

MISCELLANEOUS.

COLLECTING.—The Knickerbocker tells the following humorous story:

A gentleman from New York, who had been in Boston for the purpose of collecting some money due him in that city, was about returning, when he found that one bill of \$100 had been overlooked. His landlord, who knew the debtor, thought it a "doubtful case," but added, that if it was collectable at all, a tall, raw-boned Yankee, then dunning a lodger in another part of the room, would "annoy it out of the man." Calling him up, therefore, he introduced him to the creditor, who showed him the account.

"Wal, Square, 'tain't much use tryin' I guess, I know that critter. You might as well try to squeeze the oil out of Bunker Hill monument as to collect a debt o' him. But any how what'll you give s'pos'n I do try?"

"Well sir, the bill is \$100. I'll give you—yes, I'll give you half, if you collect it."

"Greed!" replied the collector; "there's no harm in tryin' any ways."

Some weeks after, the creditor chanced to be in Boston, and, in walking up Tremont street, encountered his enterprising friend.

"Look'e here!" said he, "I had considerable luck with that bill of your'n. You see I stuck to him like a dog to a root, but for the first week or so twan't no use—not a bit! If he was at home he was short; if he wasn't at home, I could get no satisfaction. By and bye, says I, after going sixteen times, I'll fix you; so I sot down on the door step, and sot all day and part of the evenin'; and begun arly next day; but about ten o'clock he gin in. He paid me my half and I gin him up the note."

THE HEART.—What an odd thing experience is! now turning over so rapidly the book of life, now writing so much on a single leaf. We hear of the head turning grey in a single night—the same change passes over the heart. Affection is the tyrant of a woman, and only bids her to the banquet to suspend a cutting sword over her head which a word, a look may call down to inflict the wound that strikes to the death, or heals, but with a scar. Could we fling back the veil which nature and society alike draw over her feelings, how much of sorrow—unsuspected because unexpressed—would be found! how many a young and beating heart would show disappointment graven on the inmost core! what a history of vain hopes, gentle endeavors, and anxieties, and mortifications, laid bare! There is one phrase continually occurring in conversation—"O, a woman never marries the man to whom she was first attached." How often—how lightly is this said! how little thought given to the world of suffering it involves! Checked by circumstance—abandoned from necessity, the early attachment may depart with the early enthusiasm which youth brings, but leaves not.

AN EXAMPLE WORTHY OF IMITATION.—The firm of JAMES READ, & Co., of Boston, which stopped payment in March, 1842, owing \$850,000 have since paid their creditors every cent of the amount. The firm took the benefit of the *Bankrupt Law* and their assets were \$300,000.

Twenty-eight hundred dogs have been exterminated in New York, during the present season.—*Am. paper.*

[Wish we could say as much for this place.]

The following advertisement appeared lately in a Dublin newspaper, Saunders' News-Letter:—"Wanted—A young woman to act as house-maid in a small family; also a milch cow—must be of the established church."

BY AUTHORITY.

TRIAL OF GRAY.

(Continued.)

Mr. BROWN.—May it please your Honor, Gentlemen of the Jury, I appear before you to day with an * * * * * to do it. I have been requested by Foxhall A. Parker, Esq. of the (*U. S. Frigate*) Brandywine to appear here as counsel for one of his men, brought (*up*) as I stated at the time for an offence against the laws. But by the ruling of this court it appears that this man instead of appearing as defendant appears as plaintiff, appealing from the decision of the Inferior court which fined him \$35 for breaking the laws of the country. The evidence you have heard that was taken before this other court, was not taken upon oath, the interpreter employed by those judges was not sworn to tell the truth. You have heard the testimony before this court to day in the most singular manner, and probably other

courts will also think so if it is represented (*to them*). This man was accused before the Inferior judges (*of offending*) against good manners, correct conduct, the laws of this kingdom and (*of*) disrespect to Kamehameha III., in that he went into a house and beat and abused a man. That is the whole question which comes before you. The question is to be decided by you, and I know that all of you, gentlemen, have too much sense, altogether too much sense, to let the evidence brought before those judges weigh with you. In the first place the court was not managed in the proper way. In the second place the evidence was not sworn (*to*) and in the third place the interpreter was not sworn. I have no doubt that the interpreter did translate truly, but that is not the law of the Hawaiian government. The evidence must be sworn to. The law expressly states (*that*) "If a witness comes forward &c." Now here was one witness (*appearing to give evidence*) before that court, and very important evidence, the speaking evidence; he felt, because he was (*the*) man attacked; he spoke because he felt. This man was beat, severely beat, ingloriously beat; he comes forward, as I understand (*with witnesses to prove*) that he was very much injured, (*but*) who can those persons swear to that effect. No man can speak (*as*) to the feelings in his head, (*his back, his arm, or*) its effect upon his form. Can those persons who happen to see a blow tell what its effect would be?—Ridiculous! A man is brought up to what? To state what he knows. He enters a complaint; questions are put to him; and what is his answer? He says so and so. That evidence is what the judges decide by * * * * * Now I contend before you that the Judge decided in this case upon two reasons:—First, that the man said he was much injured; and secondly, because it was said to be under aggravated circumstances. Such being the case, I deny that he was tried according to the laws of Hawaii. You are the judges whether those laws were broken. You are the only judges of the law and the facts. In the first place whether he was beat, whether he was much beat, whether this man was properly tried before that court, whether he was properly convicted by that court, and punished properly by that court. These are important questions, because though he had beaten that man, and the offence (*was*) very aggravated, if he was not tried according to law you must quash those proceedings altogether. The judge decides that this is an appeal case. The judges say the laws do not oblige a man (*giving evidence*) or an interpreter to be sworn. You will decide whether the man was properly tried and properly convicted. It is said here (*taking up a book of the laws*) "Should the judge perceive that although the injury, &c." Now I am ready to prove to you certain facts. In the first place that the appellant was called upon by another person to go up and assist him by his countenance in seeing fair play in a fight between him and (*Morgan*). I can prove that George Morgan challenged this man to fight. I can prove to you that this George Morgan offered to fight this other man, and that when this man went up for the purpose of (*seeing*) Cope fight with this George Morgan, George Morgan instead of giving him fair play, threw him out of his store before he was struck, and that then this man, who came there to see fair play, took the part of his principal very properly. I am not advocating any of this fighting, I am merely about to prove that this George Morgan was the head and front of it all. That he challenged, and when the challenged came he did not give him fair play. I merely want to prove that this fine of \$25 for an aggravated offence was not such a fine as (*the*) judges were authorized to put upon a poor drunken sailor. That they ought to have put upon him a very small fine. This man knew nothing about the law. He was drunk. * * * * *

The judges upon the unsworn evidence of the man who accuses him bring him in guilty, and confine him in this fort till it is paid. Now I appeal to you as men of common sense, as people who have got the wish to see the whole world go forward in the straight path of justice. He is brought before you as an appellant from the decision of that court which has fined him \$35 for an offence against the laws of this country. He has appealed because the sentence was unjust, unfair and very onerous upon him. * * * * * If however, you decide one of them in his favor all must go well with him. * * * * * I contend that by the laws of Hawaii, this man had a right to a jury when he was first brought up before the judges. Those judges are the judges of this land, and ought to have asked him, being brought up in that manner, how do you wish to be tried?—They knew at the time that he was a foreigner and drunk. Their duty was to

have asked him, how do you wish to be tried? "If a man be brought to trial for any manner of offence he may desire a jury," page 171. You have seen to-day that the written laws don't mean what they say. You see they are of no authority. Now instead of asking, will you be tried by a jury or by us, letting him know by what law he was tried, the man was (*Morgan*) brought forward and asked what the accusation was. "He came to my house and beat me." Now in my country they don't try drunken men. It is a law of my land that a man shall be tried when sober. His being drunk was no excuse, but they had no right to try a drunken man. But this man was brought drunk! tried drunk! convicted drunk! and put into prison drunk! Will you decide that a man in that state is to be convicted by a man's evidence not taken upon oath! * * * * *

(The court then adjourned till the following morning at 10 o'clock, A. M.)

Second Day's Proceedings.

[On Saturday, March 1st, 1845, at the hour appointed, the court re-assembled, and on Mr. Judd's calling over the names of the jurymen, it appeared that Dr. R. W. Wood was absent, upon which Mr. Ricord asked if the counsel for James Gray were willing to go on with the trial, one jurymen being away on professional business, observing that eight was the smallest number that could form a jury according to the statute.]

Mr. BROWN.—12 sir; 12 is the number mentioned,—expressly mentioned.

(The Sheriff having informed the Court that Dr. Wood had said he might be expected in three quarters of an hour, Mr. Brown proposed waiting that long for him. Mr. Judd however objected to wasting so much time, valuable as it was to almost every Gentleman there assembled, and after one or two remarks the notice was given of the Court being re-adjourned till Monday (March the 3d.) at 10, A. M.)

Third Day's Proceedings.

(As had been agreed upon, the Court met again on Monday morning (March the 3d, 1845.) at 10 O'clock, when Mr. Ricord gave Mr. Brown a list of the witnesses that had been summoned.)

Mr. Judd called over the jury, all of whom answered to their names.

Mr. BROWN.—I should like to have the witnesses sworn.

Mr. Judd.—The Governor has called upon Mr. Ricord to act on his behalf to-day.

Mr. BOGARDUS.—Do you mean to say (*addressing Mr. Ricord*) you are to sit as Judge? Mr. Judd's words were that you were to act in (*the*) Governor's behalf.

Mr. RICORD.—As assistant, that is how I am to act.

Mr. BROWN.—(*To Mr. Chamberlain*).—Will you ask the Judge in what way Mr. Ricord is to act. We wish to understand that.

Mr. Judd.—(*After conferring with the Governor read as follows*)—"The Governor, as Judge of this Court, requires H. Majesty's Attorney General to aid him in presiding over this trial and, to lend him advice upon the points of law to be decided. Also if need be to express His Excellency's views in regard to the points to be submitted to the jury."

Mr. BOGARDUS.—Will you allow me to take a copy of that? [*The paper was handed to him.*]

Mr. BROWN.—I wish to ask His Excellency, whether he considers him [*Mr. Ricord*] as a Co-ordinate Judge with him or merely a legal Adviser?

Mr. Judd.—He says record it.

Mr. BROWN.—[*After a pause*].—The Governor as I understand said record that question. I suppose the answer is not given?

Mr. Judd.—It will be given directly.—[*After another short pause reading*].—His Excellency decides that when he has called in the aid of the Crown Lawyer, the views which that Officer expresses are his views, he having been ordered so to regard them by decree of His Majesty published in the Friend news-paper on the 23d of May last, and addressed to each of His Majesty's Governors of the Islands. The views of that Officer are therefore on such occasions the views of His Excellency for which this Court are responsible.

Mr. BOGARDUS.—Will you allow me to take a copy of that, sir? [*The paper was handed to him.*]

Mr. BROWN.—I understand from that that he is merely a legal Adviser; which I knew before.

Mr. Judd.—Any witnesses, Mr. Brown, to call?

Mr. BROWN.—Yes: John Flandreau, Edward C. Ellis, James Lewis, Henry Riley, John Beriot, George Cope, John Wiley.

SHERIFF—John Wiley was not summoned.

Mr. BROWN.—Summon him now. These witnesses are ready to be sworn.

THE POLYNESIAN.

OFFICIAL JOURNAL OF THE HAWAIIAN GOVERNMENT.

HONOLULU, SATURDAY, APRIL 5, 1845.

As Mr. Brown has expressed his disapprobation of the Oahu court as now constituted, it may be well to revert to its early history, and see what led to the present system. To do this it is necessary to show that it was the necessity of foreigners rather than natives, that required such a court of justice, and consequently it has been created in great measure for their accommodation. A more simple arrangement could have answered so far as the natives were alone concerned. But it happened that mercantile and other dissensions arose among the foreigners, who, to settle their disputes appealed to the authorities of the country. To maintain the peace, and to give that protection to strangers which the comity of nations requires, the administration of justice in some form was indispensable. The parties at the earliest date were generally heard before the Governor and Chiefs, and they endeavored to decide according to the merits of each case. As questions became of a more intricate nature, involving mercantile and other knowledge, obtainable only by persons educated in civilized lands, foreign juries were required. But, as was to be expected, the decisions of the native judge could not be favorable to all parties. Those that considered themselves aggrieved, transferred their hostility from their real opponents to the very source from which justice had been sought. Exceptions were taken on a variety of grounds, to the court. The interpreters of either party litigant, or of the court itself, were impugned; its forms and rules attacked as not agreeable to the pre-conceived views or early associations, derived from the several countries of the birth of the disputants. In the mean-while, the government zealously strove to meet every reasonable requirement, and to conform to the models of more civilized lands. The native judge not being versed in the practice of foreign courts, and the modes of business and thought among the whites, as well as very imperfectly acquainted with the English language, endeavored to supply his deficiency and to accommodate all parties by securing some able foreigner to aid him by advice, and to interpret the subject-matter before him. The person selected was Mr. Judd, and the improvement in consequence was acknowledged by the satisfaction which it afforded to parties generally. But Mr. Judd, although unsurpassed in the ease and faithfulness with which he renders the Hawaiian tongue into English, and vice versa, had not received a professional legal education. Each disputant claiming to solve for himself questions of law, a multiplicity of opinions arose, to the hindrance of justice generally, and the prolongation of disputes. As soon as possible, a remedy was furnished by the Government, and Mr. Ricord, the Attorney General, was directed to advise the judge, in all matters of law.

We have thus briefly stated what led to the formation of the court on its present basis. We have done so to show that in all its arrangements the Government has had deeply in view, not only its own reputation, but the accommodation of foreigners. It has improved upon its forms, and secured the best professional services in all its departments, as rapidly as circumstances admitted. That it has deficiencies, when compared with the properly organized courts of old countries, has never been disputed; but it has the right to claim for itself the acknowledgement of having used every exertion, not only to meet the growing wants of the community, but of having been governed throughout by an unimpeachable honesty of purpose.

The same attention has been given to the minor courts, and although the formula in them is not so complete as in the higher courts, yet they will compare advantageously with similar courts in other countries.