Hawaiian Gazette

SEMI-WEEKLY.

FRIDAY. MARCH 30, 1894

A QUICK-STEP.

The account of the proceedings in the House of Commons, looking toward the abolition of the House of Lords will be read with keen interest by all who are interested in catching the strain of that mighty music of progress to which the whole creation moves. The march of events in England seems to be a quick-step just now, where the House of Commons, even on a snap vote, can pass a resolution in favor of abolishing the House of Peers, and the Prime Minister of England—himself a peer to boot,—can declare the hereditary legislators an anomaly and an anachronism.

It is not impossible that the opening of the twentieth century may see the last traces of mediæval architecture removed from the noble fabric of the British constitution.

THE TROUBLE AT HILO.

The advices from Hilo indicate that all is not yet peace between the contending clubs in that district. There does not seem to be a single difference of principle or issue of fact between the factions, unless it be upon the question whether there should be one club for the whole district, or one for each precinct. As we understand the by-laws of the American-Union party, they do not recognize the precinct at all as a unit entitled to representation, but only the district. This would not, however, exclude the formation of precinct clubs in a large district, which would not, however, be entitled to separate representation.

The whole question is one of minor importance, and it would be absurd to allow the party to split upon so insubstantial a rock. Some personal feeling has of course entered into this controversy, but it should not control. We do not believe it will, but are confident that the patriotic citizens of Hilo will hasten to compound their differences and make themselves, in fact as well as in name, a party of union.

NOT A TRIFLE.

The royalist papers are much grieved at the prosecution of Editor Norrie for sedition. They say that it is trivial; that he has not done anything; that nothing of the kind has been heard of since the dark ages, etc., etc.

Now, we are as much grieved as any one. We would be delighted to see Mr. Norrie, whose portrait adorns our columns this morning, left free to go up and down like a roving lion. In point of fact, there is little danger in leaving him at large. To say, however, that Mr. Norrie has not done anything is to do great injustice to his persistent attempts to excite contempt and disaffection against the Government. This is a way of defending him which will be little to his liking. It clears him of sinning against the Government by wiping out all his claim to the gratitude of "Her Maj-sty, the Queen."

Whether, in the particular instance charged, the editor of the Holomua has been guilty of sedition may be left to the Courts to determine. There can, however, be no manner of doubt that the utterances of his paper are constantly seditious, so constantly, indeed, that the judgment is as dulled by repetition as the ear by the clatter of a sawmill. The Government has shown great forbearance in its attitude toward the royalist journals. It has not desired to deny advocates of the lost cause the luxury of talking it over. When they talk it over, however, they should remember that they are doing so on sufferance, and should forbear to talk too loud. The Holomua has been screaming itself hoarse for a year, and a lower key will be a relief to itself and its neighbors.

THE JAPANESE TREATY.

The relations between Hawaii and Japan are regulated, apart from the provisions of international law, by a treaty and a convention. The first was negotiated in 1871, when C. C. Harris was Minister of Foreign Affairs, ratifications being exchanged by the respective plenipotentiaries, C. E. De Long for this country and Messrs. Sawa Iusanme Kiyawara Noluyoshe and Terachima Jusee Fugiwarra Munemori for Japan. The second is the Labor Convention, negotiated in 1886.

The treaty of 1871 was a commercial one, and it is very brief. It contains two articles which bear upon the question of political rights. They are as follows:

Article II. The subjects of each of the two high contracting parties, respectively, shall have the liberty feely and securely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, where trade with other nations is permitted; they may remain and reside in any such ports, and places respectively, and hire and occupy houses and warehouses, and may trade in all kinds of produce, manufactures and merchandise of lawful commerce, enjoying at all times the same privileges as may have been, or may hereafter be granted to the citizens or subjects of any other nation, paying at all times such duties and taxes as may be exacted from the citizens or subjects of other nations doing business or residing within the territories of each of the high contracting parties.

Article IV. It is is hereby stipulated that the Hawaiian Government and its subjects, upon like terms and conditions, will be allowed free and equal participation in all privileges, immunities and advantages that may have been or may hereafter be granted by His Majesty, the Tenno of Japan, to the Government, citizens or subjects of any other nation.

It is far from clear that these articles intend to grant political privileges among the others which are accorded. The context of Article II plainly refers only to commercial privileges. Article IV is possibly somewhat broader in its scope, but it should be noted that it contains the phrase, "upon like terms and conditions," which would seem to be a reference to the provisions of Article IV. In that case the second article would be controlled by the first, and its meaning determined by reference to the former.

There is no settled form that we are aware of for the "favored nation" clause. At the same time it is significant that, in treaties like those with Great Britain, France or Russia, the expression is clear and free from ambiguity.

Unfortunately, however, the relations of Hawaii would not be free from difficulty, even if it could be shown that Japanese under this treaty are not entitled to the franchise upon the same terms as other foreigners. The treaty affords a peg quite good enough to hang a claim upon, and it is to be feared that our friends the Japanese, will construe the treaty in their own interest rather than in the interest of Hawaii.

As for the Monroe doctrine, it is beyond doubt a very comforting one for Hawaii, but it will not fit all situations. It may protect Hawaii from a Japanese seizure, but will not secure her labor interests from the consequences of Japanese hostility. When Hawaii is a part of the United States her industries will enjoy the same protection as is enjoyed by the plantations of Louisiana. She can then lay aside her painful industrial dependence. Until then, she cannot afford to quarrel with a Power 18,000 of whose subjects reside in Hawaii, and who constitute the backbone of her labor force.

The actual power which the Japanese Government has over its subjects in this country is an entirely unknown quantity. No doubt there is no legal power in the home Government to withdraw them. Whether, however, the force of the paternal system and the habit of unresisting submission to feudal authority would be strong enough to do the work of direct legal authority, seems to be, so far as we have been able to ascertain, an uncertain matter. In any case, the adoption of such a policy could hardly fail to be embarrassing to Hawaii.

In the meanwhile, the proper course for this nation is to establish a suitable franchise and create a free and republican government, without regard to pressure from foreign powers.

NOT A GOOD BILL YET.

The bill amending the labor laws regarding Chinese came up in the Councils yesterday and led, as usual, to a lively debate. As usual, also, nothing was done. The bill was re-committed, this time to a new special committee who will now do what they can to solve the knotty problem and reconcile the conflicting interests of Hawaii as a producer, subject to economic laws, with the interests of Hawaii as a civilized community.

This is the third or fourth bill which has been brought into the Councils on this subject, and still the right measure is conspicuous by its absence. We predict that it will continue to absent itself until the Government can muster the courage to be thorough and prepare the ground, at least, for a solution of the problem by passing a universal registration act.

The law under consideration by the Councils yesterday has its good points, but the opposition which it aroused, both from the radical and conservative sides of the Chamber, shows plainly enough that it is a bill which does not "fill the bill." No legislation can prove satisfactory unless it goes to the root of the evil. Palliatives and lotions will not cure.

Perhaps the whole matter should be left to the first legislature assembling under the new Constitution.

JUST TO THE NATIVES.

There is no truth and no justice in the charge that the Provisional Government is hostile to Hawaiian officeholders, and that it turns them out, without regard to their merits, in order to fill their places with white men. On the contrary, it is notorious that its friendliness to the Hawaiians has brought severe criticism upon it from the radical wing of the Annexation Party. The policy of the Government toward the native race, has been one of forbearance, kindliness and conciliation from beginning to end. At the same time it could not ignore notorious disloyalty in the ranks of officeholders, without injustice to the men who had borne arms in its behalf, and whose services are certainly entitled to recognition. No government in the world could expect to neglect claims so well founded and live.

The native Hawaiians are the original occupants of the soil, and they are entitled to the utmost consideration which is consistent with the ends of the Government. It is well to remember this when we are inclined to impatience. It is only just to remember, too, that while the virtues of the natives are their own, some of their worst vices are acquired; while their confidence is abused not so much by men of their own race as by foreigners.

MORE MALICE THAN FACT.

The Bulletin gives currency to a number of statements regarding the merits of the Hawaiian exhibit at the Midwinter Fair, which bear upon their face all the marks of stupid malice. As to the charge made against the management regarding the hula dancing, we have every reason for believing it to be false. The character of the promoters of the village should be sufficient to give the lie to such allegations, except as against positive proofs. The Bulletin, however, seems to have nothing to offer except the statements of a correspondent whom it has itself convicted of the grossest exaggerations.

The next time the Bulletin is moved to prefer charges against Mr. Thurston and his colleagues of the Cyclorama Company, it would do wisely not to publish the pretended evidence upon which they are based. Then the public may believe if it chooses that there is something to build them upon.

THE PURITAN SUNDAY.

The ADVERTISER has been requested to publish the following editorial from Truth, "without note or comment."

The Puritan Sunday is so much a thing of the past now in America, and particularly in the cities, that only some important fact connected with the religious tendency of the people calls up the old question of the remarkable celerity and swiftness with which we are backsliding as a nation from the standard maintained by our forefathers. Church-going has decreased according to the reports of the religious societies in all except two cities in the Union, and in some of the larger cities such as New York, Boston and Chicago, the decrease in church attendance has been so persistent as to arouse the gravest apprehensions in those people who believe in a visible expression of religious feeling. In conjunction with this falling off in church attendance, is to be noticed the extraordinary liberality which is displayed by the public in the way of Sunday amusements. Nearly all of the theaters in the Western cities are open Sunday nights; concert and beer gardens are most liberally patronized on the first day of the week, and Sunday, which was once a day of deprivation and religious observance in New York, has become a day on which excursions, picnics and outd or entertainments of all kinds are most frequently held. In New York City, which was for a long while strictly governed on Sunday, the bars have been completely let down. Variety entertainments are given in seven or eight theaters every Sunday night under the head of Sunday night concerts, and regular music hall entertainments, where there are dancing, singing and all sorts of pantomimic entertainments, and where the men and women in the audiences drink and smoke freely, are now accepted as a matter of course, although these things are not only antagonistic to the former spirit of the people, but in open violation of the law. It is pointed out that the French people make Sunday a universal holiday, and that they are on the whole as moral a people as the Americans. There is one important point about this which essayists on the subject seem to overlook. The French all go to church in the morning at an absurdly early hour, and then return to their houses and dress for a day which is more or less of a whirl. In America the whirling part of the day is followed out freely, but the ceremony of attending church in the morning is entirely dispensed with.

Persons who desire to read the above editorial "without note or comment," may "skip" what follows. None the less we will add a few words of soberness to the too sweeping words of Truth.

The change indicated in this citation is fundamental. It does not result from any laxity in Sunday laws, but from an evolution which almost amounts to a revolution in the religious ideas and social practices of the people themselves. No laws, no external observances or requirements, can restore the 17th Century New England atmosphere, which alone made the Sabbath of New England possible. We would repeat, that Sabbath did not make the people but the people made the Sabbath. That whole social phase, with its imperious religious categories, its rigid formalism, its sharply defined opposition to what theologians understand by "nature," and its insensibility to art and beauty has utterly passed away. The traces of it in the 19th Century, in legislation and in manners, are no more than a belated and untimely survival, a faint afterglow. The 19th Century is born under a new star. The modern conception of life is something quite different from that of our Puritan forefathers, something which they could never understand.

Whether the change has been for the better or for the worse, it is fruitless to inquire, since there can be no thought of return, no revocation of the past. Every high-minded man regrets the popularity of low amusements on Sundays and on week days. The evil cannot be remedied by forbidding the recreations which are elevating. People will not be whipped or legislated into church, and if they could be, they would not arrive in a proper frame of mind. A slight falling off in attendance at places of worship and a large increase in that at places of amusement is not the result of any change in legislation, but of a great change in the conviction and feelings, which themselves make and change the laws.

The question for religious people to consider is whether they will fall in at the head of the column and direct the new movement, or whether they will waste themselves in a futile attempt to turn it back. There is no further alternative. It is not a question of the existence of Christianity; that is "here to stay." It is, however, in some measure a question of the present usefulness of Christianity. The maintenance of mediæval forms in the midst of the Nineteenth century cannot endanger a religion of so much vitality, but it delays the accomplishment of its historic mission—the enfranchisement of humanity.

COURT NOTES.

A discontinuance has been filed in the habeas corpus matter of the child, Reynold Brodie McGrew, but the father's guardian (Chas. L. Carter) will prosecute the divorce suit against the mother of the child, and will rely on the result of said suit the decree of which will award the custody of the child to the prevailing party.

The deposition of H. F. Glade in the equity case of H. Hackfeld & Co. vs. C. Brewer & Co and other firms has been filed in said cause; deponent is about to go abroad hence the taking and filing of his testimony.

In the matter of the estate of L. N. Kauai, Alfred W. Carter, the administrator, has filed an application to realize on the realty, the personalty being insufficient to pay the debts of the estate.

Henry W. Hart of Portland, Oregon, having come of age, Judge Cooper has authorized David Dayton, his guardian, to pay to him the sum of $1141.10 being his distributive share in the estate. There still remains two more minors of the same trust estate.

The Supreme Court has decided in favor of the plaintiff in the divorce suit of Akoi (w.) vs. Ken Kau which came up on exceptions from Judge S. L. Austin, Circuit Judge of the island of Hawaii, who dismissed the libel for lack of service of an amendment to the libel. The Appellate Court finds that under the circumstances the dismissal was erroneous and the case has been remanded for further proceedings to its proper jurisdiction.

The will of Naholowaa (w.) of Manoa, Oahu, has been admitted to probate by Judge Whiting and letters testamentary thereon were issued to S. K. Aki under a $500 bond. The es ate is worth $300.

In the matter of counsel fees in the McGrew cases, respondent's counsel has suspended their motion requiring the guardian to show cause why he should not pay, the guardian stating that upon his realizing on the securities belonging to his ward, he will satisfy counsel's claim.

Judge Cooper has appointed J. W. Luning assignee of the bankrupt estate of William Horace Wright, under a bond of $100 without any surety. The assignee will probably have a replevin suit against the party who took away the household furniture belonging to Mr. Wright.

Kahakuakoi (w), who with her husband receives $30 per month under the will of Bernice P. Bishop, has sued the Hawaiian Government, in ejectment, for possession of that valuable land situated in Haimoeipo, Honolulu, next to the Barracks. A. S. Hartwell, who defends on behalf of the Government, now has two claimants to contend with. The other claimant, Thomas R. Mossman, is awaiting a decision in respect to the plea in bar set up by the Government. Judge Cooper now has the matter under advisement.

In H. R. Macfarlane vs. Ira A. Lowell, Judge Cooper has allowed defendant's exceptions to the order granting plaintiff a new trial. This was an assumpsit case tried at the last term before a foreign jury, which resulted in a verdict for the defendant.

V. V. Ashford, elder brother, has sued his partner and brother, C. W. Ashford, for an accounting of the partnership assets, and an order was issued, made returnable this morning, which requires defendant to show cause why an injunction should not issue against him enjoining him not to dispose of any of the partnership property nor of his individual property. Judge Cooper, who issued the order, will hear the application for an injunction. A. S. Hartwell appears for the complainant in this matter.

Samuel Kanewanui, of Hanalei, Kauai, has successfully passed an examination before Circuit Judge Hardy of Kauai, and a license has been issued to him to practice law in the inferior Courts.

L. B. Kerr has sued John Good in assumpsit in the District Court and recovered judgment against him. Defendant has appealed to the Circuit Court of the First Circuit without a jury. J. W. Pratt is a garnishee in this matter.

The Banning matter is to go up on appeal to the Supreme Court, the beneficiaries of the estate having given notice of an appeal and have perfected same by settling costs with the Clerk.

The following cases have been argued and submitted to the Supreme Court:

M. Sylva vs. D. W. Kahuakai et al., ejectment, exceptions to an order of the First Circuit Court granting plaintiff a new trial.

Samuel Norris vs. Emily de Herblay, plaintiff's appeal from order sustaining demurrer. Attorney William Foster sat in Justice Frear's place on the bench in this case.

People's Ice and Refrigerator Co. vs. Hawaiian Electric Co., equity appeal for a specific performance.

Only four or five more cases remain to be disposed of.

There was no case ready for argument before the Supreme Court yesterday.

The only matter heard was a jury-waived case in assumpsit before Judge Whiting. It was an appeal by Ignacio de Fraga from the District Court. The claim is for about $100 for sick benefits against the Portuguese Mutual Benefit Society. The evidence was all in and arguments of counsel are to be heard this morning. A. S. Hartwell and A. Perry for plaintiff-appellant, P. Neumann for defendant.

In the matter of the guardianship of Victoria Kaiulani Cleghorn, a master's report on the guardian's final account has been filed.

Mrs. Julia Barrett, widow of the late Moses Barrett of South Kona, Hawaii, has petitioned for letters of administration upon the estate of her late husband. The estimated value is put down at $2000. Hearing is set for April 27th next. The only parties entitled to the estate are the widow and a sister of the deceased. W. A. Kinney for the petitioner.

J. M. Dowsett, executor of the will of the late H. M. Stillman, has filed his third annual account showing the sum of $402 as the total income for the past year.

The jury lists for the First Circuit Court have been prepared by Judge Whiting and Clerk Lucas, and are now on file in the Clerk's office.

The April term of the Third Circuit Court will be opened on Wednesday morning next, April 4th, at Waiohinu, Kau, Hawaii. Judge S. L. Austin will preside, and G. K. Wilder left on the last trip of the W. G. Hall to prosecute criminal cases.

I have never supposed and do not now believe that the constitution is an iron coffin in which our National sovereignty is carefully embalmed in the ancient Eyptian mode and quietly stored away in our archives. This assumption of construing the Constitution to be supreme even against our National life and authority will never be admitted by patriotic Americans, nor by sagacious American statesmen. —John L. Stevens.

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March 19, 1894.

The following letter from a gentleman thoroughly posted on cattle and the quality of fence necessary to combat the rambunctious Hawaiian steer should convince everyone that our claims for the Jones Locked Fence are genuine:

KAPAPALA RANCH,
KAU, HAWAII.

MR. E. R. HENDRY, Manager Hawaiian Hardware Co., Honolulu.

DEAR SIR:—I have just completed some three miles of the "Jones Locked Fence" and must say that I am very much pleased with it, in fact it is THE fence for a ranch. I had about a mile to construct over "pahoehoe," where it was nearly impossible to get a post down and found, in this case especially, the Jones Fence was a great saving of labor. There are places in this fence where the posts are at least 75 feet apart, the space between filled in with stays. There is no sag to it and it is as springy as a wire mattress. I am confident that it will turn ordinary stock.

I have some two and a half miles more to construct over a country where wild cattle are very plentiful, and as soon as it has undergone the test there will write you further. If it will turn the stock on this part of the land, and I am confident it will, you can rest assured that it will turn most anything except a lava flow.

Very truly yours,
J. MONSARRAT.

If there are still doubting Tom's they are invited to inspect a sample of the fence at our store.

THE HAWAIIAN HARDWARE CO.,
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FORT STREET, HONOLULU.