

mosphere which is purity itself, in short that glorious weather, which, ever brings in its train one fair day to succeed another, with but enough rain to temper the heat and moisten the ground. The contrast with the variations of our climate is great, where you often begin the day in a brilliant sky, and end it amid a tempest of rain, wind, thunder, and lightning, or perhaps a freezing, driving snow-storm. Some days there are which cannot be excelled in giving a healthful elasticity to the spirits. But they are few compared with those which bring a sad array of diseases in their train. It really seems as if our climate had been organized upon the principle of letting every one choose such weather as he likes, and a pretty melody have they made of it. With all its disagreeables, that it is favorable to longevity, our hardy farmers can attest, but is only tough constitutions that can outlive the period of seasoning.

The first winter to those who have come from a warmer climate is the most agreeable. The second is more felt, and old twinges, aches, and sore-points, which had been buried in oblivion at Oahu, begin to show that they only slumbered. It is a trying season, but once through and the health good, the seasoning may be said to be perfected. I have not as yet been able to look with any pleasure upon an icicle or a snow-bank, and the early change of death of the foliage strikes a chill over my whole system. Habit will soon accustom one to these things however. The rich have not much to fear. The recent improvements in warming houses and regulating their temperature by means of air-furnaces, enables them to maintain a perpetual summer, and without a sign of fire or a fireplace in our best houses, oranges and other tropical trees can be seen in full bearing, during the coldest days of winter. What a capital thing it would be if a city or town could be warmed on the same principle. It might be accomplished if we had Kilauea within a mile of us, and warm air be distributed in the same manner as water along the streets. Who knows but it will be so finally.

YRS. WAKEBY.

COMMUNICATED.

TO THE EDITOR OF THE POLYNESIAN:—

Mr. Editor,—It may not be altogether unacceptable to your readers to see in your columns discursive Essays of a general nature, upon those Legal points most useful to be known in all countries. Of these, the general obligation to allegiance, which the accident of birth confers; the nature of temporary allegiance, or domiciliation; the nature of naturalization, its effects upon native allegiance, and what are its binding obligations; are all subjects of enquiry which cannot fail to interest, particularly in the new formation of a government.

These topics are not found complete in any one juridical work, and the nice enquirer is forced into a labyrinth of books, from the Law of Nature, to the Reports of Instance and Prize Courts, Records of Judicial Impeachments, and Trials for Treason, at the Assizes, and courts of Oyer and Terminer, in order to a critical understanding of them.

My time is otherwise too much occupied to admit of a minutely detailed examination of these subjects, even should you deem them legitimate matters of interest to this community, but I propose simply to collate from the most authoritative authors, Historic, and Judicial, what has been, and still is the universal understanding upon those subjects.

An enquiry like the one proposed will, necessarily, be continuous, and should you permit it, will be addressed to you in numbers, since, I doubt not there are some in the reading and reflecting community who will approve, and even be pleased with an attempt to elucidate the topics alluded to. Besides which, I regard it of fundamental utility to His Majesty's government, that the people be informed of their rights and duties, privileges and disabilities, in the various phases of the social compact. Many of these rights, duties, privileges and disabilities,

are only deducible from uniform practice, (which makes part of the unwritten law,) and from the reasoning and deductions of celebrated jurists: all so diffused, and buried in the obscurity of innumerable books, as to render it next to impossible for the mass, even of reading men, to get at them with certainty. My aim is to place before the public in the form of extract, under appropriate heads, such principles of the existing Law of Nations, drawn from different sources, as will enable the candid among your readers to perceive the fitness and propriety of measures adopted from time to time by the government, which, without information, might appear unprecedented, and unnecessary. And I sincerely trust that even this attempt, humble though it be, will have a tendency to methodise the principles of the government now developing, and heighten that respect for its functionaries and its laws, without which no government can permanently exist.

CHILDREN BORN IN A COUNTRY.

"Persons born in a country are deemed by the Law of Nations, to be citizens, or subjects of that country. A reasonable qualification of this rule would seem to be, that it should not apply to the children of parents who were in itinere in the country, or who were abiding there for temporary purposes, as for health, or curiosity, or occasional business. It would be difficult, however, to assent, that in the present state of public law, even such a qualification of the rule is established."—*Judge Story's Conflict of the Laws*, 48.

"If a person has fixed his abode in a foreign country, he is become the member of another society, at least as perpetual inhabitant, and his children are so too."—*Vattel: Law of Nations*, B. 1, C. 19, § 215.

"The children of aliens have a natural attachment to the society in which they are born: being obliged to acknowledge the protection granted to their fathers, they are obliged to it, in a great measure, for their birth and education. They ought to love it, express a just gratitude to it, and as much as possible, return benefit for benefit."—*Vattel: B. 1, C. 19 § 220*.

"The place of birth of a person is considered as his domicile." "This is usually denominated the domicile of birth, or nativity, domicilium originis. But if the parents are then on a visit, or on a journey, (in itinere,) the home of the parents (at least if it is in the same country) will be deemed the domicile of birth or nativity. If he is an illegitimate child, he follows the domicile of the mother. *Ejus, qui justum patrem non habet, prima origo à matre.*"—*Story's Con. of Laws*, 44; *Cod. Lib.*, 10, tit. 31, 1, 36. 2 *Domat. Public Law*, B. tit. 16, § 3, Art. 10. 1 *Bouenois Observ.*, 4, p. 53. *Voet ad Pand. Lib. 5, tit. 1, N. 91, 92, 100. Scrimshire vs. Scrimshire* 2 *Hagg. Eccl. R.*, 405, 406. *Cochin Evres*, tom. 5, p. 5, 6.

"Children of aliens, born here in England, are natural born subjects, and entitled to all the privileges of such."—*Blk. Com. v. 1, p. 374*.

"In this respect there is not any difference between our laws and those of France. In each country birth confers the right of naturalization."—1 *Wood*, 386.

"A child born of foreign parents in France may claim the rights of a Frenchman, declaring, if not domiciled in France, his intention to fix there."—*Code Civile* 1, 1, 19.

"By the 11, and 12, William III, C. 6, natural born subjects may derive a title by descent, through their parents, or any ancestor, though such ancestor be an alien."—*Hargrave's Coke on Lyttleton*, 8, a.

ALIENS RESIDING TEMPORARILY IN A COUNTRY.

"Even in the countries where every stranger freely enters, the sovereign is supposed to allow him access, only upon this tacit condition, that he be subject to the laws; the public safety, the rights of the nation and of the Prince, necessarily require this condition, and the stranger tacitly submits to it as soon as he enters the country, as he cannot presume on having access upon any

other footing. The Empire has the right to command in the whole country, and the laws are not confined to regulating the conduct of the citizens among themselves; but they determine what ought to be observed by all orders of people throughout the whole extent of the state."

"In virtue of this submission, the strangers who commit a fault ought to be punished according to the laws of the country. The end of pains and penalties is to render the laws respected, and to maintain order and safety."

"From the same reason the disputes that may arise between the strangers, or between a stranger and a citizen, ought to be determined by the Judge of the place, and also, according to the law of the place; and as the dispute properly arises from the refusal of the defendant, who pretends not to owe what is demanded of him, it follows from the same principle, that every defendant ought to be prosecuted before this judge, who alone has the right to restrain, or condemn him. The defendant's judge is the judge of the place where this defendant has his domicile, or that of the place where the defendant is, when any sudden difficulty arises, providing it does not relate to an Estate in land, or to a right annexed to such an Estate. In this last case, as these possessions ought to be enjoyed according to the Laws of the country where they are situated, and as the right of granting such possessions is vested in the superior of the country, the disputes relating to them can only be decided in the state on which they depend."—*Vattel: Law of Nations*, B. 2, Ch. 8, § 101, 102.

"During the residence of aliens amongst us, they owe a local allegiance, and are equally bound with natives to obey all general laws for the maintenance of peace, and the preservation of order, and which do not relate specially to our citizens. This is a principle of justice and of public safety, universally adopted; and if they are guilty of any illegal act, or involved in disputes with our citizens, or with each other, they are amenable to the ordinary tribunals of the country."—2 *Kent*, p. 55.

"Local allegiance is such as is due from an alien, or stranger born, for so long a time as he continues within the King's dominion and protection; and it ceases the instant such stranger transfers himself from this kingdom to another."—*Blk. Com.*, 370.

NATURALIZED PERSONS.

"By naturalization an alien is put exactly in the same state as if he had been born in the King's allegiance."—1 *Blk. Com.*, 374.

"Naturalization cancels all defects, and is allowed to have a retrospective energy which simple Denization has not."—*Coke on Lyttleton* 129.

"Naturalization is not, as Denization may be, merely for a time, but is absolutely forever."—*Cro. Jac.*, 539.

"A person duly naturalized becomes entitled to all the privileges and immunities of a natural born subject," &c.—2 *Kent*, 57.

In succeeding numbers I will adduce authorities to show what is Allegiance; its nature and extent; whether natural, temporary, or sworn; how far a citizen or subject can renounce his allegiance to his native sovereign; and whether the native country can exercise any authority over its subjects residing permanently abroad. **LIGAMEN.**

HONOLULU, 15th July, 1844.

TO THE EDITOR OF THE POLYNESIAN:—

Sir,—I feel much obliged to your correspondent who under the signature of "A Merchant," in your paper of the 20th, makes some remarks upon my statistical notes published in the *FRIEND* of the 1st June. He is right in believing that I did not intend to impute to the merchants residing here "any wilful fraud" in the valuations given in to the Custom house, of goods to their consignment. My observation applied to the broad class of importers generally, and not particularly to the merchants of Honolulu, of whose legality and good faith, I had previously re-

corded my opinion, on the respectable testimony of the Collector, Mr. William Paty, as will be seen in note No. 7, to my Table published in the *FRIEND* of the 1st May.

Any apprehension I ventured to express arose from the remarkable disparity in the "range of prices" published in the *FRIEND* of 1st June, and not from the items of Entries quoted by your correspondent, which were intended merely to illustrate the abuse of making entries in mass.

It is obvious that your correspondent is a merchant well versed in the details of Commerce, and therefore I feel persuaded that he will concur with me in this—that every merchant in the Sandwich Islands is interested in the efficiency of this government;—that the government never can be efficient without an adequate revenue; and that those checks and regulations found necessary in the United States and England, either for the prevention of fraud, or the information of government in every thing relating to their own annual trade, may be adopted by this government, without any just cause of complaint.

Beyond the welfare of the Hawaiian people, I have no object in the *Notes* and tables which have been published; it is impossible to promote that welfare without proportionally benefiting every merchant who lives amongst them, and acting in accordance with the beneficent spirit which animated three of the greatest nations on earth to recognize these Islands as an Independent State.

I beg that you will insert this letter, lest my note, complained of by "A Merchant," should be so misunderstood in Foreign countries, as he seems to think it may, and which I should be very sorry for. In Honolulu, I am sure it has not been so misunderstood, if I may judge from the remarks of "A Merchant" himself, and from the many kind civilities which I continue to receive from the merchants generally, and all other classes of its inhabitants.

Allow me to add that I shall always be thankful for any communication pointing out any mistake or error that may be detected in my notes, or supplying any thing that I may have omitted, but that such communications ought either to be addressed to me direct, or to be signed by the authors.

Your Obt. Servant,

ROBERT C. WYLLIE.

HONOLULU, July 24, 1844.

THE POLYNESIAN.

OFFICIAL JOURNAL OF THE HAWAIIAN GOVERNMENT.

HONOLULU, SATURDAY, JULY 27, 1844.

His Majesty holds a public levee between the hours of 9 and 2 o'clock, this day for his subjects. On Monday, the 29th., at 8 o'clock P. M., His Majesty will receive the Representatives of Foreign Powers, and residents generally, at Mauna Kiliika.

A Temperance Festival will take place on the 31st., at 9 o'clock A. M. A procession will be formed at the fort, which will be joined by his Majesty and suite—thence they will proceed to the Stone Church, where appropriate addresses will be delivered.

Royal Salutes will be fired from the batteries at sunrise and during the day. The entertainment given by His Majesty, will be precisely at 3 o'clock, at Beretania, and immediately upon His Majesty's arrival, with his suite and military escort, the guests will seat themselves at the table, under the direction of Mr. F. W. Thompson, who will act as Master of Ceremonies for the occasion.

The festivities will be continued among the subjects of His Majesty, on the three days succeeding the 31st.

A complete copper-plate press, with ink and paper, has been received by Mr. Diamond, of this town. It is an article that has long been needed, and will much improve the appearance of the work in copper done by the natives at Lahaina.