







THE PACIFIC Commercial Advertiser.

WALLACE R. FARRINGTON, EDITOR.

TUESDAY, DECEMBER 8.

FORT STREET WIDENING

The petition now before the Executive, requesting that the Fort street widening be continued...

Just what action the Executive will take we cannot forecast, but presupposing that the widening will be authorized...

Hawaii in its short history has furnished much that is new and interesting, and Prof. Brigham has usually worn the laurels for ferreting out ancient landmarks...

out, so they have only to put aside a little false pride and they can be clothed with all necessary political rights.

Judge Hart fortunately admits that his reason for remaining shorn is because he does not like the party in power. We are pleased to note this admission...

Hawaii in its short history has furnished much that is new and interesting, and Prof. Brigham has usually worn the laurels for ferreting out ancient landmarks...

A national salute of 21 guns will be fired before Col. Little's office at 7 o'clock p. m. this evening in the presence of the Sons of the American Revolution...

THIS DAY! CREDIT CLEARANCE SALE! By Order of Messrs. THEO. H. DAVIES & CO. (Ltd.), I Shall Sell at my Auction Rooms...

On Tuesday, Dec. 8th, AT 10 O'CLOCK A. M. A LARGE ASSORTMENT OF Glassware, Crockery, Hardware, Tinware, Fence Wire, Baskets and Basket Ware, Bedsteads, Rope, Buckets, Saucepans, Kettles, Saddlery, Etc., Etc., Etc.

On Saturday, Dec. 19, AT 12 O'CLOCK NOON. The following valuable properties: 1. Residence property on Beretania Street, adjoining the Central Union Church...

On Saturday, Dec. 19, AT 12 O'CLOCK NOON. The following valuable properties: 1. Residence property on Beretania Street, adjoining the Central Union Church...

Jas. F. Morgan, AUCTIONEER. 4475-td

dency of the United States. The Boarding School Band will render national airs during the intervals of the firing. —Hawaii Herald.

Attempted Burglary. An attempt to burglarize the large dry goods emporium on Queen street, where buyers have been treated to a lot for a little, for the last 10 days, proved unsuccessful...

Special Request Tuesday Night, DEC. 8TH

THE FRAWLEYS IN BOUCICAULT'S GREAT COMEDY: "THE JILT" ALOHA to our Honolulu Friends.

Beeman's Pepsine Gum. THE ORIGINAL PEPSINE GUM. A DELICIOUS

Remedy for Indigestion AND THE PERFECTION OF CHEWING GUM. For Sale by the HOLLISTER DRUG CO. Agents for the Islands. Liberal discounts to the trade.

Vin Pasteur! Pasteur's Tonic Wine of Coca and Kola Nuts.

VIN PASTEUR have testimonials from SEVEN THOUSAND eminent physicians, assuring them of their utmost satisfaction from its use. Sample bottle free. Large bottles, \$1.00.

HOLLISTER DRUG CO. Agents for the Islands. Y. MAN SING, FASHIONABLE DRESS MAKER 621 FORT STREET. Ladies' Underwear. Dresses made to order. Sewing guaranteed. Good stitching; if the stitches break I will repair without extra charge. Orders delivered promptly. I receive monthly fashion books.

Merit Made Hood's Sarsaparilla. Made and Merit Maintains the confidence of the people in Hood's Sarsaparilla. If a medicine cures you when you are sick; if it cures your neighbors and your friends when they are ailing; if it makes wonderful cures of many diseases everywhere, then beyond any question that medicine possesses merit...

Hood's Sarsaparilla. The One True Blood Purifier. All druggists. \$1. Hood's Pills cure liver ills; easy to take, easy to operate. 25c. HOBSON DRUG COMPANY, Wholesale Agents.

Sterling Silver Ware

Sets Carvers, —All prices.

SILVER-PLATED WARE: Soup Ladles, Pocket Flasks, Nut picks, Nut cracks, Napkin Rings, Salt cellars, Sugar Sifters, Child's cups, Loving cups, Spoon Holders, Pie Knives, Pearl-handle Butter Knives, Table, Tea and Coffee Spoons, Table and Dessert Forks, Cheese Holders, Butter Dishes, Fruit and Berry Dishes, Casters, and Water Pitchers.

CUT GLASS WARE. ROOKWOOD WARE. COSMEON Brushes, Combs Pin Trays, Mirrors, Etc. FLORENCE and CELLULOID Brush and Comb sets. PIANO LAMPS, Banquet, Boudoir, Hanging and Hall Lamps. LAMP SHADES in silk and tissue. ONYX TABLES; Etc., Etc.

The Hawaiian Hardware Co. HOLIDAY PRESENTS JEWELRY

Rings, Scarf Pins, Lace Pins, Silver Table Ware And elegant oddities in NATIVE JEWELRY. E. A. JACOBSON, FORT STREET.

HOLIDAY GOODS GRAND REDUCTION SALE Commencing Friday, December 11th.

LOOK! LOOK!! LOOK!!! Kimonos, Silk Goods, Smoking Jackets, Lacquer Ware, Porcelains, Japanese Fancy Goods, Straw Hats, TOYS, TOYS, TOYS, DOLLS, DOLLS. MURATA & CO. Cor. Nuuanu and Hotel Streets, Honolulu. N.B.—Our Millinery Store is next to Ahana's on Nuuanu Street.

ROBERT CATTON. 212 Queen Street, Honolulu. AGENT FOR THE MIRRLEES, WATSON & YARYAN CO., LD. Sugar Machinery. WATSON, LAIDLAW & CO. Centrifugals and Cream Separators. JOHN FOWLER & CO. (LEEDS), LD. Steam Ploughs and Portable Railway. THE RISON IRON WORKS. General Engineering. MARCUS MASON & CO. Coffee and Rice Machinery. J. HARRISON CARTER. Disintegrators.

Catton, Neill & Co. FOUNDERS AND MACHINISTS, 213 QUEEN ST. (Between Alakea and Richards Sts.) HONOLULU. Invite Enquiries for General Ironwork. IRON AND BRASS CASTINGS. SHIPS' BLACKSMITHING. Repairs Will Be Promptly Attended to. —TELEPHONE NO. 410—

Vapo-Cresolene Cures while you Sleep Whooping Cough, Asthma, Croup, Catarrh, Colds. Cresolene when vaporized in the sick room will give immediate relief. Its curative powers are wonderful, at the same time preventing the spread of contagious diseases by acting as a powerful disinfectant, harmless to the youngest child. Sold by druggists. Valuable booklet free. HOLLISTER DRUG CO., HONOLULU, H. I. Agents.

Seasickness POSITIVELY PREVENTED. BRUSH'S REMEDY FOR SEASICKNESS. (ELIXIR PROPHYLACTIC.) The Only Known Specific that will Invariably Prevent "Mal de Mer." GUARANTEED PERFECTLY HARMLESS.

Benson, Smith & Co., AGENTS FOR THE HAWAIIAN ISLANDS. HOLIDAY GOODS EX SAKURA MARU.

Presents for Everybody Toys, Porcelain, Crockery, Antimony Ware, Jewelry. K. FURUYA, JAPANESE ... HABERDASHER Robinson Block, Hotel Street.

# Merry Making IN ALL DEPARTMENTS

AT

## ● L. B. KERR'S ●

The past week's business has been very satisfactory, our customers having taken advantage of the .....

# "Low Prices Ruling"

Evidently appreciating our efforts in giving "A LOT FOR A LITTLE."

We call your attention this week to a few leading lines:

- |  |  |
|--|--|
| <p>500 dozen Bleached Linen Napkins commencing at \$1.00 per dozen and finishing up at \$6.00 per dozen.</p> <p>50 pieces Bleached Linen Damask ranging from 55c. to \$1.25 per yard.</p> <p>50 pieces Brown Linen Damask ranging from 37½c. to 65c. per yard.</p> <p>500 only White Honeycomb Bedspreads ranging from \$1.00 to \$1.75 each.</p> <p>250 only White Marcella Bedspreads ranging from \$1.75 to \$6.00 each.</p> <p>100 pieces of 90 inch Bleached Cotton Sheeting Commencing at 25 cts. per yard.</p> <p>75 pieces Brown Cotton Sheeting varying from 15c. to 25c. per yard.</p> <p>75 pieces Bleached Cotton Pillow Casing which we can do at 12½c. and 15c. per yard.</p> <p>350 pairs of Blankets for chilly nights and mornings from \$1.25 to \$8.50 per pair.</p> <p>1,000 dozen Towels, ranging from 35cts. to \$7.50 per dozen. This lot includes two special lines of Linen Huck Towels at \$2.50 and \$3.50 per dozen.</p> | <p>500 dozen Ladies' and Children's Cotton and Lisle Thread Hose ranging from \$1.75 to \$9.00 per dozen.</p> <p>1,000 dozen Valenciennes and Torchon Lace, bought just before the advance in price.</p> <p>250 only Ladies' Umbrellas and Sunshades. This line must be Cleared out.</p> <p>150 pieces Striped Flannelettes at 12 yards for \$1.00. Best value in the Islands.</p> <p>2,000 pieces of white and colored Dress Goods, comprising the most complete assortment ever offered and at ridiculous prices.</p> <p>75 dozen Men's white and colored Shirts ranging from \$1.00 to \$2.25 each. All the new shapes in Collars to wear with above at \$1.75 and \$2.25 per dozen.</p> <p>250 only Men's ready made Suits. The whole to be cleared out in short order.</p> <p>250 only Men's ready made pants ranging from \$1.25 to \$3.50 per pair.</p> |
|--|--|

A full range of Men's Cotton, Lisle Thread, Merino and Wool Undervests. Also a select assortment of "DOLLS and TOYS." Our Dollar Doll (dressed) is the best in the market at the price.

Agent for Wheeler and Wilson SEWING MACHINES

Dont neglect to pick up some of these bargains.

Parcels delivered to any part of the city.  
Orders by post promptly attended to.

L. B. KERR

QUEEN STREET,  
Honolulu

# TEMPLE OF FASHION

In order to Make Room for **NEW GOODS** constantly arriving I am now holding a

## HOLIDAY CLEARANCE SALE

Lasting until Christmas

40 and 42 inches Cashmere and Merino at.....25 cts. per yard  
 American Prints.....30 yards for \$1.00  
 Merrimack Prints.....20 yards for 1.00  
 36 inches White Cotton.....16 yards for 1.00  
 36 inches White Cotton.....15 yards for 1.00  
 36 inches White Cotton.....12 yards for 1.00  
 42 inches White Pillow Casing.....8 yards for 1.00  
 72 inches Bleached Sheetings.....18 cts. per yard  
 90 inches Bleached Sheetings.....25 cts. per yard  
 36 inches Brown Cotton.....15 yards for \$1.00  
 Gingham.....at 18 and 20 yards for 1.00  
 White Honeycomb Bedspreads.....at 75 cts. and 1.00  
 White Marcella Bedspreads, large size.....at 2.50  
 All Wool Blankets.....at \$2.00 per pair  
 All Wool Cloth Blankets.....at 3.50 per pair  
 Bleached Linen Damasks.....at 50 cts. per yard  
 Bleached Linen Napkins.....at \$1.50 per dozen  
 Honeycomb Towels.....at 35 cts. a dozen  
 Turkish Towels.....at \$1.00 a dozen

Flannelettes.....18 yards for \$1.00  
 Flannelettes.....16 yards for 1.00  
 Plain Sateens in all shades.....at 20 cts. a yard  
 Plain Black Sateens.....at 6 yards for \$1.00  
 Plain Black French Sateens.....at 35 cts. per yard  
 Black Cashmeres, 44 inches wide.....30 cts., 40 cts., 50 cts. and 60 cts. per yard  
 Dimities.....at 10 cts. per yard  
 Printed Lawns.....at 10 cts. per yard  
 Ladies Shirtwaists.....at 50 cts., 75 cts., \$1.00 and \$1.50  
 Hermesdorf Dye Black Stockings.....at \$2.00 a dozen  
 Hermesdorf Dye Black Stockings.....at 2.25 a dozen  
 Children's Sun Bonnets, Silk Caps and Wool Hoods at prices to surprise you.  
 Men's Laundered Shirts.....at 75 cts  
 Gents' Linen Collars.....at 10 cts. a piece, 3 for 25 cts  
 Ladies Undervests.....at 10 cts  
 Ladies Underwear.....at 10 cts  
 Ladies P. D., D. G., H. S., W. B., R. and G. Corsets, etc.....from 50 cts. up  
 Ladies Chemise.....at 25 cts

OUR GREAT STOCK OF RIBBONS AT GREATLY REDUCED PRICES.

420 Fort Street

M. G. SILVA

### IN THE SUPREME COURT OF THE HAWAIIAN ISLANDS.

JUNE TERM, 1896.

JAMES A. LOW, Administrator, v. JOHN M. HORNER.

EXCEPTIONS FROM CIRCUIT COURT, FIRST CIRCUIT.

SUBMITTED JUNE 26, 1896. DECIDED NOVEMBER 30, 1896.

JUDD, C.J., FREAR, J., AND CIRCUIT JUDGE PERRY IN PLACE OF WHITING, J., DISQUALIFIED.

Although a judgment is assets, for the purpose of administration, where the record is, yet, if the judgment debtor removes to another jurisdiction, administration may be granted there also, and the administrator may there maintain an action upon such judgment.

OPINION OF THE COURT BY FREAR, J.

This is an action by the plaintiff as Hawaiian administrator with the will annexed of the estate of Thomas Newell, deceased, upon a judgment recovered by the decedent in his life time against the defendant herein in the State of California, where the decedent was domiciled at the time of his death. The Circuit Court tried the case, jury waived, and rendered judgment for the plaintiff in the sum of \$4,109.02 and interest thereon from the commencement of the action, and costs. The case comes here on defendant's exceptions to the final decision of the trial court, and to all the findings of law and fact therein, and to the overruling of a demurrer which had been interposed. The overruling of the demurrer appears to have been correct, and the exception thereto has been practically abandoned in this court and need not be further considered. The only question raised under the exception to the final decision and the findings therein is whether the appointment of the plaintiff as administrator was void.

Defendant's counsel contends that it affirmatively appears upon the face of the probate record that the only grounds, if any, upon which the court could or did exercise jurisdiction in the appointment of an administrator was the existence of the unsatisfied judgment obtained in California and the presence of the judgment debtor here; that, as matter of law, a judgment is assets for the purposes of administration only where the judgment record is, that is to say, in this case, in California; and that therefore the probate court here acted without jurisdiction and that the appointment was void. The trial court ruled that the appointment by the probate court could not be thus collaterally attacked, and this is the ruling that is now claimed to be erroneous.

Considering the state of the law upon the subject of collateral attack, and in view of the circumstances of this case, we prefer not to go into the question whether the ruling of the trial court was erroneous or not, but to concede to the defendant, for the purpose of argument, that it was erroneous; in other words, that the appointment of an administrator may be collaterally attacked for want of jurisdiction appearing upon the face of the record; also that that which is relied upon in this case as showing want of jurisdiction does appear upon the face of the record, and to base our decision upon the conclusion to which we have come, that that which is relied upon does not show want of jurisdiction. This is purely a question of law and one that may be decided by this court, although not passed upon by the trial court, in order to show that the ruling of the Circuit Court, if erroneous, was not prejudicial to the defendant. For if the sole

ground upon which he sought to attack the probate decree was untenable he could not have been prejudiced by not being allowed to make the attack. The question is, whether administration may be granted upon a judgment only where the record is, or may it also be granted where the judgment debtor is, if in a different jurisdiction from that where the record is?

The American case most frequently cited on this question, *Vaughn v. Barret*, 5 Vt. 333, states the rule thus: "Judgments are *bona notabilia* where the record is; specialties, where they are at the time of the creditor's decease, and simple contracts where the debtor resides." Cases, all English, are cited in support of each of these propositions. The English case most generally referred to for a statement of the rule, *Att'y-Gen'l v. Bouccens*, 4 M. & W. 171, puts it thus: "As to the locality of many descriptions of effects, household and movable goods, for instance, there never could be any dispute; but to prevent conflicting jurisdictions between different ordinaries, with respect to choses in action and titles to property, it was established as law that judgment debts were assets, for the purposes of jurisdiction, where the judgment is recorded; leases, where the land lies; specialty debts, where the instrument happens to be; and simple contract debts, where the debtor resides at the time of the testator's death."

This rule has been repeatedly stated in text books and decisions, but generally if not always in substantially the affirmative form above set forth; but on the doctrine of *expressio unius est exclusio alterius*, and since the object is to prevent conflicts of jurisdiction, it would seem to be a plain inference that the converse of the rule were also true, namely, that if administration may be granted where the assets are as stated in the rule, it should not be granted anywhere else, as, for instance, where the debtor happens to be at the time, if in another jurisdiction, and, no doubt, this has very generally been considered a proper inference. And for this reason we feel that our grounds for arriving at a different conclusion should be set forth at greater length than would otherwise be necessary.

It may be observed, in the first place, that the converse of the rule is not a necessary, although a natural, inference. In the second place, the rule itself is somewhat artificial and was adopted at an early date in England as a practical rule for avoiding conflicts of jurisdiction, and under such circumstances that a statement of the rule in the affirmative answered most practical purposes. There was little or no occasion to consider its converse. But under recent conditions of greater freedom of movement in population and personal property, courts have been obliged to consider the converse of the rule in a number of cases, and have found that while the rule itself may be unobjectionable as far as it goes, its converse cannot be maintained without resulting either in a failure of justice or in a conflict with another and unquestioned rule of law, namely, that an administrator cannot sue as such in a jurisdiction other than that in which he was appointed. The courts have therefore declined to follow the converse of the rule, whether in respect of simple contracts, specialties or judgments.

Take, for instance, the case of simple contract debts. These, by the rule, "are assets where the debtor resides at the time of the testator's death." But suppose the debtor removes to another jurisdiction before administration has been obtained or suit brought in the jurisdiction in which he was when the decedent died. Then, if the converse of the rule is held, that is, if administration cannot be granted in the jurisdiction into which

the debtor has removed, either the debt cannot be recovered because the debtor cannot be reached and justice must fail, or else the administrator appointed in the jurisdiction in which the debtor was at the time of the decedent's death must be allowed to sue in the foreign jurisdiction into which the debtor has gone, without first obtaining letters there, and yet the authorities hold, even in the same breath in which they state the rule in question, that this cannot be done. See, for instance, *Att'y Gen'l v. Bouccens*, *supra*. It is therefore held that administration may be granted and suit brought wherever the debtor may be at the time, even though in another jurisdiction than that in which he was at the time of the decedent's death. *Pinney v. McGregory*, 102 Mass. 186.

So in the case of specialties. These, by the rule, "are *bona notabilia* where they are at the time of the creditor's decease." but suppose the debtor resides at that time in, or subsequently removes to, another jurisdiction. Then, if the converse of the rule is held, the debtor cannot be reached and justice must fail. Cases of this kind, naturally, have not often come before the courts. But *Whyte v. Rose*, 3 Ad. & Ell. N. S. 493, was just such a case. The decedent died in Nova Scotia, the specialty was in Ireland and the debtor in England. An administrator was appointed in England and brought suit there. The Court of Queen's Bench, in which the action was brought, gave judgment for the defendant on the ground that the appointment of the administrator in England was void for the reason that, as stated in the rule, the specialty was *bona notabilia* in Ireland. But, on appeal, the Court of Exchequer Chamber reversed this judgment, and held that administration might be granted in England and suit be brought there where the debtor was, whether administration had been granted or not in Ireland where the specialty was, and that none of the former decisions were inconsistent with that view. This was the actual decision of the court in England where the rule originated and after elaborate argument by counsel on both sides upon numerous former cases bearing upon the subject.

So in the case of judgments, which, by the rule "are *bona notabilia* where the record is." It is obvious that the rule must be the same in respect of judgments as in respect of specialties, and, therefore, referring to *Whyte v. Rose*, *supra*, if administration may be granted and suit brought in England where the debtor is, upon a specialty in Ireland, so, referring to the case at bar, administration may be granted and suit brought in Hawaii where the debtor is, upon a judgment in California. The rule is arbitrary, and there is no more reason for holding to its converse in one case than in another. And the rule itself places specialties and judgments on the same footing, giving them a *situs* of their own apart from that of the debtor, apparently because from their solemnity they are regarded to some extent as things visible. Cases of this kind upon judgments would be likely to be even more rare than similar cases upon specialties; but, so far as we know, when they have arisen they have been decided the same way. *Emery v. Hildreth*, 2 Gray 228, was a suit in Massachusetts by an administrator appointed there upon a judgment obtained by the decedent during his lifetime in Missouri. The defendant denied the sufficiency of the appointment of the plaintiff as administrator. The court held: "Such debt was estate to be administered within this state. \* \* \* The probate court therefore had jurisdiction of the subject." The precise question now

involved was, however, not raised or argued by counsel, though passed on by the court and apparently raised by the pleadings, and it may be also that the court had in mind not this precise question at all, but only the question whether a debt as well as tangible property was sufficient to confer jurisdiction. "But in *Sweeney v. Scott*, 9 Humph. (Tenn.) 327, the court held that in case a judgment was recovered in a foreign state and then the creditor died and the debtor removed to the state of the application, administration could be granted to recover the claim." Note, 24 L. R. A. 687. See also page 684. Unfortunately we have not access to the full report of this case and can state its substance only at second hand. It seems to have been the subject of discussion in a later case in the same state, but not overruled. Bigelow's Overruled Cases, Supplement, 148.

Thus we find that the converse of the rule has been deliberately rejected by the courts when called upon to actually decide the question, whether in respect of simple contract debts, specialties or judgments. And we know of no decision to the contrary. The cases cited *contra*, whatever may be the first impression, will be found on careful examination to have turned on some other question. For instance, in *Adams v. Savage*, 2 Ld. Raym. 855, the court decided merely that an administrator appointed by the Archbishop of Dorset could not maintain *scire facias* upon a judgment in the Court of King's Bench, on the ground that the appointment was void as to that judgment, in other words, that an administrator could not sue upon a judgment and in a court outside of the jurisdiction in which he was appointed. So in *Vaughn v. Barret*, *supra*, the court actually decided merely that an administrator appointed in New York could not sue an inhabitant of Vermont in Vermont, upon a Vermont judgment, and that therefore (in the opinion of the court) a voluntary payment to the New York administrator would not bar a subsequent action in Vermont by the Vermont administrator.

If the converse of the rule were true, then, as above stated, in order to prevent a failure of justice, an administrator appointed where the property is assets as stated in the rule, should be allowed to bring suit in any other jurisdiction where the debtor is, without first obtaining administration there, just as he could if he were in possession of a negotiable note belonging to the estate and payable to bearer, or as he could if he had already obtained judgment in the jurisdiction of his appointment, for then he could sue as owner of the chose in action and not merely in his representative capacity. For instance, in the case at bar, if administration could not be granted in Hawaii, where the debtor is, then an administrator appointed in California where the record is, ought to be allowed to sue here, for otherwise suit could not be brought at all and the debt could not be collected. But, as we have seen, all the authorities hold that an administrator cannot sue as such outside of the jurisdiction of his appointment. See cases, *supra*. In *Huthwaite v. Phaire*, 1 Man. & Gr. 159, and in *Whyte v. Rose*, *supra*, in the Queen's Bench, the courts saw that the converse of the rule, if held, logically required that suit should be allowed to be so brought, and they apparently thought that the converse was true and that suit could be so brought, but the question was not actually decided in either case, and in the latter case on appeal to the Exchequer Chamber, the court, as we have seen, reversed the judgment of the Queen's Bench, and, in doing so, said that suit could not be so brought, and the same Chief Justice (Tindal) who delivered the opinion of the court in *Huthwaite v. Phaire*, said in substance that that opinion should not be taken beyond the question actually before the court. See pp. 501, 504.

It may be argued that a failure of justice would not necessarily result from holding that an administrator can be appointed only in the jurisdiction where the record is, even though the debtor might be in another jurisdiction where suit could not be brought by such administrator, for the reason that the judgment could be assigned by the administrator appointed where the record is, and then suit be brought by the assignee in the foreign jurisdiction. This course has been pursued in some cases. *Lair v. Burrows*, 12 Cal. 181, see also *Lewis v. Adams*, 70 Cal. 403; *Peterson v. Chemical Bank*, 32 N. Y. 21, approved in *Johnson v. Wallis*, 112 N. Y. 230. But a right can hardly be said to have an adequate remedy in contemplation of law if it cannot be itself enforced by its owner, but can be realized on only by a sale, and what if, as would often be the case, it could not be sold under the circumstances except at a great sacrifice, or if it were non-negotiable and the debtor were in a jurisdiction in which the assignee could not sue except in the name of the assignor?

The question of real difficulty that generally arises is whether the debtor may be compelled to pay the debt more than once, in case he is sued in different jurisdictions into which he may go, or in case he voluntarily pays in one jurisdiction, and is afterwards sued in another. For instance, if the debtor in this case were obliged to pay the judgment at the suit of an administrator appointed here and should afterwards go to California, could he be obliged to pay the judgment a second time at the suit of an administrator appointed there? The solution of this question would seem to be to hold, not that a debtor cannot be sued where found though in a jurisdiction other than that where the record is or where the specialty or debtor by simple contract was at the time of the decedent's death and so deny justice to the other party, but to hold that a payment once made, at least if made under compulsion by suit, and perhaps if made voluntarily wherever he could be so compelled by suit, is a good defense to a suit anywhere else, and so do justice to both parties. Westlake's Private International Law, Secs. 296-299. Some courts go even further and hold that a voluntary payment to the domiciliary administrator by a debtor in another jurisdiction, is a good defense, if there are no creditors of the decedent in that jurisdiction. *Wilkins v. Ellett*, 9 Wall. 740. Other courts go still further and hold that even if there are creditors in such jurisdiction, such payment is a good defense, if made before the appropriate proceedings have been taken there by such creditors in order to realize on the debt. *Marcy v. Marcy*, 32 Conn. 308, criticizing *Vaughn v. Barret*, *supra*.

We therefore hold in order to prevent either a failure of justice or a conflict with the rule that an administrator cannot sue outside of the jurisdiction of his appointment, and in accordance with the actual decisions as distinguished from *dicta* and natural but not necessary inferences, that the Hawaiian probate court had jurisdiction to appoint the administrator in this case and that such appointment is valid.

Assuming therefore, but not deciding, that the trial court erred in ruling that the probate decree could not be collaterally attacked for want of jurisdiction, if any, appearing upon the face of the record, the defendant was not prejudiced thereby, for no such want of jurisdiction appears.

The exceptions are overruled.  
Paul Neumann and A. S. Hartwell, for plaintiff.  
Kinney & Ballou, for defendant.

Awarded  
Highest Honors—World's Fair.  
Gold Medal, Midwinter Fair.

DR.  
**PRICE'S**  
CREAM  
BAKING  
POWDER

A Pure Grape Cream of Tartar Powder.

40 Years the Standard.

LEWIS & CO.,

Agents, Honolulu, H. I.

Y. M. C. A. MEETING.

Two Resolutions of Importance and Other Items of Interest.

At the regular monthly meeting of the Y. M. C. A. last night there were some 20 members present. Vice President Wichman took the chair in the absence of A. B. Wood, who was ill.

In regard to the gymnasium, a resolution was offered to be adopted later and to be made a part of the by-laws to this effect: That the present special committee of the gymnasium be authorized to employ a physical examiner, and that all the members of the gymnasium be required to present certificates of health annually, the expense of this to be stood by the Y. M. C. A.

The 11 applicants for membership were received as associate members.

The Entertainment and Reception Committee was authorized to proceed with the regular annual entertainment for New Year's Day for members of the association and their friends. The association will provide some kind of entertainment for the prisoners at the Oahu Jail, to take place on Christmas or the week following.

The following resolution was adopted:

"Resolved, That it is the sense of the Y. M. C. A. that its Temperance Committee organize or procure the organization of a law and order league to assist in the enforcement of wholesome laws which are now violated with impunity."

The chairman of the Devotional Committee was authorized to appoint new members in the place of those who have gone away.

The Reading Room and Library Committee presented the complete work of "Flavius Josephus," "The Life of Christ," and a large map of Palestine.

How often do  
your socks excursion  
to the darning  
basket?  
reduce the trips  
one-half by adding  
one-half to the  
socks. Toes, heels,  
and up the back,  
woven double  
thickness—  
and there you are.  
Today a special lot—  
Twenty-five cents.

AT

**The Kash**

ARBITERS OF FASHION.

9 Hotel Street . . . . Waverley Block.

Will keep open every night  
from now until Christmas.

**Merry  
Christmas!**

WE HAVE OPENED UP OUR

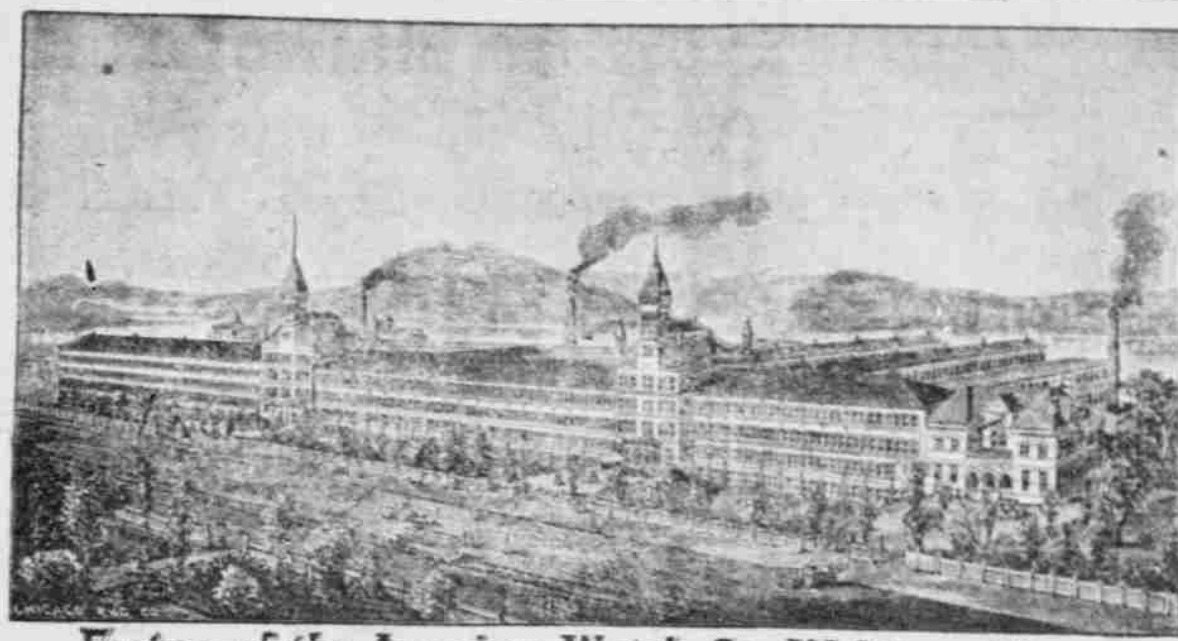
**Holiday Goods!**

BOOKS!  
BOOKS!  
BOOKS!

**Toys!  
Games!**

XMAS CARDS  
and  
FANCY GOODS

**The Hawaiian News Co.**  
(Limited.)  
MERCHANT STREET.



Factory of the American Watch Co.—Waltham, Mass.

THE FAMOUS

**Waltham Watches.**

In all grades and novel designs. These watches are just the thing for  
Holiday Presents.

FORT, COR. MERCHANT ST.  
HONOLULU. Frank J. Kruger.

**E. W. JORDAN'S**

**"NO. 10" STORE**

FORT STREET.

**Xmas Toys:**

Rocking Horses, Swinging Horse s, Police Patrol Wagons, Gig Rockers, Dusters, Shoo-Fly Velocipedes, Push Carts, Doll Carriages, Wagons, Wheelbarrows, Slick Horse Chime, Croquet Sets, all sizes, Swings, Airguns, School Drill Guns, Magic Lanterns, a complete assortment of Games, Mechanical Toys, Christmas Tree Ornaments of a ll kinds, Cossagues and Bon-bons.

**Dolls! Dolls!**

SMALL TOYS OF EVERY KIND.

**Leather Goods:**

Ladies' Purses, Sterling Silver Mounts, Ladies' Morocco and Calf Handkerchief Bags, Ladies' Lambskin and Felt Dorothy Bags.

**Triple Mirrors!**

E. W. JORDAN'S No. 10 STORE, Fort St.

**JOHN NOTT.**



**Wrought Steel Ranges, Chilled Iron Cooking Stoves**

HOUSEKEEPING GOODS:

Agate Ware (White, Gray and Nickel-plated), Pumps, Water and Soil Pipes Water Closets and Urinals, Rubber Hose and Lawn Sprinklers, Bath Tubs and Sinks, O. S. Gutters and Leaders, Sheet Iron Copper, Zinc and Lead. Lead Pipe and Pipe Fittings.

PLUMBING, TIN, COPPER, AND SHEET IRON WORK.  
Diamond Block. 75-79 King Street.

**A Special Price Sale!**

From Saturday, Dec. 5th  
Until Christmas.

**Toys! JAPANESE  
Fancy Goods**  
Lacquer Ware.

K. ISOSHIMA. 411 King St.

A GREAT SACRIFICE.

I beg leave to inform the public in general that I am retiring from business and will, therefore, sell Boots and Shoes at a great sacrifice.  
LOUIS ADLER.

**JOHN A. BAKER.**

Real Estate Broker, Collector and Employment Agent.  
Office with A. G. M. Robertson, Merchant Street, Opposite Post Office.

**S. KIMURA,**

—WHOLESALE DEALER IN—  
**Japanese Wines, Liquors**  
AND PROVISIONS.  
Saki a specialty.  
ALLEN ST., Telephone 704.

**The Only Complete Photograph Parlor**  
IN HONOLULU.

**J. J. WILLIAMS,** The Photographer.  
FORT STREET - - - HONOLULU.



**J. P. Rodrigues**

MERCHANT  
TAILOR.

FORT STREET,  
Opposite...  
H. HACKFELD & Co.

I have just received a large stock of new goods for the Holiday Season. Now is your time to get stylish clothes.

**W. W. AHANA**

Merchant  
Tailor.

All kinds of suits made to order. Fit guaranteed.  
I employ only skilled labor and have made a name for myself in my trade second to none in Honolulu.

**W. W. AHANA.**

323 NUUANU ST. P. O. BOX 59

**8-40-4**

THIS IS THE TELEPHONE  
NUMBER TO RING UP

If you want any Plumbing, Tin Work done promptly and properly, I am prepared to do all kinds of work in my line at the Lowest Possible Rates.

**Jobbing a Specialty**

**JAS. NOTT, JR.,**  
Tinsmith and Plumber.

**The Man of the Hour—  
H. G. BIART.**

JEWELER...  
AND  
WATCHMAKER.  
HOLIDAY PRESENTS  
WIRE JEWELRY;  
KUKUI JEWELRY;  
Hawaiian Jewelry of all kinds.

503 Fort Street, - - - Honolulu.

**The Ladder of Fame:**

—The Painter's Ladder!

It enables him to Climb to the top, and if it breaks he is still on top of the heap. A Good Painter uses Good Paint. Try

**STERLING, THE PAINTER'S  
Roof Paint.**

Best and Cheapest!

Call at his office—Union Street, Opposite Bell Tower. Telephone 622.

**FERNANDES & ROZA.**

CONTRACTORS and BUILDERS,  
Carpentering in all its branches.  
All work guaranteed and promptly attended to. Orders can be left with J. M. Camara, Jr. Tel. 991.

**Consolidated Soda Water Works Co.,  
LIMITED.**

Esplanade, Cor. Allen and Fort Sts.  
HOLLISTER & CO. - - AGENTS.

**GONSALVES & CO.,**  
WHOLESALE GROCERS  
—AND—  
WINE MERCHANTS,  
25 Queen Street, Honolulu, H. I.

**American Livery and Boarding Stables**  
Cor. Merchant and Richard Sts.

LIVERY AND BOARDING STABLE  
Carriages, Surreys and Hacks at all hours.  
TELEPHONE 490.

**"HALF AND HALF"**  
—IS A GREAT APPETIZER—  
Makes the weak stout and purifies the blood.

Sold at the Empire Saloon  
Two for 25 cents.





**LOCAL BREVITIES.**

Flour and feed at the Washington Feed Co.  
 Fresh pop corn popped or in kernal at French Boss.  
 Company B will hold their drill tomorrow evening instead of this evening.  
 Iwakami has some remnants of Japanese silks that he would like to dispose of.  
 There will be a meeting of the H. A. C. this evening for the purpose of electing officers.  
 The Gleaners' Society will hold a doll sale on Friday, December 11th, at Central Union Church Parlors.  
 The ladies of St. Andrew's Church met yesterday and arranged for a Christmas tree for the Sabbath-school.  
 Rev. Alexander Mackintosh was too ill on Sunday to attend church. His place was taken by Revs. Kitcat and Gotwalz.  
 Ladies can get their stamping done any morning now at the Woman's Exchange. Call and see the new and dainty designs.  
 From now until Christmas "The Kash" will keep open house every night. A drive on socks is in progress at this popular house.  
 Paul Isenberg, H. A. Isenberg, B. D. Baldwin, wife and child were among the arrivals from Maui ports on the Likelike yesterday morning.  
 W. A. Love advertises stores, offices and apartments for rent in the new Love block. The building includes a model suite of rooms, making it the most desirable flat in the city.  
 John W. Lunning is getting assignments of all claims against Julien D. Hayne, and will present them for settlement to Mrs. Hayne at Osage, Iowa. Mr. Lunning has hopes of getting the full amount of the claims.  
 W. S. Luce will hold a clearance sale by order of Theo. H. Davies & Co., this morning at 10 o'clock at his salesrooms. Glassware, crockery, hardware, saddlery, etc., will be sold. See full list of articles in ad.  
 The mortgagee's sale under the provisions of a certain mortgage made by J. Naone, and advertised to take place yesterday at W. S. Luce's auction rooms, has been postponed until Saturday, December 12th next.  
 The mortgagee's sale, under the provision of a certain mortgage made by Charles Lind, and advertised to take place yesterday at W. S. Luce's auction rooms, has been postponed until Saturday, December 12th next.  
 When you get a calendar for 1897 get one which will do also for 1898, 1899, 1900 and for every year of the Christian era, past, present and future. Get a "Perpetual Calendar," on sale at the Hawaiian News Company.  
 A very pleasant social and entertainment for the sailors of vessels in port was given at the Sailors' Home Saturday night. There were nearly 70 seamen present, and the exercises of the evening were very much enjoyed.  
 On and after January 1, 1897, importers making entry at the Custom House will be required to file with their invoices a receipted bill of lading covering the number of packages arriving per vessel for which entry is made.  
 By the last steamer from Japan a box containing nearly 1,000 varieties of moths and butterflies was received at the office of the Commissioner of Agriculture. It was sent to Prof. Koebele for the Bishop Museum, but as the butterflies are not distinctly Polynesian they will not be received there.  
 Nakoookoo, a native lawyer, made his first appearance before the bar in the case of Harry Hooper vs. Waiolole (w), action on a note, in the civil court yesterday afternoon, as attorney for the plaintiff. He conducted the case so well that A. Humphreys, attorney for the defense, complimented him very highly.  
 Invitations are out for the marriage of Solomon David Koki to Miss Esther U. K. Kuaea, daughter of the late Rev. M. Kuaea. The event will take place at Kaunakapili church next Thursday evening, the 10th inst. Miss Kuaea is organist at the latter church and a pupil of Wray Taylor's. The latter will preside at the organ at the ceremony. A reception will be held at the Kawaiahao Seminary.

**THE DELUGE.**

Bruce Waring & Co.'s Office Suffers From a Flow of Water.  
 As R. L. Bowers of the Merchants' Patrol was walking past Bruce Waring & Co.'s office on his regular rounds at about 9 o'clock last night he heard water dropping upon some paper and boxes in the cellar. He at once notified Mr. W. C. Weedon, who was in the Advertiser office at the time.  
 When the door of the real estate office was opened it was found that water was flowing down into the back room from the vacant office above. As soon as entrance could be gained above Messrs. Weedon and Bowers went up.  
 Some plumbing had been done during the day, and whoever was there last had carelessly left the faucet turned to full. Some two inches of water had collected in the room, and was flowing down into the office below, where valuable maps, new sets of books, typewriters, desks, matting and other articles had been suffering from a steady downpour of water for a long time.  
 Messrs. Weedon and Bowers got to work and removed all the things from the room.  
 Mr. Bowers deserves great credit for his discovery, for had the water been allowed to flow during the night the damage might have been very much greater. The property which has been placed in his care during the hours of the night has always been well looked after.

**ATTEMPTED ROBBERY.**

Two Offices Broken Into Saturday Night—Small Losses.  
 Burglars broke into Kerr's dry goods store on Queen street some time between Saturday night and Monday morning. Entrance was made by breaking a window in the rear office. Nothing was taken.  
 During the same time, between Saturday and Monday, probably the same individuals, broke into Allen & Robinson's office in the lumber yard. There was no money to be secured, and the thieves contented themselves with a box of cigars, found on the desk.

**SACHS' WEATHER BULLETIN.**  
 "What Charlie Says."

DIAMOND HEAD,  
 December 7, 1896.  
 Weather clear, wind light northeast.

**HOLIDAY GOODS.**

Hints to Shoppers—Our Establishment is a Carnival of Gifts.

The Big Doll Will be Given Away

**LATEST HOLIDAY NOVELTIES**

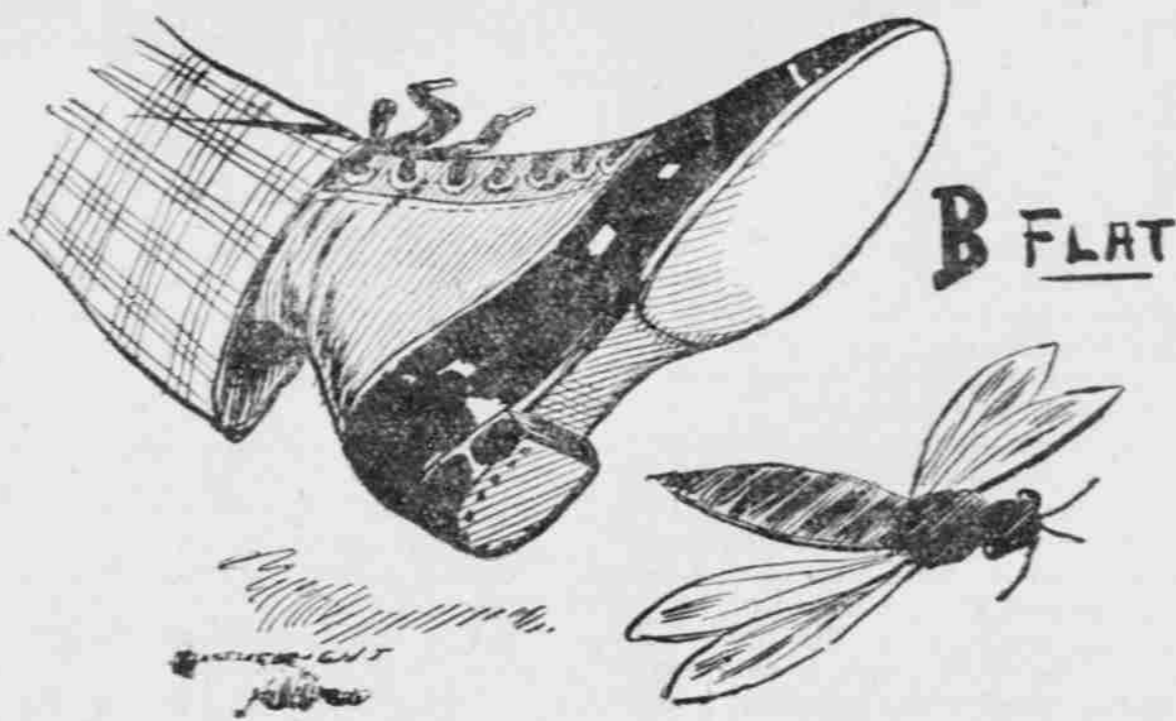
We have an elegant line of Hand Bags, Chatelains and Purses, in alligator, seal and fancy leather.  
 Hand run Lace Scarfs, Guipure Scarfs, Embroidered Toilet Sets, Fancy Ties, New Colarettes, Battenberg Scarfs and Squares, Two-toned Damask Portierres, Lace Bed Sets, Drawn Work Squares.  
 Ladies' Embroidered Handkerchiefs, the largest assortment and beyond doubt, the best value ever offered.

N. S. SACHS,  
 520 Fort Street.



Butterick Patterns } Basque-Waist \$7.15.  
 } Skirt \$7.35.  
 AGENT FOR  
**BUTTERICK PATTERNS**  
 The above or any other pattern of Butterick's Costumes to be had of  
**MRS. M. HANNA,**  
 FASHIONABLE MILLINER.

**COOK'S MUSIC SCHOOL.**  
 Waring Building, Beretania street.  
 Voice, Piano and Harmony. Especial attention is paid to muscular control, touch and musical analysis.



And Honest.  
 One shoe man will take the average \$3 shoe and make it \$4 and give you a discount. Then he complains of dull trade. We take the average \$3 shoe and mark it plainly \$2, and sell dozens of them a day, and every pair of shoes we sell is guaranteed. Got to be good shoes or they can't get in here or go out either.  
**The Manufacturers' Shoe Co.,**  
 Exclusive Shoe Dealers, Fort Street.



OUR "ADS." THIS FALL HAVE BEEN VERY QUIET, FOR WE KNEW

**Our Goods**

Were making all the noise necessary. Besides, we don't like to be everlastingly bragging about what we are doing; we prefer to let you do that.  
 You will have noticed many beautiful articles in this year's collection, but if undecided what to give, let us suggest one of our

**BEAUTIFUL TOILET BOXES!**

Set in the Covers With Genuine Hand-painted Miniatures

By well known Artists. Each one a perfect work of Art—No two alike.  
 For articles so beautiful, the price is not high—as low as Five Dollars; none above Twenty-five.

Our show cases are simply loaded this year. You will have no trouble to make a selection here.

**H. F. Wichman.**



Durable,  
 Light Running,  
 Stylish,  
 Up-to-date  
**Waverleys.**

T. W. HOBRON, Agent.  
 King St., over John Nott's Store.

**ALL LITTLE GIRLS**



Wall, Nichols Company, on Xmas Eve.

Should Read  
**SANTA'S LETTER**  
 ON PAGE 3,  
 Which tells how to try for the big DOLL he is going to give away at



Cable Address, "BAILOL," AGENTS  
**BAILEY OIL COMPANY.**  
**Mining Properties.**  
**BAILEY, PORTER & CO.**  
 415 1/2 Montgomery St.,  
 San Francisco, Cal.  
**DEAL IN GOLD AND COPPER MINES.**  
 Will take the supervision of mines if desired, and can insure a careful and economical management of the same. Mr. Porter being a mining and mill superintendent of long experience and thorough training; and our employees picked men.  
 W. H. BAILEY, Manager.  
 References, San Francisco: Selby Smelting & Lead Works, Hon. C. R. Bishop.  
 Honolulu: Hon. W. O. Smith, T. W. Hobron.

**Do You Want a Nice, Cool Smoke?**  
 THEN WHY NOT USE  
**Little Joker Tobacco**  
 The Best and Sweetest Long-cut imported. Suitable for Pipe or Cigarette. For Sale at every retail store, or at  
**HYMAN BROS.,**  
 Sole Importers for the Hawaiian Isles.

**Lawn Mowers!**

**The Globe**

Quick Cutting;  
 Light and Serviceable  
 All Sizes.  
 Moderate Price.

**CASTLE & COOKE,**  
 Limited.

**Theo. H. Davies & Co.**  
 (Limited.)  
 Merchants and Commission Agents.  
 DRY GOODS,  
 HARDWARE,  
 and GROCERIES.

**Aloha**  
 CURLY CUT  
 SMOKING TOBACCO  
 "Dagger" Brand  
 New Zealand Mullet

**Union Express Co.**  
 TELEPHONE 86.  
 Office, King St.—Opp. Wall, Nichols Co.  
 We move Safes, Pianos and Furniture. We check Baggage at your Residence, and place Small Baggage in Staterooms. We remove garbage and yard sweepings by the month or load; haul freight from and to Steamers. We have large Wagons and small Wagons, large Drays and small Drays.  
 WE WILL MOVE ANYTHING MOVABLE. Competent men and low prices.  
 W. LARSEN, Manager.

**THE HONOLULU SANITARIUM.**  
 1082 KING STREET.  
 A quiet, homelike place, where trained nurses, massage, "Swedish movements," baths, electricity and physical training may be obtained.  
 P. S. KELLOGG, M. D.,  
 Superintendent.

**H. HACKFELD & CO.,**  
 General Commission Agents,  
 Corner Fort and Queen Sts., Honolulu.

**Hawaiian Fertilizing Company**  
 Importers, Dealers and Manufacturers of  
**All Kinds of Fertilizers**  
 Phosphates,  
 Potash  
 and Ammonia,  
 Separately or in Compounds. In quantities to suit. Correspondence and order solicited.  
 A. F. COOKE, Manager.

**MERRY CHRISTMAS!**

**H. W. SCHMIDT & SONS**

Most respectfully beg leave to notify the ladies and housekeepers of Honolulu that they now have their stock of  
**Christmas and Winter Goods**  
 Ready for inspection, and to draw their attention to the extremely low prices. Goods in every line and of the latest styles will be sold regardless of cost, at the  
**VON HOLT BLOCK, KING STREET.**

**MERRY CHRISTMAS!**

