

The decisions rendered in the cases of *Peacock & Co. vs. Republic of Hawaii* (ante, page 27), *Republic of Hawaii vs. Edwards* (ante, page —), and *Hawaiian Star Newspaper vs. Saylor* (ante, page —) apply to these cases and practically determine the point that the provisions of the Constitution of the United States above cited are not in force here during the present transition period. The defendants further claim that the prosecution should have been in the name of the Republic of Hawaii, under section 3, article 92, constitution of the Republic of Hawaii, which provides that "all criminal and penal proceedings arising or now depending within the limits of the Hawaiian Islands shall be prosecuted to final judgment and execution in the name of the Republic of Hawaii." * * * The style of all processes shall be 'The Republic of Hawaii,' and all prosecutions will be carried on in the name and by authority of the Republic of Hawaii."

We are of the opinion that this section does not apply to cases of this nature, and does not change the decision in the case of *Coolidge vs. Puaaiki* (3 Haw., 814), where it was held that suits of this character are civil actions and should be so entitled; "and in no respect do they fall within the duties of the public prosecutor." Affirmed in the *Honolulu Sugar Company vs. Sayewitz and Zeluch* cases, decided September term, 1898.

The appeals are dismissed and judgments affirmed.
Kinney, Ballou & McClanahan for plaintiff.
Hitchcock & Smith, Monsarrat & Weber for defendants.

THE PRESIDING OFFICER (Mr. CARTER in the chair). The question is on agreeing to the amendment proposed by the Senator from South Dakota [Mr. PETTIGREW].

The amendment was agreed to.

Mr. CULLOM. I have an amendment which I send to the desk to take the place of section 100. It gives the names of a certain number of vessels there which are under Hawaiian register instead of having the section in general terms as it is in the bill. The friends of the amendment are very anxious that it shall be adopted, and I understand that the Committee on Commerce or several members of it have made the same request. I ask that it be read.

THE PRESIDING OFFICER. The amendment will be stated.
THE SECRETARY. In lieu of section 100 it is proposed to insert the following:

That all vessels carrying Hawaiian registers, permanent or temporary, on August 12, 1898, together with the following named vessels claiming Hawaiian register: *Star of France*, *Star of Italy*, *Euterpe*, *Star of Russia*, *Falls of Clyde*, *The Wilcott*, and *Star of Bengal*, shall be entitled to be registered as American vessels, with the benefits and privileges appertaining thereto.

Mr. CULLOM. Those are all the vessels, I understand, and it is desired that they shall be named so that there shall be no question about it. I ask for the adoption of the amendment.

Mr. BACON. I hope the Senator from Illinois will explain in what particular, if any, this varies the general law.

Mr. CULLOM. It does not vary from the general bill, except—

Mr. BACON. I am not speaking about the bill. I am speaking about the general law, the present law.

Mr. CULLOM. The general law, of course, requires that the vessels shall be built in the United States or a certain proportion of the value shall have been put on in the United States. But these vessels are now in Hawaiian waters or on the Pacific coast, and are flying the Hawaiian flag, or were before annexation, and are now under Hawaiian register, and a great many Americans are interested in them. It simply recognizes the registration that they are under there now, under the Hawaiian government.

Mr. BACON. That is the point I desire to have elucidated.

Mr. CULLOM. They are engaged in the coastwise trade.

Mr. PLATT of Connecticut. Is not this the fact about it, that the section provides that all vessels having Hawaiian registers on the 12th day of August, 1898, shall be admitted, but those vessels having attempted to register since the 12th day of August, 1898, have been refused, although they are in exactly the same condition as to ownership, and all that, that the other vessels are which were admitted before that time?

Mr. CULLOM. I understand each of these five vessels is under Hawaiian register now. I get that information from the Senator from Minnesota [Mr. NELSON] who is on the Committee on Commerce, and I think the list was submitted to the chairman of the Committee on Commerce and consented to by him.

Mr. BACON. If the Senator will pardon me for a moment, I desire to know why these vessels do not come under the general designation which is employed in the bill and why they have to be specifically named?

If the Senator will allow me for one moment, under the statement of the Senator from Connecticut it would seem that there had been a denial to the vessels of registration; and if so, we ought to know the reason. There may be good reasons why they should not be allowed this privilege, and the fact that the Hawaiian government has denied them, if that be a correct statement, would indicate that there is some reason.

Mr. CULLOM. I should be glad to hear from the Senator from South Dakota, who is familiar with the facts.

Mr. PETTIGREW. I have just sent for a list of vessels that have received Hawaiian register since the annexation of the islands and a list of vessels that have applied for register and been refused. Of course those that had Hawaiian registers when we annexed the islands come in under our flag; and I can see no reason why

they should not. They are owned by citizens of the United States. Since the 12th day of August, 1898, registers have been granted to the following vessels: *Malalo*, September 20, 1898, 23.61 tons; *Kilohana*, October 19, 1898, 247.07 tons; *Star of Italy*, November 11, 1898, 1,534.01 tons; *City of Columbia*, June 27, 1899, 1,177.89 tons; *Niihau*, June 30, 1899, 200.92 tons. Those probably include the vessels the names of which have been given here. This letter is dated July 27, 1899.

Applications for registers now pending are—

And then follow the names of nine or ten vessels. That was in July a year ago.

Mr. CULLOM. That is a larger list. The list I received was from the Senator from Minnesota who has just come in.

Mr. PETTIGREW. There were about four vessels a year ago when we undertook to pass the bill.

Mr. CULLOM. This makes five.

Mr. NELSON. If the Senator will allow me, I can explain it.

Mr. CULLOM. The amendment of the Senator from Minnesota has just been read.

Mr. NELSON. Mr. President, there were seven vessels in all that were admitted between the time we passed the resolution of annexation and January 1, 1899, a year ago. They were admitted to Hawaiian registers. They were vessels that were owned by Americans, and they have ever since been engaged in the trade between the Hawaiian Islands and the Pacific coast. Afterwards the question was raised whether the Hawaiian government had a right to give them licenses after annexation, and the question was finally submitted here by the President to the Attorney-General. It was not until September 12, 1899, that the opinion was given by the Attorney-General declaring that the Hawaiian authorities had no right to grant any licenses; that that right belonged to the Government of the United States.

Mr. CULLOM. I stated a moment ago that the Senator had examined this question and that I thought several members of the Committee on Commerce had done likewise, and that the vessels on this list ought to be recognized as coming under the American flag.

Mr. NELSON. Certainly.

Mr. PETTIGREW. Here are ten more. What are you going to do with them?

Mr. CULLOM. I do not know.

Mr. PETTIGREW. It is a great privilege to get under the American flag. It is worth a great deal of money to those people. I think you had better leave this until the shipping bill is considered, which we are going to have up soon, extending the navigation laws, and thus dispose of the matter. It does not relate to this really.

Mr. BACON. I should like to inquire of the Senator from Minnesota if there is any information as to whether these are or are not American-built vessels or Hawaiian-built vessels?

Mr. NELSON. They are vessels purchased by Americans and admitted to Hawaiian registers between the time of annexation and the 1st day of January, 1899.

Mr. BACON. I understand that to include vessels intended to be specified in section 100. The particular point of inquiry is as to these vessels now named and which are not so included.

Mr. NELSON. I will explain that to the Senator.

Mr. BACON. I desire to get the information specifically as to whether or not the Senator knew where these vessels were built, whether they were built in America or in Hawaii.

Mr. NELSON. I am unable to state where they were built.

Mr. PETTIGREW. They were built neither in America nor in Hawaii. They are foreign-built vessels.

Mr. FRYE. They are foreign-built vessels, built for the American trade, and they have been engaged in the American trade. They are peculiarly sugar ships.

Mr. NELSON. These vessels were purchased by American citizens for use in the trade between the Pacific coast and the Hawaiian Islands and for the purpose especially of the sugar trade. This question was before the Committee on Commerce at the last session of Congress, and we agreed on an amendment to cover all vessels that had been licensed prior to January, 1899, but the report of the Commissioner of Navigation and all the information we could gather made it plain that it could include but seven vessels, the vessels named on the list in the amendment proposed by the Senator from Illinois.

Now, to leave those vessels out and deprive them of American registers at this time would throw that many vessels out of the traffic and trade there. There is a great scarcity of vessels on the Pacific coast. There was such a scarcity, I remember, during the Spanish war that in several instances we had to pass special laws to give American registers to foreign-built vessels in order to get vessels to carry troops and supplies to the seat of war in the Philippine Islands. There has ever since been a great scarcity. The object of the amendment is simply to allow these vessels to