

CORAM,—THE RECORDER,—SEPT. 6TH, 1869.

When DIOGENES entered the Court, this morning, with the worthy host of the "Carlton," he found it full to repletion—to "bustin!" The Clerk, the Bailiffs, the Audience, were all full too,—of intense curiosity and interest. It would be wrong to say that the worthy Beak was full of any thing, but we may venture to say, though we cannot tell of what, that, at any rate he looked *full-ish!* (Take care, dear compositor, that you spell that word correctly, for if you print another word of a similar sound, DIOGENES might be pulled up for "contempt"!) All we mean is, that, as he knew a heavy case was before him,—a case that appealed to the appetite,—he had, prudently, fortified his inner man against the attacks of that *vacuum* which nature and all good Judges abhor. He was not, as Dugald Dalgetty said, *vino ciboque gravatus*, but his pleasant face, and round portly figure, spoke of a man whose digestion and conscience were both in good case. Oysters were to be the theme of the days' discussion, and he looked, therefore, happy,—very happy,—a most "Jolly Justice,"—full of good things and quite determined to keep so.

With such a Judge, our host of the "Carlton" felt that his case was in good hands; he, therefore, as first in the complaint and as having always had the first handling of the oyster, opened the ball by entering upon his defence *conticuere omnes*, and, stretching forth his right arm, thus spoke the godlike Oysterman:

"Your Worship knows, as well as "ere a he" in Montreal, that an oyster, to be eaten, must be opened, and I am accused of opening him without first killing him. To this accusation I plead guilty. I have, man and boy, these twenty years, opened oysters, and I scorn the idea of ever having killed one of them or hurt a hair of their heads; their beards I have trimmed away; but, I refer to the Clerk of this Court, does trimming the beard hurt a man? if not a man, how should it hurt an oyster? A witness has been produced against me to swear that he saw me open the shells without first killing the fish. The 'Sec. to the So. for the Sup. of Cruelty to Animals,' knows nothing about oysters; had he a soul above Clam-Chowder, he would have known that the lover of the oyster always swallows him alive. If that is a crime, it is one that I am not charged with; the PHILOSOPHER will answer to that charge. I opened them, and will prove that, in doing so, I never hurt them in the least."

Here the defendant produced an oyster, perfect in shape and size. Cool and fresh the bivalve looked, in that heated atmosphere. "That," said he, "is all alive!" and then, producing his knife, in the twinkling of an eye he exposed the beauty within the shells to the admiring eyes of the Court. "There," continued Mine Host, "look at that sleeping charmer! look at the hollow-wreathed chamber in which that Peri of Ocean by moonlight hath slept, and in which she *now* sleeps,—not in her 'native element,' as reporters say at launches,—but in Jupiter's own Ambrosia. I hand Your Worship the lovely native to examine; pass it within three inches of your nose! Is she not a darling? See how her bosom gently heaves in nature's luscious bed! Examine it well, Your Worship! I fyle it as my 'exhibit;' swallow it, sir, and if you find it injured in the smallest degree, then fine me as a bungler!"

The Court, as requested, swallowed the oyster, as it was impossible that an 'exhibit' of this kind could be otherwise preserved on the record; then, turning to DIOGENES, requested him to proceed;—that without prejudice to further deliberation he must confess Mine Host's defence was much to the point, and that the fying of a dozen more 'exhibits,' such as Number One, would have quite convinced him that no charge of cruelty could lie. "In that case," said he, of the CARLTON, "I beseech Your Worship, and as many as

are here present, to repair to my house this day, or any day, and I promise to treat you all round to my beautiful ocean treasures, with unimpeachable "PALE" free, *gratis* and for nothing, in exchange always for the usual quantity of the 'silver nuisance,' which, like Mr. Weir, I am engaged in exporting—to pay for more oysters, and the choice viands which the public know and appreciate so well."

DIOGENES plunged right into the middle of his case by denying that there was any law against swallowing oysters, either alive, in the raw state, fried, stewed, broiled, or roasted in their own shells. "The Oyster," he said, "is an animal *feræ naturæ*, and the law which sustains the proceedings of the 'So. for Sup. of Cruelty to Animals,' applies only to domesticated creatures, which are thus under man's protection. It is all very well to fine a poulterer for plucking a farm yard duck ere the Coroner had ordered a *post mortem* examination, and so authorized the gathering of the green peas; but to trouble the world about the death of a wild duck, shot with *malice prepense*, and merely for sport was unheard of! Men do not eat foxes to be sure, but will the 'Sec. to the So.' prosecute the ever greenhearted, though white headed President of the Montreal Hunt for torturing those poor persecuted 'vermin' to the death? Will he prosecute his own 'Tabby' for tormenting the poor mouse, which, trusting to his humanity, takes shelter in his hollow cheese? The Oyster,—the "native" particularly,—is entitled to as much consideration as any of Her Majesty's subjects, but to no more; and as long as it makes no complaint, it must be presumed that it suffers nothing, *volenti non fit injuria*. May I ask whether the oyster which Your Worship has just swallowed, made any objection to being incorporated with the Bench? or, now that it is beyond any power of questioning, does it object to its new quarters?"

His Honor, at this appeal, put his handkerchief to his mouth, and declared that it was rather restless about the region of his waiscoat pocket, but *that* was merely, he thought, for want of companions, as oysters like large beds and never lie alone!

"This voluntary attestation, then," said the PHILOSOPHER, "must put the Secretary's pretensions out of Court. Without, in any manner, waiving his plea, that an animal *feræ naturæ* was an outlaw and beyond the protection of this law, he was ready upon the evidence of His Worship to rest his case. The oyster just swallowed was, it was clear, still alive; it calls for companions. The presumption is that, since it does not hurt Your Honor, you will not hurt it, and, since those swallowed by DIOGENES have given no evidence to the contrary, why should any one suppose them dead? To be alive is the natural state of both men and oysters, and the law presumes life even in absence, unless a period of ten years have elapsed since last heard of. This presumption of law is not to be contradicted. It has been proved in open Court, that the host of the CARLTON never injures the oyster; it has been proved to your satisfaction that, after leaving his hands, the oyster was well and hearty; it has been proved by Your Honor's own evidence,—not the evidence of your senses, unless they lie under your belt,—that it is still alive and "asking for more." Why, then, believe that the oysters DIOGENES swallowed are dead? On the contrary, the law presumes them to be alive, and the PHILOSOPHER, though fully aware that no man can make evidence for himself, maintains that they were well when last he heard from them, and that, taking the benefit of the total darkness of his "inner surface," they are now, like Capt. Ashe, the *Cornhill Magaziue*, the Montreal *Herald*, the astronomers at Alaska, and the other wise men who rejoiced at the eclipsed glories of the Sun, preparing a report upon the state of his pimples."

DIOGENES here bowed to the Court, picked up his lantern, and sat down. His defence was received with a hearty