

SOUTHERN CITIZEN.

BY BENJAMIN SWAIN.

WHAT DO WE LIVE FOR, BUT TO IMPROVE OURSELVES AND BE USEFUL TO ONE ANOTHER?

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THE EDITOR.

From the N. Y. Express.

Law of Arrest.—During the recent pecuniary difficulties by which this city, more than others, has been afflicted, the law of arrest, as respects non-resident debtors, has been pretty frequently invoked by creditors against Southern and Western merchants; and we have heard of several cases of peculiar hardship, and cruelty. The writ has been used out, not from any doubt of the ultimate solvency of the debtor, or his integrity and inclination to pay, but to obtain the guarantee of some resident in the city in the shape of bail, to save the difficulty and expense of collection. Several instances have occurred in which gentlemen of the highest respectability and undoubted wealth, have been hurried away from their hotels to the prison, after dark, when they could not readily procure security; and we know of one case where \$4,500 were tendered to the Jailor as deposit for the payment of \$700 next morning by an arrested debtor from Virginia, but ineffectually, as the Jailor's duty was merely ministerial, and he had no discretion in the matter. We do not complain of the law, so much as of the manner in which it is, or has been abused recently under the pretext of commercial suffering; and some of the acts of treachery and cool dissimulation, practised with a view of ascertaining the intended movements of the traveller, open quite an edifying page in the odd volume of human nature.—Old accounts, disputed items, charges for interest unadjusted, &c., have been raked up; and although they were not embraced in subsequent transactions and accounts current, have been made the ground-work on which process of *capias* has been issued. Such claims have been settled, not from a conviction of their justice, but to obtain liberty, as in the disorganization of trade and its principles, Southern and Western merchants have not found it so easy a matter to procure bail. There must be something radically defective in every law that can be turned into an instrument of oppression and extortion; and that which the majority of New York merchants would blush to have recourse, is greedily seized upon by a few, who are unworthy of the honorable name of merchants, and who hold the same relation to that class as pettifoggers do to honorable and high-minded legal practitioners. We are told that in a variety of instances the men of law have resorted against the application of the *ultima ratio* animadverted upon, and have sometimes declined suing out the writ when the object of the suitor was palpable, and the character of the debtor beyond attainment. If we were permitted we could mention some gratifying incidents of this character. This law has been an effectual bugbear in keeping

thousands of dealers away from New York during the past season.

A LOST ISLAND.

The abode of Alexander Selkirk is no more to be found. The Island of Juan Fernandez has vanished from the ocean. Yet, though blotted from our maps, it is green and beautiful in the verses of Cowper, and the Narrative of Defoe. The following is from an English journal:

"The Isle Juan Fernandez has recently disappeared from the South Sea. It was, doubtless, produced at some remote period by a volcanic eruption, and it has been destroyed by an Earthquake. Between the double catastrophe which marked its origin and its disappearance, no history in the world has made so little noise as the history of this island. If countries, like men, have their personal glory, the Isle of Juan Fernandez has certainly had its share, in having afforded an asylum to the shipwrecked mariner to whom Daniel Defoe gave the immortal name of Robinson Crusoe. The island took its name from Juan Fernandez, a pilot of the 16th century. He was in the habit of sailing along the South American coast from Peru to Chili, meeting with no enemies but the south winds. These were, however, such redoubtable ones that they became a rude, although sufficiently severe, school of Navigation. It occurred to him on one occasion, whether or not, by putting out further to sea, he might not avoid these terrible winds.

"He made the trial, and found that it was crowned with success; his vessel glided over the sea as if by enchantment. During one of his voyages, about the year 1752, Fernandez discovered a coast which he knew could not be that of Chili, and, happier than Christopher Columbus himself, he immediately called it after his own name. He found that it was an island, and on his return recounted the wonders of the place; but when he proposed taking a colony there, the Spanish Government showed no disposition to favor his design. Fernandez, however, established himself there; but after some time he abandoned the island, leaving behind him only a few goats, which became greatly multiplied. It is by some doubted whether Spain allowed him to retain quiet possession of the place; but it is more probable, that the cause of his quitting it was a return of his passion for the sea and the life to which he had been so long accustomed. To his adventurous life he then returned, and it is by some authors asserted that he was the first to discover New Zealand."

From the New-Hampshire Observer.

AN HONEST LAWYER'S FEE.

It is now five or six years since the widow Stiles called on me one morning before breakfast, and asked me to recommend her to some lawyer, as she thought her friend Stubbs was less correct than he might be. I asked her to step into the parlor, and went myself to my breakfast, and to my wife, whose advice I always asked on such points. We had known Mrs. Jared Stiles many years; her husband was a great land owner in a goodly town of the western country, and with a disinterested love that deserved some better aim, ever pressed it on his helpmate, as the first rule of life, to get all she could, and keep all she got. He died, and Mrs. Stiles became more and more fond of wealth, and sensible of the admirable advice which her husband had given her.

I stated the facts to my wife, and waited her opinion. "Well William," she said, after drinking a cup of coffee upon my story, "I fear the old lady has some money getting in view; you know she has of late given all her affections to getting more wealth. I would therefore recommend her to the most honest and conscientious lawyer in town, not to the most acute and thorough one. She relies on your judgment use it, not for her seeming, but her real good."

I counted my legal acquaintance over, twice over, before I hit on one answering to the terms "honest and conscientious," in the sense in which I know Ellen used them; at length I found him, and taking my hat, walked with the widow to his office.

We found Mr. Sawyer at his desk, he rose and gave us chairs, and waited

Mrs. Stiles' statement. But before I go on to this point, let me say a few words on this phenomenon; this man, with his head under his left arm, close to his heart, this honest lawyer, in the broadest, highest sense of the term. He had studied law, because he liked the study, and began the practice because he had to get a living, and now he continued in the profession, in spite of bad opposition, and bad courts, because he thought he had done, and might do much good by his labors; not only by saving the innocent and needy from the strong and cruel, but preventing strife, putting a stop to half knavish practices, and dissuading men and women from unjust suits, and passion-rousing quarrels. Mr. Sawyer thought it not only proper for him to refuse acting for those whose claims he thought dishonest, but he counted it also a duty and privilege, not mere christian charity, to strive to persuade them to forego such claims.—He sought fame and extensive practice as means whereby to exert a moral influence over the community. He thought a lawyer bound to serve, not his client only, but God and his country and looked on him, who for gain would prosecute a suit which he thought unfair, as a traitor to his country and his religion, in set, whatever might be his intention. In short, as Bill Blount once said, "Sawyer was such a hanged fool as to think it an attorney's business to help the parson make good christians."

And now we shall let Mrs. Stiles state her business. It seems that her husband had sold and conveyed certain lots which her father had left in trust for her, and in such a form that she, meaning to release her fee in the lots, had in terms merely released her right of dower; these lots she understood she could get back.

"Did you receive the money for them?" said Mr. Sawyer.

"Certainly, sir."

"Was it a fair and full price for the land?"

"It was all we asked, sir."

"Did you sign the deed willingly?"

"Of course; do you think Jared would have driven me to do it?"

"Did you mean to convey a full title in fee, Mrs. Stiles?"

"Beyond a doubt; but as we did not, they tell me that the land never passed."

"Suppose, Mrs. Stiles, the money had been paid before you had drawn the deed, should you have thought it honest, after getting the money, to refuse to give the deed?"

"Why, lawyer, that would have been thieving right down."

"Well, Mrs. Stiles, you have not given the deed; shall I draw one for you to sign?"

"Why, bless your soul, Sawyer, that is the deed you have got in your hands."

"Mrs. Stiles, if you had given the man, when he paid the money for the lots, a sheet of blank paper, and he had not looked at it, would that have been a deed?"

"Of course not."

"But you meant to give a full title in fee."

"Yes."

"Well, that is not such a title, any more than a sheet of blank paper; you have not yet given the deed. Shall I draw a quit claim deed for you to sign?"

Mrs. Stiles looked at me, and looked at the widow, looked very much puzzled, and somewhat ashamed. At last she said, "But don't the law say that the land's mine, squire?"

"We can't tell that," said Mr. Sawyer, till the case is tried. First, let us get things straight, and have the bargain complete, and then, if you please, we'll go to law about it."

The widow was fairly caught in the corner. At length, with a gasp, she asked how much he would charge for a quit claim deed; this charge, the attorney told her, the other party would willingly pay, he had no doubt, and taking down a blank proceeded to fill it. Before we left the deed was signed, witnessed, and acknowledged.

"And pray," said the widow as we walked home, "what sort of a lawyer do you call this man? I verily believe he cheated me out of all them lots; I've a great mind to go back, and tear that deed all to flinders."

I assured her that it was not only too late, but that she had done the proper thing under the circumstances, and ad-

vising her in future, to employ no one but Mr. Sawyer. Much to my surprise, she took my advice, and that gentleman was henceforth her solicitor and counsellor.

Last week, the widow Stiles died, leaving me her executor. After the funeral, we opened her will, and found to our astonishment, in her own hand writing:

"Know ye all," it began, "that whereas I am going to give something to my attorney, I write this myself—that is, I Jane, relict of Jared Stiles, being of sound mind and body, know all men, that said attorney, to wit, vedelicit, James Sawyer, of this town that I'm of, namely, the town of Jackson, whereas I say, first led me to see the folly of giving my old age to the folly of heaping up filthy lucre, and caused me to turn aside from a course that was, as I have since seen, wholly wrong, for which may be blessed in this life and forever, therefore, know ye, that as a small token of respect and love for said attorney, to wit, namely, James Sawyer, who has of late been unfortunate, and much distressed in worldly matters, I do hereby give, bequeath, will, leave, transfer, make over, and pass unto aforesaid Sawyer, every cent I've got in the world, goods, chattels, lands, money, books, dress, and jewels, for him and his heirs good; leaving it with him to give to my several friends such articles as are marked with their names. Witness my hand and seal, November 20th 1835."

JANE STILES.

Knowing as I did, Mr. Sawyer's troubles in these hard times, I shook his hand most joyfully.

"It is a foe, my friend," said he, "that I must thank you for."

"She must leave \$50,000," I replied.

"I was thinking," answered he, "not of the money, but the change of life and heart; that is the fee I prize."

THE FIRST STEAMBOAT.

From the discourse of Judge Story, before the Mechanic Institution. Interesting account of a conversation between the author and the late Robert Fulton.

It was in reference to the astonishing impulse thus given to mechanical pursuits, that Dr. Darwin, more than forty years ago, broke out in strains equally remarkable for their poetical enthusiasm and prophetic truth, and predicted the future triumph of the steam engine.

Soon shall thy arm, unconquered steam, afar,
Drag the slow barge, or drive the rapid car;
Or on wide waving wings expanded bear
The flying chariot through the fields of air;
Fair crews triumphant, leaning from above,
Shall wave their fluttering kerchiefs as they move;

Or warrior bands alarm the gaping crowd,
And surmise shriek behind the shadowy cloud,

What would he have said, if he had but lived to witness the immortal invention of Fulton; which seems almost to move in the air, and to fly on the wings of the wind. And yet how slowly did this enterprise obtain the public favor! I myself have heard the illustrious inventor relate, in an animated and affecting manner, the history of his labors and discouragements.

When, said he, I was building my first steamboat at New York, the project was viewed by the public, either with indifference or contempt, as a visionary scheme. My friends, indeed, were civil, but they were shy. They listened with patience to my explanations, but with a settled cast of incredulity on their countenances. I felt the full force of the lamentation of the poet,

Truths would you teach, to save a sinking land;

All fear, none aid you, and few understand.

As I had occasion to pass daily to and from the building yard, while my boat was in progress, I have often loitered unknown near the idle groups of strangers gathering in little circles, and heard various inquiries as to the objects of this new vehicle. The language was uniformly that of scorn and ridicule. The loud laugh often rose at my expense; the dry jest—the dull but endless repetition of the Fulton Folly. Never did a single encouraging remark, a bright hope, or a warm wish cross my path. Silence itself was but politeness, veiling its doubts or hiding its reproaches.

At length the day arrived when the experiment was to be put in operation.

To me it was a most trying and interesting occasion. I invited many friends to go on board to witness the first successful trip. Many of them did me the favor to attend, as a matter of personal respect; but it was manifest they did it with reluctance, fearing to be the partners of my mortification, and not of my triumph. I was well aware that in my case there were many reasons to doubt of my own success. The machinery was new and ill-made; many parts of it were constructed by mechanics unaccustomed to such work, and difficulties might reasonably be expected to present themselves from other causes. The moment arrived in which the word was to be given for the vessel to move. My friends were in groups on the deck. There was anxiety mixed with fear among them. They were silent, and sad, and weary. I read in their looks nothing but disaster, and almost repented of my efforts. The signal was given, the boat moved on a short distance, and then stopped and became immovable! To the silence of the preceding moment now succeeded murmurs of discontent, and agitations, and whispers and shrugs, I could hear distinctly repeated, "I told you it would be so,—it is a foolish scheme,—I wish we were well out of it." I elevated myself upon a platform, and addressed the assembly. I stated that I knew not what was the matter; but if they would be quiet, and indulge me for one half hour, I would either go on or abandon the voyage for that time. This short respite was conceded without objection. I went below and examined the machinery and discovered that the cause was a slight maladjustment of some of the work. In a short period it was obviated. The boat was put again in motion. She continued to move on. All were still incredulous. None seemed willing to trust the evidence of their own senses. We left the fair city of New York; we passed through the romantic and ever-varying scenery of the highlands; we described the clustering houses of Albany; we reached its shores; and then, when all seemed achieved, I was the victim of disappointment. Imagination superceded the influence of facts. It was then doubted, if it could be done again; or, if done, it was doubted, if it could be made of any great value.

Such was the history of the first experiment, as it fell, not in the very language which I have used, but in its substance from the lips of the inventor. He did not live to enjoy the full glory of his invention. It is mournful to say, that attempts were made to rob him in the first place of the merits of his invention, and next of its fruits. He fell a victim to his efforts to sustain his title to both. When already his invention had covered the waters of the Hudson, he seemed little satisfied with the results, and looked forward to far more extensive operations. My ultimate triumph, he used to say, my ultimate triumph will be on the Mississippi. I know, indeed, that even now it is deemed impossible by many, that the difficulties of its navigation can be overcome. But I am confident of success. I may not live to see it; but the Mississippi will yet be covered with steamboats; and thus an entire change be wrought in the course of internal navigation, and commerce of our country.

BLESSINGS OF WEDLOCK.

The relative positions of the bachelor and married man are happily contrasted in the following extract:

"Johnson's maxim, that if wedlock has many troubles, celibacy has no enjoyments, is unquestionable, if the celibacy be *old* celibacy. For it is the time that settles the argument. The Paradise of bachelorship is youth, when life is enjoyment in itself; the purgatory is old age, when every thing instinctively grows tasteless. It is when man is the wearied traveller, the *satur conviva*, the struggler with the natural infirmities of years, that the superiority of marriage is felt in those simple supports and consolations which have exchanged the ardor of passion only for the fidelity of a bond of nature. The old man is then no outcast miserable, if he does not flutter in younger society;