shipping interests combined to abolish crimping at this port the business of shipping seamen was placed entirely in the hands of the Superintendent of the Sailors' Home, and the feeling was cherished that Jack thereafter would have himself to blame if he did not receive a square deal in Honolulu.

Isaiah Bray is indicted in four counts. The first count charges him with having made a false statement of the nature and amount of a debt claimed by him to be due from a seaman named A. Juricks, who was shipped according to law in the American vessel Tillie E. Starbuck, bound from Honolulu to Delaware Breakwater. It is related that Juricks stipulated in his agreement for the allotment of \$25 in one instalment to be paid from his wages to Bray, and signed an allotment note directing that the sum mentioned be paid from his wages to Bray, and that thereafter Bray declared that he was the original creditor of Juricks for "board, lodging and sea outfit" and that Juricks was justly indebted to him in the sum of \$25, and that Bray further declared that said indebtedness was contracted prior to Juricks's engagement for the voyage mentioned in the allotment note, and further that no part of said indebtedness was for money paid to Juricks or any other person.

Whereas, in substance, the indictment proceeds, in truth and in fact, Bray was not the original creditor of Juricks for the full amount of said allotment note, and Juricks was not justly indebted to him in the said amount of \$25 for "board, lodging and sea outfit," and said indebtedness was not contracted prior to Juricks's engagement for the said voyage, and \$4 of said indebtedness was for money paid the said A. Juricks, and 50 cents for express, and \$1.50 for an alleged claim on the part of Bray for assuming the said allotment note, "all of which was contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America."

The second count, in similar terms, charges Bray with falsely declaring that an allotment note given him by J. J. Bailey of the Starbuck's crew was entirely due to him as original creditor for "board, lodging and sea outfit," whereas \$4.90 of it was money paid Bailey and \$1.50 a claim of Bray for commission on the allotment note.

The third count refers to the allotment note of J. Jamieson, a Starbuck sailor, for \$25, of which it is alleged \$1.70 was money paid the sailor and \$1.50 Bray's claim for assuming the note.

The fourth count relates to Adolph Garcia, whose note, declared by Bray to have been for "board, lodging and sea outfit," is alleged to have been in part \$11.50 money paid, \$1 express charge and \$1.50 the fee claimed by Bray.

In each count it is said that Bray declared he was the original creditor "in the name of the Sailors' Home."

Morris Rosenberg has three counts against him. In the first he is accused of declaring himself the original creditor of Simpson A. Crawford, a shipped seaman of the Starbuck, and receiving an allotment note for \$35 of his wages on account of "clothing," while it is alleged that \$12 of the sum was for money paid Crawford contrary to law. The second count charges Rosenberg with paying \$4 of the same sum to another person than Crawford.

The third count refers to an allotment note received by Rosenberg from a Starbuck seaman named Owen Condon, in the sum of \$25 declared to be due Rosenberg for "clothing," but of which it is alleged \$10 was money paid Condon and \$10 more paid to another person.

Bray and Rosenberg were arrested in the afternoon. They will appear in court today. Captain Bray was master of the missionary packet Morning Star some years ago.

THE CONVOCATION OF EPISCOPAL CLERGY OPENS PROCEEDINGS

Bishop Restarick presided last evening at the initial session of the Episcopal Convocation of the Missionary District of Honolulu held in the St. Andrew's Sunday School room. The roll was called by Secretary H. McK. Harrison, a majority of the clergy and lay delegates responding.

Rev. John Osborne and D. W. Anderson were appointed a committee to examine the certificates of the lay delegates, finding them in order.

The Bishop then declared the third annual convocation ready to transact business. Chancellor Stanley announced that the two lay delegates from St. Augustine's church, Kohala, being women, were not entitled under the constitution to sit in the convocation.

Rev. Mr. Potwine was selected as secretary, Mr. Harrison declining to serve. Carl Lovstedt was appointed assistant.

The Bishop then appointed the standing committees as follows:

Council of Advice—Rev. Canon Ault, Wm. E. Stiles, George F. Davies, Rev. Canon Mackintosh.

Anderson, Yap See Young, Chas. L. Rhodes.

Education—Rev. Canon Ault, Rev. Frank Fitz, Chang Kim, Philip Dodge.

Legislation—Rev. John Osborne, Rev. W. C. Stewart, H. E. Highton, H. M. von Holt, W. L. Stanley.

Finance—Canon Ault, H. McK. Harrison, F. R. Greenwell.

Elections—Rev. F. Fitz, Mr. Robt. Potwine.

Unfinished Business—Rev. Alfred L. Hall, F. J. Testa.

Rev. D. Douglas Wallace of Kona, Hawaii, who had not been in office six months, was given a seat in the convocation without a vote.

The report of the Treasurer of the Board of Directors was presented by Henry Smith. The last report gave a balance of \$103 and since then he had received \$250 as rent; also received donations from S. M. Damon and E. F. Dillingham. The total receipts were \$454.57 and expenditures \$376.29 leaving a balance of \$78.28. The sum of \$1000 had been borrowed from the banks. The report was accepted and referred to the Finance committee.

The report of the Committee on Legislation and Privilege was presented. The same was read by Rev. John Us-

(Continued on page 7.)

TERROR DAY IN WARSAW

Much Blood is Shed by the Troops in Suppressing the Street Disturbances.

(ASSOCIATED PRESS CABLEGRAMS.)

WARSAW, May 2.—A hundred were killed or wounded in the riots. In various instances the troops became uncontrollable. The people used firearms and bombs. The Czar's infantry fired repeated volleys at the retreating processionists.

NO TROUBLE OUTSIDE POLAND.

ST. PETERSBURG, May 2.—Except in Poland, there is no trouble in the Empire.

ADMIRAL TOGO WILL NOT OFFER BATTLE

NEW YORK, May 2.—Minister Takahashi declares that Admiral Togo will not offer battle to the Russian fleet, as the risk is excessive.

THEIR OPENING VICTORY.

FUSAN, May 2.—Kuroki's army is celebrating, with fetes, the battle of the Yalu.

ROJESTVENSKY'S FLEET.

SAIGON, May 1.—The ships of the Russian Baltic fleet are off Port Dayet, forty miles north of Kamranh Bay, and outside the territorial waters—three miles from shore.

Russian, German and British transports are off Cape St. James. The French naval division has been mobilized to preserve neutrality.

THE CHICAGO STRIKE.

CHICAGO, May 2.—The conditions here are aggravated. Two thousand non-unionists imported as strike-breakers have arrived. The authorities will not allow them to carry rifles.

MEXICANS WORSTED.

SONORA, May 2.—In recent battles between Mexican troops and Yaquis, a major was killed and many Mexicans wounded. The Yaquis escaped.

OLYMPIA'S JAPANESE LAND.

SEATTLE, May 2.—The labor men made an unsuccessful effort to bar out the Olympia's Japanese passengers from Honolulu. The Japanese, however, were landed and entertained.

PRESIDENT AND LABOR.

GLENWOOD, Colo., May 2.—President Roosevelt has agreed to receive a petition from the labor men upon his arrival at Chicago May 10.

BREWERY STRIKE ON.

SEATTLE, May 2.—A general brewery strike has begun.

FEDERAL CREMATORY DENIED LOCAL USE

The crematory on Quarantine Island is no longer available to the public for the cremation of the dead. Dr. Cofer announces officially that no more cremations will be allowed there and Honolulu must provide a crematory elsewhere. The crematory was erected in 1900 during the plague epidemic, and was built at territorial expense. Cases which come legitimately to the Board of Health or the U. S. Quarantine ser-

vice, will be disposed of as before. This will be for contagious diseases only.

There is some talk of erecting a public crematory and action may be taken by citizens interested in the cremation idea.

Otomatsu Kawara, indicted for manslaughter, a Waimanalo case, was found guilty of assault and battery. After a plea from the prisoner in which he showed scars inflicted on him by the man he killed, he was sentenced to two years' imprisonment.

Mark P. Robinson is adjudged by Judge De Bolt to have a vested right in the fisheries of Hoanac and Apokaa, both in the district of Ewa.