

lodged in Oahu jail since the Independent took up the cudgels for the poor men and criticised the outrageous laws which permit men to be treated as criminals for refusing to work under contracts which virtually place them on par with slavery. We certainly blame the infamous laws which force the Galicians to take the choice of going to jail or returning to the slave drivers on the sugar estates, but we fail to see how Mr. Dole could interfere in the matter. If he to-morrow asked the council of state to pardon the men who refuse to work under a contract, and if a pardon were granted, the "devil" part of the contracts would be enforced and every man rearrested, to go to work in the cane fields. Mr. Dole can no more break our laws than Mr. Judd can.

Here is another sample of the humane conduct of those missionary sugar planters:

Dr. Alvarez, of this city, has also had the necessity for a public hospital brought very forcibly to him by reason of some Spanish plantation laborers being thrust upon him for medical attention. He is keeping them until they are strong enough to work. One young Spaniard, who was brought to the Hawaiian Islands on the *Victoria* from Madeira and Spanish ports, has been with him for nearly two weeks. He is an educated man, having matriculated at the University of Salamanca, taking the bachelor degree of that institution. Previous to coming to Honolulu he worked on a Maui plantation. He was weak in his legs, entirely unused to agricultural work, and before long was a fit subject for the plantation hospital. Instead of putting him there, his contract was called for and later returned to him with cancellation of contract marked thereon "By mutual consent."

In other words, they turned him loose. They found he was not capable physically, so they abandoned him.

He had a little money and came to Honolulu as a deck passenger, and is now on Dr. Alvarez's hands, having been directed to him as a countryman of his. He was a very sick man upon arrival and is yet in a low state. The sewer contractors could not afford to give him work, as he was not strong enough. Through persistent medical treatment Dr. Alvarez has been able to afford the man great relief, but he says he should have been in the hospital from the beginning.

Here is another case:

An old man, a Spaniard, nearly 60 years of age, is also under medical treatment and being cared for at the Doctor's house. He, too, was a plantation laborer in Kau, Hawaii, and was a good worker. One day he was in a small pit in a cane field when three Japs, in a mischievous mood, hurled a large stone upon him, breaking his shoulder and rendering him unconscious. He was found some three hours afterwards. He, however, was given no medical attention and was taken into a Portuguese family, which cared for him for four weeks.

The plantation gave him no attention, and he came to Honolulu via Hilo, absolutely penniless, and still in a bad way with his broken shoulder. He had no friends and was preparing to sleep on the slopes of Punchbowl, when some Portuguese warned him that for that he would be arrested. He asked the Portuguese to take him to a hospital. This man also was denied admittance unless he paid in advance. He told them he did not want that kind of a hospital, but wanted a charity hospital.

Here, then, was one of their slaves. The very moment they are unable to work they are cast aside. They let them die. What becomes of the Asiatics, if this is the treatment accorded Europeans in that country? And yet we have heard unlimited praise of this gang of sugar planters, and we have been urged to adopt and perpetuate forever the system of government by which these sugar planters will be in absolute control, their courts established for life, and their legislature one that no citizen of the United States could vote for if he went to those islands. Of course this has been amended. The bill is in fair shape. With the adoption of my amendment, so that the laborers on the remote plantations will get notice of the termination of their contracts, and so that those contracts which have been made since our flag went up will be at once annulled, we will give some measure of relief to this infamous condition which has existed there for the last year and a half.

I ask to have the report of the immigration bureau published in the RECORD and also the decision of the supreme court of Hawaii upon this subject. I ask for the adoption of my amendment.

The papers referred to are as follows:

DEPARTMENT OF INTERIOR, BUREAU OF IMMIGRATION,
Honolulu, H. I., June 19, 1897.

SIR: I have the honor to present the following report of a visit made by me to the Olowalu Sugar Company's plantation, Island of Maui, on the 9th day of June, for the purpose of investigating certain complaints made by the Chinese contract laborers on that plantation in a letter to Mr. Goo Kim, Chinese commercial agent, which letter I took with me. Ng Chan, Chinese interpreter, accompanied me to Olowalu.

When I arrived there the manager, Mr. Aug. Hanneberg, was several miles away in the fields, and I had been there fully two hours before he returned. However, in the meantime I went on with my investigation among the laborers. Their letter to Mr. Goo Kim complained of persistent docking of their wages and harsh treatment.

With regard to the former complaint, I had before I went to Olowalu and still have in my possession one of the plantation time books, showing the Chinese laborers' time for each month from March, 1896, to April, 1897. The book speaks for itself, and proves on every page that the men's complaint is not without foundation. The manager admitted he docked the men for working slow; it was the law, and he would do it. He is too severe, and if this docking habit of his is not checked, there will always be trouble with laborers at Olowalu.

As to the second complaint, harsh treatment, I examined sixteen of the laborers on the plantation, ten of whom signed the letter to Mr. Goo Kim. I asked two of them—before the manager—if he had ever kicked them, and they replied, through the interpreter, that not only had he kicked them, but others, too. Mr. Hanneberg denied their statements, but admitted to me he had pulled the men out of their quarters for various reasons and pushed them around.

Ah Mun, a free laborer, who has been at Olowalu some time, said that the free laborers were treated better than those under contract.

The manager has a bad habit of going into the laborers' quarters and pulling them out.

Lam Hing Wing, cook for a gang, said he never got full pay, though he worked all the time. Two Hawaiians told me they had worked on the plantation, but had left, as the manager was a very hard man to work for.

The laborers' quarters are the filthiest I have ever been in; in fact, the whole plantation is in need of a cleaning up. The inside of the rooms are black with cobwebs, and it looks as if whitewash was unknown on the place. Mr. Hanneberg said he intended to whitewash the houses at once. Sincerely hope he has done so.

The treatment of sick laborers on the plantation is such that it practically amounts to cruelty. Near the beach, a good distance from the men's quarters, is a room about 12 by 12 used as a hospital. The laborers call it the jail. I found in it at the time of my visit five Chinese and four Japanese laborers, all sick. The room was in a filthy condition. These sick men have to leave their quarters early in the morning when the whistle blows and go to the hospital, remaining there all day until the evening whistle blows, when they are allowed to return to their quarters. Is this humane treatment? I hardly think so. I questioned Mr. Hanneberg on this matter, and he said that if the men were allowed to stay in their quarters their friends visited them, and there were other reasons given by him.

This is not the first time that complaints have been made against Olowalu. The place is isolated, and I think there is a good deal going on on the plantation that is not heard of. Some time ago I talked to Mr. W. G. Irwin and Manager Hanneberg about the complaints made by the laborers. The manager should be made to understand that he must keep his hands off the laborers; must be less severe in his system of docking; must keep the laborers' quarters in better condition, and, above all, must put an end to the confinement in hospital. If he is not willing to do so, then no more contract laborers should be allowed to go to Olowalu.

I have the honor to be, your obedient servant,
WRAY TAYLOR,
Secretary Bureau of Immigration.

Capt. JAS. A. KING,
President Board of Immigration.

In the supreme court of the Hawaiian Islands. Special January term, 1899. *Honolulu Sugar Company vs. A. Sayewitz. Honolulu Sugar Company vs. Nikoloz Gzeluch.* Appeals from district magistrate of South Hilo, Island of Hawaii. Submitted January 19, 1899. Decided June 8, 1899. Judd, C. J., Whiting, J., and Circuit Judge Perry, in place of Frear, J., absent.

Actions under the masters and servants act are civil actions, and should be so entitled. (*Coolidge vs. Puaiki*, 3 Haw., 814.)

Certain provisions of the Constitution of the United States are not in force in Hawaii during the present transition period, to wit: Amendments V, VI, VII, VIII, and XIII, and Article III, section 2. (*See Peacock & Co. vs. Republic of Hawaii*, ante, page 27, and *Republic of Hawaii vs. Edwards*, ante, page —.)

Opinion of the court by Whiting, J.

The defendants are laborers brought from Austria under contract to serve the Honolulu Sugar Company, whose sugar plantation is situated in the district of Hilo, island of Hawaii. Quitting their employment in September, 1898, and before the expiration of the period of three years, which they had contracted to serve, they were arrested upon warrants issued by the district magistrate of South Hilo, and tried and convicted upon the charge of deserting their contracts of service. Zeluch was sentenced to imprisonment at hard labor "until he should consent to return to his master and consent to serve according to law," and Sayewitz was sentenced to pay a fine of \$5 and costs and to be imprisoned at hard labor until said fine and costs be paid.

The masters and servants act, section 1384, Penal Laws, is as follows: "If any person lawfully bound to service shall willfully absent himself from such service, without the leave of his master, any district magistrate of the republic, upon complaint made under oath by the master, or by any one on his behalf, may issue a warrant to apprehend such person and bring him before the said magistrate; and if the complaint shall be maintained the magistrate shall order such offender to be restored to his master, and he shall be compelled to serve the remainder of the time for which he originally contracted."

Section 1385 of the same act is as follows:

"If any such person shall refuse to serve according to the provisions of the last section or the terms of his contract his master may apply to any district magistrate where he may reside, who shall be authorized by warrant or otherwise to send for the person so refusing, and if such refusal be persisted in, to commit such person to prison, there to remain at hard labor until he will consent to serve according to law. And in case such person so bound as aforesaid shall have returned to the service of such master in obedience to such order of such magistrate, and shall again willfully absent himself from such service without the leave of his master, such district magistrate may fine such offender for the first offense, not exceeding \$5, and for the second offense not exceeding \$10; and in default of payment thereof such offender shall be imprisoned at hard labor until such fine is paid; and for every subsequent offense thereafter the offender shall be imprisoned at hard labor not exceeding three months, and at the expiration of any such imprisonment such magistrate shall order such offender to be restored to his master to serve for the remainder of such original term of service."

The defendants appealed on points of law; in the Sayewitz case, as certified to us, "that the proceedings, arrest, trial, and judgment are contrary to the Constitution of the United States, and that sections 1384 and 1385 (Penal Laws of Hawaii) under which these proceedings are had, are contrary to the Constitution of the United States;" and in the Zeluch case, "whether or not the proceedings had in this case are in conflict with the Constitution of the United States and therefore void, and whether sections 1384 and 1385 of the Penal Laws of 1897 are contrary to the Constitution of the United States and therefore void."

These are the only points certified up by the district magistrate. The defendants claim that the proceedings and the law under which they were charged and convicted are contrary to the provisions of the Constitution of the United States in that—

1. The masters and servants law directly contravenes the thirteenth amendment to the Constitution of the United States, which provides that "neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to its jurisdiction."

2. The offense comes within the provisions of Article V, amendments to the Constitution of the United States, requiring a presentment or indictment by a grand jury.

3. The law under which defendants are imprisoned denies to them the right of trial by jury (in the first instance) and to that extent the protection of the Federal Constitution. (Article III, section 2, and the fifth, sixth, and seventh amendments.)

4. The masters and servants act makes imprisonment for life a possible punishment for violating its provisions, in contravention of Article VIII of the Federal Constitution.