

MISTAKES ABOUT JUDICIAL PROCEEDINGS IN MEXICO.

It is truly lamentable to see the mistakes often made by able men of this country visiting Mexico regarding our institutions. I recently noticed a serious one about our judicial system, which appeared in the *Lisbon, Ohio, Leader*, of February 18, 1897, in a speech delivered by the Hon. P. M. Smith, in answer to a toast, "The lawyer in Mexico," at a banquet of the Lisbon Bar and county officials, which took place in that city on Wednesday, February 2, 1897. It seems that Mr. Smith had visited Mexico, and seen the holding of a court, very likely in a very small Indian town, where the court "met in an adobe structure, containing a table, three chairs for the judge and lawyers, and a mud bench along the wall covered with cement, without books or file cases." He noticed that no oaths were administered to the witnesses, and without understanding the reason of this omission, he allowed his imagination and humor to get the better of his judgment, and offered the following explanation, showing not only his ignorance of the matter, but his undaunted courage in attempting to explain the meaning of something which he did not understand:

"Oaths were not administered on the theory, I assume, that an oath would add nothing to the natural truthfulness of the Mexican, and if you are liable to be defeated by false testimony of two witnesses for a small consideration, you can secure three to contradict the two, and thus possibly win your case, and aid in securing justice to a worthy litigant."

If Mr. Smith had been better acquainted with the judicial system of Mexico he would have found that prior to 1873 we did administer oaths, as is now done in this country, in all judicial proceedings, and to all public officials on being qualified for their respective offices, and that in that year the oath was replaced by a formal promise to tell the truth. What we called our Laws of Reform, which had been enacted from 1855 to 1859, and which established full liberty of conscience and free exercise of any religious belief, and a complete separation between Church and State, was incorporated in our Constitution in 1873 as an amendment to the same, which made it necessary to suppress the oath, as the oath is a religious act, in which God and the Holy Scriptures are invoked in witness of the truth of a statement made, and it ought not to be required in judicial and other official matters, when some men might consider themselves forbidden by their creed to take an oath, and others look upon it as meaningless. When the oath was replaced by a formal promise to tell the truth, the law provided that said promise should have the same effect as the oath, its breach being punishable as a perjury. That promise is not only required in judicial proceedings, but in every case in which the oath was before administered, that is, in the qualification for public offices, and so forth. Had Mr. Smith taken the pains to understand the subject, he would have avoided the gross mistake alluded to.

Mr. Smith is also mistaken when he asserts "that whenever the authorities in Mexico want to get rid of a person who is obnoxious but does not violate any law that justifies his extermination, he is sentenced to the penitentiary for some criminal act, and while on his way to the prison he is advised by his guards to escape, and that when he attempts to do so, he is shot and reported lost on the road." In disturbed and lawless times, assassinations might have taken place in that manner, as they often do in other countries, because, unfortunately, men invested with authority are sometimes apt to abuse it; but Mr. Smith may be sure that one or two cases that may have

occurred in peaceful times could not justify his assertion, and that any person violating the laws in Mexico is always liable to trial, and to suffer the proper punishment for his offence.

Another of Mr. Smith's errors, although one of less consequence, is his assertion that there is a constitutional provision in Mexico guaranteeing a jury in criminal trials, but that in practice it is unknown. Our Constitution has no such provision, and it is only in the Federal District, by an Act of Congress, that we have established the jury system which is now in force, notwithstanding Mr. Smith's statements. It is a fact that article VII. of our Constitution provided that all offences committed through the press should be tried by a jury, who should decide as to the facts, and, if the accused was convicted, another jury should apply the law and fix the penalty; but the practical result of this system was that no offence of that kind could ever be punished, because the jury always acquitted the accused, and our Constitution was amended on May 15, 1883, abrogating the jury system and submitting the offenders to the common courts, so that now offences committed through the press are tried and punished like crimes of any other character. It is not likely that Mr. Smith could have referred to this occurrence, but even in case he had his information was incorrect.

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