

THE BYSTANDER



Kinney and the Hobo.
Steven Found Water.
The Discharge of Patterson.
Court Funds.

There is a familiar story of a young Arizona lawyer who was appointed by the judge to defend an alleged criminal. The jury had been drawn, and the lawyer objected that he knew nothing of the case. The judge was obdurate, however, and said, "Take him into the back room there and listen to his story and then give him the best advice you can." The lawyer did as directed. When his client had completed his tale, the lawyer said:

"On that state of facts, the best advice I can give you is to get out of that window and make yourself scarce as quick as you can."

The client took the advice, and after waiting long enough to give him a good start, the lawyer returned to the courtroom and reported the situation. History does not report what then happened to the lawyer; but I heard a story the other day about my friend W. A. Kinney, which goes the Arizona story one better. The story goes this way:

It so happened, once upon a time, that Kinney shook the native dust of Honolulu off his feet and journeyed forth into the world, seeking pastures new, until he came to Salt Lake, where he settled down and was admitted to the bar.

Kinney was a slender, beardless, freckled youth in those days, with a shy, guileless manner, and one day the presiding judge assigned him to defend a hobo, charged with burglarizing a house and stealing a kit of carpenter's tools. As in the Arizona case, the trial was to proceed immediately; and, in further parallel, Kinney and his client were directed into the adjoining room for conference and advice.

The facts were about as raw as in the Arizona case; the defendant had been caught red-handed, in the presence of three witnesses, and handed over to the police. He had offered to plead guilty to larceny, but the prosecuting officer was determined to make an example of him and insisted on the higher charge.

Kinney did not advise the hobo to skip—not just then—but he said to him: "The judge is going to order your discharge, but if you are found in that courtroom sixty seconds afterward they'll run you in on some other charge; so as soon as the judge says you can go, you dust as fast as the Lord will let you."

The hobo gazed at Kinney with incredulous eyes; but, as subsequent proceedings proved, he was an apt scholar.

The trial went on. The evidence of the first witness was without a flaw. The defendant, the stolen goods, the house were all identified, and the time talked to a dot with the charge in the indictment. Moreover, the witness was a well-known man of unimpeachable integrity.

When the prosecuting attorney was through with the witness, he released him with a flourish to Kinney. The latter, in a still small voice, said: "No cross-examination."

"What!" said the judge; "no examination at all?"

"No," said Kinney; "no questions."

The judge sank back with a tired look.

The audience tittered, thinking that the kid lawyer, from nobody knew where, had stage-fright; while the prosecuting attorney swept a triumphant look over the jury, who all looked pityingly at the defendant, evidently thinking that he was not getting a square deal, in having to depend on such a young duffer for a lawyer.

As the witness stepped from the stand Kinney said to him: "Will you please wait a few minutes, I want to speak to you." The witness waited.

The procedure with the other two witnesses was the same. "No cross-examination" was Kinney's sole participation in the case, as each witness testified.

The judge was getting more and more restless, and as the same refrain rang in his ears after the last witness had finished his direct evidence, with an impatient gesture, he snapped out:

"Do you mean to say, young man, that you are not going to ask a single question on cross-examination?"

Kinney gazed placidly up into the frowning face, and, emulating Poe's raven, quoth Kinney: "No, sir; no questions."

The prosecuting attorney looked at peace with the world.

The members of the bar looked perplexed.

The audience looked anxious.

The prisoner moistened his dry lips with his tongue, swallowed hard and looked reproachfully at his attorney.

The judge broke the silence by jerking out:

"Well, go on with your defense, then!"

The assembly in the courtroom looked for an opening address; but no address was forthcoming. Kinney simply said: "I will call Mr. — to the stand," naming the first witness.

The whole roomful were "at attention."

"Will you please state, Mr. —, what the condition of the house was, in which you saw the defendant taking the tools in question?" said Kinney.

"It was a new house, just being built, not quite finished," replied the witness.

"Any windows in it?" asked Kinney.

"No. The windows were not put in yet."

"Any doors in it?"

"No. No doors in yet."

"Anything to prevent anyone from freely going in or out of the house?"

"No. The house was wide open."

"That's all!" said Kinney, with a snap in his voice that made the defendant jump.

With the first question the judge sat up and "took notice." As the examination proceeded he looked more and more disturbed; the prosecuting attorney looked more and more seared; the members of the bar nudged each other and winked, while the audience looked hopelessly puzzled.

Now it so happens that the essence of the crime of burglary is "breaking and entering" a dwelling house. A man can commit "larceny" in an open house, but not "burglary."

As the full force of the situation dawned on the judge, he roared, "Who drew that indictment?" as he glared at the prosecuting attorney. The latter was in a state of "mental hiatus," and gazed helplessly around the room, finally muttering, "I didn't."

For an instant the judge hesitated, then he said sharply: "Prisoner, stand up! You're discharged!"

Then something happened that never happened in a courtroom before.

Without waiting for the echo of the judge's voice to die away, the hobo plunged for the door at the other end of the room. Three chairs, which stood in the way, were knocked and over and over. He did not stop to open the gate in the division rail, but cleared it at a bound. Like a tornado he tore for the door, carrying on the intervening audience as he went. The door was at the top of the stairway. There were just three thumps waited back into the courtroom as he hit the stairs that number of times; then all was still.

By the time the courtroom came to, the hobo was round the corner of the next block.

Everybody was paralyzed with astonishment—that is, everybody but Kinney, who had a modest, far-away look in his eye, as he drummed his fingers on the table.

Then everybody roared—that is, everybody but the prosecuting attorney, who looked as if he had been kicked—and the judge, who looked sharply and inquiringly at Kinney—and Kinney, who returned the judge's gaze with a look of conscious innocence that would have disarmed a pirate chief.

"Call the next case," growled the judge; and the hobo was seen no more in Salt Lake, but Kinney received three offers of law partnerships before dark, and was retained as the permanent counsel of a rich old miner, who died in three months, leaving Kinney as his executor.

O. A. Steven, Morgan's real estate pathfinder, generally gets what he goes after, one way if not another. On Friday he conducted Lawyer McClanahan out to a piece of Manoa property, whereof an alleged item of value was a never-falling spring of water.

Neither of the explorers had a forked hazel or any other divining rod wherewithal to detect hidden moisture. A search for the spring was for some time in vain. Steven did find a soft spot in the ground, where he told McClanahan one might shove his arm up to the elbow in mud. No doubt a very little digging would develop a spouting well of crystal water.

But there was no soft spot in the astute lawyer's head and he opened his mouth, like at a Democratic rally, and thus addressed the real estate expert:

"Mud, I admit, but here is no spring of water. Produce your spring or the deal is off."

"But," the pathfinder urged, "I know there was a spring here, though it may have become lost in summer. However, it is growing dark and perhaps we had better put off the search for another day. (Sotto voce) I guess it is going to rain hard within a few days. (Aloud) Well, just let me have another try in this lantana jungle."

Taking two or three strides into the bush Steven suddenly shoots straight down out of sight of his intended purchasing client.

McClanahan, alarmed, stalks carefully forward to the edge of the jungle, where he sees Steven's head rising out of a pool of water and his hands convulsively clutching the butt of a lantana shrub on the brink.

"That's all right," the lawyer gaily chirrups. "There is a spring, sure enough. Now we can talk business."

"Well," the agent gasps, emitting spray like a whale—

"It is a well, isn't it?" the lawyer interrupts.

"Look here," the agent rejoins as he grips another shrub and lands himself sprawling upon the bank. "I never took water before on a deal—leastwise not when it was intended for the other fellow."

It would be interesting to know what "misstatements" caused the discharge of Inspector Patterson. None are mentioned in Mr. Howland's verbal indictment of him; none have been uncovered by men like Messrs. Tenney and Goodale, who went to the dam to see whether Patterson's warnings were justified. These gentlemen, who have had much to do with dams, say that the Nuuanu structure is "unsafe," just as Patterson had said in the first place. As to covering up bad work, or the work which Mr. Patterson said was bad, neither Mr. Howland nor Mr. Holloway has denied that. So far, no "misstatements" are in evidence. But the significant fact remains that Howland sought the discharge of Patterson from the very start and has now succeeded. I wish him joy of the result, for the net has served to fix the public impression that there has been a lot of jerry-work either in the brother-in-law's specifications or in the numerous changes which Mr. Howland has made in them.

Speaking of these changes Contractor Whitehouse is reported as saying that he had to break with Howland because of them. "I am getting seared of him," said Whitehouse. "Why, I have got a stack of letters a foot high in which Howland either changes the plans or alters changes already ordered." If this is true what good can come of sending the original specifications back to Brother-in-Law Walker's employer for his opinion of them?

To head off further investigation a small group of politicians whose hands are usually smutted by all the dirty politics going, has raised the cry: "It's politics! It's politics! Somebody wants Howland's and Holloway's jobs!" The Bulletin repudiates this talk as we all do. Patterson, who made the charges about the dam, as in duty bound, is not a politician or the tool of politicians; Messrs. Tenney and Goodale are not politicians; Mr. P. C. Jones is not engaged in pulling political wires; the commercial bodies, who are justly alarmed, are "simply business," and as for the Advertiser it has no quarrel with the Department of Public Works and does not court any. What all the critics of the Nuuanu dam want is safe work on the structure; and to make sure of that they are calling for reports from competent engineers. Under such circumstances the men who run about raising a dust about "politics," trying thus to relieve Mr. Howland's methods from criticism, must either be hand-in-glove with him or else they are so sensitive about criticism of anything a Republican official does that they would rather take the risk of drowning out the town than jeopardizing a few votes.

It looks to me the grand jurors were afraid to say "First Circuit Court trust accounts," lest they might be snapped up for contempt of court, and so they referred in general terms to the "Judiciary Department."

Of course the First Circuit Court is an arm of the Judiciary Department, but it is a miscarriage of definition to make such broad reference as the grand jury does, when it is remembered that the Chief Justice presides over the department and circuit judges preside over their respective circuits.

They were funds neither of the department as a whole nor of the government which were involved in the recent embezzlements, but moneys paid to certain clerks of which the government had no concern except that those clerks were government employes. Shades of Humphreys! If it had not been for him, Lucas and Kellett would still hold their jobs and none of the deputy clerks would have had temptation always under their noses.

Don't you remember, in the latter part of 1900, how he loved to talk to the gallery, throwing out orders right and left? Everything for him was too Fear-ish, there was too much departmental centralization. "I will run my court and cut Fear out," was the Humphreysian motto. Henry Smith was another "pestilential fellow" in the eyes of the latter-day Jeffries.

As chief clerk of the department (including, of course, the First Circuit Court) Smith was sole paymaster. But these funds were then ordered out of his hands and, because Humphreys had a lady clerk, poor Lucas was charged with the custody of the bank account and when he was too busy Kellett had to have a hand in it, to make a mull of everything.

Smith could not supervise these deputies because he was too Fear-ish, or persona non grata with the new Daniel come to judgment. However, it was the beginning of the wrong tack, with the resulting mess the grand jury has shown.

As to missing papers. It is only recently that the justices and judges came to the conclusion that all papers must be in the clerk's office and in the vault over night. Before that, owing to the same old feeling, "I will run my own court," papers were absent from the office for weeks and months. If not in some courtroom they were stowed somewhere in judge's chambers. But now there is a good check system, since the bosses have agreed that the office is the only place for records to be kept.

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PORTLAND TO HONOLULU

The permanency of the line which will be established between Portland and Honolulu depends upon the merchants and business interests of this city. We come here with the idea of establishing permanent steamship connections with the Hawaiian Islands, and the burning of San Francisco has had nothing to do with it. We firmly believe that it will be a good investment but it is up to Portland to give us the necessary support.

This was the reply made by M. J. Lindsay, representing the Matson Navigation Company, when questioned whether the line would be permanent. Mr. Lindsay represents the Matson Navigation Company in this city and has brought his family here with the intention of remaining permanently. He announced yesterday that the steamer Hilonian would leave Portland July 1 on her initial voyage from this port to Honolulu.

THINK BUSINESS SUFFICIENT. Mr. Lindsay brings most encouraging news to Portland, and the general feeling is that sufficient business can be worked up with the Hawaiian Islands to justify the Matson Navigation Company keeping up the line. Mr. Lindsay stated yesterday that many of the big plantation owners of the islands have long and persistently requested that they be given the preference of two markets and Portland is the second market.

San Francisco for years has monopolized the trade of the islands, the same as Seattle has obtained practically all of the Alaskan business. But the business men of the islands are said to be even more insistent that they be given the advantage of two markets than are the Alaskans. Captain William Matson, president of the company, respecting the wishes of the business interests of the islands, came to the Northwest to see what could be done in the establishment of a line from the Northwest, and has come to the conclusion that Portland offers more than any other port in this section of the country.

SEATTLE NOT SATISFACTORY. Before deciding to come to Portland, however, Seattle was given a show, but it is understood that conditions there are not as satisfactory as they promise to be in Portland. The Hilonian was brought out from the East and placed on the run between Seattle and Honolulu. The vessel is now making its first trip from the Sound, but it will be the last at least for some time to come, as when it returns to the Coast it will anchor in Portland's harbor.

If business is as good as expected it is understood that the Matson Navigation Company will put a second steamer on the line. If this is done a steamer will leave Portland for Honolulu about twice a month. The steamer Hilonian has a capacity of 4500 tons of freight and will carry about 40 first-class passengers. It will run from Portland direct to Honolulu, then to Hilo, a large port on Hawaii, and from there to San Francisco and then up to Portland. It will take a month or more to make the round trip.

FREIGHT \$3.50 A TON. Mr. Lindsay stated yesterday that for freight \$3.50 a ton would be charged which is the same rate made San Francisco and Seattle, but the latter city gets but little of the trade. Beginning with the first voyage from Portland the company will make special rates for the inducement of tourists. For the round trip, which will include all meals and accommodations, \$140 for first-class passengers will be charged.

The Matson Navigation Company will endeavor to obtain a material part of the coastwise traffic, both freight and passenger. Most of the cargo from the islands will be discharged at San Francisco upon the return trip. There another cargo will be secured if possible to be brought to Portland.

Much refined sugar and tropical fruits such as bananas and pineapples will be unloaded at Portland. The cargoes from Portland to Honolulu are

expected to be miscellaneous as there is market in the islands for everything from feed to hardware.

"About all they do in the islands is to raise sugar and they get most of their supplies and provisions from the Coast, so that all lines of business will be benefited," said Mr. Lindsay yesterday afternoon. "Feed, flour, hardware, meats and many, many other things have to be taken from the Coast."

"The Hilonian has a large refrigerating plant and we intend to carry much meat and other perishable articles. During the season several thousand boxes of apples alone are shipped from San Francisco to Honolulu each month and I understand that Oregon's apples are unexcelled."

FEED IS IN DEMAND. "Then there are thousands of mules and horses worked upon the plantations that must be fed and enormous quantities of feed must necessarily be shipped in. There is no place on the Coast that can compete with Portland for flour, feed of all kinds and dairy and poultry produce and for all these a splendid market is offered. Upon practically everything else Portland ought to make as good prices as San Francisco."

"Our company has contracts with many of the plantation companies to carry their supplies. Captain Matson himself is interested in the Honolulu Plantation Company, which is the only company that exports refined sugar. For this company alone about 70,000 tons of freight is carried by our line to and from the islands. Part of that business will come to Portland."

BUYERS WILL COME HERE. "I represent the Hilo Mercantile Company, which is a large concern, and I will do much of its purchasing here. The companies with which we have contracts have long asked that they be given a preference of two markets and we are simply carrying out their wishes in the matter. In San Francisco the large plantation owners have stationed representatives and buyers and I would not be the least bit surprised if representatives and buyers were sent here after the steamer has been on the line for a month or so."

PORTLAND MERCHANTS MUST HUSTLE. "But do not misunderstand me, as the Portland merchants will have to do their share if they are desirous of holding the line and I know that they are. They will have to reach out and get the trade, as it won't come for the mere asking, and it will take some hustling on their part. But there is no reason why the Portland merchants can not make prices as low as can San Francisco and upon some things you can go away below the Bay City."

Mr. Lindsay has cabled to Honolulu a notification that the Hilonian would sail from Portland July 1. The Portland Chamber of Commerce will shortly insert in the daily newspapers of Honolulu large advertisements of that fact and will also call attention to the many advantages offered the buyers in this city. Portland merchants are very enthusiastic over the new line and are making preparations to get in and hustle for business, when the line is started.—Portland Oregonian.

WHOOPIING COUGH. This is a very dangerous disease unless properly treated. Statistics show that there are more deaths from it than from scarlet fever. All danger may be avoided, however, by giving Chamberlain's Cough Remedy. It liquefies the tough mucus, making it easier to expectorate, keeps the cough loose, and makes the paroxysms of coughing less frequent and less severe. It has been used in many epidemics of this disease with perfect success. For sale by all dealers and druggists. Benson, Smith & Co., Ltd., agents for Hawaii.

SAILOR HURT. A Japanese member of the crew of the steamer Helene was seriously injured by the falling of some sugar while it was being loaded on the Nevada from his ship, at about 11 o'clock Saturday morning. He was sent to the Queen's Hospital.

The youngest son of Captain and Mrs. Nicholson is very ill in Kahului with pneumonia.—Maui News.

FEDERAL COURT LIBRARY BILL PASSES CONGRESS

WASHINGTON, JUNE 23. To Dole, Federal Judge, Honolulu. Library purchase passed both Houses. HATCH.

Judge S. B. Dole of the United States District Court of Honolulu received the above cablegram on Saturday afternoon. The message indicates that the \$10,000 appropriation for the purchase of a law library for the use of the federal judge in Honolulu is now available and that the library will be forthcoming at an early date.

The appropriation is due to the personal efforts of Col. Hepburn, Congressman from Iowa, and father of Mrs. Roy Chamberlain of this city. When Col. Hepburn was here for an extended visit with the Chamberlains, he visited Judge Dole at the courthouse. Judge Dole commented upon the lack of a library for the judge here, and it was shown that this was a serious handicap.

At that time, as now, Judge Dole is making use of the late Judge Estee's fine library, but this is likely to be removed at any time, and its removal would leave the judge in circumstances which would, to say the least, put him to a great disadvantage in interpreting the complex questions of the law.

True, the Territorial, or Supreme Court Library, is in the same building with the courtroom of the Federal Judge, but it is upstairs. Should a Federal building be erected the Federal Court would be far removed from a law library.

Col. Hepburn saw the force of the arguments and put in his best efforts to secure a library for Judge Dole and officials of the court, as well as attorneys trying cases before the court. A bill was introduced by Col. Hepburn and evidently Uncle Joe Cannon, as careful a watchdog of the national treasury as he is, felt that Judge Dole's request was a reasonable one, for he let the bill pass.

"I am extremely pleased to get this news," said Judge Dole yesterday, "and I am under obligations to Col. Hepburn for getting the bill through."

SUGAR WAR BETWEEN SPRECKELS AND HAWAII

As an incident in the war between the Hawaiian sugar growers and the Spreckels interests, the first importation of Philippine sugar to reach this port in fourteen years arrived on the big Standard Oil freighter Dakotah Tuesday. The Dakotah brought 15,000 tons of 16 pounds each, making a total of nearly 3000 tons. The Dakotah is now unloading her cargo at the big refinery in the Porters. In spite of the fact that this sugar must pay duty, the Spreckels people claim it can be handled as profitably as the Hawaiian product. Another big shipment is on the way.

The sugar arrived in coarse straw mats, which are unloaded from the steamer in slings of twenty at a time, from three batches. To figure out the customs duty the Government has detailed a force of four weighers, whose duty it is to weigh each truckload taken from the ship's side. Some slight

samplers, with long triers, jab every mat and extract a sample, which is placed in a sealed drum, to be taken to the United States Appraisers' laboratory in order to find out the exact saccharine quality upon which the customs rate is based.

Since Tuesday this force of Government employes has worked continuously, and it is probable that it will take fully five days before all the cargo is weighed and sampled. With at least 100 stevedores doing the trucking and unloading, the wharf presents an animated appearance.</