

# The Pacific Commercial Advertiser

U. S. WEATHER BUREAU, AUG. 6.—Last 24 hours' rainfall, .00. Temperature, Max. 82; Min. 72. Weather, Fair.

SUGAR.—96 Test Centrifugals, 4.0625c.; Per Ton, \$81.25. 88 Analysis Beets, 10s. 33-4d.; Per Ton, \$84.40.



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PRICE FIVE CENTS

## CITIZEN LABOR ACT DECLARED NULL AND VOID

### District Attorney Breckons Says It Violates Constitution, Statute and Treaty.

Attorney R. W. Breckons, who is the local United States District Attorney, has furnished a legal opinion on the law which the Territory is enforcing to exclude Japanese laborers from public works. He finds that the law is unconstitutional, for reasons which are very clearly set forth in his opinion, delivered to the editor of the Shimpoo.

The attorney's opinion is given in full below with the exception of some references he made to cases decided in the United States, illustrating the points he makes:

In my opinion, the law in question is invalid and the courts will not enforce the same. My reasons for this opinion are as follows:

The fourteenth amendment to the Constitution of the United States provides among other things as follows: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This provision is also enforced by legislation enacted by Congress, being Sec. 1977, Revised Statutes of the United States, which is as follows:

"All persons within the jurisdiction of the United States shall have the same right in every state and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

The latter part of the amendment above quoted "nor deny to any person within its jurisdiction the equal protection of the laws" has in every instance in which it has been before the courts, been held to cover the case of all persons, whether citizens or aliens, residing within the jurisdiction; hence all aliens, residents within the Territory, of Hawaii, are protected by the clause.

The law of the Territory of Hawaii, referred to, certainly discriminates between persons resident within the Territory. By its terms all persons are not equally entitled to acquire and enjoy property. By its terms, impediments are interposed to the pursuits of some which are not applied to the same pursuits by the others.

The constitutional amendment has been applied by the Federal and State courts in a variety of cases, many of them, to my way of thinking, involving the same principle as is involved in this question under consideration. The Territorial Act is as palpably aimed at Japanese and Chinese labor, as though it had said so in as many words. It is well known that a very large percentage of laborers in the Territory are either Japanese or Chinese. Under the laws of the United States neither Chinese nor Japanese can become naturalized; they are not eligible to American citizenship. The act, therefore, might just as well have said that every body but Japanese and Chinese might be employed on public works, irrespectively of their citizenship. Should the law be held valid, practically the only persons who could be prohibited by its provisions from being employed on public works would be Chinese and Japanese.

I am not prepared to say what my opinion would be as to the validity of a law preventing all aliens from engaging in public work. The question does not appear to have been flatly decided by any court, although in one very recent case the Supreme Court of the United States, while refusing to pass on the question, intimated that it was a most serious one.

Aside from the constitutional ques-

tion, there is, in my judgment another reason why the Act should be declared void.

By a treaty between the United States and Japan, ratified in 1895, it was provided as follows:

"The citizens and subjects of each of the high contracting parties shall have full liberty to enter, travel or reside in any part of the territories of the other contracting party, and shall enjoy full and perfect protection for their persons and property."

"In whatever relates to the rights of residence and travel; to the possession of goods and effects of any kind; to the succession to personal estate by will or otherwise, and the disposal of property of any sort, and in any manner whatsoever, which they may lawfully acquire, the citizens or subjects of each contracting party shall enjoy in the territories of the other the same privileges, liberties and rights, and shall be subject to no higher imposts, or charges in these respects than native citizens or subjects, or citizens or subjects of the most favored nation."

"They will not be compelled under any pretext whatsoever to pay any charges or taxes other or higher than those that are, or may be paid by native citizens or subjects, or citizens or subjects of the most favored nation."

The provisions quoted, and others in the treaty, are in my judgment opposed to the provisions of the territorial law.

The law of the territory in question, as I have already said, distinguishes clearly between subjects of other countries and those of Japan and China, and for this reason is void as being in conflict with the treaty referred to.

Very respectfully,

R. W. BRECKONS.

—Hawaii Shimpoo.

## TROUBLES OF KING GEORGE OF TONGA

After the manner of the Germans in the Caroline islands, says the Chronicle of July 27, the English residents of the Friendly group in the South Seas are trying to oust the native King and secure absolute control of affairs. The schooner William Olsen, arriving yesterday from the Friendly islands, brings a story of an attempt of the Englishmen to take charge of the Government and of the resistance of the native king, George Tabu II.

Some years ago an Englishman named Baker, who had gained residence in the Friendly group and become a power among the natives, was elevated to the position of Premier. He was a man of uncommon intelligence, and during his incumbency of office established a modern code of laws that is still in force. But Baker died a few years ago, and since his death the English merchants and other residents of the group have yearned for supreme authority over the islands. It is reported by the officers of the William Olsen that the Englishmen approached King George Tabu II. with a proposition to abdicate and enjoy an annual pension of \$12,000 or take the alternative of exile to South Africa without a pension.

The King, who had enjoyed the companionship of Baker, the clever English Premier, had become too well educated in modern diplomacy, however, and after brief consideration of the proposition declined to accept the offer. He took the next vessel sailing for Auckland for the purpose of appealing to King Edward, and he had not returned to the Friendly group when the William Olsen sailed for this port. The King's petition has been carefully prepared, and as he was clearly being edged out of his job as ruler of the islands, and seemed destined to be relegated to the designing merchants of the group to private citizenship without a cause, great anxiety was felt by the residents of the islands as to the outcome of the controversy when the William Olsen sailed. King George Tabu II. is said to have been a very good King of the Friendly islands. He is a native, but is classed a good fellow, fairly well educated, and as a man who would pass in good company anywhere in the world.

Prof. Alexander's paper lately read before the Hawaiian Historical Society, of which a brief synopsis was given in the Advertiser, furnished a more correct view of the Tongan situation than the foregoing.

## INVESTIGATING LIMU AS POSSIBLE FOODSTUFF

### Heroic Explorations of Miss Reed on the Coral Reefs of Molokai--Tidal Wave Strikes Pukoo With Prodigious Force.

PUKOO, Molokai, August 5.—Limu, or Hawaiian sea-moss, is being investigated at this place by the U. S. Department of Agriculture, to determine its value as a food product. The investigation is being conducted by Miss Reed of the Kamehameha Manual School of Honolulu. Miss Reed, after a thorough examination of the Molokai coast from Kamalo to Pelekunu, including Pukoo and Halawa, sandwiched in between, in quest of the many varieties known to exist in the island waters, leaves today for Honolulu in the steamer Likelike, and next week will leave for Kauai to continue her search. Hawaii and Maui coast have already been explored. When all Miss Reed's data is at hand, it will form the basis of a comprehensive bulletin to be issued under the auspices of the Federal Experiment Station of Honolulu.

It may not be generally known to Honolulu housewives that the limu is capable of being incorporated as a food product in a pudding, the flavor of the sea-moss imparting a taste, once tempted, to be desired.

Miss Reed has been experimenting here in making puddings, but as she is only working in a primitive way, is not yet ready to make public the recipe or formula. However, the limu is first cleaned and then bleached. It is then added to a pot of milk, with other ingredients, and boiled. The pudding is formed from the skimmed-off portion, which when congealed forms a tasty substance not unlike blanc-mange in form. It is milk-white in color.

But all this is in the experimental stage. The chemical analysis is yet to be ascertained, and its value as a food product determined from this standpoint. Then the supply is to be estimated. All things favorable another industry may be started in the Hawaiian Islands, and the only experts in gathering the moss from the wave-dashed coral reefs, the Hawaiians, may yet find lucrative employment thereby.

In the interest of science, Miss Reed also intends writing a magazine article, as a scientific study, on the Hawaiian limu. As a scientist, Miss Reed braves many dangers to acquire information. In rain and shine, she rides along the coast on a pony, in bifurcated skirts, a mackintosh handy to protect her from the rain. A bag for carrying specimens, and a camera complete her outfit. Well, she also carries wading shoes, which she dons when ready to wade out on coral reefs. A Hawaiian outrigger canoe, manned by a stalwart native, is frequently made use of by her, to carry her to outlying reefs, from half to three-quarters of a mile from the shore, where she obtains her choicest specimens. This is not the safest work for an Anglo-Saxon, unaccustomed to the treacherous seas breaking across the coral, but so far Miss Reed has met with no mishaps, except when, last week, she and a party headed by Fred. W. Beckley,

went to Halawa in a whale-boat and got weather-bound for three days.

### TIDAL WAVE VISITATION.

A great tidal wave struck the Pukoo coast about two weeks ago. It was several feet in height, working over the tops of the fish ponds, wrenching the doors off the steamer freight house on shore. A great breach in the stone wall, enclosing a fish pond owned by Mrs. Nakuina, was ripped open. This wall is several feet thick both at the base and top, but the wave tore it loose as if it were of paper. The wall was built so long ago that the oldest inhabitant remembers nothing concerning its erection.

A. P. TAYLOR.

## REDUCED SUGAR CARRYING RATES

The keen rivalry of the railroads which run out of New Orleans has caused the Southern Pacific and the Santa Fe roads to make the largest reduction on its rates for sugar from San Francisco to the Missouri river that has yet been put into operation.

It was formally announced yesterday that the railroads from this city will henceforth charge a rate of 28 cents per hundred on refined sugar to all points on the Missouri river as well as in Kansas and Nebraska. The rate has hitherto been 50 cents per hundred pounds. But the competition was so keen, because of the cut made by the roads out of New Orleans, that, in order to offset the lines in the South, the reduction was forced. There is a bitter war being waged now on sugar rates between the Illinois Central, the San Francisco and the Harriman branches of the Southern Pacific road from New Orleans East. While the rates hitherto prevailing for sugar was 32 cents, a cut was made to 19 cents.

By the reduction of the rate here it, to a great degree, offsets the competition in the South and somewhat equalizes things.—San Francisco Examiner.

## HONOLULU COUPLE BECOME ENGAGED

The engagement of Miss Sophie Judd and George Cooke was announced on Saturday. The news was not only somewhat of a surprise to their many friends, but the source of much pleasure, and both Mr. Cooke and Miss Judd have been the recipients of many congratulations since the news became public.

Mr. Cooke is the son of Mr. and Mrs. C. M. Cooke. He recently returned from Yale, where he completed his education.

Miss Judd is the younger daughter of Mrs. A. F. Judd and the late Chief Justice Judd. She is an island girl and completed her education at Farmington, after which she made a tour of Europe in company with her brother Charles.

The date for the wedding has not been set.

## TAUGHT HAWAIIAN SCHOOL EIGHTY-TWO YEARS AGO

The Maui News gives the following copy of a proposed inscription in the Withington Street church, Princeton, N. Y.:

"BETSEY STORKTON, through her desire to serve the cause of Christ, accompanied the first American missionaries to Hawaii and founded a school for the commonalty at Lahaina, Maui, in 1823.

"After her return to the United States she was for many years a valuable member of this congregation, a teacher of its youth, and a powerful influence for good in the community.

"This memorial is got up in recognition of her faithful Christian character and most useful life by friends who honored and loved her.

"She was born in Princeton in 1798, and died here October 24, 1865. Her body lies at Cooperstown, N. Y."

Presuming that the date of the founding of the mission school at La-

haina is correct as above, the school would have ante-dated Lahainaluna Seminary by eight years. The Hawaiian Spectator of October, 1838, gives the history of the Mission Seminary at Lahainaluna in an article by E. W. Clark, one of the instructors.

The article incidentally mentions the fact that, in the times of the first missionaries arriving in 1820, "Schools were established throughout the islands, and supplied with such teachers as could be obtained." Then a condition is described of the schools' languishing for the want of suitable teachers, with this information following:

"In this state of things it was unanimously resolved, at a general meeting of the Mission in June, 1831, to form a high school for raising up school teachers and other helpers in the missionary work. The design of the high school, now called Mission Seminary, is thus set forth in the printed laws of the school."

## JAPAN'S VAST ARMY PLACED

### Nearly Half Million of Infantry--Miss Alice Roosevelt Receives Golden Gift.

(ASSOCIATED PRESS CABLEGRAMS.)

LIDIAPUTZE, August 7.—The Japanese have concentrated four hundred and thirty thousand (430,000) infantry and sixteen hundred (1600) cannon in front of the Russian armies.

## PORTSMOUTH DECORATED FOR PEACE CONFERENCE

PORTSMOUTH, N. H., August 7.—The navy yard and the city are elaborately decorated. Representatives of the army and American and foreign journalists are in attendance. The envoys will arrive today.

PORTSMOUTH, July 15.—Acting Secretary of State Peirce and Edward N. Pearson, secretary of state of New Hampshire, today visited the Portsmouth navy yard and held a conference with Rear Admiral W. W. Mead, commandant, regarding details of the coming peace conference between the Russian and Japanese plenipotentiaries.

It was decided that the sessions of the conference should be held in rooms on the second floor of the general store building. The patrol of marines at the yard will be increased, particularly in the vicinity of the building, and no one not directly connected with the negotiations will be permitted to enter the structure.

A visit was made later by Mr. Peirce and Mr. Peterson to Newcastle, where rooms for both the Japanese and the Russian envoys were engaged at the Hotel Wentworth.

It was officially announced at the navy yard that this place was selected for the conference because it afforded military protection, because an Atlantic cable lands here and because there are hotels on the coast which can easily be reached without travel by land.

It was stated that a launch will be used for the convenience of the plenipotentiaries in going back and forth between the navy yard and their hotel quarters.

## MANILA GIVES SPLENDID RECEPTION TO TAFT PARTY

MANILA, August 7.—A spectacular parade has been held here in honor of Secretary Taft and party. Miss Roosevelt was presented with gold plate at a public reception. The staff of the Russian war vessel Enquist attended. Secretary Taft gave an audience to the sugar planters.

## BLOODY CHINESE FEUD IN NEW YORK THEATER

NEW YORK, August 7.—A pistol battle took place between rival societies in a Chinese theater here yesterday. Two persons were killed and three fatally injured.

## YELLOW FEVER RECORD. BANDITTI LOOT TREASURY.

NEW ORLEANS, August 7.—Twenty-eight new cases of yellow fever and eight deaths occurred yesterday. The Federal authorities will take control of the situation today.

OPATOW, August 7.—Forty men attacked the treasury here, killing or wounding all of the watchmen. They secured \$10,000 of booty.

## LYNCHING CASE IN CITY OF LONDON

LONDON, July 23.—"Lynching in America" is always an attractive headline in the newspapers, and many sermons have been preached in the editorial columns warning America to mend her ways in this respect. Yet two days ago a man was lynched and carried off dead in a London street in broad daylight, practically under the eyes of the police, without any more notice taken than an ordinary little street row.

John Jacobs, an elderly dock laborer, was sitting in Victoria Park on Thursday afternoon. A little girl was sitting close by. Another workman passed, and, looking through the bushes separating him and Jacobs, suspected an impropriety. He rushed through the bushes and shouted, "What are you up to?" When he understood the charge Jacobs indignantly repudiated it, and accompanied his accuser to a police box in the park. There he established his innocence

and was let go, but he was taken out of the park by a constable, who later, at the inquest, said: "It is usual to turn a man out after such an accusation."

A large crowd of some hundreds of people assembled, and they forced Jacobs to walk in the middle of the road. Then they closed around him and he was struck by several men. Jacobs fell to the ground, and he was carried to a near-by horse trough amid cries of "Lynch him! Put him in the horse trough!" But when the horse trough was reached Jacobs was found to be dead.

No arrests were made at the time, and no attempt has since been made to make any arrests in connection with the affair.

## MANOA VALLEY FIRE.

A fire at the mouth of Manoa valley was reported at midnight. It was supposed to be either a Chinese shack or rubbish burning. There was no word of the fire received at the central fire station.

Shortly after the inquiry was made from this office, however, Chief Thurston and the Makiki engine went out to the place. They had not returned when the Advertiser went to press.