

Those punishing theft are sufficiently severe on the offender, supposing him unable to pay the pecuniary penalty. The amount of guilt is decided by the quantity stolen, and not by corresponding circumstances, which may aggravate or diminish the crime. Simple restitution is only due to the owner, and as the crime is equally directed against society, the punishment should be of such a nature as at the same time to affect a moral change in the culprit, and to serve the general interests. Such as some definite period of imprisonment, where he can be employed either on public works or acquiring some useful trade, by which an honest living can be secured, when he is again restored to society. But by these laws, both the government and the injured person become actually the gainers by the transaction, if the criminal is detected, and thus the sense of guilt will be liable to be lost in the desire of pecuniary gain, and the efforts for arresting the offender be stimulated more from mercenary than from moral motives. This may be the most powerful inducement in a semi-Christianized community, and is extensively practised elsewhere, but it most certainly tends to perpetuate these very evils, and to corrupt the people. In a civilized community, where systematized bands of robbers exist, they could afford to continue their occupation upon a fixed capital, as it is hardly to be supposed that they would be detected in every fifth theft, and whenever one was, the redemption would be immediately forthcoming, and thus his services be at once restored to his band, and the criminal let loose again upon the community. The question with him would not be the fear of punishment, or consequent disgrace, but merely the ability to buy himself off.

An important oversight has occurred in not fixing upon some plan or rule to determine the value of property stolen. It certainly should not be left to the loser any more than to the thief—for one would be as likely to over estimate as the other to depreciate the real value. A case of this kind came to our knowledge under the old law, which will illustrate this opinion. A white man had an article of trifling value stolen, and the thief some time afterwards was detected. The judges came to him to learn its value, which he stated at four times its real price. This the poor native was obliged to pay in hard labor, at the rate of wages which the white man chose to allow him, who afterwards boasted of the "good bargain."

In the latitude allowed to the judges, in not "adhering rigorously" in all cases to the laws, there is strong temptation to bribery. Indeed the whole principle of the laws appears to be thoroughly aristocratic, resembling in that particular the defects common to the English and American codes, where the rich man can escape justice by giving and breaking bail; and here by paying a fine he escapes the rigor of the law, while the poor man, even if his guilt is less, suffers the full penalty.

Another defect is in allowing the thief to compromise the matter with the person he has stolen from, or in other words, to compound his felony—a dangerous license and one which in civilized communities is carefully guarded against.

These views occurred to us on a casual perusal of the laws, and are given for what they may be worth. In a rude state of society, those niceties in points of law, which are essential to rigid justice cannot be expected. The discussion of them, however, may afford the government some useful hints, and they are certainly to be encouraged in establishing and executing an impartial code.

Mr. Editor,—We are informed by "A Merchant," in your paper of the 5th inst., "That reciprocity in commercial contracts among nations is not, nor ever has been, considered necessary or essential to justice in forming them."

As the remark was evidently designed to bear upon the contract which "A Merchant"

was commenting upon, we think it proper to make some remarks and enquire as to its applicability to the case in question.

It is true that reciprocity is not necessary to render a treaty legal. They are many times formed where there is the most perfect freedom of action without such conditions. But there are natural and obvious reasons why such contracts are made, and it may be well to look at them, and see whether they existed in the present case. Some nations possess within themselves such a variety of resources that they have internally all the elements of independence.

All the exchanges necessary to be made in such cases can be made between different parts of the same state, and although they may have surplus produce yet whilst they are enabled to live independent of their neighbors upon their own resources, they will not negotiate except for their own advantage.

Other states depend chiefly upon a few articles raised in great abundance, which form the staples of the country, it not being adapted to produce a sufficient variety to supply its own wants.

Of course to such states it becomes necessary to make foreign exchanges, and they will make for themselves the most favorable conditions they can. They must make exchanges at some rate as a matter of necessity, for the supply of their own wants, but to the former, possessing all the resources of internal independence it is a matter of comparative indifference whether they make exchanges or not, and if they do, it cannot be expected that in such cases the advantages will be equal. It is only where mutual necessity and convenience are to be consulted that entirely reciprocal advantages are to be expected. But how was it here, did France need the productions of the Sandwich Islands? No. She would not admit them upon any conditions. They consist of the very articles which she raises in her own territory, and is most anxious to protect. Did the king of the Sandwich Islands, then, need the brandy and wine of France, (the only articles of French produce which were prohibited and taxed,) so much as to sign a treaty which not only imposed such unequal conditions upon him in his commercial relations with France but the relations which pre-existing treaties with other nations sustained to it, obliged him to receive the produce of all other nations on the same terms; in short, to destroy his independence? Was there any such extreme necessity existing for these articles as these great concessions would seem to imply? Let facts answer, they will tell us that no such necessity existed. So far from it, these very articles had just been excluded for the reason that they were not wanted, and to save the people from their demoralizing influence.

We leave the reader to judge how far the remarks quoted from "A Merchant," bear upon the treaty which he has under consideration.

It would seem from the Consul's exposition of the treaty that the single end aimed at was the introduction of alcoholic drinks. Was it not enough that misery, wretchedness, disease and degradation were the inmates of nearly every dwelling, that under their combined influences the nation was rapidly wasting away? Must the flood-gates of intemperance be raised and its burning torrent roll over the land? They had thrown out their prohibitory laws in their dying struggle, as it were, as their last hope, their sheet anchor, and must they cut their cable, and passively allow their national bark to go to pieces upon the destructive shoals of intemperance? Must they admit an evil before which the strongest and most highly cultivated intellects have been unable to stand? Which has exerted the principal agency in filling civilized countries with pauperism and crime—and swept away thousands of savages and barbarians?

But so it is, the blighting influence of that evil of evils has lighted on these shores to add to the already wretched condition of the people, and aid in hastening their extermination. Mr. Editor there is responsibility resting somewhere for the influence exerted in bringing about this state of things which I would not sustain for the universe.

Respectfully Yours,

S. N. CASTLE.

September 14, 1840.

Mr. Editor,—Sir, Your paper of the 5th September contains a long article signed by "Samuel N. Castle," generally believed here to speak the sentiments of and for the Calvinistic missionaries, and written of course

in the plural number, giving a dissertation on French protective policy, remarks on the "Laplace Treaty," and the evils which in his opinion flow to this country by its operation, and broadly intimating that His Hawaiian Majesty in signing the Treaty did not act freely; that nothing but the threat of a future exercise of force compelled the King to affix his signature to it; that the French have, by the strong arm of power, wrested from him his sovereignty, &c.

Mr. Castle also tells us in what manner the Treaty ought to have been drawn up; what is most for the commercial interest of the French; something about the Philadelphia humbug, the Black prince, &c. This, sir, is the second chapter we have had from Mr. Castle, upon pretty much the same subject. For chapter the first I refer your readers to his "Account of the transactions connected with the Visit of the Artemise," &c. published in the now defunct Hawaiian Spectator, Vol. II., No. IV., Article IV.

I beg leave at the same time to refer your readers to the "Supplement of the Sandwich Island Mirror," of Jan. 15, 1840, published in a pamphlet form, wherein they will see the sort of figure which the said "Samuel N. Castle" cuts in the various statements made in the "Account" alluded to.

In your last paper, (No. 14.) is the answer of "A Resident" to my letter of the previous paper. As the same opinions, sentiments and tone are common to both your correspondents, I shall take the liberty of addressing them jointly or severally as may suit me best—especially as "A Resident" is doubtless of the same missionary body with Mr. Castle, and like him speaks for them all.

So far as concerns my first article (the interpretation of the Laplace Treaty) I could with propriety (seeing they do not disagree with me in that matter) drop the subject—but when attempts are made by the Calvinistic missionaries of this country to create abroad false impressions as to the manner in which the Treaty was obtained, and to excite by false accusations and assertions, bad feelings against the French, and Capt. Laplace the negotiator of the Treaty, in particular, I feel constrained to say something more.

It appears that Capt. Laplace, acting in the name of the King of the French, negotiated or obtained from this government a commercial treaty highly favorable to French interests. Well, sir, is there any thing wrong in his so doing? Did he not do right to forward the interests of his country; to obtain a treaty as favorable as possible, even though the terms of it were not reciprocal and beneficial to the other contracting party? No one can dispute it. But your correspondents say that he obtained the Hawaiian King's signature to the Treaty by coercion, by a threatened future exercise of force, &c. This is a very serious charge, and ought, I confess, to induce the French government to consent to the annulment of the treaty, when requested to do so by this government.

Having sought for the fact, I am now satisfied of the falsity of the charge. I have the best authority for saying, Laplace used none of the means alluded to above—on the contrary, he clearly and distinctly gave the King to understand, both before and at the signing of the Treaty, that there was no obligation on his part to sign any treaty whatever—but left it to his pleasure to sign the offered treaty or not; desiring him to act freely in the matter, as no compulsion was or would be attempted.

If we shall be told that the King did after all sign the Treaty through fear excited in his mind by a friend to the French, we can only say in answer, that His Majesty was perhaps unfortunate in his councils, and that neither the French or the public can be answerable for what took place behind the curtain—the responsibility must rest on the individual actors, as they must have taken it upon themselves to do so without authority.

The King, in a letter to the French Consul, declares "that he never mentioned to any native or foreigner his reason for signing the Treaty."

I inquire of "Samuel N. Castle," (who seems to know every thing that takes place in the King's councils) whether His Majesty did, immediately subsequent to the affixing his signature to the Treaty in question, send a protest or remonstrance to the French government, complaining of illegal means having been used to obtain his assent? If the King did so, the fact will have great weight in supporting Mr. Castle's charges.

Now, sir, is "A Resident's" supposed case of the street robber applicable to the French? Does Laplace merit his vile epithet? "A Resi-

dent" to show the good company with whom he is associated, in the use of invective against the French, gives an extract from the London Times. I should have thought the selection would have been more judiciously made; for where is the English paper which ever spoke of any act of the French in other terms than those of censure? Of what weight then is the article? With what truth, too, could the author of the extract say of any act of the French that "it resembles nothing we have ever heard or read of, but the buccannering practices of by-gone times." Is it to be thought that he never "heard or read of" the attack of the English on Denmark (at a time she was on terms of professed peace and friendship) of the bombardment of Copenhagen, her capital, and the partial destruction and seizure of the whole Danish fleet? An act which even no British statesman ever attempted to speak of than as "a justifiable and necessary piece of robbery and murder."

Your correspondents labor to make your readers believe that drunkenness and crime are increasing at the Sandwich Islands—and that these evils are consequent upon the legalization of the spirit trade, by the Laplace Treaty. They also assert that whale ships will in consequence, cease to visit these ports for supplies.

That drunkenness and crime are increasing here, may be doubted; if they are so, the increase ought not to be attributed to the operation of the Laplace Treaty, but to other circumstances, to the downward progress of the mass of this people, evident for ten years past. During the prohibition on spirits as much or more of that article was consumed here, than previously to the enactment of the law. It is notorious that during that time, many natives, members of the Calvinistic church, drank spirits and wine to excess, who were never known to use them before. The legalization of the spirit trade will have little or no effect in preventing vessels from resorting to these ports. Whale ships continue to flock to Tahiti in as great numbers as ever, notwithstanding the amount of spirit introduced there is as large as though the trade was legalized. They will, as heretofore, visit these places affording them the most cheap and plentiful supplies. That the King signed the law prohibiting spirits with great reluctance, is a well known fact. I shall offer no apology for asserting my belief that in all this outcry against the French and the Treaty, the missionaries (Mr. Castle speaks in the plural number) are actuated by no other feelings than these of spleen and venom, created by the transactions of Capt. Laplace during the "glorious three days" the 9, 10, and 11th July, 1839, in which the grievances of French subjects were redressed, the rights of conscience restored, the worship of the Romish religion declared free throughout the Islands, and a fatal blow given to the domination and unholy influence exercised over the government of this country. "Let the galled jade wince."

It is not my desire any more than "A Resident's" to bandy words, and do not therefore point out the contradictions and false arguments and reasoning of many parts of his letter. That many of his premises are false, I hope has been made apparent in this my final letter.

Let me close, then, with an earnest request, through Mr. Castle, to the Calvinistic missionaries that they do not involve this naturally well disposed people in further broils with foreign powers. One treaty with the French has been broken; let them not influence this government to break the last. Remember that "the \$20,000" are yet in the hands of the French. Yours,

Sept. 15.

A MERCHANT.

Mr. Editor:—Sir, Will you allow me to ask a solution to the following questions through your paper. There are many persons in this town, intelligent and benevolent men, and evidently well wishers to this nation, who are at the same time aiding in its ruin and demoralization. To speak plainly, they are those who are fully aware of the evils of intemperance, daily witnessing and acknowledging its destructive ravages, and yet continue to deal in ardent spirits, and to send it abroad among the natives, thus consciously augmenting the evils which they profess to deprecate. To me it would appear more consistent either to advocate intemperance openly, else use all lawful means to arrest its progress. Can a man be a friend to both causes?

Again; why is it that merchants, who are men of forethought and calculation, whose business is to develop the resources of the