

"Kanaka Pete"

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On October 4, 1899, while excavating on Newcastle Island, British Columbia, workmen of the New Vancouver Coal Company unearthed a coffin which housed a "perfect skeleton." The skeleton, according to oldtimers of the Nanaimo district adjacent Newcastle, was that of "Kanaka Pete," a Hawaiian who had been hanged for murder on March 10, 1869;¹ it was accompanied by a rather interesting story.

"Kanaka Pete," actually Peter Kakua of Honolulu, left the Kingdom of Hawaii for Fort Vancouver, Washington Territory, in 1853. Although details of his migration are not available, it is known that he travelled to Victoria in 1854 but soon departed for Fort Rupert in the service of the Hudson's Bay Company. Pete remained at Fort Rupert for five years, then returned to Victoria where he "worked for Sir James Douglas [Governor of both Vancouver Island and British Columbia] for a year." After leaving the employ of Douglas, Pete spent about a year and a half at various tasks around Victoria until he met a "Mr. Skinner," with whom he lived for approximately two and a half years before signing aboard the steamer *Labouchere*. Finally, terminating his association with the *Labouchere* after nine months, Pete took a job with the Vancouver Coal Company at Nanaimo,² near where, on December 5, 1868, he was arrested and charged with the murders of his Indian wife, Que-en (alias Mary); their infant daughter (name unknown); and his wife's parents (Squash-e-lik and Shil-at-ti-Nord).³

The murders with which Peter Kakua was charged were apparently committed during the early morning of Friday, December 4, 1868. At the Coroner's Inquest, held before Stipendiary Magistrate Warner R. Spalding and twelve jurors at Nanaimo on December 7,

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1868, Robert Hughes, who lived about a hundred yards from Kakua, testified that he was awakened at around 2:00 A.M. on December 4 by screaming and the sounds of blows. Hughes did not bother to seek the source of the disturbance—which lasted approximately fifteen minutes—because he believed it arose from “a quarrel between some man and his woman and such noises are not infrequent in the neighborhood.”⁴ It seems probable that the sounds heard by Hughes resulted from more than an average quarrel. Apparently the first to learn this was Tamalee, one of Pete’s Hawaiian friends.

Tamalee, third witness to appear at the Coroner’s Inquest, stated that Pete visited him at about 6:00 P.M. on December 4, and informed him [*in Hawaiian*] that he was “going away.” When asked why, he told Tamalee that he had killed his wife, child, and wife’s parents. In proof of his assertion, he offered the mangled stump of a finger, remarking that his wife’s father had bitten off the now missing portion “in struggle.” Despite the gory exhibit, Tamalee did not believe his compatriot, who appeared “a good deal intoxicated.” Shortly after his caller—who said he would return—departed, the doubting Tamalee went to Kakua’s house, where he learned that Pete had spoken the truth. His response was to seek out Constable Stewart.⁵

Unsuccessful, it seems, in his search for the Constable, Tamalee conveyed his findings to Charles York at around 8:00 A.M. on Saturday, December 5. York, the second witness to testify at the Inquest, chose to verify Tamalee’s disclosures by visiting Kakua’s house in the company of “two men by the names of Williams and Cartwright.” Upon viewing the corpses, York and his comrades went directly to Magistrate Spalding.⁶

Meanwhile, Pete was *en route* to the Mainland. According to the fourth witness, an African named Adam Stepney, both he and Kakua were situated in a canoe in Nanaimo harbor at dawn on the morning of December 5. Stepney, “having been much intoxicated the night before [and having no recollection of how he came to be with Pete],” did not really wish to be the Hawaiian’s sailing companion, and upon learning that Kakua was paddling for the Mainland (though not why), requested that he be put ashore on Newcastle Island. Pete obliged, helped build a fire, and joined Stepney in consuming “a quantity of spirits.” In fact, the pair drank until well into the afternoon, their bout ending only with the appearance of a party sent from Nanaimo in search of Kakua.⁷

The search party, borne in two canoes, included Special Constables Ashdown Green, Charles Chantrell, and Moses Mahaffey,

and “two Indians.” Green, the fifth witness to take the stand at the Inquest, indicated that he sighted Stepney and Kakua while approaching Newcastle, landed out of their view and directed the other canoe—containing Chantrell and Mahaffey—to wait offshore near the as yet unsuspecting pair. Green’s plan was to sneak up on the presumably drunken duo from behind, and upon emerging from the bush, to wave the waiting canoe ashore. The “prey” would be trapped.

As events unfolded, Green got to within ten yards of Stepney and Kakua before signalling to his associates off-shore, but Pete soon noticed the incoming canoe. He immediately called to ask what the intruders wanted, and upon hearing Chantrell’s honest answer, took to the woods followed closely by Green. The chase did not last long. The fleeing Kakua tripped over a rock, making it reasonably easy—there were a few tense moments when Green suspected Pete, who was unarmed, of reaching for a knife—for Green to apprehend him. The captor then bound his captive and placed him in a canoe. Adam Stepney, totally bewildered, was arrested also, but it appears that only Kakua, who attempted to escape during the return trip, was jailed when the canoes arrived back in Nanaimo.⁸

Two days later, at the Coroner’s Inquest, Pete willingly offered the following statement (taken in English and probably phrased by Magistrate Spalding without an interpreter present):

My wife had gone away and left me for some days, and had sent me a message by her brother to say that she did not intend living with me anymore. I began drinking and continued up to the night of Thursday the 3rd Decr. About 12 o’clock on that night I returned to my house with the intention of going to bed. When I opened the door I found a fire burning, and my wife and her father and mother sitting round it. I asked them what they wanted, and if my wife was going to live with me again, they told me no, they had only come for her things. After some further talk I went out to search for some whisky but it was after 12 o’clock so I could not get into any Public House. I got some drinks from a friend. I then thought I would go and *sleep in my own house on the floor*. When I went in *I found the old man in bed with his daughter* [italics mine]. I thought this too bad, and took hold of him to drag him out. He caught hold of my hair and pulled me down on the bed and got my finger into his mouth and called out to the old woman to come and beat me. The old woman rushed at me and began striking me on the head and body with a stick, my wife also striking me. Being considerably intoxicated at the time, and owing to the pain I was suffering I became almost mad and laid hold of the first thing I could reach which was an axe, produced in court, and laid about me indiscriminately. After a time I fell down and remember nothing more until I awoke at daylight on Friday the 4th instant when I saw my Father-in-law, Mother-in-law, my wife and child all dead. I then went out locking

the door after me. I was about the town all day drinking, and in the evening about 7 o'clock I went to the house of Tamalee and told him what I had done. I then left and meeting Stepheny [*sic*] in the street, who was also considerably intoxicated, I went and procured three or four bottles of whiskey and took Stepheny with me to my canoe which was lying hidden under the wharf. Stepheny became very drunk and he went to sleep in the canoe. In the morning before daylight I pushed off intending to cross over to the mainland, but when Stepheny awoke he would not go with me and made me put ashore on Newcastle Island. I had never told Stepheny why I wanted to go to the other side. He was drunk all the time. This is all I have to say.⁹

Those at the Inquest heard more from Dr. Klein Grant, who had examined the bodies of the victims. According to Grant, who described the condition of each corpse in detail, the wounds which brought death "were all inflicted by a heavy weapon such as the axe produced."¹⁰

Dr. Grant was the last to testify at the Inquest, and after hearing his report, the jurors retired from the courtroom to consider the evidence presented. When they returned, the Foreman, Thomas Parker, announced their verdict: Peter Kakua (Kanaka Pete to the jurors) had murdered Squash-e-lik, Shil-at-ti-Nord, Que-en, and his child, with an axe, but should receive a merciful sentence. However, the last part of the verdict was torn from the original copy of the proceedings. It was replaced by the following note on a duplicate copy: "In the original there was a recommendation to mercy—but as that was not in the province of a coroner's inquest—it is omitted in this copy [initialled H.P.C. (Henry Pering Pellew Crease, Attorney General of British Columbia)]."¹¹ Pete would stand trial without benefit of the call for mercy.

Magistrate Spalding forwarded the evidence he had gathered to Attorney General Crease in Victoria on December 12, the same day the the prisoner was sent "to Gaol at Victoria to await his trial for wilful murder. . . ."¹² Spalding also sent a letter to the Colonial Secretary (W. A. G. Young) on December 12, which noted, among other things, that the Magistrate had offered a twenty-five dollar reward "to any Indian who would give such information as would lead to the capture of the murderer;" that "an Indian" had informed him of Kakua's whereabouts; and that members of the tribe to which the victims had belonged ("the Penellyeut") were very distressed about the murders and wanted the murderer executed.¹³ The case, then, had a political aspect; the result of the trial would influence future relations between colonial authorities and at least one group of Indians.

On December 18, Robert Bishop, one of several Victoria lawyers engaged in handling Pete's defence, requested that Attorney General Crease provide him with the depositions pertinent to the case, and was informed that they were not available.¹⁴ He then contacted Warner Spalding, who apparently indicated that the depositions had been sent to Victoria, for on January 11, 1869, Bishop informed the Nanaimo Magistrate that since receiving his letter of January 6, he had "applied to" the Colonial Secretary, the Attorney General, and the Registrar of the Supreme Court, and that "each of them states he has not received [the depositions]." Bishop then asked Spalding to "please say to whom the documents were forwarded."¹⁵

Robert Bishop's letter of January 11 prompted Spalding to write Crease:

That d--d fellow Bishop is tormenting my life out about these papers. I enclose his *last* note.

I see by the Way Bill returned from the Post Office Victoria that they were received at that office on the 13th ultimo, just the day a month, and I presume you have received them, altho' you may not feel inclined to submit them for Mr. Bishops [*sic*] perusal. My Report on the subject to the Colonial Secty was forwarded on the same day as also was the prisoner.¹⁶

Interestingly, Crease replied to Spalding that:

No original papers have arrived in the matter of that Murder—only the copies of the Inquisition.

There is no warrant of commitment to be found.

The Finding of the Coroner's quest [*sic*], is not the same/Bishop says/as the authority under which he is committed—could not a proper one be made out and sent down at once.

Woods has received nothing.

I have refused Bishop to see my *copies* of the inquisition.¹⁷

Spalding did not "send down" a warrant of commitment "at once," presumably because he believed that he had already fulfilled the obligation. In any case, the Attorney General was still not satisfied. He wrote the Magistrate once more on February 8, stating that:

The prisoner is to be defended by very able Counsel so that not a single point of vantage will be overlooked.

I cannot learn of any Warrant.

They threatened Habeas Corpus *but I will not let them see my copies to found it on* [*italics mine*].

Depend upon it it will breed a "row" unless the difficulty be got over some how.

In case they released him [Kakua] I had instructed Pemberton to detain him on a fresh charge. The penalty on not giving a copy of Commitment to a prisoner is £100 against the Jailer.

That you may refresh your memory I have caused a verbatim copy of the papers you sent me to be made and enclose herewith. My object is to get things square quietly and keep you out of danegr *as far as you will let me.*

All the Coroners [*sic*] Jury should have signed the Inquest.¹⁸

Frustrated by Crease—who seems to have been more interested in preventing a "row" than in assuring Pete a proper defence—and the other colonial officials with whom he had been in contact, and with the Court of Assize scheduled to hear Pete's case only a week hence, Robert Bishop notified the Attorney General on February 9 that "application will be made to His Lordship Chief Justice Needham tomorrow Wednesday the Tenth day of February instant at the Court house James' Bay Victoria at one o'clock in the afternoon for a rule nisi calling on you to shew [*sic*] cause why you should not on behalf of the Crown furnish me . . . with copies of the depositions taken . . . before Warner R. Spalding Esquire, Stipendiary Magistrate of Nanaimo Vancouver Island aforesaid, and also copies of the Coroners [*sic*] Inquisition *if any taken* [italics mine]. . . ." Bishop also indicated that he wanted a list of names taken from the prisoner at the time of his arrest; that he wished to know why Pete should not be tried by a "Jury de Medietate et Lingue" since he was Hawaiian; and that he desired the trial postponed because "officers of the Crown" had withheld "usual and proper" information, thereby making it impossible to "prepare adequately" for Kakua's defence.¹⁹

In the meantime, at Nanaimo, Magistrate Spalding was pondering Crease's letter of February 8. Finally, on February 11, the Magistrate had William Stewart swear that on December 17, 1868, he had delivered Kakua and a properly signed warrant of committal to A. H. McBride, "Gaoler Victoria."²⁰ But Spalding was puzzled, for in replying to Crease on February 13, he admitted that "I do not understand your letter [of February 8]." He continued:

I sent the original depositions and statement of the prisoner, as made out from my rough notes, to you by post on the 12th Decr and have Woottons [*sic*] receipt for the package. The prisoner was sent down in charge [*sic*] of Constable Stewart with a Warrant of Commitment after the Inquest and previous examination before me. The Warrant was so far as I could make out at the time, or can recollect now, perfectly correct [it was.] It of course directed Stewart to convey the prisoner,

and the jailer at Victoria to receive and keep him, charged with the murder of four Indians whose names were not then known. It was of course left by Constable Stewart with the jailer who probably would not have received the prisoner without it. If the jailer and Wootton have lost these documents, which, though I may have called them copies, were in fact originals, I will endeavor to reproduce duplicates from my rough notes. At a later date I ascertained the names of the Indians murdered and noted them on the margin of my letter to you dated 12th Decr.²¹

On the same day that Spalding wrote Crease, three days after Bishop was scheduled to apply for a court ruling concerning the depositions, A. Rock Robertson, assigned to represent Kakua in Court, pointed to another problem hindering Pete's defence. It seems that Robertson could not receive briefs in the case until his fee (\$22.00) was paid, and no funds were forthcoming even though the defendant had made arrangements long before to sell his possessions in order to pay his defenders. Robert Bishop brought this latest matter to Crease's attention on February 15, informing the Attorney General—from whom he apparently did not gain satisfaction through his first application to the court—that: "I beg to give you notice that I shall tomorrow . . . apply for a postponement of the Trial on the ground of the inability of the prisoner to be properly defended for want of funds which funds ought to be available."²²

The trial was not postponed; the Court of Assize convened as scheduled on February 16 despite the fact that Pete's counsellors had not been permitted to prepare an adequate defence for their client.

After pleading not guilty to four counts of "wilful murder," Pete was tried on two counts, one heard on February 16, the other on February 17. Chief Justice Joseph Needham presided on each occasion, but at the insistence of Kakua's defence, a new jury was formed to consider evidence concerning the second charge. Both juries were composed entirely of white men, even though the names of six Hawaiians were included on the Common Jury List. The testimony went much as it had at the Coroner's Inquest, and although Counsellor Robertson sought to show that Pete felt no ill will toward his wife and had acted in a fit of passion while under the influence of alcohol, the defence was not successful.

On the first count, that of murdering Que-en, his "common law" wife of about six years, the jury found Pete guilty, but recommended mercy on the ground that "Kanakas [Hawaiians] are not Christians and killing men may not be such an offense in their eyes," Jury

Foreman A. Frankel, in presenting this verdict, mentioned that the jurors believed that Pete, "not having the fear of God before his eyes" had been "moved and seduced by the instigation of the devil on the fourth day of December in the year of our Lord one thousand eight-hundred and sixty eight." The "crime of passion" aspect of the case, though not clearly enunciated in Pete's own testimony, had apparently made no impact on the jurors, for Judge Needham had informed them that if Que-en was involved in "open adultery" Pete should not be found guilty of murder.

During the presentation of evidence concerning the second charge—that of murdering Shil-at-ti-nord, Que-en's mother—the Crown, represented by Crease, made much of the fact that Shil-at-ti-nord's body was found in a position which seemed to indicate that she was trying to hide from Pete, not threaten him. Counsellor Robertson opposed this view, and also Judge Needham's instructions to the jury that the actions of the wife and father-in-law were no provocation for the murder of Shil-at-ti-nord and that only the question of self-defence was involved. Once again, however, Pete was found guilty of murder, this time with no recommendation for mercy. The next day he was sentenced to be hanged "on a day to be henceforth designated by the Executive."²³

The day after Peter Kakua was sentenced, Attorney General Crease, in writing to the Colonial Secretary to request his court fees, stated that:

Although the murders were committed by the same person and at nearly the same time the facts the provocation and the law were different in their application to each individual case and were so stated by the Judge in his charges.

The prisoner Kakua was proved to have been committed for 3 months hard labor for a previous ferocious assault on one of the murdered persons [his wife] and is a very desparate [*sic*] character.

Harry the Indian convicted of Murder [during the same sitting of the Court of Assize] is more worthy of mercy than the Kanaka.²⁴

Henry Rhodes, Hawaiian Consul for Vancouver Island, thought Kakua was at least equally worthy of mercy; he requested Pete's counsel to "draw up a petition to the Governor praying for a commutation."²⁵ This was done, and the petition was forwarded to the Colonial Secretary on March 6. In an accompanying letter, Rhodes mentioned that "the Prisoner was convicted upon two separate indictments principally upon a statement made by himself before the Stipendiary Magistrate of Nanaimo—that his statement was made in the English language, which is very imperfectly under-

stood by the prisoner, and that the Magistrate taking the statement is unacquainted with the Prisoner's language, so that he was utterly unable to test the fact of his understanding the Prisoner or not."²⁶ To make his point, Rhodes included a statement which he had taken from the prisoner in *Hawaiian* at a meeting about two weeks after the trial.

On that occasion, Pete swore that during the night on which the murders were committed he and his mother-in-law made two trips to the in-laws' canoe for supplies, and that on entering the house with the old woman after the second trip he found his wife "lying on the bed and her father lying on her. They were in the act of adultery." He also indicated that he tried to pull his father-in-law off the bed, and that during the ensuing struggle, the old man came at *him* with an axe.²⁷

In any case, the petition and statement did not induce the Governor to "interfere with the course of the law."²⁸ Pete was hanged at Nanaimo, "the scene of his fearful crimes," at 7:00 A.M. on the morning of March 10, 1869. "He ascended the scaffold unflinchingly, made no remarks, and struggled but slightly after the drop fell. His neck was evidently broken."²⁹

Several months after Peter Kaku's execution, Rhodes was thanked by the Hawaiian Foreign Office for "having rendered honorable service in behalf of an humble man." In the same letter, it was observed that "while there seems no doubt that the judiciary and Executive government of the Colony discharged their painful duties with fidelity and uprightness, it is to be noted that the terrible crime for which the prisoner suffered the penalty of the law may have admitted of some palliation, which he was unable to explain."³⁰

While it is not possible to condone Pete's crime, it does seem probable, as the Hawaiian Foreign Office suggested, that his actions "may have admitted of some palliation." It appears rather doubtful, though, that "the judiciary and Executive government of the Colony discharged their painful duties with fidelity and uprightness." Pete's original statement was taken without a qualified interpreter present, which meant that the incident which provoked his outburst was not clearly explained; information necessary for a proper defence was withheld from his counsellors by Attorney General Crease; and his true peers, though available, were not included on any of the juries which decided his fate. Perhaps these injustices stemmed from a desire on the part of various colonial officials to prevent an Indian "problem" by meeting the demands of "the Penellyeut." Perhaps also, Pete received less than a fair trial because he was a

“humble man,” a humble *brown* man.

Did Peter Kakua deserve hanging or some lesser punishment? So ends the grave story unearthed with Kanaka Pete’s skeleton on Newcastle Island, with a question.

NOTES

- ¹ *Nanaimo Daily Free Press*, November 23, 1964.
- ² Post-trial statement of Peter Kakua, March 5, 1869, in Henry Rhodes to Minister of Foreign Relations, Honolulu, May 18, 1869, “Consul at Victoria,” 1869, FO & Ex. Henry Rhodes, a Victoria entrepreneur, was appointed Hawaiian Consul for Vancouver Island on May 20, 1859.
- ³ Proceedings of Coroner’s Inquest, Nanaimo, December 7, 1868, in Attorney General’s Papers, *Regina v. Kakua*, Uncatalogued, Provincial Archives of British Columbia. Hereafter cited as Inquest Proceedings.
- ⁴ Testimony of Robert Hughes, *ibid.*
- ⁵ Testimony of Tamalee, *ibid.*
- ⁶ Testimony of Charles York, *ibid.*
- ⁷ Testimony of Adam Stepney, *ibid.* Stepney, most likely an ex-slave from the United States, identified himself as African. He is listed as a “Colored Man” in the Inquest Proceedings.
- ⁸ Testimony of Ashdown Green, *ibid.*
- ⁹ Official statement of Peter Kakua, Inquest Proceedings.
- ¹⁰ Statement of Klein Grant, M.D., *ibid.*
- ¹¹ Verdict, in *ibid.*, and Duplicate copy of Inquest Proceedings, in Attorney General’s Papers, *Regina v. Kakua*.
- ¹² Warner R. Spalding to the Hon., the Attorney General, December 12, 1868, *ibid.*, and receipt slips signed by A. H. McBride, December 17, 21, 1868, *ibid.*
- ¹³ Warner R. Spalding to Colonial Secretary, December 12, 1868, File 1625, Provincial Archives of British Columbia.
- ¹⁴ T. Davie per Robert Bishop [should be Robert Bishop per T. Davie] to H.P.P. Crease, Attorney General, December 18, 1868, Attorney General’s Papers, *Regina v. Kakua*, and Henry P. Pellew Crease to Robert Bishop, December 19, 1868 (A.G.O.), H.P.P. Crease, Letter-book (correspondence outward), 1868–1869, Provincial Archives of British Columbia.
- ¹⁵ Robert Bishop to W. R. Spalding, January 11, 1869, Attorney General’s Papers, *Regina v. Kakua*.
- ¹⁶ Warner R. Spalding to Crease, Private and Confidential, January 13, 1869, *ibid.*
- ¹⁷ Crease to W. R. Spalding, January 27, 1869 (A.G.O.), H.P.P. Crease, Letter-book (correspondence outward), 1868–1869.
- ¹⁸ Robert Spalding, enclosure in Henry S. Mason per H.P.P.C. [should be H.P.P.C. (Crease) per Henry S. Mason] to W. R. Spalding (A.G.O.), February 8, 1869, H.P.P. Crease, Letter-book (correspondence outward), 1868–1869. All of the Coroner’s Jury *did* sign the original copy of “the Inquest.” See Inquest Proceedings.

- ¹⁹ Robert Bishop to Crease (with enclosure), February 9, 1869, Attorney General's Papers, *Regina v. Kakua*.
- ²⁰ Statement of William Stewart, February 11, 1869, *ibid*.
- ²¹ Spalding to Crease, February 13, 1869, *ibid*. Spalding apparently forgot the names of the victims while making out the Warrant of Commitment, for they were known and were included in the verdict of the Coroner's Jury. See Inquest Proceedings.
- ²² A. Rocke Robertson to R. Bishop, February 13, 1869, and Robert Bishop to H.P.P. Crease, February 15, 1869 [misdated January 15, 1869], Attorney General's Papers, *Regina v. Kakua*. A list of Pete's property forwarded to the Crown from "Nanaimo Prison," which included a statement to the effect that the prisoner wanted his cooking utensils sent for "so that he might sell them" is included in *ibid*.
- ²³ *Daily Colonist* (Victoria), February 19, 1869. For information concerning the trials, see Attorney General's Papers, *Regina v. Kakua*; Minutes, British Columbia Supreme Court (Vancouver Island), January, 1868—December, 1869; British Columbia, Courts, Supreme Court (Vancouver Island), Notes of Proceedings, Criminal Cases (by Needham), November 4, 1867—February 18, 1869; and British Columbia, Courts, Supreme Court (Vancouver Island), Proceedings as a Court of Assize, February 18, 1869—June 10, 1870, all in the Provincial Archives of British Columbia.
- ²⁴ Henry P. Pellew Crease to Colonial Secretary (A.G.O.), February 19, 1869, British Columbia, Attorney General's Department, Letter-book, February 10, 1866—April 20, 1870, Provincial Archives of British Columbia, pp. 382—383.
- ²⁵ Henry Rhodes to Minister of Foreign Relations, Honolulu, May 18, 1869, "Consul at Victoria," 1869, A. H., F. O. & Ex.
- ²⁶ Rhodes to William A. G. Young, Col. Sec. (Victoria, B.C.), March 6, 1869, enclosure in *ibid*. Among those who signed the petition were three future premiers of British Columbia: J. F. McCreight, G. A. Walkem, and A. E. B. Davie.
- ²⁷ Post-trial statement of Peter Kakua, March 5, 1869, enclosure in *ibid*.
- ²⁸ D. C. Maunsell to Rhodes, March 8, 1869, enclosure in *ibid*.
- ²⁹ *Daily Colonist* (Victoria), March 11, 1869.
- ³⁰ Foreign Office to Rhodes, June 30, 1869, "Consul at Victoria," 1869, F. O. & Ex.