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REPORT OF HIS MAJESTY'S ATTORNEY-GENERAL OF NEWFOUNDLAND, ON THE JUDICATURE LAWS OF THAT COLONY.

(concluded.)

But no *itinerant* courts could, I conceive, be instituted on any footing adequate to meet the exigencies of the inhabitants of the scattered settlements, which are of an imperative character and daily occurrence, throughout the Island.

I refer to the wilful absences, neglects and desertions of fishermen and other servants during the period of the fishing season, from the 1st of May till the end of October; when the remedy, to be available for any efficient purpose, must be at hand, and its administration *immediate and certain*.

If the provisions under the Fishery Act 5 Geo. IV., c. 51, were more perfect than they are found to be, they would yield, I believe, very inadequate relief, except in St. John's, for want of efficient courts to enforce their observance.

The penalty inflicted under the 11th section of this act, on wilful absence and negligence of servants employed in the fisheries, when such misconduct (commonly the offspring of that prevalent vice, drunkenness) deprives the employer of his servant's labour for a less period of time than fourteen days, by no means meets the evils such cases involve. In the process of the fishery there is a division of labour; and among the servants of a planter, one man is a Boat's-master, another goes master of a Bait-skiff (to catch bait for all the boats' crews), a third master of the Cod-sein skiff; one man is Master-of-Voyage (superintending the process of curing the fish), another is Header, another Splitter, and another Salter. Each one is hired for his *peculiar department*; and the absence of any one of whom, if but for a week, or even three days in the prime or successful crisis of the season, might cause the ruin of the planter's voyage. The fishermen are commonly engaged, some at wages for the season, and others as *Sharemen*, to have in lieu of wages in money half the fish they may catch, free, and cured by the planter, who provides all with Diet, and at whose peril the fish must be well attended to. The absence of a Boat's-master, or even an inferior servant, will detain a boat and crew idle in port, at the height of the season, when fish only abounds. The absence of a Header, Splitter, or Salter, may delay the curing of the fish, which several boats have caught, until it is damaged or even spoiled, which a few hours delay in hot weather, will effect. The planter then not only loses all the benefit of his own fish, but must also reimburse the value of the loss the sharemen may incur by the neglect of the planter's servant.

To afford practical remedy to the hirer or employer, I am of opinion that, on his making oath before a Justice of the Peace of the refusal of any such servant to work, or of his wilful absence from, or neglect of, his employment, the Magistrate should forthwith issue his warrant for the apprehension of such servant, and if he be found in default, immediately assess the damage he should pay as the penalty of his disobedience, together with costs; either party having the right of appeal to the Justices in Sessions, or other superior District Court.—And if the servant should obdurate refuse to work, the Magistrate to commit him to gaol until the next sitting of the Court of Sessions of the Peace, without bail or main-prize, unless the servant give good and sufficient, as well for his appearance, as for the payment of any fine, penalty, or damages, that the said Court of Sessions or other Superior Court may award against him; and on conviction, and on failure of such payment of damages, &c., such servant to be committed to prison for three months, &c., as in 11th section of 5th Geo. IV., c. 51.—As the law at present stands, a refractory servant may, at the small expense to himself of £3 or £4 exercise his malice or vengeance upon his employer, and work his damage to the extent of £50 or £100, nay, even to the ruin of his voyage, in some cases. Or, un-

der the influence of laziness, drunkenness, or ill-will, he may deliberately, and in face of his employer at any time (not having then been 14 days absent from his duty) put himself on board a vessel, and depart to another and distant part of the Island, or even quit the Colony; while his employers' hands are tied up, because he cannot obtain a warrant against his servant until he have been 14 days wilfully absent. It is very material also to remark, that it is the *services* of the servant that the employer especially, and commonly, *indispensably* needs; for it would indeed be a *rare case* to occur wherein the planter would be able, in the midst of the fishery, to procure at any price a person to replace the desertion of any principal hand in the fishery.*

I have been the more particular in my endeavour to elucidate the defects of the existing laws, and their administration in reference to the numerous out-port inhabitants especially, because, from my own observation, as well as from my frequent intercourse with that class of persons, I am convinced that the inhabitants of the out-ports generally have been influenced mainly, if not altogether, by the evils I have pointed out in the latter preceding pages, to join with the people of St. John's in their application to his Majesty's Government for the institution of a Local Legislative Assembly.

I now beg to offer a few observations on the particular provisions of the Judicature Law, the 1st, 2d, and 3d sections of which have, alone, any immediate relation to criminal justice; and upon which I have already made some observations. I consider it necessary only to remark further, that if it shall be found that the English criminal law has not been heretofore applicable generally to this Colony, and is not yet so under the judicature law, I am not able to suggest any other adequate remedy to supply what is defective, than by selecting, digesting, and passing a code of criminal laws especially for this Colony; or, by a declaratory law, at once make the English criminal law generally the law of Newfoundland.

The skill and labour which the first suggestion involves, and the delay and expense incident to that mode, combine to render such a course questionable; and I am the more of opinion that the latter would be the better mode, for two reasons.—First, because the English criminal code has been recently greatly modified and ameliorated; and, secondly, because a large portion of the inhabitants of this Island are European British born, and the residue almost wholly, the immediate descendants of such; and are therefore familiarized, for the most part, with British laws and customs. Further, a great and important principle is also involved in this consideration, which embraces alike the administration of civil no less than criminal justice; that the more closely the jurisprudence of the Colony is assimilated with that of the Mother Country, the greater will be the uniformity and correctness of decision found in its courts. Judges will have before them the rules of Westminster Hall, and the public will rest better satisfied when decisions are founded upon principles that may be traced to such authority:—all local customs and usages, which length of time has sanctioned as being part of the peculiar common-law of the Colony, the principles of English law will recognize and uphold. Before I quit this branch of my subject, I beg to suggest that the statute 7 and 8 Geo. IV., c. 30, relative to malicious mischiefs, appears to me to be, for the most part, peculiarly applicable to this Colony; and I may with confidence say, stands prominent among its *desiderata*. I would here also beg to suggest the utility and expediency, in cases of minor felonies and misdemeanours, wherein Judges have the power by the law of England to sentence culprits

* Great inconvenience is also experienced in consequence of Justices of the Peace not having jurisdiction in matters respecting the contracts of service between masters or hirers, and journeymen, apprentices, and menial servants. The jurisdiction of such Magistrates being limited to the contracts and hiring of seamen and servants employed in the fisheries.

to transportation for seven years, or to hard labour in the hulks, &c. or to houses of correction or penitentiaries (of which there are none in Newfoundland), or to whipping; that the Court, before which such offenders shall be convicted, may substitute the punishment of hard labour on the public works, or public highways or roads, or in the harbours or ports of the Island, with power to the gaolers or other officers to use, under the direction of any two Justices of the Peace, fetters or other necessary means for the proper security of such prisoners convict.

Concluded in last page.

BIOGRAPHY.

MOHAMMED ALI,
PASHA OF EGYPT.

(concluded.)

As it belongs not to this narrative to record even incidentally the events of the war to which we have just referred, we shall conclude this chapter with a brief outline of the character of that remarkable person who at present fills the viceregal throne of Egypt, and whose genius seems destined to accomplish a greater change on the condition of that country than has been effected by conquest or revolution since the days of Alexander the Great.

Perhaps the actions of this ruler are the best expression of his views and feelings, and might alone be appealed to as a proof of an elevated and aspiring mind, still clouded indeed with some of the darkest shades of his original barbarism, and not unfrequently impelled by the force of passions which are never allowed to disturb the tranquillity of civilized life. He is now about 60 years of age, rather short in stature, with a high forehead and aquiline nose, and altogether possessing an expression of countenance, which shews him to be no ordinary man. His dress is usually very plain; the only expense which he allows himself in matters connected with his person being lavished upon his arms, some of which are studded with diamonds. Like Bonaparte, his outward appearance seems to have changed considerably with the progress of his years; for although, when between thirty and forty, he was described by a British traveller as "of a slender make, sallow complexion, and under the middle size," he is reported by the latest visitors to have become "thick-set," and somewhat full in the figure.

"On our arrival being announced," says an author whom we have already quoted, "we were immediately ushered into his presence, and found him sitting on the corner of the divan, surrounded by his officers and men, who were standing at a respectable distance. He received us sitting, but in the most gracious manner, and placed the Earl of Belmore and Mr. Salt upon his left hand, and his Lordship's two sons and myself at the top of the room on his right.—The interpreter stood, as well as the officers and soldiers, who remained in the room during the whole time of the visit. He began the conversation by welcoming us to Cairo, and prayed that God might preserve us, and grant us prosperity. He then inquired of the noble traveller how long he had been from England, and what was the object of his journey to Egypt; to all which he received satisfactory answers. His highness next adverted to the prospect before him, the Nile, the grain-covered fields, the Pyramids of Djizeh, the bright sun, and the cloudless sky, and remarked, with a certain triumphant humour on his lip, that England offered no such prospect to the eye of the spectator."

He was told that the scenery of England was very fine. "How can that be, he shortly rejoined, seeing you are steeped in rain and fog three quarters of the year.—He next turned the conversation to Mr. Leslie's elegant experiment of freezing water in the vacuum of an air-pump; which he had never seen but admired prodigiously in description, and seemed to anticipate with great satisfaction a glass of lemonade and iced water for himself and friends, as the

happiest result of the discovery. Talking of his Lordship's intended voyage up the Nile, he politely offered to render every possible facility; cautioning him at the same time to keep a sharp look out among the Arabs, who, he believed, would not take any thing from him or his party by violence, but would certainly steal if they found an opportunity of doing it without the risk of detection. He then related a number of anecdotes, touching the petty larcenies of that most thievish race; some of which were by no means without contrivance or dexterity. But the one which seemed to amuse both himself and his friends the most, was that of a traveller, who, when eating his dinner, laid down his spoon to reach for a piece of bread, and by the time he brought back his hand the spoon was away; the knife and fork soon shared the same fate; and the unfortunate stranger was at length reduced to the sad necessity of tearing his meat, and lifting it with his fingers and thumb like the Arabs themselves. Many persons were near, but no one saw the theft committed; and all search for the recovery of the property was in vain.—We now took leave of the viceroi, leaving him in the greatest good humour; he said we might go every where, and see every thing we wished, and that he hoped to have the pleasure of seeing us again."

In reference to the freezing experiment, we may mention that Mohammed Ali, very soon after the visit now described, obtained from England, through Mr. Salt, the requisite apparatus. The machine on its arrival was conveyed to his palace, and some Nile water was procured for the purpose. He hung over the whole operation with intense curiosity; and when, after several disappointments, a piece of real ice was produced, he took it eagerly in his hand, and danced round the room for joy like a child, and then ran into the harem to show it to his wives.

No one has attempted to conceal that there is in the temper of Mohammed Ali, intermingled with many good qualities, a deep tincture of barbarism and fierceness. Impatient of opposition, and even of delay, he occasionally gives himself up to the most violent bursts of passion; and in such moments there is hardly any cruelty which he will not perpetrate or command. For instance, some time ago he had ordered that the dollar should pass for a fixed number of piasters, and it was mentioned in his presence that the rate was not strictly followed. His highness expressed some doubt of the fact, when the head interpreter carelessly observed that a Jew broker, whom he named, had a few days before exchanged dollars for him at the rate asserted.—"Let him be hanged immediately," exclaimed the pasha! The interpreter, an old and favourite servant, threw himself at his sovereign's feet, deprecating his own folly, and imploring pardon for the wretched culprit. But all intercession was in vain; the viceroi said his orders must not be disregarded, and the unfortunate Jew was instantly led to his death.

We find proofs of a similar sally at Djidda, where he appears to have used his own hands to inflict a punishment which he thought it inexpedient to remit. Hoseyn Aga, the agent for the East India Company, resident in that town, was, says a recent traveller, a remarkably fine-looking man, displaying an air of dignity mixed with hauteur; handsomely clad, too, though the heavy folds of his muslin turban were studiously drawn over his right eye to conceal the loss of it,—for Mohammed Ali one day in a fit of rage pulled it out! Yet these men are friends,—great friends just at present, and will remain so as long as it may be convenient and agreeable to both parties to consider each other in that light.

But the master of Egypt is not at all times so ferocious. For example, when Mrs. Lushington was at Alexandria, intelligence was brought to him that a small fort at the entrance of the harbour had been taken possession of by certain Franks, and that the Turks belonging to it had been made prisoners. Some consternation prevailed among his people; but instead of being au-