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*Hawaiian Islands. Laws, statutes, &c.
1824-1854 (Kamehameha III)*

PENAL CODE

OF

THE HAWAIIAN ISLANDS,

PASSED BY THE

HOUSE OF NOBLES AND REPRESENTATIVES

ON THE 21ST OF JUNE, A. D. 1850 ;

TO WHICH ARE APPENDED THE OTHER ACTS PASSED BY
THE HOUSE OF NOBLES AND REPRESENTATIVES
DURING THEIR GENERAL SESSION FOR 1850.



HONOLULU, OAHU :

PRINTED BY HENRY M. WHITNEY,

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1850.

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10-16-28
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REPORT

To the Honorable the House of Nobles and Representatives of the Hawaiian Islands in Legislative Council assembled :

It is with unfeigned diffidence that I now submit to your honorable body an act to establish a criminal code, in part compliance with your resolution passed on the 27th day of September, 1847. By that resolution I was requested to prepare a civil and criminal code of laws adapted to the wants and condition of the Hawaiian nation, and it is proper that I should give you the reasons why I have so long delayed, and, even at this late date, have but partially completed, the work assigned to me.

By the request of the King and Privy Council, I accepted in August, 1847, the post of President of the Board of Commissioners to quiet land titles, and the duty of presiding over the labors of that Board, which, during my connection with it, has heard some twelve thousand claims and counter claims, in conjunction with my judicial duties, has rendered it impossible for me to find time for the reading and study necessary to the preparation of so important a work. It was only in November last that I was able to write the first line, and soon discovering that I could not, by the most untiring industry, during the little time I could devote to this task, prepare both a civil and criminal code, I directed my labors to the latter, as the one most needed.

The distrust in my power to perform this work well, with which I began it, has increased with every step of my progress, and in its execution, I have had constant resort to the wisdom of others. I am greatly indebted to the labors of the commissioners appointed to prepare a penal code for Massachusetts, as given in their report, and also to those of Mr. Livingston in the penal code of Louisiana. From both of these able works I have borrowed largely.

iv.

In this chrysalis state of the nation, I have thought it proper to keep an eye to the future as well as to the present. Accordingly, while I have studied, as far as is consonant with justice, to conform to the ancient laws and usages of the kingdom, I have in the main, adopted the principles of the English common law, as the foundation of a code best adapted to the present and approaching wants and condition of the nation. To prepare a system of laws equally well adapted to the native and foreign portions of our community,—one not too refined for the limited mind of the former, and yet enough so to meet the wants and capacity of the latter, it will be evident, is no easy task.—I have no confidence to believe that I have performed it successfully. My chief aim has been to be so brief, simple, clear and direct, in thought and language, as not to confuse the native, and yet so full as to satisfy his increasing wants, together with those of the naturalized and unnaturalized foreigner.

I have submitted this code to several gentlemen in the profession of the law,—to the representatives of foreign governments resident in this kingdom,—to merchants, and missionaries well acquainted with the wants and condition of the natives, requesting them to make such suggestions for its improvement, as their wisdom might dictate. They have done so, and I have in the main adopted such suggestions, without any pride of opinion or strong attachment to preconceived ideas. In no instance have I discarded a proposed amendment, without the most serious reflection, or adopted one without being convinced of its wisdom. I would not have it inferred from what I have said, that any one beside myself is at all responsible for aught contained in this code, and I only mention this matter, by way of acknowledging my indebtedness to those gentlemen, and to show that I have not submitted this work to your honorable body without taking all the care in my power to free it from errors.

As soon as my time will permit, I shall commence the preparation of the civil code contemplated in your resolution, and I hope, in the mean time, that some other person than myself may be appointed to prepare a code of procedure.

WILLIAM L. LEE.

HONOLULU, May 20, 1850.

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UPON THE SUBJECT OF DIPLOMATIC PRIVILEGES AND EXEMPTIONS.

- SECTION 1. Privileges and immunities to be enjoyed by foreign representatives or diplomatic agents.
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AN ACT

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 8. Kindred of the half blood.
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AN ACT

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- SECTION** 1. Alteration of master's bond.
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 3. Rates of fare prescribed.
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TO AMEND THE LAW RELATING TO THE ISSUE OF PASSPORTS.

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 2. His chief clerk may sign passports.
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AN ACT

TO AMEND THE LAW RELATING TO THE LAND TAX.

AN ACT

RELATING TO THE LABOR TAX ON ROADS AND LIKE PUBLIC WORKS.

CONTENTS.

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 2. When the public labor days and the labor days of the landlord are the same.

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3. In case a person fails to perform the labor at the time appointed.
4. Who are exempted from labor tax.
5. Duties of those liable to labor tax
6. Governors to appoint supervisors.
7. Duties of supervisors.
8. The labor tax may be commuted by payment in money.

AN ACT

**TO PROVIDE FOR THE APPOINTMENT OF A CIRCUIT JUDGE FOR
THE ISLAND OF MOLOKAI.**

CONTENTS.

- SECTION** 1. Appointment of circuit judge for Molokai.
2. Power and duties of said circuit judge.

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**TO RENDER UNIFORM THE DISTRICTS FOR EDUCATIONAL AND
TAXATION PURPOSES, AND FOR SUBDIVIDING SAID DISTRICTS
INTO TOWNSHIPS.**

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- SECTION** 1. Hawaii, Maui, Oahu and Kauai divided into districts named therein.
2. Amendments of former acts relating to districts.
3. Districts may be subdivided, when and by whom.
4. Such subdivision of districts to be sanctioned by the governor of the islands.
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6. Local laws may be enacted by the inhabitants of each township.

AN ACT

**RELATING TO THE REGISTRY OF BIRTHS, DEATHS AND
MARRIAGES.**

CONTENTS.

- SECTION** 1. A register of births, deaths and marriages to be appointed for each township.
2. How said register is to be compensated.

AN ACT

**CONFIRMING CERTAIN RESOLUTIONS OF THE KING AND PRIVY
COUNCIL, PASSED ON THE 21st DAY OF DECEMBER, A. D. 1849,
GRANTING TO THE COMMON PEOPLE ALLODIAL TITLES FOR
THEIR OWN LANDS AND HOUSE LOTS, AND CERTAIN OTHER
PRIVILEGES.**

CONTENTS

- SECTION 1. 2. Fee-simple titles to be granted to natives occupying certain lands.**
3. Land commission empowered to grant fee-simple titles.
4. Certain government lands on each island to be offered for sale.
5. House lots not to exceed one quarter of an acre.
6. Grants of kalo ground to be limited to actual cultivation by each claimant.
7. Certain rights reserved to natives.

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AMENDING THE LAW RELATING TO THE KING'S CHAMBERLAIN

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- SECTION 1. Duties of the King's chamberlain enumerated.**
2. All fish for the King to be delivered to the King's steward.
3. Powers conferred on chamberlain by previous acts, repealed by this.
4. Repeal of certain former acts relating to chamberlain.

PENAL CODE
OF THE
HAWAIIAN ISLANDS.

AN ACT
ESTABLISHING A PENAL CODE.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands in Legislative Council assembled, in manner following, that is to say:* THE PENAL CODE OF THE HAWAIIAN ISLANDS.

CHAPTER I.

DEFINITIONS OF SOME OF THE TERMS USED IN THIS CODE.

CONTENTS.

- SECTION 1. The term *offense* defined.
2. The terms *felony* and *crime* defined.
 3. *Malice* defined.
 4. The terms *or* and *and*.
 5. Words in the masculine gender, words in the singular or plural number, and words importing adults.
 6. Words importing persons.

1. The term *offense*, as used in this code, means the doing what a penal law forbids to be done, or omitting to do what it commands.

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2. The terms *felony* and *crime*, are, within the meaning of the provisions of this code, synonymous, and mean such offenses as are punishable with death, or imprisonment for a longer period than two years, or by the forfeiture of any civil or political right, and also larceny. Any offense not appearing to be a felony or crime is a misdemeanor.

3. Malice in respect to the commission of any offense, except in cases where it is otherwise expressly provided or plainly intended, includes not only hatred, ill will, and desire of revenge ; but cruelty of disposition or temper ; and also a motive or desire of gain or advantage to the offender or another ; or of doing a wrong or injury to any person or persons, or to the public. It also includes the acting with a heedless, reckless disregard or gross negligence of the life or lives, the health or personal safety, or legal rights or privileges of another or others, many or few, known or unknown : also the willful violation of a legal duty or obligation, and willful contravention of law.

4. Each of the terms *or* and *and*, has the meaning of the other or of both, where the subject matter, sense and connection require such construction.

5. Words in the masculine gender, signify both the masculine and feminine gender, and those in the singular or plural number signify both the singular and plural number, and words importing adults, signify youths or children, where, from the subject matter, the sense, and the connection in which the words are used, such construction appears to be intended.

6. Words importing persons, for instance, *another*, *others*, *any*, *any one*, *anybody*, and the like, signify not only persons, but corporations, societies, communities, assemblies, inhabitants of a district or neighborhood, or persons known or unknown, and the public generally where it appears, from the subject matter, the sense, and the connection in which such words are used, that such construction is intended.

CHAPTER II.

GENERAL PROVISIONS.

CONTENTS.

- SECTION 1.** No person subject to punishment but on due and legal conviction.
2. Indictment.
 3. Right of the accused to meet the witnesses and be heard.
 4. Conviction in a case in which the accused has a right of trial by jury.
 5. But one trial on the merits is to be had for the same offense.
 6. Presumption of innocence.
 7. The natural consequences of acts are presumed to be intended.
 8. Criminal prosecution does not take away the right of civil action.
 9. Fines appropriated to the government.

1. No person shall be subject to punishment for any offense, except on due and legal conviction thereof in a court having jurisdiction of the case.

2. No person shall be subject to be tried and sentenced, to be punished in any court, for an alleged offense, unless upon indictment, except for offenses within the jurisdiction of a police court or district justice, or in summary proceedings for contempt.

3. In the trial of any person on the charge of any offense, he shall have a right to meet the witnesses, who are produced against him, face to face ; to produce witnesses and proofs in his own favor; and by himself or his counsel, to examine the witnesses produced by himself, and cross-examine those produced against him ; and to be heard in his defense.

4. No person shall be convicted of any offense, for which by law he is entitled to trial by jury, unless on confession thereof in open court, or admission thereof by his plea, or by the verdict of the jury.

5. No person shall be required to answer again for an offense, for which he has once been duly convicted, or of which he has been duly acquitted upon a good and sufficient indictment.

6. A party accused shall be presumed innocent ; and in case his guilt is not satisfactorily shown, be acquitted.

7. Every one shall be presumed to intend the natural and plainly probable consequences of his acts.

8. A criminal prosecution for an offense shall not destroy the right of action by the party injured thereby, unless it be expressly so provided.

9. Every fine and forfeiture of property imposed as a punishment for any offense, or for a violation or neglect of any duty, where no other appropriation is expressly made, shall accrue and be appropriated to the government.

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CHAPTER III.

LOCAL JURISDICTION OF OFFENSES.

CONTENTS.

- SECTION 1.** Persons within the kingdom.
- 2. Persons without the kingdom.
- 3. An offense committed partly within and partly without the kingdom.
- 4. Nothing in this chapter contained to be construed contrary to the law of nations.

1. All persons, whether subjects of this kingdom, or citizens or subjects of any foreign state, government or country, are, while within the limits of this kingdom, subject to its laws, except so far as exception is made by the law of nations in respect to ambassadors or others.

2. Where an act is done or a fact or effect takes place within this kingdom, affecting the welfare of the kingdom, or the personal safety, the property or rights of any of its inhabitants, being within this kingdom, any person causing, procuring, machinating or promoting the same, or, instigating another thereto, or aiding or assisting therein, is amenable to the laws of this kingdom, whether he be at the time within or without its limits.

3. Where the commission of an offense commenced without this kingdom is consummated within it, the offender is subject to be prosecuted and punished therefor in this kingdom.

4. Nothing in this chapter contained shall be construed contrary to the law and usages of nations.

CHAPTER IV.

CAPACITY AND RESPONSIBILITY FOR OFFENSES.

CONTENTS.

- SECTION 1. Infant under seven years of age.
2. Infant from seven to fourteen.
3. An idiot.
4. An insane person.
5. Compulsion.

1. An infant, under seven years of age, shall be deemed incompetent to commit an offense.

2. Between the ages of seven and fourteen years, competency to commit any alleged offense, and the fact that the accused acted with intelligence and understanding of the nature of the act, shall be determined by the evidence of the case, without any general presumption for or against the same.

3. Any person who, by reason of his idiocy or mental imbecility, is not competent to discern the nature and criminality of an act done by him, shall not be held criminally responsible for such act.

4. Any person acting under mental derangement, rendering him incompetent to discern the nature and criminality of an act done by him, shall not be subject to punishment therefor : Provided, however, that if any such person, while capable of discerning the nature and criminality of any act, entertained the intent to do the same, and subsequently does it in pursuance and execution of such intent, he shall be held responsible therefor, though the same be done in such state of mental derangement ; and so also if any person voluntarily

or heedlessly induce the mental derangement by intoxication, or otherwise.

5. No person shall be held criminally responsible for any act, to the doing of which he is compelled by force which he cannot resist, or from which he cannot escape : Provided, however, that no compulsion shall be presumed without evidence ; and no one shall be able to justify himself against a charge of his doing an injury to another, by showing the threat or imminent danger of an equal or less injury to himself.

CHAPTER V.

PARTIES TO AN OFFENSE.—ACCESSORIES.

CONTENTS.

SECTION 1. Parties taking part in the commission of any offense are principals.

2. Any person not present at the commission of an offense.

3. Punishment.

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1. All who take part in the commission of any offense, or being present, aid, incite, countenance or encourage others in the commission thereof, shall be deemed principals therein.

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2. Any person who not himself being present at the commission of an offense, abets another in the commission thereof, or procures, counsels, incites, commands or hires another to commit the same, which such other thereupon, in pursuance thereof, commits, is an accessory before the fact, to the commission of such offense.

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3. Every person who aids in the commission of an offense, or is accessory before the fact thereto, is guilty of such offense, and shall be subject to punishment therefor, in the same manner and to the same effect as if he had been present at the commission thereof and actually taken part therein.

CHAPTER VI.

TREASON.

CONTENTS

SECTION 1. Treason defined.

2. Allegiance.
3. Local allegiance.
4. Ambassadors and others.
5. An overt act is requisite to levying war.
6. The war must be levied for the dethroning or destruction of the King, or for some general purpose.
7. An accessory before the fact.
8. The testimony of two witnesses requisite to convict of treason.
9. Punishment.
10. Punishment for concealing knowledge of the commission of treason.

1. Treason is hereby defined to be any plotting or attempt to dethrone or destroy the King, or the levying of war against the King's government, or the adhering to the enemies thereof, giving them aid and comfort, the same being done by a person owing allegiance to this kingdom.

2. Allegiance is the obedience and fidelity due to the kingdom from those under its protection.

3. An alien, whether his native country be at war or at peace with this kingdom, owes allegiance to this kingdom during his residence therein, and during such residence, is capable of committing treason against this kingdom.

4. Ambassadors and other ministers of foreign states, and their alien secretaries, servants and members of their families, do not owe alle-

giance to this kingdom, though resident therein, and are not capable of committing treason against this kingdom.

5. To constitute the levying of war, contemplated in the first section of this chapter, it shall be requisite that the persons concerned therein be parties to some overt act, in or towards procuring, preparing or using force, or putting themselves in a condition in readiness to use force, either by being present at such overt act, or by promoting, aiding in, or being otherwise accessory before the fact to the same.

6. In order to constitute the levying of war, the force must be employed or intended to be employed for the dethroning or destruction of the King or in contravention of the laws, or in opposition to the authority of the King's government, with an intent or for an object affecting some of the branches or departments of said government generally, or affecting the enactment, repeal or enforcement of laws in general, or of some general law ; or affecting the people, or the public tranquillity generally ; in distinction from some special intent or object, affecting individuals other than the King, or a particular district.

7. An accessory before the fact to treason is guilty of treason, and shall be subject to prosecution, trial and punishment therefor, though the principals more directly concerned have not been convicted, or are not amenable to justice.

8. No person shall be convicted of treason but by the testimony of two or more lawful witnesses to the same overt act of treason whereof he stands charged, unless he shall in open court, confess such treason.

9. Whoever shall commit the crime of treason, shall suffer the punishment of death ; and all his property shall be confiscated to the government.

10. If any person who shall have knowledge of the commission of treason against this kingdom, shall conceal the same, and shall not, as soon as may be, disclose and make known such treason to the Governor of the island on which he resides, he is guilty of a great crime, and shall be punished by a fine not exceeding five thousand dollars, or imprisonment at hard labor not exceeding ten years, in the discretion of the court.

CHAPTER VII.

MURDER—MANSLAUGHTER.

CONTENTS.

SECTION 1. Murder defined.

2. Murder in the first degree.
3. Murder in the second degree.
4. Malice presumed.
5. Punishment for murder in the first degree.
6. Body of murderer may be given to surgeon for dissection.
7. Punishment for murder in the second degree.
8. Manslaughter defined—Punishment.
9. Under an indictment for murder, jury may return a verdict for manslaughter.
10. Death must ensue within a year and a day, from the injury inflicted.

1. Murder is the killing of any human being with malice aforethought, without authority, justification or extenuation by law.

2. Murder is of two degrees. The first degree of murder is that committed with deliberate premeditation ; or in the commission of or attempt to commit rape, robbery or burglary ; or any other crime punishable with death.

3. All murder committed without deliberate and premeditated malice, and all other murder not coming within the meaning of the preceding section, is murder of the second degree.

4. When the act of killing another is proved, malice aforethought shall be presumed, and the burden shall rest upon the party who committed the killing to show that it did not exist, or a legal justification or extenuation therefor.

5. Whoever is guilty of murder in the first degree, shall be punished by death.

6. In every case of a sentence to punishment by death, the court may, in their discretion, order the body of the convict, after his execution, to be dissected, and the Marshal in such case, shall deliver the dead body to any surgeon, who may wish to have the body for dissection.

7. Whoever is guilty of murder in the second degree, shall be punished by imprisonment at hard labor for a term of years not less than five nor more than twenty, in the discretion of the court.

8. The laws should make some allowance for human infirmity ; therefore whoever kills another without malice aforethought, under the sudden impulse of passion, excited by provocation or other adequate cause, whether insult, threats, violence or otherwise, by the party killed, of a nature tending to disturb the judgment and mental faculties, and weaken the possession of self control of the killing party, is not guilty of murder but manslaughter; and shall be punished by imprisonment at hard labor not more than ten years, or by fine not less than one thousand dollars, nor more than ten thousand dollars.

9. Under an indictment for murder, the jury may return a verdict for murder in either degree or for manslaughter.

10. No person shall be adjudged to have killed another, unless death ensues within a year and a day from the injury inflicted.

CHAPTER VIII.

DUELING.

CONTENTS.

SECTION 1. Killing in a duel—Punishment.

2. Engaging in a duel or challenging.
3. Accepting a challenge.
4. Posting.

1. Whoever shall kill another in a duel, fought in pursuance of an appointment with, or the assent of the party killed, shall be adjudged guilty of murder in the second degree, and suffer the punishment prescribed therefor in the seventh chapter of this code.

2. Any person who shall engage in a duel, with any deadly weapon, although no homicide shall ensue ; or shall challenge another to fight such duel, or shall send or deliver any written or verbal message purporting or intended to be such challenge, although no duel shall ensue, shall be punished by a fine not exceeding one thousand dollars ; and shall be incapable of holding any office or place of honor, profit or trust, under the constitution or laws of this kingdom.

3. Any person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not ; and any person who shall be present at the fighting of a duel that is fought with deadly weapons, as an aid, second or surgeon ; or who shall advise, encourage or promote such duel, shall be punished by a fine not exceeding five hundred dollars, and incapacitated as mentioned in the preceding section for the term of ten years after the conviction of such offence.

4. Any person who shall post another, or, in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be punished by a fine not exceeding two hundred and fifty dollars.

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1. An assault is a malicious attempt forcibly to do a corporal injury to another without authority or justification by law.

2. A battery, or an assault and battery, is the malicious and forcible infliction of a corporal injury on another, without authority or justification by law.

3. Whoever with malicious intent to maim, or disfigure, or mutilate, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or destroy or disable any limb, member or bodily organ of another, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not exceeding ten years.

4. Whoever shall assault another, with intent to murder, or to maim or disfigure his person in any of the ways mentioned in the pre-

ceding section, shall be judged guilty of assault in the first degree, and shall be punished by a fine not exceeding one thousand dollars, and imprisonment not more than five years.

5. Whoever being armed with a dangerous weapon shall assault another, with intent to commit burglary, robbery, manslaughter or murder, or other crime of such character, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not more than ten years.

6. Whoever not being armed with a dangerous weapon, shall assault another with force and violence with intent to commit burglary, robbery or theft, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not to exceed five years.

7. Whoever shall commit an assault, or an assault and battery on any public officer, civil or judicial, with intent to resist, prevent, hinder or obstruct him in the discharge or execution of his duty as such, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not exceeding three years.

8. Whoever shall commit an assault or an assault and battery upon another with a knife, sword cane, or any other weapon, obviously and imminently dangerous to life, shall receive fifty lashes on his back, and be fined one hundred dollars; or be fined not to exceed five hundred dollars, and imprisoned at hard labor not to exceed five years, in the discretion of the court.

9. Whoever inflicts a slight corporal injury upon another, as by striking him with his fist; spitting in his face; inciting and causing a dog to bite him, or any injury of a like gravity, however slight, is guilty of an assault and battery, and shall be punished by a fine not less than six nor more than one hundred dollars, or by imprisonment at hard labor not more than twenty days, in the discretion of the court.

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1. Whoever kidnaps, that is, forcibly or fraudulently and deceitfully, and without authority by law, imprisons, seizes, detains or inveigles away any person, with intent to cause such person to be secreted within this kingdom against his will, or sent out of this kingdom against his will, or sold or held as a slave, shall be punished by a fine not exceeding one thousand dollars, and be imprisoned at hard labor not more than two years.

2. Whoever maliciously, without authority by law, imprisons another, or causes any one to be imprisoned, such imprisonment not appearing to be kidnapping, shall be punished by imprisonment at hard labor not exceeding one year, or by fine not exceeding two hundred dollars.

3. In the trial of any person for kidnapping or unlawful imprisonment, any alleged assent of the person charged to have been kidnapped or unlawfully imprisoned, shall be presumed to have been obtained by fraud or extorted by duress or threats, and shall, unless such presumption shall be rebutted by satisfactory proof to the contrary thereof, be null and of no avail in defense against the charge of such offense.

4. Whoever is guilty of child-stealing, that is, maliciously by fraud, force or deception, conveying, leading, inveigling, taking, decoying, or enticing away, or detaining, or concealing any child under the age of eighteen years, with intent to deprive its parent or guardian, or any person having lawful charge of it, of the custody and control of such child, or with intent to steal any article upon or about the person of such child, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, or both, in the discretion of the court.

5. Whoever receives or harbors any such child, knowing the same to be stolen, with the intent specified in the preceding section, shall be subject to like punishment as for child stealing.

6. The two preceding sections are not applicable to the case where one obtains, detains, or receives a child from motives of humanity, to protect it from cruelty, or save it from suffering, or in good faith as being the legal parent, guardian or master, and entitled by law to the custody of any child, and for the purpose of asserting and vindicating such right, or as being the reputed father of such child, the same being illegitimate; but the right to the custody of the child, shall nevertheless, in either such case, be subject to be determined by the courts or judges upon the institution of suitable legal proceedings between the parties.

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1. Whoever commits a rape, that is, ravishes or has carnal intercourse with any female, by force and against her will, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor for life or any number of years.

2. Whoever ravishes or carnally abuses and knows any female child under the age of ten years, shall suffer the punishment of death, or imprisonment for life at hard labor in the discretion of the court.

3. Whoever maliciously assaults any female with the intent to commit the crime of rape, or maliciously assaults any female child under the age of ten years, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for not more than five years.

4. Whoever commits the offense of abduction, that is, by force or deception, takes or entices away or detains any female, with intent to marry or to carnally defile her, or cause her to be married or car-

nally defiled, without her consent given previously to her being so taken or enticed away or detained, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not more than three years.

5 If the female so abducted be a child under ten years of age, such abduction shall be conclusively presumed to be by force, and without her consent and against her will.

6. Whoever, by conspiracy or by willful falsehood or deceit, seduces, causes or procures any unmarried female to commit fornication, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years : Provided, however, that in case the parties to such fornication, subsequently legally intermarry together the above penalty shall not thereupon be inflicted.

7. The female upon whom rape is alleged to have been committed, or who is alleged to have been abducted or seduced, is a competent witness in a prosecution for such rape, abduction or seduction ; but no person shall be convicted of rape, seduction or abduction, upon the mere testimony of such female uncorroborated by other evidence direct or circumstantial.

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1. Whoever maliciously, without lawful justification, administers, or causes or procures to be administered any poison or noxious thing to a woman then with child, in order to produce her mis-carriage, or maliciously uses any instrument or other means with like intent, shall, if such woman be then quick with child, be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years. And if she be then not quick with child, shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not more than two years.

2. Where means of causing abortion are used for the purpose of saving the life of the woman, the surgeon or other person using such means is lawfully justified.

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3. If any woman conceals the death of any issue of her body, whether born alive or not, which, if born alive, would have been a bastard, so that it may not be known, whether such issue was born alive or not, or whether it was murdered, she shall be punished by fine not exceeding one hundred dollars, and imprisonment at hard labor not more than two years.

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- 7. Fornication—Punishment.
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1. Every married person who marries another husband or wife within this kingdom, or having married another husband or wife out of this kingdom, cohabits with such other husband or wife within this kingdom, is guilty of polygamy and shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not exceeding two years.

2. A married person within the meaning of this chapter is one having a husband or wife living.

3. A person, whose husband or wife has been continually remaining beyond sea, or having voluntarily withdrawn himself or herself, has remained absent for the space of four years, and not been known by him or her to be living, shall not be considered a married person within the meaning of this law : Neither shall a person, who has been legally divorced from the bond of matrimony, be subject thereto, in case his or her crime or misconduct was not the occasion of the divorce.

4. Sexual intercourse between a man, married or unmarried, and a married woman not his wife, is adultery by each; and between a married man and an unmarried woman, is adultery by each. Whoever commits adultery shall be punished by a fine of thirty dollars, or, in default of the payment of said fine, by imprisonment at hard labor for ~~eight~~ ^{three} months.

5. A man and woman who not being married to each other, lewdly associate and cohabit together, shall each be punished by a fine not exceeding one hundred dollars, or imprisonment at hard labor not more than one year.

6. Any man or woman who is guilty of lewd conversation, lascivious conduct, or libidinous solicitations, shall be punished by a fine not less than two nor more than ten dollars, or by imprisonment at hard labor not exceeding ten days.

7. Fornication is sexual intercourse between an unmarried man and an unmarried woman. Whoever is guilty of the same shall be fined fifteen dollars, and in default of the payment of said fine, be imprisoned at hard labor for the term of four months: Provided, however, that if there is no legal obstacle in the way of their marriage and the guilty parties choose to marry, the above penalty shall not be imposed.

8. Persons within the degrees of consanguinity or affinity, within which marriage is prohibited, who intermarry with each other, or commit an act of sexual intercourse with each other, are guilty of incest, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for not more than ten years.

9. Whoever commits sodomy, that is, the crime against nature, either with mankind or any beast, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment at hard labor not more than twenty years.

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CHAPTER XIV.

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- 16. 17. 18. 19. Breaking and entering houses, &c., not being a dwelling house—Punishments.

1. Whoever in the night breaks and enters the dwelling house of another with intent to commit murder, rape, arson, robbery, larceny or other felony, within the same ; or by day or night enters the same with such intent, and in the night breaks with such intent any apartment thereof ; or in the night enters the same with such intent and breaks out, or being an inmate therein, in the night breaks and enters, with such intent, any apartment thereof, without any right or authority to enter the same, at the time, is guilty of burglary, and shall be pun-

ished by fine and imprisonment at hard labor not to exceed one thousand dollars, nor more than ten years.

2. To constitute burglary it is not necessary that any crime within the meaning of the above section should be actually committed ; but simply that the intent to commit some such crime should exist, either at the time of entry or breaking.

3. There are two kinds of breaking, actual and constructive. An actual breaking may be made,—

By breaking the substance of a door or window ; as the glass, sash, panel or shutters :

By unfastening either and opening it ; as by raising a latch and pushing open a door :

By merely opening either when closed but not fastened ; as by raising a sash, window, or pushing open a door :

By entering a chimney ; or by breaking the sides of an aperture so as to enlarge it and thereby enter :

By breaking, removing or opening the roof, wall, ceiling, floor or any defense or barrier against entry, which is a parcel of the dwelling house.

4. But the entering by any aperture found open is not a breaking ; as by a hole in the roof or wall, other than a chimney, or by an open door or window. Neither is the opening of any window, door, or other aperture partly open, further than it was open before, in the manner in which it was intended by its construction to be opened, a breaking.

5. A constructive breaking, is where an entrance is obtained,

By violence or by threats of injury to persons or property, or other intimidation, or by making frightful noises, using or showing dangerous weapons, attacks on the house or inmates and the like :

By fraud or trick, as by abuse of or under pretense of process or legal authority, or of business with one within ; or by fraudulently persuading another to give admission ; or by knocking or otherwise pretending a right or lawful occasion to enter :

By admission by an accomplice, in which case the entry is a breaking by both.

6. It is essential to burglary that there should be an entry, which may be made by introducing the hand, foot, finger, or any part of the body into the house or any apartment thereof entered or by discharging or throwing any missile, or introducing any instrument or any part thereof into the same ; provided, that the missile or instrument be used as a means of committing or attempting to commit any offense enumerated in section first, and not merely as a means of breaking.

7. A house is not a dwelling house, in respect to burglary, unless it be occupied as such at the time of the breaking and entry. Provided, however, that a building may continue to be a dwelling house, when not used at the time for sleeping or lodging therein, if it has been previously so used by a person having a settled intention so to use it again, and doing such acts as continue his constructive occupancy.

8. A dwelling house, in respect to burglary, is the dwelling house of the person who occupies the same as such, himself personally, or by the members of his family, guests of his inn, his boarders, visitors, agents or servants, placed or continued therein by his authority. But where such member, guest, boarder, visitor, agent or servant is tenant for a term, or at will, or at sufferance, the dwelling house shall be considered as his.

9. The government, or any public or private corporation, may occupy a dwelling house by others, according to the same rules by which an individual may do so.

10. The breaking necessary to constitute burglary, may be on a different night from the entry.

11. Whoever commits burglary, armed with a dangerous weapon at the time of breaking, or entering, or at any time while he is within the house, where any person, not a party to the burglary is then re-

sident within the dwelling house, is guilty of aggravated burglary, and shall be punished by imprisonment at hard labor, in the discretion of the court, for life or any number of years.

12 Whoever in the night enters the dwelling house of another, even though he commit no breaking to obtain entry, with the intent to commit a felony within the same, where any person, not a party thereto is then resident within such house, such offender being armed with a dangerous weapon at the time of entering, or at any time while he is within such house, or committing an assault therein on any such resident person, or putting him in fear, shall be punished by imprisonment at hard labor not more than twenty years.

13. Where such offender is not so armed, and does not commit such assault or put any such resident person in fear, he shall be subject to punishment by imprisonment at hard labor not more than ten years.

14. Whoever in the day time commits a felony in any dwelling house, where any inmate, not a party thereto, is within such dwelling house, such offender being armed with a dangerous weapon at the time of entering, or at any time while he is within such house, or committing an assault on any such inmate, or putting him in fear, shall be punished by imprisonment at hard labor not more than ten years.

15. Whoever in the night or day time breaks and enters the dwelling house of another, and commits a felony therein, or with intent to commit a felony therein, though no person be within said dwelling house at the time, shall be punished by imprisonment at hard labor not more than five years.

16. Whoever in the night enters, or breaks and enters, the house of another, not being a dwelling house, or any office, counting room, shop, warehouse, storehouse, workshop, factory or other enclosed and covered building used at the time for the deposit or safe keeping of property, or for the shelter, accommodation or employment therein

of persons ; or any meeting house, court house, academy or other buildings used for public purposes, the same not being a dwelling house, or any vessel, with intent to commit a felony therein, when any person not a party thereto, is within such house, office, counting room, shop, warehouse, storehouse, workshop, factory, meeting house, court house or other building or vessel having any right or authority to be therein, such offender being armed with a dangerous weapon at the time of breaking or entering, or at any time while he is therein, or committing an assault upon any person so therein, or putting him in fear, shall be punished by imprisonment at hard labor not more than twenty years.

17. Where no such person is within such house, building or other structure or vessel at the time of entering or breaking in the night, or where such offender as is mentioned in the preceding section is not so armed and does not commit any such assault or put any such person in fear, he shall be subject to imprisonment at hard labor not more than ten years.

18. Whoever in the day time enters, or breaks and enters, the house of another, not being a dwelling house, or any house, building or structure described in section sixteen, or any vessel, with intent to commit a felony therein, when any person, not a party thereto, is therein, having any right or authority to be there, such offender being armed with a dangerous weapon at the time of breaking or entering, or at any time while he is therein, or committing an assault on any such inmate or putting him in fear, shall be punished by imprisonment at hard labor, not more than ten years.

19. Where no such person is within the house, building, structure or vessel at the time of entering or breaking in the day time ; or where such offender as is mentioned in the preceding section is not so armed, and does not commit any such assault or put any such person in fear, he shall be subject to punishment by imprisonment at hard labor not more than five years.

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7. Fear, in what way excited.
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9. Presumption when robber is armed.
10. Punishment for robbery in the first degree.
11. Punishment for robbery in the second degree.

1. Robbery is the stealing of a thing from the person of another or from his custody in his presence, by force or putting him in fear.

2. In order to constitute robbery, the force must be used, or the fear excited or taken advantage of, to prevent or overcome resistance, or to prevent or hinder the escape of the party robbed, or to prevent the conveying away, securing or guarding the subject of the larceny from being taken, or to induce the party robbed to surrender the same, or to prevent detection of the crime.

3. Though the taking be by force, yet if it be not with intent to steal, it is not robbery.

4. The taking of a thing from another by means of forcibly imprisoning him, or forcibly putting him under personal restraint or duress, until he shall surrender the same is robbery.

5. In order to render the taking through fear, where no violence is used, a robbery, it is requisite that the ground of fear should be adequate, and not merely trivial and frivolous.

6. An adequate cause of fear is such as would, under the same circumstances, cause fear in a person of ordinary firmness of like age, sex and state of health, and induce such a person to part with property, to avoid the apprehended injury or danger; or such as the taker of the thing believes, or has reason to believe will cause, and such as does in fact cause, such degree of fear.

7. Whether the robber obtains the thing stolen through the influence of fear excited by words, menacing gesture, the presenting of a weapon, or other act causing fear, it will equally, in either case be robbery.

8. Robbery by one armed with a dangerous weapon with intent, if resisted, to kill, maim, wound or inflict other severe corporal injury upon the person robbed; or where, being so armed, the robber, in committing the offense, wounds, or strikes or inflicts other severe injury upon the person robbed, or any other person, is robbery in the first degree; and all other robbery is such in the second degree.

9. Any person committing a robbery, being armed with a dangerous weapon, shall be presumed to be so armed, with the intent specified in the preceding section.

10. Whoever commits robbery in the first degree, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

11. Whoever commits robbery in the second degree, shall be punished by imprisonment at hard labor not more than twenty years.

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1. Larceny or theft is the feloniously taking any thing of marketable, saleable, assignable or available value, belonging to or being the property of another.

2. It is enough if the thing taken is of any pecuniary value, or valuable or economical utility, though it be not of any value to sell.

3. In order to be the subject of larceny, a thing must be moveable, or such that it can be removed.

4. Any part of real estate that is moveable, or can be detached, severed, separated or removed from the real estate of which it is a part, may be the subject of larceny.

5. In order to be the subject of larceny, a thing must be the subject of property and possession.

6. Domestic animals of value are the subjects of larceny, though not at the time within the actual keeping or control of the owner, or of any one for him. For instance, estrays and cattle ranging the commons or mountains of the islands.

7. Animals whether those living in air, or aquatic or amphibious, of species not usually domesticated are subjects of larceny when in the custody, possession and control of the owner, or of any one for him, and are distinguishable as being, or known by the taker to be, so in the owner's possession, custody or control. For instance, fish in ponds, or particular creeks or portions of the sea, doves in a dove cote.

8. Any writing of value may be the subject of larceny. For instance, a promissory note, bill of exchange or other bill, order, certificate, bond, book of accounts; a deed or any written or printed conveyance of land; any award of the land commission, or other evidence of title to real or personal property; any contract remaining in force; a receipt, discharge, writ or process; any commission conferring a right, privilege, claim or liability upon another; a record or journal of the acts or proceedings of any judicial court, court of impeachment, or of the Legislature, Privy Council or any public corporation; or any record of any public office.

9. Where no one can be benefitted by a writing, and no one has any interest in it or depending upon it, or can be subject to liability by its passing into other hands or being destroyed, it is not a subject of larceny.

10. The value of a writing is not necessarily to be considered to be the amount expressed or imported by the writing itself, but should be determined by its importance, materiality and availability as affecting public or individual interests.

11. In order to be the subject of larceny, a thing must be owned by, or be the property, general or special, of, or belonging to, some one. That is, some one must have a property, general or special, in the thing ; or have and be entitled to the possession of the thing.

12. Wrecked property, estrays, and lost property, shall be deemed still in the constructive possession of the owner ; and the taking of either of them, with felonious intent is larceny. But the taking of derelict property is not larceny.

13. It is not necessary in respect to larceny, that it should appear whose property, other than the taker's, the thing is ; it is enough that it appear that it is not the taker's, and that it does not appear to be derelict ; and in case of doubt whether a thing is derelict, the presumption is that it is not so.

14. Larceny cannot be committed by the husband from the wife of her property, or by the wife from the husband of his property.

15. Larceny is of four degrees, viz :

(1.) Larceny committed in any custom house, court house, government house, public office, jail, church or meeting house, academy, school house or other public building ; or in any office, counting room, storehouse, warehouse, shop, workshop or vessel of another ; or in any enclosed and covered building of another ; or from the person of another, or from another in his presence ; or from the wreck of any vessel of another ; and larceny of any part of the cargo, or of any article or articles that were on board of a wrecked or lost vessel of another at the time of the same being wrecked or lost, or during the storm or other disaster occasioning the wreck or loss ; and larceny from a house or other building or vessel on fire ; and larceny of property at the time of the removal thereof on account of danger and alarm of fire, when such larceny is committed in the night time to the amount of one hundred dollars or more is larceny in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding twice the value of the property taken.

(2.) When such larceny is committed in the night time to the amount of five dollars or more, and less than a hundred dollars ; or when the same is committed in the day time to the amount of one hundred dollars or more ; or other larceny, not described in the first division of this section, to the amount of a hundred dollars or over, it is larceny in the second degree, and shall be punished by imprisonment at hard labor not more than five years and by a fine not exceeding twice the value of the property stolen.

(3.) When such larceny is committed in the day time to the amount of more than five and less than a hundred dollars, or other larceny, not described in the first or second division of this section, to the amount of ten dollars or more, and less than a hundred, it is larceny in the third degree, and shall be punished by imprisonment at hard labor not more than two years, and fine not exceeding twice the value of the property stolen.

(4.) All larceny to an amount less than five dollars, and all other larceny, not being in one of the preceding degrees, is such in the fourth degree, and shall be punished by a public whipping not exceeding twenty lashes, or imprisonment at hard labor not more than six months : Provided, however, that the punishment by whipping shall never be inflicted on any female.

16. Whoever shall be convicted of three or more larcenies at the same session of any court ; or whoever, having been convicted of a larceny shall be again convicted of a larceny committed after such former conviction, shall receive an additional punishment not exceeding that otherwise provided by law for the offense or offenses of which he is so convicted, by more than one half.

CHAPTER XVII.

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7. This chapter not applicable to mail carriers and post masters.

1. Whoever shall open and read, or cause to be read, any sealed letter, belonging to another, without being authorized so to do, either by the writer of such letter or the person to whom it is addressed, or by law, shall be punished by fine not exceeding fifty dollars, or by imprisonment at hard labor not more than twenty days.

2. If such letter be opened and read by inadvertance or by mistake, as for example, when the letter is addressed to another person of the same name as the one who opens it, such opening and reading is no offense.

3. Whoever shall maliciously publish or circulate the whole or any part of a sealed letter opened as described in the first section of this chapter, without legal authority, and knowing the manner in which it was obtained, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

4. If property of any assignable value be taken from such letter, it is larceny.

5. Whoever shall take any letter, whether sealed or not, or any writing whatever, from the legal possession of another, without his consent, and shall maliciously publish the same, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

6. Whoever shall take any letter, whether sealed or not, belonging to another, and detain, secrete, embezzle or destroy the same, shall be punished by fine not exceeding two hundred dollars, or by imprisonment at hard labor not more than sixty days.

7. This chapter applies to persons other than those entrusted with the charge or carrying of mails, employed in any of the post office departments.

CHAPTER XVIII.

VIOLATION OF THE MAILS.

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- SECTION 1.** Detaining, opening, secreting, or embezzling a letter not containing any writing of value, by a postmaster and others.
2. Where the letter contains any writing of value.
 3. Deserting a mail.
 4. Robbing a mail.
 5. Robbing by the use of a dangerous weapon.
 6. Attempt to rob.
 7. Stealing a mail, or stealing from a mail.
 8. One half of all pecuniary penalties to go to informers and prosecutors.

1. If any postmaster, collector, clerk or other person, employed in any custom house or post office, or any mail carrier or other person having charge of any mail, shall unlawfully detain, or open any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which is intended to be conveyed by post ; or if any such person shall secrete, embezzle or destroy any letter, or packet entrusted to such person as aforesaid and which shall not contain any bill, draft, note or other writing of value, he shall be punished by fine not exceeding three hundred dollars, or by imprisonment at hard labor not more than six months.

2. If any person as aforesaid, shall secrete, embezzle, or destroy, any letter, packet, bag or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and intended to be conveyed by post, containing any bill of exchange, draft, promissory note, contract, or other writing of value ; or if such person shall steal or take away any such bill, draft, note, contract, or other writing of value, out of any letter, packet, bag or mail of letters that

shall come to his possession, shall be punished by imprisonment at hard labor not exceeding ten nor less than one year.

3. If any mail carrier or other person having charge of any mail, shall quit and desert the same before such person delivers it to the post office to which it belongs, or into the hands of some person authorized to receive the same, shall be punished by fine not exceeding five hundred dollars, and in default of the payment thereof, by imprisonment at hard labor not more than six months.

4. Whoever shall rob any carrier of any mail of this kingdom, or any other person entrusted therewith, shall be punished by imprisonment at hard labor not exceeding ten, nor less than five years.

5. Whoever in effecting such robbery, shall wound the person having the custody of such mail, or put his life in jeopardy by the use of any dangerous weapon, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

6. Whoever shall attempt to rob any mail of this kingdom by assaulting any person having custody thereof, shooting at him, or threatening him with dangerous weapons, shall, though the robbery is not effected, be punished by imprisonment at hard labor not exceeding five nor less than two years.

7. Whoever shall steal any mail, or steal from any mail, or any post office, any letter or packet, shall be punished by imprisonment at hard labor not exceeding five years, nor less than one year.

8. One half of all pecuniary penalties incurred under any of the provisions of this chapter shall, if paid, go to the use of the person informing and prosecuting for the same.

CHAPTER XIX.

EMBEZZLEMENT.

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SECTION 1. Embezzlement defined.

2. Embezzlement by a public officer—Punishment.
3. Other embezzlement—Punishment.
4. Court may mitigate the punishment when the offender is under sixteen years of age.

The protection of property, and all the business intercourse of society is based upon the trust which men repose in others ; therefore, the House of Nobles and Representatives do hereby enact :

1. If any person, who is entrusted with, or has the possession, control, custody or keeping of a thing of value of another, by the consent or authority, direct or indirect of such other, without the consent and against the will of the owner, fraudulently converts or disposes of the same, or attempts so to convert or dispose of the same, to his own use and benefit, or to the use and benefit of another than the owner or person entitled thereto, he is guilty of the embezzlement of such thing.

2. Whoever, being a minister, collector, cashier, clerk or other person employed in the government treasury, or any other branch of the department of finance, or in any other department of the government, is guilty of embezzlement of any money, note or other effects or property belonging to the government, shall be punished by imprisonment at hard labor for life or any number of years, or by fine not exceeding five times the value of the thing or property embezzled.

3. Whoever is guilty of embezzlement, other than as specified in the preceding section, if it be to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five times the value of the property or thing embezzled; if it be to the amount of twenty dollars and less than one hundred, he shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding three hundred dollars; and if it be to an amount less than twenty dollars, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding fifty dollars.

4. Where the person convicted of embezzlement is under sixteen years of age, the court shall have the power to mitigate the punishment specified for the offense of which he is guilty, always having due regard to the welfare of the community of which the offender is a member.

See 1851; 93, 2

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2. Extortion by imputation of crime.
3. No evidence of the guilt or innocence of the party extorted from admissible.
- 4 Extortion by threatening to charge or impute deformity or disease.
5. Extortion by threatening to injure property.
6. Extorting signature.
7. Extortion by a public officer.
8. Punishment for extortion in the first degree.
9. Punishment for extortion in the second degree.

1. Extortion is the wresting any thing of value from another by duress, menaces, or by any undue exercise of power.

2. Whoever commits extortion by charging or threatening to charge another or any person in whom he is specially interested by reason of marriage, relationship, guardianship, friendship, or other tie, with any crime, is, in case such crime be capital, or subject to punishment by imprisonment for five years or more, guilty of extortion in the first degree ; in case it be an offense of a lower grade, he is guilty of extortion in the second degree.

3. In prosecutions under the preceding section, no evidence of the guilt or innocence of the party against whom the extortion is practised, is admissible.

4. Whoever commits extortion by threatening to charge or impute any secret deformity or disease to him or any person in whom he is

specially interested as aforesaid, is guilty of extortion in the second degree.

5. Whoever commits extortion by threatening directly or indirectly, by words, signs, or acts, to burn, destroy, waste, deface, or injure his property, real or personal, or that of another in whom he is specially interested, or to do him or such other, any malicious injury, is guilty of extortion in the second degree.

6. Whoever by violence, duress, or other threats, as aforesaid, compels or induces another to sign or execute, or to confess or acknowledge, the signature or execution of any deed, note, or other writing, which if voluntarily made, would affect the rights and interests of the maker and signer thereof, with intent to avail himself of such writing, or enable any other person to avail himself thereof, as being valid, shall be subject to the punishment hereinafter prescribed for extortion in the second degree.

7. Whoever, being a public officer of any description, civil, judicial, military, or other, by color of his office, willfully and corruptly extorts from another for his own benefit and profit, any thing of value, knowing that he has not any legal authority or right to exact the same, is guilty of extortion in the second degree.

8. Whoever is guilty of extortion in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

9. Whoever is guilty of extortion in the second degree, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

CHAPTER XXI.

RECEIVING STOLEN GOODS.

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- SECTION** 1. Receiving stolen goods defined.
 2. The receiver need not intend profit or benefit.
 3. Fraudulently detaining stolen goods.
 4. Receiving part of a thing.
 5. Punishment.
 6. Common receiver of stolen goods—Punishment.
 7. Not necessary to aver or prove the conviction of the thief.

1. The receiving of stolen goods is, in contract or otherwise, the fraudulently taking, accepting of, detaining, keeping, concealing, or disposing of, the goods of another, stolen, embezzled, or illegally extorted by any one, or aiding therein, whether the same were so stolen, embezzled, or so extorted within or without this kingdom.

2. It is not requisite in order to constitute the offense of receiving stolen goods, that the receiver should intend any profit or benefit to himself.

3. Whoever without fraud, obtains possession or control of goods, knowing them to be stolen, and afterwards fraudulently detains, keeps, conceals, or disposes of the same, or aids therein, with the intent that the same shall not be restored to the owner, but that the owner shall be deprived and despoiled thereof, or of the benefit thereof, is guilty of the offense of receiving stolen goods.

4. Receiving any specific part of the same thing that is stolen, is receiving stolen goods; as for example, a part of the carcass of a

stolen animal, or a piece of a machine, broken in pieces after being stolen.

5. Whoever is guilty of receiving stolen goods to the amount of twenty dollars or more, shall be punished by imprisonment at hard labor not more than five years, and by fine not exceeding five hundred dollars ; and if it be to an amount less than twenty dollars, he shall be punished by imprisonment at hard labor not more than one year, and by fine not exceeding fifty dollars : Provided, however, if this is the first offense, and the convict shall make satisfaction to the party injured to the full value of the property, he shall not be subject to punishment by imprisonment for such offense.

6. If any person is convicted of receiving stolen goods, after having been previously convicted of such offense, or is convicted at the same term of the court of three or more distinct acts of receiving stolen goods, he is a common receiver of stolen goods, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding one thousand dollars.

7. In any prosecution for receiving stolen goods, it shall not be necessary to aver, nor on the trial to prove, that the person who stole the goods has been convicted.

CHAPTER XXII.

GROSS CHEATS.

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SECTION 1. Gross cheats defined.

2. Obtaining signature by false pretence.
3. Using false weight or measure.
4. Selling unwholesome provisions.
5. Compounding or adulterating food, drink or medicine.
6. Degrees, how determined.
7. Punishment for first degree.
8. Punishment for second degree.
9. Civil action does not exempt from criminal prosecution.

1. Whoever shall designedly, by any false pretence, and with intent to defraud, obtain from another, any money, goods, or other thing of value, is guilty of a gross cheat ; for example, the obtaining of money or other property from another under false pretence of being sent for the same by a friend or acquaintance of his ; or obtaining money by means of a letter fabricated in the name of another.

2. Whoever shall, by any false pretence, and with intent to defraud, obtain the signature of any person to any written instrument, the false making whereof would be punishable as forgery, is guilty of a gross cheat ; for example, by falsely reading a promissory note or other pecuniary obligation, with intent to procure the same to be signed by a person unable to read.

3. Whoever, in the sale or purchase of any merchandise or other property, shall use any false weight or measure ; or cheat another by the fraudulent use of any legal weight or measure ; as for example,

by dextrously sliding a yard stick, or by putting some other thing into a measure partly to fill the same, even though the vendee and vendor be present, is guilty of a gross cheat.

4. Whoever shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions for the food of man, without making the same fully known to the buyer, is guilty of a gross cheat.

5. Whoever shall knowingly compound, prepare, or adulterate any substance intended for food, drink or medicine for man, with any ingredient or matter so as to render such food, drink or medicine injurious to health; or knowingly procure such substance to be compounded, prepared, or adulterated, is guilty of a gross cheat.

6. Gross cheats are of two degrees, and the degree is a fact to be determined in each case; and when the degree does not appear by the verdict, record, or decision, the case shall be considered in the second degree.

7. Whoever is guilty of a gross cheat in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars.

8. Whoever is guilty of a gross cheat in the second degree, shall be punished by imprisonment at hard labor not more than sixty days, or by fine not exceeding fifty dollars.

9. No person shall be exempted from criminal prosecution for gross cheating, by reason of the party cheated having a remedy against him by civil action.

CHAPTER XXIII.

ARSON AND OTHER MALICIOUS BURNINGS.

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SECTION 1. Arson defined.

2. Arson in the first degree defined—Punishment.
3. Arson in the second degree defined—Punishment.
4. Malicious burning defined.
5. Presumption as to malice.
6. Malicious burning in the first degree defined—Punishment.
- 7, 8. Malicious burning in the second and third degrees defined—Punishment.
9. Burning timber or products of the soil—Punishment.
10. What is a burning.
11. Burning of husband's property by the wife.

1. Arson is a crime of willfully and maliciously burning the dwelling house of another.

2. Whoever willfully and maliciously burns in the night time, the dwelling house of another, in which there is at the time of such burning, any occupant or inmate, is guilty of arson in the first degree, and shall be punished by death, or imprisonment at hard labor for life, in the discretion of the court.

3. Whoever willfully and maliciously burns in the day time, the dwelling house of another, is guilty of arson in the second degree, and shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

4. A malicious burning, is the offense of burning a thing, whether that of the offender or of another person, with intent to injure another, or without any legal or justifiable motive or object, and with a reck-

less disregard of the life, or personal safety, property, or legal rights, or interests of another, where the same are obviously, immediately, and imminently endangered by the burning.

5. Where the thing burnt or attempted to be burnt, is that of another than the offender, malice shall be presumed; where it is that of the offender, the malice must be shown.

6. Whoever willfully and maliciously, or fraudulently burns in the night, any building, vessel, or structure whatsoever, whether partly or wholly his own, or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt, are, with their contents, of the value of one thousand dollars or more, is guilty of malicious burning in the first degree, and shall be punished by imprisonment for life at hard labor, or any number of years, in the discretion of the court.

7. Where the burning mentioned in the preceding section, is in the day, the offender is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

8. Whoever willfully and maliciously, or fraudulently burns, either in the night or day, any building, vessel, or structure whatsoever, whether partly or wholly his own or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt, are, with their contents, of the value of five hundred dollars or over, and less than one thousand, is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

Where such value is less than five hundred dollars, it is a malicious burning in the third degree, and the offender shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the court.

9. Whoever willfully and maliciously burns any pile or parcel of wood, timber, or lumber, or any field, patch, stack, or parcel of grass,

grain, cane, or other vegetable product, whether severed from the soil, or not, or any standing trees, brush, or underwood, or other standing product of the soil of another, is guilty of a malicious burning in the third degree, and shall be punished by imprisonment at hard labor not more than five years, or ~~by~~ fine not exceeding five hundred dollars, in the discretion of the court.

10. It shall be sufficient to constitute a burning, within the meaning of the provisions of this chapter, if any part of the building, structure, or other thing burnt, is on fire, though no part thereof is absolutely consumed.

11. The provisions of this chapter shall apply to a married woman, equally with any other person, though the property burnt or set fire to may belong partly or wholly to her husband.

CHAPTER XXIV.

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MALICIOUS INJURIES AND MISCHIEFS.

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SECTION 1. Definition.

2. Malicious injuries specified.
3. Injury must be maliciously done.
4. An act done to assert a right.
5. Trivial injuries.
6. Malicious injury in the first degree defined—Punishment.
7. Second degree defined—Punishment.
8. Third degree defined—Punishment.

1. Any injury or offense specified in the next section, or any one similar in kind or character to any of those so specified, maliciously done or caused by any one to the property, right or liberty of another, whereby another may or might be subject to loss, damage or prejudice, or disturbance in any of his rights, liberties or privileges of person or property, is a malicious injury within the meaning of the provisions of this chapter.

2. Malicious injuries are very numerous : for example :

(1.) Maliciously destroying, defacing, injuring or obstructing the use of, or impairing the value or utility of any building, bridge or other structure, public or private :

(2.) Destroying or injuring any tree, bush, vine, plant, crop, fruit or other vegetable product :

(3.) Destroying, removing, concealing or altering any land mark or territorial boundary or division :

(4.) Drawing, letting off, or diverting water from any pond, reservoir, tank, trench, pipe or other conduit, or filling up stopping or obstructing the same; or preventing or obstructing the use of any well, fountain, spring, reservoir or stream:

(5.) Destroying, scuttling, sinking, putting adrift, stranding or injuring any ship, vessel, boat, canoe or other water craft; or injuring the sails, rigging, furniture, or any utensil, appurtenance or part of any vessel or water craft:

(6.) Putting up, removing, displacing, disguising or otherwise injuring or rendering useless or deceptive any buoy, beacon, sea or channel mark; or extinguishing the light of any beacon; or exhibiting any false or deceptive light or signal, whereby to deceive navigators or others:

(7.) Destroying, cutting, injuring or impairing the usefulness or value of any fish net, harness, tackling, vehicle, sugar mill, coffee mill, machine, tool or implement of husbandry or manufacture:

(8.) Poisoning, spoiling or mixing any deleterious, offensive or injurious fluid or substance with water, or any fluid or substance used as beverage, food or medicine for men or animals:

(9.) Putting aubuhu or other substance deleterious to fish, into any lake, pond, stream or reservoir for the purpose of destroying the fish:

(10.) Killing, mutilating, maiming, wounding, riding, confining, letting loose, or injuring horses, cattle or other animals:

(11.) Letting loose any ferocious or dangerous animal; or unjustifiably setting on any dog or any ferocious animal to worry, injure or annoy any person, horse or animal, or willful neglect by the person having charge of any dog or such animal to call him off, or prevent him from worrying, injuring or annoying any person or animal:

(12.) Obstructing any highway or private way, or making pitfalls,

holes or excavations therein; or otherwise rendering the same dangerous or inconvenient to persons passing over or along the same :

(13.) Making alarming outcries or noises, or exhibiting hideous and frightful sights in the day or night.

3. To constitute the offense of malicious injury, the injury or misdemeanor must be maliciously done, that is, done without adequate legal justification and with intent to injure, prejudice or put to inconvenience another, or with a reckless disregard to the life, health, property, right or liberty of another, where the same is evidently endangered by the act.

4. An act done in the fair exercise, assertion, maintenance or vindication in good faith, of a supposed legal right, where there is any real or apparent ground for supposing such right to exist, and the same is not used as a mere cloak, pretence or occasion for a malicious injury, shall not be punishable as a malicious injury.

5. An injury or mischief that is trivial in its character and consequences and without appreciable damage, prejudice or inconvenience to another and not accompanied with outrage, insult or indignity, shall not be punishable within the provisions of this chapter.

6. Whoever commits a malicious injury endangering the life or personal safety of another, or whereby property to the amount of one thousand dollars or more is destroyed or in danger of being destroyed, is guilty of malicious injury in the first degree, and shall, in case other punishment is not expressly provided by statute, be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

7. Whoever commits a malicious injury, whereby property merely is destroyed or in danger of being destroyed to the amount of one hundred dollars or more, and less than one thousand, is guilty of malicious injury in the second degree, and shall, in case other punishment is not expressly provided by statute, be punished by imprison-

ment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

8. Whoever commits a malicious injury, whereby property merely is destroyed or in danger of being destroyed to an amount less than one hundred dollars, is guilty of malicious injury in the third degree, and shall, in case other punishment is not expressly provided therefor by statute, be punished by imprisonment at hard labor not more than six months, or by fine not exceeding by twice the amount destroyed or endangered.

CHAPTER XXV.

CRUELTY TO ANIMALS.

1. Whoever shall cruelly beat, torment or inflict suffering upon any horse, ox, mule or other animal, belonging to another, shall be punished by imprisonment at hard labor not more than three months, or by fine not exceeding one hundred dollars. If the animal belong to the offender, he shall be punished by a fine of five dollars for the first offense, and an additional five dollars for every subsequent offense, and in default of the payment of any such fine shall be imprisoned at hard labor not exceeding thirty days.

CHAPTER XXVI.

FELONIOUS BRANDING OF CATTLE.

1. Whoever shall willfully and feloniously brand, or otherwise mark, any kine, horse, mule, sheep, goat, or other cattle, belonging to another, with his mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to his own use, or to the use of another, shall be punished by a fine not exceeding one hundred dollars for each kine, horse, mule, sheep, goat, or other cattle, thus branded or marked; and in addition to such fine, he shall restore the cattle or the value thereof to the lawful owner. In default of the payment of such fine and the restoration of the cattle or the value thereof, or either, the offender shall be punished by imprisonment at hard labor not more than two years.

CHAPTER XXVII.

FURIOUS AND HEEDLESS RIDING, DRIVING OR CONDUCTING ANIMALS OR VEHICLES, AND FRIGHTENING ANIMALS.

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- SECTION 1.** Endangering the personal safety of any person, by furious riding, driving, &c—Punishment.
2. Furious riding, &c., where the personal safety of another is not endangered—Punishment.
 3. Driving or leading wild cattle through the street—Punishment.
 4. Frightening or exasperating a horse or other animal, endangering personal safety, &c—Punishment.
 5. Additional punishment on repeated conviction.

1. Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, and thereby imminently endangers the personal safety of any person, shall be punished by a fine not less than five dollars nor exceeding five hundred.

2. Whoever furiously or heedlessly of the safety of others rides any horse or other animal, or drives or conducts any vehicle, though at the time the personal safety of any person be not endangered thereby, shall be punished by fine not less than five dollars nor exceeding one hundred.

3. Whoever drives, leads, or otherwise conducts any wild bull, bullock, cattle or other ferocious or dangerous animal, in the street of any village, or in any place of public resort, shall, in case the personal safety of any person is thereby imminently endangered, be punished by fine not less than five dollars, nor exceeding five hundred, or in case the personal safety of any person is not so endangered, by a fine not less than five dollars, nor exceeding one hundred.

4. Whoever frightens, exasperates or animates a horse or other animal, and thereby endangers the personal safety or the property of any person, or of the animal itself, being that of another, shall be punished in case the personal safety of any person is thereby imminently endangered, by fine not less than five dollars, nor exceeding five hundred : otherwise by fine not less than five dollars nor exceeding one hundred.'

5. Whoever is convicted of either of the offenses specified in the preceding sections, committed after a previous conviction and sentence for either of such offenses, shall be punished in addition to the fine imposed, by imprisonment at hard labor not exceeding six months.

CHAPTER XXVIII.

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SECTION 1. Perjury defined.

- 2. Assent or dissent expressed by an evident sign.
- 3. Oath must be administered by one duly authorized.
- 4. Material facts in respect to perjury.
- 5. A false statement by a witness of his belief, best recollection, knowledge, &c.
- 6. A true statement made to convey a false meaning.
- 7. It is not necessary that the false statement be credited.
- 8. An erroneous statement through mistake.
- 9. Retraction and correction of false statement.
- 10. Perjury in the first degree—Punishment.
- 11. Perjury in the second degree—Punishment.
- 12. Subornation of perjury.
- 13. Incompetency of perjurer as a witness, &c.

1. Perjury is willfully, knowingly and falsely stating, verbally or in writing, some material fact on oath, either with or without laying the hand on the bible, where the oath is required by law, or the requiring of it is authorized by law.

2. An assent to, or denial of a fact, is stating a fact, within the meaning of the preceding section. As, for example, by replying yes or no to a question, or by using some other evident sign of assent or dissent.

3. It is requisite to constitute perjury that the oath should be duly administered by one having legal authority to administer the same, either in person or through an interpreter.

4. A material fact in respect to perjury is one that is pertinent to,

and affects, or may or might affect the matter in question, as being distinguished from impertinent, idle, irrelevant or insignificant facts.

5. A false statement willfully and knowingly made by a witness or deponent of his belief, recollection, best recollection, knowledge or impression, of a material fact, is perjury, within the meaning of the first section.

6. A statement, though it be literally true, if it is made to convey a false meaning, and is understood in such sense, is perjury, within the meaning of the first section.

7. It is not necessary to perjury that the false statement should be credited or have weight.

8. If a witness make an erroneous statement through mistake, it is not perjury.

9. If a witness having falsely stated a fact, shall, pending the trial or occasion, voluntarily, and without solicitation, question or suggestion leading thereto, retract and correct such false statement in time to prevent prejudice or injury therefrom, he shall not be subject to prosecution or punishment therefor.

10. Whoever commits perjury on a complaint or proceeding against or trial of any one for a crime subject to capital punishment, evidently tending to charge him with, or convict him of, such crime, in case he shall be charged with or convicted of the same, is guilty of perjury in the first degree, and shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

11. Whoever commits any perjury of a character differing from that defined in the preceding section is guilty of perjury in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

12. Subornation of perjury is the willfully and corruptly procuring

another to commit perjury ; and whoever is guilty of the same shall be subject to the punishment above prescribed for perjury in the same degree.

13. Whoever shall be convicted of perjury in either degree, or subornation of perjury, shall be rendered incompetent as a witness, and subject to civil disqualification.

CHAPTER XXIX.

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2. Joining in a conspiracy after the same is formed.
3. Act in pursuance of conspiracy unnecessary.
4. An act of either is that of all.
5. Husband and wife.
6. Prosecution may be joint or several.
7. Punishment not imposed for conspiracy and offense both.
8. Trivial offense.
9. First degree—Punishment.
10. Second degree—Punishment.

1. A conspiracy is a malicious or fraudulent combination or mutual undertaking or concerting together of two or more, to commit any offense or instigate any one thereto, or charge any one therewith ; or to do what plainly and directly tends to excite or occasion offense, or what is obviously and directly wrongfully injurious to another :

For instance—

A confederacy to commit murder, robbery, theft, burglary or any other offense provided for in the criminal code ; to prevent, obstruct, defeat or pervert the course of justice, by suborning a witness, tampering with jurors or the like offenses :

To groundlessly accuse any one of, and cause him to be prosecuted for an offense :

To charge any one with an offense, with the intent and for the purpose of extorting money from him :

To falsely charge one with being the father of an illegitimate child:

To cheat another by means of false tokens and pretences :

To manufacture a spurious article for the purpose of defrauding whomsoever the same can be sold to :

To destroy a will and thereby prejudice the devisees :

To prevent another by indirect and sinister means, from exercising his trade, and to impoverish him.

2. Any person knowingly acceding to and joining in a conspiracy after the same is formed; is a party thereto, no less than the one who originally takes part in forming the same.

3. It is not requisite that the act agreed upon should be done or attempted in pursuance of the conspiracy ; the conspiracy itself constitutes the offense.

4. The act of each party to a conspiracy, in pursuance thereof, is the act of all.

5. Husband and wife cannot by themselves, without others, be guilty of a conspiracy, and the acts or confessions of either are not evidence against the other in a prosecution for conspiracy.

6. Conspirators may be tried jointly or severally. But to prevent oppression by joining parties, and thus depriving some of the testimony of others, it is provided, that in the trial of any one for a conspiracy, another, charged as a co-conspirator, may be a witness, and in such case the two may be separately tried, though joined in the indictment.

7. Where one is convicted of any offense, he is not liable thereafter to be tried for or convicted of a conspiracy to commit the same; and if a conspiracy to commit an offense and the commission of the same be charged in the same indictment the defendant is liable to be sentenced for one only.

8. On a prosecution for conspiracy, if the jury find, or the magistrate, having jurisdiction of the fact, consider the offense to be trivial, the defendant shall be discharged, with or without costs, in the discretion of the court.

9. Conspiracy to commit, or to instigate to the commission of a felony ; or to charge any one with a felony ; or to prevent, obstruct, defeat, or pervert the course of justice ; or to forge or counterfeit or cheat to an amount exceeding one hundred dollars, is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding one thousand dollars, in the discretion of the court.

10. Conspiracy not appearing to be in the first degree, is in the second, and shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding two hundred dollars, in the discretion of the court.

CHAPTER XXX.

OBSTRUCTING AND PERVERTING THE COURSE OF JUSTICE.

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1. Whoever being lawfully made prisoner, or lawfully detained, on conviction or charge of any offense, or as a witness in any capital case, escapes from such imprisonment or detention against the will of the officer having him in custody, shall, in case the offense be capital, or punishable by imprisonment for life, or for ten years or more, be punished therefor by imprisonment at hard labor not more than three years, or by fine not exceeding five hundred dollars.

2. In case of such escape from imprisonment on conviction or charge of, or as a witness in respect to any offense otherwise punishable than as described in the preceding section, the person so escap-

ing shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

3. Whoever, being a prisoner lawfully detained in the custody of any officer or other person, authorized by law to detain such prisoner, in any other case than those provided for in the preceding sections, escapes, shall be punished by imprisonment at hard labor not more than three months, and by fine not exceeding ten dollars.

4. Whoever rescues any prisoner or person lawfully held in custody on conviction or charge of any offense or as a witness on a criminal charge; or aids or assists any such prisoner, witness or person so held in custody in his design or endeavor to escape, whether his escape be or be not effected or attempted; or conveys into any fort, or other prison any disguise, tool, weapon or other thing, adapted to facilitate and with intent to facilitate the escape therefrom of any such prisoner, witness or other person, shall, in case the aforesaid offense, or criminal charge be capital, or punishable by imprisonment for life or for ten years or more, be punished by imprisonment at hard labor not more than three years, and by fine not exceeding five hundred dollars: In any other case, he shall be punished by imprisonment at hard labor not more than one year and by fine not exceeding one hundred dollars.

5. Whoever aids any prisoner lawfully imprisoned for any other cause than those mentioned in the preceding section, to escape from the custody of an officer or other person authorized by law to detain such prisoner, shall be punished by imprisonment not more than six months and by fine not exceeding fifty dollars.

6. Any jailer or other officer who voluntarily suffers any prisoner in his custody upon conviction of or charged with any offense, to escape, shall suffer the like punishment and penalties as the prisoner, so suffered to escape, was sentenced to, or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged.

7. Any jailer or other officer who, through negligence, suffers any

prisoner in his custody, upon conviction of or charged with any offense, to escape ; or who willfully refuses to receive into his custody any prisoner lawfully committed thereto, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars.

8. Any officer authorized by law to serve or execute any lawful process to him directed, delivered or offered, requiring him to apprehend or confine any person convicted of or charged with an offense, who willfully and corruptly refuses, neglects or delays to serve the same whereby such person shall avoid arrest and go at large, shall be punished by imprisonment at hard labor not more than one year, or fine not exceeding three hundred dollars.

9. Any person required by the marshal, or by any sheriff, deputy sheriff or constable to assist him, in case of emergency, in the execution of his office in any criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, who refuses or neglects to render the assistance so required, shall be punished by fine not exceeding fifty dollars.

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10. Whoever rescues a thing that is under legal seizure or detention, with intent to defeat such seizure or detention, or impede, oppose or defeat the process, whereby the thing is seized or detained, shall be punished by fine not exceeding five hundred dollars.

11. Whoever falsely assumes to be a district justice, marshal, sheriff, deputy sheriff, constable or other officer of the government, and takes upon himself to act as such, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

12. Whoever, having knowledge of the commission of any offense punishable with death, or by imprisonment for life, shall give or receive any money, service or other gratuity, or reward, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof shall be punished by imprisonment at hard labor not

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more than five years, or by fine not exceeding five hundred dollars. Where the offense is not punishable as aforesaid, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

13. Whoever willfully intending to prevent or obstruct the course of justice, shall give any gratuity or reward, or make any promise thereof, express or implied, that any one shall evade giving his testimony, or shall destroy, conceal or suppress any deposition or other legal evidence, in any suit or proceeding, criminal or civil, shall be punished by imprisonment at hard labor, not more than one year, or by fine not exceeding five hundred dollars.

14. Whoever willfully obstructs or attempts to obstruct the public legislation, or the due administration of the law, by threats of violence against, or intimidation of, or endeavoring to intimidate any member of the privy council, legislature, or any legislative, judicial, executive or other officer, charged with any duty in the administration, enforcement or execution of the law, shall be punished by imprisonment not more than one year, or by fine not exceeding five hundred dollars.

15. Whoever is guilty of corruptly influencing or attempting to corruptly influence any one serving or summoned as a juryman in favor of or against any party to any suit or matter pending at the time, or that may thereafter come before such juryman for his verdict or decision, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

16. Whoever corruptly gives or promises to any executive, legislative or judicial officer, or to any master in chancery, juror, appraiser, referee, arbitrator or umpire, any gift, gratuity, service or benefit, with intent to influence his vote, judgment, opinion, decision or other acts as such, in any case, question, proceeding or matter pending, or that may by law come or be brought before him, in his capacity as aforesaid, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

17. Every executive, legislative, judicial or civil officer, or any master in chancery, or any person acting or summoned as a juror ; or any appraiser, referee, arbitrator or umpire, who corruptly accepts any gift, gratuity, beneficial service or act or promise of either, under an agreement, or with an understanding that he shall in the exercise of any function in his capacity as aforesaid, vote, decide, or act in any particular manner in any cause, question, proceeding or matter pending or that may by law come or be brought before him, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

18. Whoever, after trial by jury, is adjudged guilty of contempt of any judicial court, whether by open resistance to the process or proceedings thereof, or of any judge or justice thereof in the lawful exercise of his judicial functions ; or by insulting, contemptuous, contumelious, disrespectful or disorderly language, behavior or act, or breach of the peace, noise or other disturbance in the presence or hearing thereof when in session ; or by willful disobedience or neglect of any lawful process or order ; or by refusing to be sworn as a witness, or when sworn, to answer any legal and proper interrogatories ; or by publishing animadversions on the evidence or proceedings in a pending trial tending to prejudice the public respecting the same, and to obstruct and prevent the administration of justice ; or by knowingly publishing an unfair report of the proceedings of a court, or malicious invectives against a court or jury tending to bring such court or jury, or the administration of justice into ridicule, contempt, discredit or odium, shall be punished by imprisonment at hard labor, not exceeding two years, or by fine not exceeding five hundred dollars : Provided, however, that every judicial tribunal, acting as such, and every magistrate acting by authority of law in a judicial capacity, may punish contempts by summary proceeding, viz :

(1.) The Supreme and Superior courts, by imprisonment at hard labor not more than two months, or by fine not exceeding fifty dollars :

(2.) The circuit courts of the islands, or any court of probate, by

imprisonment not more than one month, or by fine not exceeding twenty dollars :

(3.) Any other court or any district justice, or other magistrate acting in a judicial capacity, by imprisonment not more than five days, or by fine not exceeding five dollars.

CHAPTER XXXI.

FORGERY.

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- 4. Intent to deceive essential.
- 5. The writing must purport to be that of another.
- 6. Using the name of a fictitious person.
- 7. Forged instrument must resemble the genuine, and not be obviously void.
- 8. Falsely making one's own signature.
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- 11. Uttering a forged writing—Punishment.
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- 13. Fraudulently filling a blank.
- 14. Altering one's own writing.
- 15. Fraudulently procuring of signature.
- 16. Falsification of testimony by a magistrate.
- 17. False certificate of acknowledgement.
- 18. False record.
- 19. Second offense.

1. Forgery is the fraudulent making or altering a writing, with the intent to deceive another and prejudice him in some right.

2. A writing comprehends manuscript, print, inscriptions, figures, marks, and other modes of indicating, upon paper or other material substance, words, sense, or meaning.

3. The making of the initials of one's name or a mark as his signature to a promissory note or other document ; or the stamping of a

signature, with intent to defraud, is as much a forgery as if the party had signed that person's name.

4. An intent to deceive is essential to forgery, but it is not essential that any one should in fact be thereby deceived.

5. In order to constitute forgery, the writing must, as made or altered, purport to be the writing of another party, than the person making or altering the same; except in the case of an alteration by the maker of a writing, in which others have a property or direct interest.

6. It is not necessary, in order to constitute forgery that there should really be any such other person or party as the writing purports. For example, the drawing a bill of exchange in the name of a fictitious person is as much a forgery as if it had been made in the name of one who was known to exist, and to whom credit was due.

7. To constitute forgery, it is not essential that the forged instrument should be so made, that if genuine, it would be valid. For example, it is forgery to fabricate any false instrument on unstamped paper, which by law requires a stamp, or to make a false will of a living person, notwithstanding it can have no validity as a will until his death: Provided, however, that it is essential to constitute forgery, that the false instrument should carry on its face, the semblance of that for which it was counterfeited, and that it should not be obviously invalid, void and of no effect.

8. The deceptive and fraudulently making of one's own signature, as being that of another, the writing being such that others might be thereby deceived and defrauded or prejudiced, is forgery.

9. Whoever is guilty of the forgery of any deed of conveyance, lease, promissory note, bill of exchange, due bill, check, order or request to pay money, or other writing whatever, to the amount, or involving or affecting the amount, or value of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years and by fine not exceeding five hundred dollars.

10. Whoever is guilty of the forgery of any writing to an amount less than that specified in the preceding section, shall be punished by imprisonment, at hard labor, not more than five years, and by fine not exceeding three hundred dollars.

11. Whoever, knowing a writing to be false or forged, shall deceptively offer, pass, negotiate, assign or transfer the same, or put the same into circulation, as being true and genuine according to its apparent purport, shall be subject to the punishment above prescribed for the forgery of such writing. 71
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12. The cancelling, destroying, secreting, or obliterating a writing, being one's own or that of another, in which any other person has any property or direct interest, with intent thereby to defraud any person, or prejudice any one in his person, property, rights or interests, and whereby any person might be defrauded or so prejudiced, shall be subject to the penalty of forgery of the like writing: For example, fraudulently destroying a writing previously executed and delivered by the party destroying the same, or destroying a writing by tearing off or abstracting a part thereof.

13. The knowingly and fraudulently filling up a signed blank otherwise than the party filling up the same is authorized by the signer or other person empowered thereto, to fill up the same, with intent, in either case, to defraud or prejudice such signer or any other person, and where such signer or another might be thereby defrauded or prejudiced is subject to the penalty for forgery of a like writing. But this provision shall not affect the validity of such writing as against the parties liable thereon. The knowingly and fraudulently uttering such writing shall be subject to the penalty for uttering a like forged writing.

14. The false and fraudulent alteration of a writing made by the party altering the same, and previously passed or delivered, the alteration being such as may tend to deceive and defraud any person, is equivalent to forgery of such writing, and shall be subject to the like punishment.

15. The fraudulently and deceitfully procuring a signature to, or authentication of, a writing, under pretence that it is another and different writing, whereby the person signing or authenticating the same is deceived, and signs or authenticates the same as and for such other and different writing, shall be subject to the penalty for forgery of a like writing or authentication; and the knowingly and fraudulently uttering such writing or authentication shall be subject to the same penalty.

16. Any officer or magistrate, authorized by law to take any testimony, declaration or statement on oath, who, knowingly and corruptly, falsely takes or certifies any testimony, declaration or statement, as to the whole or in some material part, shall be subject to the penalty for forgery of like testimony, declaration, statement or certificate; and the knowingly and fraudulently uttering the same shall be subject to the same penalty.

17. Any registrar of conveyances, notary public or other officer, authorized by law to take the acknowledgement or proof of any deed of conveyance of real estate, or any other instrument, in order to entitle the same to be recorded, or to be produced in evidence, or in order to give the same validity, who falsely and corruptly certifies that any such deed was acknowledged to him by any party thereto, or that proof was given to him of the genuineness thereof, shall be subject to the penalty for forgery of a certificate of like description; and the knowingly and fraudulently uttering any such false certificate shall be subject to the same penalty.

18. Any registrar of deeds, clerk of any court, or any other officer or person having the legal custody of any public record, who corruptly and falsely, (in or as to any material point,) makes or certifies any record or purported copy thereof shall be subject to the penalty for the forgery of a like record, copy or certificate; and the knowingly and fraudulently uttering of such false record or certificate shall be subject to the same penalty.

19. Whoever, after having been convicted of any of the offenses

provided against in this chapter, is thereafter convicted of the same, or any other of the said offenses committed after his being so convicted, shall be subject to an additional like punishment, not exceeding by more than one half, the maximum punishment provided by law for the offense of which he is last so convicted.

CHAPTER XXXII.

COUNTERFEITING OF COINS.

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 3. Washing or coloring coin.
 4. Uttering defined.
 5. Coin defined.
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 7. Punishment for uttering or having ten or more pieces in possession with intent to utter.
 8. Punishment where the number of pieces in possession is less than ten.
 9. Punishment for uttering where the coin was received as genuine by the utterer.
 10. Punishment for making implements for counterfeiting.
 11. Punishment for second offense.

1. Counterfeiting, is the fraudulent making, or assisting in the making of a resemblance of coin, of less intrinsic value than the genuine coin of which it is a resemblance, with the intent that the same shall be uttered, or put in circulation.

2. Whoever shall fraudulently diminish the coin, by clipping, filing, boring or abrading it, or otherwise taking away a part of any true and genuine coin, and substituting a metal or substance of less intrinsic value in place of the part so taken away, or without such substitution with the intent that the same so diminished in quality or intrinsic value, shall, thereupon be uttered, as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

3. Whoever shall add to true and genuine coin, by washing, coloring or otherwise, any metal or substance so as to make it a resemblance of coin of a greater intrinsic value, with the intent that it shall, thereupon be uttered, as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

4. The fraudulently putting counterfeit coin into circulation ; passing it, or tendering it, or offering to pass it, as being true and genuine, or aiding therein, knowing the same to be counterfeit, is uttering the same ; so also the selling, passing, delivery or parting with counterfeit coin as such ; with the intent that the same shall be, or with sufficient ground to believe that the same will be, thereupon passed, tendered, or offered to be passed, as true and genuine, is uttering the same.

5. The term coin, or true and genuine coin, as used in this chapter, includes only gold or silver money, or money of which gold or silver, or both, are the principal constituent parts, current by law or usage.

6. Whoever is guilty of counterfeiting, or of uttering any counterfeit coin being in confederacy with the counterfeiter, or being himself the counterfeiter thereof, shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

7. Whoever is guilty of uttering any counterfeit coin ; or of having in his possession ten or more pieces of counterfeit coin, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

8. Whoever is guilty of having in his possession any number of pieces of counterfeit coin less than ten, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than ten years, or

by fine not exceeding five hundred dollars and imprisonment at hard labor not more than two years.

9. Whoever utters counterfeit coin knowing the same to be such, having received the same in good faith as true and genuine, upon legal and valid consideration, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

10. Whoever knowingly casts, stamps, makes, or mends, or knowingly has in his possession any mould, pattern, die or other tool or machine adapted and designed for counterfeiting coin, with intent to use or employ the same, or cause or permit the same to be used or employed, for counterfeiting coin, shall be punished by imprisonment at hard labor not more than twenty years ; or by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

11. Whoever, having been once convicted of any of the offenses provided against in this chapter, shall thereafter be convicted of any or either of such offenses committed after such former conviction, shall be punished by an additional like punishment not exceeding by more than one half, the punishment for the offense of which he is last so convicted.

CHAPTER XXXIII.

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- 2. Publishing defined.
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- 6. Degrees of making and publishing—how determined.
- 7. Punishment for making or publishing, in the first degree.
- 8. Punishment for second degree.
- 9. Libelling the dead.
- 10. Libelling a body of persons.
- 11. Privilege of public officers to publish.
- 12. Privilege of a witness.
- 13. Privilege of parties to a suit and counsel.

1. A libel is a publication in writing, print or by a picture, statue, sign or a representation other than by words merely spoken which directly tend to injure the fame, reputation or good name of another person, and to bring him into disgrace, abhorrence, odium, hatred, contempt or ridicule, or to cause him to be excluded from society.

2. The making of a libel is the writing, printing, devising, or in any way forming the same ; or aiding or assisting therein, with the intent in either case, that it shall be published. As, for example, the dictating or repeating it to another to write, or writing on such dictation.

3. The publishing of a libel is the maliciously putting of it into circulation, or the promulgating, exhibiting, or distributing of it for the purpose of making it known to others ; and thereby in fact

making it known to others ; or aiding or assisting therein, or the causing or promoting thereof.

4. Malice is shown in respect to libel, by making a publication or communicating it to others, willfully and purposely to the prejudice and injury of another. Hatred or ill will towards the party injured is not essential to libel.

5. In every prosecution for writing or publishing a libel, the defendant may give in evidence, in his defence upon the trial, the truth of the matter contained in the publication charged to be libellous : Provided, however, that such evidence shall not be deemed a justification, unless it shall be further made to appear on the trial, that the matter was published with good motives and for justifiable ends.

6. The offense of making, as also that of publishing a libel, is of two degrees, and the degree is to be found by the jury or determined by the court or magistrate authorized to decide on the facts ; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

7. Whoever is guilty of the offense of making or publishing a libel in the first degree, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars, in the discretion of the court.

8. Whoever is guilty of the offense of making or publishing a libel in the second degree, shall be punished by imprisonment at hard labor not more than one month, and fine not exceeding fifteen dollars, in the discretion of the court.

9. A libel on the dead is subject to a like punishment as one on the living, where the same is malicious in respect to persons living, and defamatory of, or an outrage against, or an injury to, persons living, and is intended so to be by the maker or publisher.

10. A libel may be of a body, board, class, society or association of individuals, public or private, no less than of one or more persons individually.

11. Every public officer, and any board or body of persons having legal jurisdiction and cognizance of a matter, is privileged in writing, printing or publishing in good faith, and in the usual or in due course of proceedings, any thing, the writing, printing or publishing of which pertains to the legal exercise of his functions and legal discharge of his duty as such. For example, judges are privileged in what concerns the due administration of justice, and juries in rendering their verdicts.

12. Any person giving testimony or making statements under an oath, is not chargeable with libel for what he testifies relative to the subject matter in respect to which his testimony is required, or in pertinent reply to the interrogatories on which he is examined.

13. A person shall not be subject to the punishment for libel, for anything pertinent to the subject matter of consideration or inquiry, in good faith and on probable grounds, written or printed or published by him in the usual manner, or in due course of proceedings, as a party, counsel, agent, guardian, or representative of, or in behalf of a party, or of the public, in any prosecution, suit, petition, complaint or memorial, pending or about to be brought before any court, jury, arbitrator, officer, person, board, or body, having according to law or the agreement of parties, authority to proceed therein.

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 4. Impending violence.
 5. Punishment for an aggravated affray.
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1. An affray is the fighting of two or more persons, to the terror of the King's subjects or of the people.

2. Affrays are of two kinds, viz : those which are aggravated, and those which are not aggravated.

3. An affray having a direct tendency to some high crime or misdemeanor, or tending to interfere with and disturb the course of legislation, or the administration or execution of the laws, or with the legal rights of others, is an aggravated affray. So also an affray in the presence of the King and Council, the house of Nobles and Representatives, or either of them, or of a court of justice while either is in session ; or in a church or chapel during a religious service ; or the fighting with dangerous weapons, to the terror of the King's subjects, or of the people, is an aggravated affray.

4. Mere quarrelsome words do not amount to an affray ; but if by reason of the parties being armed, or other apparent imminent violence there be good cause of terror, it is an affray though there be no actual violence.

5. Whoever is guilty of being a party concerned in an aggravated affray, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding three hundred dollars.

6. Whoever is guilty of being a party concerned in an affray, the same not appearing to be an aggravated affray, shall be punished by imprisonment at hard labor not more than two months, or by fine not exceeding fifteen dollars.

CHAPTER XXXV.

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1. Whoever is found drunk in any street, road, or other public place, from the voluntary use of any intoxicating liquor, shall, on the first conviction for such offense, be punished by a fine not exceeding six dollars, and on any conviction for any like offense committed after the first conviction by a fine not exceeding twelve dollars, or by imprisonment not more than three months; but no prosecution for such offense shall be sustained, unless it shall be commenced within six months after the commission thereof.

2. Whoever blasphemes the holy name of God, by denying, cursing or contumeliously reproaching God, his creation, government, or final judging of the world; or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost; or by cursing or contumeliously reproaching the holy word of God, contained in the holy scriptures, or exposing them to contempt or ridicule, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

3. Whoever, having arrived at the age of discretion, profanely curses or swears, shall be punished by a fine from one to six dollars; but no prosecution for such offense shall be sustained, unless it shall be commenced within thirty days after the commission of the offense.

CHAPTER XXXVI.

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 6. The Lord's day defined.

1. Whoever willfully interrupts or disturbs any religious assembly or assembly for religious worship, whether such offender commit such offense, within or without the place of assembly, and whether such offense be committed on the Lord's day or at any other time, shall be punished by imprisonment at hard labor not more than thirty days, or by fine not exceeding fifteen dollars, in the discretion of the court.

2. The Lord's day is *taboo*: All worldly business, amusements and recreation are forbidden on that day; and whoever shall keep open his shop, store, warehouse, or workshop, or shall do any manner of labor, business or work except only works of necessity and charity, or be present at any dancing, public amusement, show or entertainment, or take part in any game, sport or play on the Lord's day, shall be punished by fine not exceeding ten dollars.

3. Whoever being a hotel, inn, victualling house, bowling alley, or billiard table keeper or a retailer of spirituous liquors or other person keeping a house of public entertainment, who shall entertain any persons not being travellers, strangers or lodgers, in his house on the

Lord's day, or shall suffer any person on said day to abide or remain in his house or in any building or place appertaining thereto, drinking or spending their time in games, idly or at play, or in doing any secular business, shall be punished by a fine not exceeding ten dollars for each person so entertained, or suffered to abide or remain ; and every person so abiding or drinking shall be punished by a fine not exceeding five dollars.

4. No person shall serve or execute any civil process on the Lord's day ; and any such service or execution shall be void.

5. All marshals, sheriffs, constables and other public officers, shall inquire into, and inform of all offenses in violation of the provisions of this chapter, and shall cause the same to be carried into effect.

6. The Lord's day, within the meaning of the provisions of this chapter, is the first day of the week, and includes the time between the midnight preceding and the midnight following said day.

CHAPTER XXXVII.

COMMON NUISANCE.

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 8. Degrees—How determined.
 9. Punishment for first degree.
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 11. Forfeiture of lease of house if a bawdy house.
 12. Magistrate may issue search warrant for, and destroy obscene books, &c.

1. The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing, or promoting, maintaining or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public, or is a public outrage against common decency or common morality, or tends plainly and directly to the corruption of the morals, honesty and good habits of the people, the same being without authority or justification by law.

As, for example, the carrying on a trade, manufacture or business in places so situated that others indiscriminately, who reside in the vicinity, or pass a highway or public place, or resort to a school-house, meeting house or any other place of legal and usual resort or assembly, are liable to be thereby injured, annoyed, disturbed or endangered by deleterious exhalations, noisome vapors, hideous, alarming or disgusting sights, intolerable noise or otherwise :

By spreading or endangering the spreading of the small pox, or

other infectious disease ; by carrying an infected person, or causing him to pass through a frequented street ; by opening a hospital or pest house so as to endanger neighbors or the passers by in a frequented street or otherwise :

Making or storing gunpowder, in or near a populous, or public or frequented place, without authority therefor, or the otherwise making or storing the same contrary to law :

Making loud and troublesome noises by night :

Keeping animals that disturb the neighborhood by night :

Permitting ferocious or dangerous animals to go abroad :

Keeping a bawdy house :

Open lewdness or lascivious behavior, or indecent exposure :

Keeping a common gambling house :

Keeping a disorderly house, to the public disturbance and annoyance.

2. Occasioning a groundless fear or merely a trivial annoyance or inconvenience is not a common nuisance. Whether the act or thing is really so hurtful or prejudicial to others as to render it a common nuisance, is a question of fact to be determined by the jury, court or magistrate called to pass upon the same.

3. Where only a few persons, of many who are equally exposed, are, owing to their peculiarity of temperament, or to infirmity, annoyed by an act or thing, the same is not a nuisance :

As where the noise of a tinman's shop annoys but a few of many persons equally within hearing.

4. Obstructing a highway, channel, entrance to a harbor, harbor, town way, navigable stream, or public place, without just cause, is a common nuisance.

As by digging a ditch, laying logs, erecting a gate or placing any other impediment in a highway :

By leaving carts or other vehicles standing in the highway an unreasonable time :

By using the highway as a timber yard, or a yard to a storehouse, or as a place to dry hides :

By erecting or maintaining a building, fence or structure within the limits of a highway or public place :

By overflowing a highway :

By rapid or unskillful driving, or driving an unmanageable team on the highway and thereby endangering life :

By tying horses or other animals in the public streets for the purpose of grazing.

5. Reasonable use of a highway as such is not a common nuisance :

As, for example, unloading wood to put the same into a house standing near the highway, if it does not occupy an unreasonable portion of the highway, and is not left for an unseasonable, or for an unreasonable time.

6. The firing, letting off or throwing of any rockets, squibs, crackers, or other fireworks in or near to frequented public highways or places of common resort, or the dwellings of others, or otherwise, to the annoyance and endangering of persons, or the endangering the destruction of or injury to property, is a common nuisance, except the same are fired, let off or thrown by license of the Governor, or, in his absence, of the police justice of the town, and in conformity with such license.

7. The importing, printing, publishing, selling, offering for sale, putting into circulation, distributing, lending, exhibiting publicly, or introducing into any family, school or place of education, any obscene picture, or pamphlet, sheet or other thing containing obscene language, obscene prints, figures, descriptions or representations, manifestly tending to the corruption of the morals of youth, or of morals generally ; or buying, procuring, receiving or having in possession, any such picture, book, pamphlet, sheet or other thing, with intent to sell, circulate, distribute, lend, or exhibit the same, or to introduce the same into any family, school or place of education, is a common nuisance.

8. The offense of common nuisance is of two degrees, and the degree is to be found by the jury, or determined by the court or ma-

gistrate authorized to decide on the facts ; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

9. Whoever is guilty of the offense of common nuisance in the first degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars.

10. Whoever is guilty of the offense of common nuisance in the second degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than two months, or by fine not exceeding twenty-five dollars.

11. Where the lessee of a building makes the same a bawdy house, the lease or contract for letting the same shall at the option of the lessor become void, and the lessor shall thereupon have a like remedy for recovering possession, as against a tenant holding over after the expiration of his term ; and moreover shall be entitled to rent for the whole term.

12. Any justice of a police or district court, may issue a search warrant for the purpose of searching for any obscene books, pamphlets, pictures, or other things, containing obscene language, prints, pictures, figures, or descriptions manifestly tending to the corruption of the morals of youth ; and all such things as may be found by any officer in executing such warrant, or that may otherwise come to the possession of any officer, shall be safely kept, so long as shall be necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards shall be destroyed by order of the court before whom the same shall be brought.

CHAPTER XXXVIII.

VAGRANTS.—DISORDERLY PERSONS.

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SECTION 1. Beggars, idlers, vagrants—How punished.

3. Gamesters, jugglers, fortune tellers, sorcerers, &c—How punished.

3. Where the offender is a minor or a married woman.

1. Any idle person who is able to work, who habitually goes about begging for his own support and profit, or for the support of his family, or who, without visible means of support, lives in idleness eating the food of others, and any person wandering abroad, and not giving a good account of himself, may be arrested and carried before any police or district justice, who shall have the power of committing any such person to the district workhouse, or to the cutting of stone, or such other government work as may be usual in the district in which such person is arrested, for any period not exceeding six months; or to bind out such idler to labor for a term not exceeding one year at any one time, with any agriculturist, planter or farmer in any of the islands, or with any mechanic or artizan. The hire paid for the services of such idler, if any, shall go two-thirds to the person thus apprenticed and one third to the exchequer; and in case the idler thus apprenticed shall neglect or refuse to do the reasonable labor required of him, the person to whom he is bound is authorized to use such reasonable coercive measures, as the police or district justice of the district in which he resides may from time to time indicate.

2. Any persons who having no visible calling, support themselves for the most part by gaming :

Any juggler ; or any person who practices hoomanamana or pretends to tell fortunes, or where lost and stolen goods may be found :

Any person who practices anaana or pretends to have the power of praying persons to death :

Any common prostitute :

Any person who is lewd, wanton, or lascivious in speech or behavior :

Any keeper of a bawdy house :

Any common railer or brawler :

Any common drunkard :

Any person who neglects his calling or employment, misspends what he earns and does not provide support for himself and his family :

Any person who is a dangerous or disorderly person by reason of his being a rioter, disturber of the peace, going offensively armed, uttering menaces or threatening speeches, or otherwise :

Any person who plays in the public streets, or highways, with cards, dice, coin, or other instruments or device for gambling :

And any other idle or disorderly person may each of them be committed by order of any police court or district justice to the jail, fort or workhouse, at the discretion of the court or magistrate, there to be detained, subject to the rules and regulations of such place of imprisonment or detention, for any period not exceeding six months :

Provided, however, that if the party charged shall give recognizance to the government in a sum, and with surety or sureties, to be approved by the court or magistrate taking cognizance of the case, conditioned that he shall not commit the offense complained of within any time prescribed by such court or magistrate, not less than six months, nor more than two years, he shall be discharged.

3. If the party charged be a minor or married woman, other parties may recognize in his or her behalf.

CHAPTER XXXIX.

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RIOTS AND UNLAWFUL ASSEMBLIES.

CONTENTS.

- SECTION 1. Unlawful assembly defined.
- 2. Riots defined.
- 3. Menacing language or gestures.
- 4. Concurrence in intent.
- 5. Tumult and violence, though the persons assembled in a lawful manner.
- 6. Promoting or aiding at a riot or unlawful assembly.
- 7. Remaining after order to disperse.
- 8. Every person present presumed to have notice of an order to disperse.
- 9. A riot or unlawful assembly having for its object the destruction or injury of a house, &c—Punishment.
- 10. A riot or unlawful assembly endangering life, &c—Punishment.
- 11. Duty of Governors and other officers.
- 12. Armed force may be called out.
- 13. Whose orders the armed force is to obey.
- 14. Persons killed or wounded.

1. Where three or more persons are, of their own authority, assembled together with disturbance, tumult and violence, and striking terror or tending to strike terror, into others, such meeting is an unlawful assembly, within the meaning of the provisions of this chapter.

2. A riot is where three or more being in unlawful assembly, join in doing or actually beginning to do an act, with tumult and violence, and striking terror, or tending to strike terror into others.

3. Menacing language, or gestures, or show of weapons or other signs or demonstrations tending to excite terror in others, are sufficient violence to characterize an unlawful assembly or riot.

4. Concurrence in an intent of tumult and violence, and in any violent tumultuous act, tending to strike terror into others is a sufficient joining in intent to constitute a riot, though the parties concerned did not previously concur in intending the act. For example, where persons present at a public performance, concur in the intent to disturb the same by tumult and violence, tending to strike terror; or concur in one or more acts of tumult or violence tending to strike terror, done by any of the assembly.

5. It is not requisite in order to constitute an unlawful assembly or riot, that persons should have come together with a common or unlawful intent, or in any unlawful manner; or that the object of the meeting, or the act done or intended, should of itself be unlawful. The tumult and violence tending to excite terror, characterize the offense, though the persons may have assembled in a lawful manner, and though the object of the meeting if legally pursued, or the act done or intended, if performed in a proper manner, would be lawful.

6. Persons present at a riot or unlawful assembly, and promoting the same, or aiding, abetting, encouraging or countenancing the parties concerned therein by words, signs, acts or otherwise, are themselves parties thereto and principals therein.

7. In case of an unlawful assembly being by proclamation or otherwise ordered to disperse by any one having legal authority to disperse the same, any one voluntarily remaining in the assembly after notice of such order, except for keeping the peace, is thereby a party concerned in such unlawful assembly.

8. Every person present in an unlawful assembly is presumed to have notice of an order given by lawful authority in lawful manner for the same to disperse.

9. Whoever is guilty of a riot or unlawful assembly, having for its object the destruction or injury of any house, building, bridge, wharf, or other erection or structure; or the destruction or injury of any ship or vessel, or the furniture, apparel or cargo thereof, shall be pun-

ished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars ; and shall also be answerable to any person injured to the full amount of his damage.

10. Whoever is guilty of being a party concerned in a riot or unlawful assembly endangering the life, limb, health or liberty of any person, or in any other riot or unlawful assembly, not of the description designated in the above section, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

11. In case of any riot or unlawful assembly in any town, village or district, it shall be the duty of the Governor if any be resident there, and of every police or district justice there resident, and also of the marshal, sheriff of the island, and his deputies, and of the prefect of police for said town, village or district to go among the persons so assembled, or as near to them as may be with safety, and in the name of the King to command all the persons so assembled immediately and peaceably to disperse ; and if the persons shall not, thereupon, so disperse, it shall be the duty of each of said officers to command the assistance of all persons present, in seizing, arresting and securing in custody the persons so unlawfully assembled, so that they may be proceeded with for their offense according to law.

12. If any persons riotously or unlawfully assembled, who have been commanded to disperse by the governor, marshal, sheriff, deputy sheriff, prefect of police, or district justice, shall refuse or neglect to disperse without unnecessary delay, any two of such officers may require the aid of a sufficient number of persons in arms, or otherwise, as may be necessary, and shall proceed in such manner as in their judgment shall be expedient, forthwith to disperse and suppress such unlawful, riotous, or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

13. Whenever an armed force shall be called out for the purpose of suppressing any tumult or riot or unlawful assembly, or to disperse

any body of riotous men, such armed force shall obey such orders for suppressing the riot or tumult or for dispersing and arresting the persons who are committing any of the said offenses, as they may receive from the governor, marshal, sheriff of the island, or prefect of police, and also such further orders as they may receive after they shall arrive at the place of such unlawful, riotous or tumultuous assembly, as may be given by any two of the magistrates or officers mentioned in the preceding section.

14. If by reason of the efforts made by any two or more of said magistrates or officers, or by their direction, to disperse such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse, any such person or any other person then present, as spectators or otherwise, shall be killed or wounded, the said magistrates and officers and all persons acting by their order or under their direction shall be held guiltless and justified by law, and if any of said magistrates or officers, or any person acting under their authority or by their direction shall be killed or wounded, all the persons so at the time unlawfully, riotously, or tumultuously assembled, and all other persons, who, when commanded or required, shall have refused to aid and assist the said magistrate or officers, shall be held answerable therefor.

CHAPTER XL.

GAMING.

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SECTION 1. Gaming defined.

2. Degrees.
3. Punishment for first degree.
4. Punishment for second degree.
5. The loser may sue for and recover the thing lost.
6. When officers or other persons may sue for and recover.
7. All notes, bills, conveyances of land, &c, tainted with gaming are void.
8. Both parties competent witnesses.

1. Whoever by playing at cards, or any other game, wins or loses any sum of money or thing of value is guilty of gaming.

2. Gaming is of two degrees, viz : gaming on the Lord's day ; and where any person shall at any one time or sitting win or lose twenty-five dollars or more is of the first degree, and other gaming is of the second degree.

3. Whoever is guilty of gaming of the first degree shall be punished by fine not exceeding ten times the value of the money or other thing won or lost, or by imprisonment at hard labor not exceeding sixty days.

4. Whoever is guilty of gaming of the second degree shall be punished by fine not exceeding fifty dollars or imprisonment at hard labor not more than thirty days.

5. Whoever shall by playing at cards or any other game, or by bet-

ting on the sides or hands of such as do play, lose any sum of money, of thing of value, and shall pay or deliver the same or any part thereof, may sue for and recover the money or value of the thing so lost and paid or delivered, from the winner thereof.

6. In case the person, so losing such money or any thing of value shall not within three months after such loss, in good faith and without collusion, prosecute with effect and without unreasonable delay for such money or other thing of value, it shall be lawful for any constable or other officer or person to sue for and recover, treble the value of such money or other thing, with full costs of suit, the one half of which shall go to the person so prosecuting, and the other half to the government, for the use of common schools.

7. All notes, bills, bonds, mortgages or other securities or conveyances whatever, in which the whole or any part of the consideration shall be for any money or other thing of value won by playing at cards, or any other game, or by betting on the sides or hands of any person gaming, or for reimbursing or repaying any money, knowingly lent or advanced for any gaming or betting, or lent and advanced at the time and place of such gaming and betting, to any person so gaming and betting, shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them, in good faith and without notice of the illegality of the consideration of such contract or conveyance, and whenever any mortgage or other conveyance of lands shall be adjudged void, under the provisions of this section, such lands shall enure to the sole use of and benefit of such person, as would be then entitled thereto, if the mortgagor or grantor were naturally dead; and all grants or conveyances, for preventing such lands from coming to or devolving upon the person, to whose use and benefit the said lands would so enure, shall be deemed fraudulent and of no effect.

8. In every suit brought to recover any money or other thing of value, as provided in section fifth of this chapter, both the plaintiff and

defendant shall be competent witnesses ; and no person other than the parties, shall be excused from testifying, touching any offense committed against any of the foregoing provisions relating to gaming, by reason of his having played, betted or staked, at any game ; but the testimony of any such person shall not be used against him in any suit or prosecution authorized by any of the foregoing provisions.

CHAPTER XLI.

DISTURBING THE QUIET OF THE NIGHT.

1. All loud noise by night is *taboo*. Whoever, after sunset, shall by hallooming, singing in the streets, or in any other way, make any disturbing or disorderly noise, in any village, town, or part of this kingdom, without justifiable cause for so doing, shall be liable to summary arrest and imprisonment by any constable or police officer, and upon conviction be punished by a fine not exceeding ten dollars.

CHAPTER XLII.

SUPPRESSION OF DRUNKENNESS.—MANUFACTURE OF INTOXICATING DRINKS.

CONTENTS.

- SECTION 1. Giving, selling, or procuring, spiritous liquor for a native—Punishment.
- 2. Manufacturing—Punishment.
- 3. Selling spiritous liquor without licensé.

1. Whoever shall sell, give, purchase, or procure for, and in behalf of any native of this kingdom, or for his use, any spiritous liquor, or other intoxicating drink or substance, shall be punished by a fine not exceeding two hundred dollars ; and in default of the payment of such fine, by imprisonment at hard labor for a term not exceeding two years.

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2. Whoever shall manufacture for sale any intoxicating drink or substance in this kingdom, shall be liable to a fine of five hundred dollars ; and in default of payment of said fine, shall be imprisoned at hard labor not exceeding two years.

3. If any victualling house keeper, shop keeper, or keeper of a tippling house, not duly licensed to sell spirituous liquors, shall sell or furnish any other person than those described in the first section of this chapter, with any spirituous liquor or other intoxicating drink or substance, he shall be punished by a fine not exceeding two hundred dollars and in default of payment of such fine, by imprisonment at hard labor for a term not exceeding two years.

CHAPTER XLIII.

KEEPING A DISORDERLY HOUSE.

CONTENTS.

SECTION 1. Punishment for keeping a disorderly house.

2. What is a disorderly house.

3. Part of a building.

4. Wife may be punished with her husband.

1. Whoever shall keep a disorderly house shall be punished, where no other punishment is expressly provided by statute, by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than six months.

2. The following houses are disorderly, within the meaning of the provisions of this chapter, viz :

Houses kept for the purpose of public prostitution :

Houses in which any indecent postures or indecent, immoral or disorderly shows or sights are exhibited :

Houses kept for the sale of any intoxicating drink without license.

Houses in which gambling is permitted.

3. Any part of a building appropriated to either of the purposes above enumerated, is a house within the meaning of this chapter.

4. The wife may be punished with the husband for keeping a house for the purpose of public prostitution.

CHAPTER XLIV.

OF OFFENSES COMMITTED ON THE HIGH SEAS AND OTHER WATERS.

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SECTION 1. Murder, rape, &c.

2. Manslaughter.
3. Attacking vessel with intent to plunder.
4. Breaking into vessels with intent to commit felony—maliciously destroying cordage, &c.
5. Buying or receiving stolen goods.
6. Plundering wrecked vessels—showing false lights, &c.
7. 8. Casting away, setting on fire or otherwise destroying a vessel on the high seas.
9. Setting on fire, burning, casting away or otherwise destroying a vessel within the jurisdiction of the kingdom.
10. Revolt and mutiny.
11. Attempt to revolt and mutiny.
12. Maltreatment of crew.
13. Forcing mariner on shore or leaving him in a foreign country.
14. Offenses committed on board in a foreign place—how triable.

1. Whoever on the high seas, in a vessel bearing the Hawaiian flag commits the crime of murder, or rape, or maliciously wounds or otherwise injures another, of which wound or injury such other shall afterwards die upon sea or land shall be punished by death.

2. Whoever on the high seas, in a vessel bearing the Hawaiian flag commits manslaughter, shall be punished by imprisonment at hard labor for life or any number of years in the discretion of the court.

3. Whoever on the high seas by surprise or open force or violence, maliciously attacks any vessel belonging in whole or in part to the

Hawaiian government, or to any citizen thereof, or to any other person whatsoever, with intent unlawfully to plunder the same or despoil another of any money, goods or other things of value on board thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment at hard labor not exceeding ten years.

4. Whoever on the high seas, shall, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, break or enter any vessel or other water craft ; and whoever on the high seas, or in any channel, arm of the sea, river, haven, creek, basin or bay within the jurisdiction of this kingdom, shall willfully and maliciously cut, spoil or destroy any cordage, cable, buoys, buoy rope, headfast or other fast, fixed to any anchor or mooring belonging to any vessel or other watercraft; shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

5. Whoever on the high seas, shall buy, receive, or conceal, or aid in concealing any money, goods or other things which may be the subject of larceny, which has been feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not exceeding three years.

6. Whoever shall plunder, steal or destroy any money, goods, or other effects, from or belonging to any vessel or other watercraft, which shall be in distress, or wrecked, lost, stranded or cast away, upon the sea, or upon any shore, reef, shoal, bank, or rocks of the sea ; and whoever shall willfully obstruct the escape of any person endeavoring to save his life from such vessel or watercraft, or the wreck thereof, and whoever shall hold out or show any false light with intention to bring any vessel or other watercraft, being or sailing upon the sea, into danger, or distress, or shipwreck, shall be punished by fine not exceeding five thousand dollars and imprisonment at hard labor not more than ten years.

7. Whoever, not being an owner, shall on the high seas willfully

and maliciously cast away, set on fire, or otherwise destroy any vessel lawfully bearing the Hawaiian flag, or procure the same to be done, shall be punished by death, or imprisonment at hard labor for life, or any number of years according to the aggravation of the offense.

8. Whoever being the owner in whole or in part of any vessel, bearing the Hawaiian flag, shall, on the high seas, willfully and maliciously cast away, set on fire, burn or otherwise destroy any such vessel, or in any wise direct or procure the same to be done, with intent to prejudice any other owner of such vessel, or any person who shall load goods thereon, or any underwriter on such vessel or her cargo, shall be punished by death, or imprisonment at hard labor for life or any number of years.

9. Whoever, being an owner in whole or in part of any vessel, or not being such owner, shall willfully and maliciously set on fire, burn or otherwise destroy or attempt to destroy, any vessel, in any port, channel, bay, or haven, or other waters within the jurisdiction of this kingdom; and whoever shall willfully and maliciously cast away any vessel on the sea, or on any reef, rock, shoal, bank or other place within the jurisdiction of this kingdom, shall be punished by imprisonment at hard labor for life or any number of years according to the nature and aggravation of the offense.

10. Whoever belonging to the crew of any Hawaiian vessel, shall, on the high seas or on any other waters, within the jurisdiction of this kingdom, unlawfully and willfully, with force, threats or otherwise, usurp the command of such vessel from the master, or other lawful commanding officer thereof, or deprive him of his command thereof, or resist or prevent him in the free and lawful exercise thereof, or transfer such command to any other person not lawfully entitled thereto, shall be adjudged guilty of a revolt or mutiny, and shall be punished by fine not exceeding two thousand dollars, and by imprisonment at hard labor not more than ten years according to the nature and aggravation of the offense.

11. Whoever belonging to the crew of any Hawaiian vessel, shall, on the high seas or on any waters within the jurisdiction of this

kingdom, endeavor to make a revolt or mutiny on board such vessel, or shall conspire, combine or confederate, with any other person on board to make such revolt or mutiny, or shall solicit, incite, or stir up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, to refuse or neglect their proper duty on board thereof, or shall assemble with others in a tumultuous and mutinous manner or make a riot on board thereof, or shall unlawfully confine the master or other commanding officer thereof, shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

12. If any master or other officer of a Hawaiian vessel on the high seas, or on any other waters within the jurisdiction of this kingdom shall maliciously and without justifiable cause beat, wound or imprison, any one or more of the crew of said vessel or withhold from them suitable food and nourishment, or inflict upon them any cruel and unusual treatment, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

13. If any master or other officer commanding any Hawaiian vessel shall, during his being abroad, maliciously and without justifiable cause, force any officer or mariner of such vessel on shore, or leave him behind in any foreign port or place; or refuse to bring home again all such officers and mariners whom he carried out with him as are in a condition to return, and willing to return when he shall be ready to proceed on his homeward voyage, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years, according to the aggravation of the offense.

14. If any offense shall be committed on board of any Hawaiian vessel, while lying in any port or place within the jurisdiction of any foreign state, by any officer, mariner, passenger or other person belonging to the said vessel, it shall be cognizable and punishable in this

kingdom in the same way and manner, as if said offense had been committed on board of such vessel on the high seas, and without the jurisdiction of such foreign state : Provided, however, that if such offender shall be tried for such offense, and acquitted thereof, or convicted in any competent court of such foreign state, he shall not be subject to another trial in any court of this kingdom.

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CHAPTER XLV.

ATTEMPTS AND INSTIGATIONS.

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2. A mere preparation to commit is not an attempt.
3. When the attempt is merged in the offense.
4. Presumption of degree of offense attempted.
5. Punishment for attempts.
6. Instigation.
7. The instigation is merged in the offense when.
8. When the instigator repents and endeavors to prevent the offense.
9. No person can be convicted on the mere testimony of the party instigated.

1. An attempt to commit an offense, is some act done towards committing, and in part execution of the intent to commit the same. As, for example, putting poison in the way of a person, with intent thereby to murder him.

2. A mere preparation of the means of committing any offense, nothing being done in execution of the intent to commit the same, is not an attempt to commit the same. As, for example, merely procuring poison intended to be used for murder.

3. Where any offense attempted is committed by the party making such attempt, the attempt is merged in the offense.

4. Where it does not appear which of two or more degrees of any offense is attempted, the lowest of such degrees is presumed.

5. Whoever attempts to commit any offense, for the punishment of which attempt no special provision is otherwise expressly made,

shall, if the offense be punishable with death or imprisonment for life, be punished by imprisonment at hard labor not more than ten years. And in any other case, by fine and imprisonment or either in the discretion of the court, but not exceeding the punishment prescribed for such offense.

6. Whoever instigates another to the commission of any offense, by commanding, soliciting or offering to hire, or otherwise endeavoring to induce him to commit the same, shall be subject to the penalty of an attempt to commit such offense.

7. The instigation is merged in the offense committed in pursuance thereof, when the offense is committed in such a manner that the instigator is guilty thereof, by reason of his being an accessory before the fact or otherwise.

8. If, before an offense is attempted in pursuance of an instigation thereto, the instigator repents, and countermands the same, and endeavors to his utmost to prevent the offense, he shall not be subject to punishment for the instigation.

9. No person shall be convicted of instigating another to an offense on the mere testimony of the party professing to have been so instigated, not corroborated by other evidence direct or circumstantial, except in cases where it is expressly otherwise provided.

CHAPTER XLVI.

ACCESSORIES AFTER THE FACT.

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● 2. Punishment.

1. If any one, not standing in the relation of husband or wife, parent or child, brother or sister, by consanguinity or affinity, to any person guilty, either as principal or accessory before the fact, of any offense punishable by death or imprisonment for life, shall harbor, conceal, maintain, or assist such person, with the intent that such person shall avoid or escape from detection, arrest, trial or punishment, he shall be deemed an accessory after the fact to such offense ; and shall be punished, where punishment for his offense is not otherwise expressly provided, by imprisonment at hard labor not more than ten years, or by fine not exceeding two thousand dollars.

2. Whoever is accessory after the fact to any other offense punishable by imprisonment for five years or more, shall be punished where punishment is not otherwise provided by law, by imprisonment at hard labor not more than two years or by fine not exceeding five hundred dollars.

CHAPTER XLVII.

FORMER CONVICTION OR ACQUITTAL.

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2. Former acquittal.

3. Where the same act constitutes two or more offenses.

4. Acquittal on variance or exception.

5. Acquittal or condemnation on impeachment.

1. Any person who has been tried and convicted of any offense before a court, tribunal or magistrate, having jurisdiction of the case, shall not be subject to subsequent criminal prosecution therefor, and such conviction may be pleaded in bar of any such subsequent prosecution.

2. No person shall be subject to be tried again for the same offense, of which he has been found not guilty and acquitted on a former trial, upon the facts and merits before a court, tribunal or magistrate having jurisdiction of the case ; and such acquittal may be pleaded in bar of any such subsequent prosecution.

3. Where the same act constitutes two or more diverse and distinct offenses, different in their nature and character, one not being merged in the other, the offender may be proceeded against for each, and cannot plead a conviction or acquittal for one, in bar of proceedings against him for the other.

4. Any person acquitted on trial of any charge of any offense upon the ground of variance between the indictment, information or complaint, and the proof, or upon any exception to the form or the

substance of the indictment, information or complaint, may be subsequently tried and convicted of such offense under a new indictment, information or complaint, notwithstanding such former acquittal.

5. Any public officer who is acquitted or convicted on an impeachment for any misdemeanor, cannot plead such conviction or acquittal in bar of a criminal prosecution for the same.

CHAPTER XLVIII.

SUPPRESSION OF OFFENSES.

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- SECTION 1.** How a person may proceed when he fears the commission of an offense.
2. Proceedings of magistrate on arrest.
3. When prisoner may be committed to prison.
4. Power of magistrate when he fears the prisoner intends an offense against any person not designated.
5. Bond may be renewed when.
6. Power of magistrate when an offense is committed in his presence.
7. When a person has reason to suspect the commission of an offense against the person or property of another.
8. Powers of the magistrate upon conviction in certain cases.
9. When bond is broken how and by whom suit is to be brought.
10. Surety may discharge himself by surrendering principal.

1. When any one fears that another intends to commit an offense against his person, or property, with violence, he may apply to any police or other justice, who shall take the declaration of the applicant, under oath, reduced to writing; and if it appears that he has reason to fear the commission of such offense, the justice may cause the person complained of, to be arrested and brought before him by warrant.

2. Where any one so arrested is brought before the justice he shall hear any statement or proof the accused has to offer, and if from such statement and evidence it appears that the complainant has mistaken the intention of the accused, and has no cause of fear, the prisoner shall be discharged; if he fail in showing that the application is groundless, the justice shall direct the accused to give bond, in a sum proportioned to the nature of the offense, with sufficient surety

that he will commit no offense against the person or property of the complainant.

3. If the bond be not executed according to the order of the justice, the prisoner shall be committed to prison, and shall remain in custody until the bond be so executed.

4. If, from the nature of the evidence offered, or from the demeanor of the prisoner, the magistrate has reason to believe that the prisoner intends an offense against the person or property of any person who cannot be designated, he may order the bond to be conditioned that he will commit no offense against the person or property of any one.

5. The bond shall be limited in its operation to the term of one year; but it may be for a shorter time; and at any time within the last month of the year, the complainant may renew his application, and the order for security may be renewed on the oath of the party, declaring that he still fears the execution of the prisoner's former designs, provided, the justice after hearing the circumstances of the case shall deem such fear well founded.

6. Any justice who is present when any offense, accompanied with violence is committed, may, without any other proof, order the offender to be arrested, and compel him to give security in the manner above directed, to refrain from the exercise of any illegal force.

7. Any person who knows or has reason to suspect that any offense against the person or property of another is intended to be committed, may apply to a justice, who shall hear the proof, and if he be convinced of the existence of such intention, shall cause the person accused to be arrested, and compelled to give security in the manner above directed.

8. Where, upon the conviction of a person for an offense, it appears from the character of the offender or his conduct in committing the offense, there is good reason to apprehend a repetition of that

offense, or the commission of some other, the court or justice may add to their sentence that after the execution of the punishment is complete, and before the offender, if in custody, is discharged, he shall give security in the form and for the time above directed, either that he will not commit any particular offense or any designated species of offenses, or generally, that he will commit no offense for the time limited.

9. If the condition of any bond given under any of the provisions of this chapter be forfeited, it shall be put in suit by the public prosecutor, who must specify in his petition in such suit, the offense which has caused the breach of the condition of the bond.

10. At any time before the breach of the condition of such bond, the surety may discharge himself by surrendering the principal into the hands of the marshal or chief constable of the district.

CHAPTER XLIX.

SEARCH WARRANTS.

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- SECTION 1.** Search warrant the means of preventing the commission of offenses.
2. What is a search warrant.
 3. For what purposes a search warrant may be granted.
 4. Must be based on an affidavit.
 5. Must be in writing, &c.
 6. When directed to sheriff may be executed by his deputies.
 7. Before executing it officer must give notice to applicant.
 8. Power of the officer in entering houses, &c.
 9. Must be executed in the presence of two inhabitants, and inventory made of the property seized.

1. Another means of preventing the commission of offenses, and of detecting them when committed, is by the issuing of search warrants.

2. A search warrant is an order in writing made by a justice, or other magistrate, directed to an officer of justice, commanding him to search for certain articles supposed to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.

3. The power of granting this writ is one in the exercise of which much is necessarily left to the discretion of the magistrate, but, except in cases where this power is elsewhere specially granted by statute, search warrants can only be granted for the following purposes, viz :

To discover property taken by theft or under false pretenses, or found and fraudulently appropriated :

To seize forged instruments in writing, or counterfeit coin intended to be passed, or the instruments or materials prepared for making them :

To seize arms or munitions prepared for the purpose of insurrection or riot :

To discover articles necessary to be produced as evidence or otherwise on the trial of any one accused of a crime.

4. A search warrant can be granted in no case, but on an affidavit setting forth sufficient facts in the opinion of the magistrate to justify the issuing of such warrant.

5. The warrant must be in writing, signed by the magistrate with his official designation, directed to some sheriff or other officer of justice ; and commanding such sheriff or other officer to search for and bring before the magistrate the property or articles specified in the affidavit, to be disposed of according to justice ; and also to bring before him the person in whose possession the property or articles may be found for examination.

6. If the search warrant be directed to a sheriff or perfect of police it may be executed by him or any of his deputies.

7. Before executing the warrant the officer must give notice to the person who applied for it, that he may be present and identify the property if found.

8. The officer charged with the warrant, if a house, store, or other building, is designated as the place to be searched, may enter it without demanding permission if he finds it open ; if the doors be shut he must declare his office and his business, and demand entrance ; if the doors, gates or other bars to the entrance be not immediately opened, he may break them. When entered, he may demand that any other part of the house, or any closet, or other closed place in which he has reason to believe the property is concealed, may be opened for his inspection, and if refused he may break them.

9. The warrant must be executed in the presence of two inhabitants of the district, and an inventory of the property seized must be made before it is removed, and signed by the officer and the two inhabitants.

CHAPTER L.

ARRESTS.

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SECTION 1. No arrest to be made without warrant except in certain cases.

2. When offender may be arrested by verbal order.
3. When offender may be arrested by any person present.
4. When a person may be arrested without warrant upon suspicion.
5. When policeman may arrest without warrant.
6. The duty of the officer at or before making the arrest.
7. When the officer may use force, and what degree.
8. Offensive weapons may be taken from the person arrested.
9. Person arrested to be taken before magistrate when.
10. How house may be entered to make an arrest.

1. No arrest of any person shall be made without first obtaining a warrant or other process therefor from some magistrate, except in the cases in this chapter hereinafter provided.

2. Where a breach of the peace or other offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of a verbal order of any magistrate, or without such order, if no magistrate be present.

3. Any one in the act of committing a crime, may be arrested by any person present, without a warrant.

4. Whenever a crime is committed, and the offenders are unknown, and any person shall be found near the place where the crime was committed either endeavoring to conceal himself, or endeavoring to escape, or under such other circumstances as to justify a reasonable suspicion of his being the offender, such person may be arrested without warrant.

5. Policemen, or other officers of justice, in any sea port or town, even in cases where it is not certain that an offense has been committed, may, without warrant, arrest and detain for examination, such persons as may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit an offense.

6. At or before the time of making an arrest, the person must declare that he is an officer of justice, if such be the case. If he have a warrant he should show it if required ; or if he make the arrest without warrant in any of the cases in which it is authorized by law ; he should give the party arrested clearly to understand, for what cause he undertakes to make the arrest, and must require him to submit and accompany him to the jail or magistrate. This done, the arrest is complete.

7. In all cases where the person arrested refuses to submit, or attempts to escape, such degree of force may be used as is necessary to compel him to such submission.

8. He who makes an arrest may take from the party arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate, to be disposed of according to law.

9. In all cases of arrest for examination, the person making the same must conduct the party arrested before the court or magistrate empowered to take such examination, within forty-eight hours after his arrest, except in cases where a longer delay is absolutely necessary to meet the ends of justice.

10. Whenever it is necessary to enter a house to arrest an offender, and entrance is refused, the officer or person making the arrest, may force an entrance, by breaking doors or other barriers. But before breaking any door, he shall first demand entrance in a loud voice, and state that he is the bearer of a warrant of arrest ; or if it is in a case in which arrest is lawful without warrant, he must substantially state that information in an audible voice.

CHAPTER LI.

BAIL.

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SECTION 1. Definition of bail.

2. In what cases bail may be taken.
3. By whom bail may be taken.
4. When bail is taken prisoner must be discharged.
5. In cases of wounding likely to terminate in death, prisoner cannot be discharged.
6. 7. Amount of bail.
8. Who may be received as sureties.
9. When single surety is sufficient.
10. A woman cannot be received as surety.
11. When the accused is a minor or married woman.
12. When insufficient bail has been taken.
13. When witnesses may be made to enter into recognizance for appearance.
14. Bail may surrender principal.
15. Magistrate to transmit to the clerk above documents relative to the accusation.
16. The names of all persons who have given bail, &c., to be called in open court, &c.
17. Witnesses may be arrested when.
18. At what time witnesses are to attend.

1. Bail, or the giving of bail, is the signing of the recognizance by the person and his surety or sureties, conditioned for the appearance of the prisoner at the session of a court of competent jurisdiction, to be named in the condition, and to abide the judgment of such court.

2. In all cases where the offense charged is not punishable with death, imprisonment for life, or for a term of years, exceeding ten, the accused shall be bailable, but in no others.

3. Bail may be taken by district and police justices before committing the accused to prison for trial, but after such commitment, no one but some judge of a court of record can let a prisoner to bail.

4. When bail is offered and taken the prisoner must be discharged from custody or imprisonment.

5. Where the offense is the illegal infliction of a wound, or any other injury, that may terminate in the death of the person injured, the magistrate or court cannot discharge the prisoner if it appear that there is a probability that death will ensue in consequence of such injury. In this case, the party must be committed for further examination, until the consequences of the injury can be ascertained.

6. The amount of bail rests in the discretion of the justice or judge ; but should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor. In all cases, the officer letting to bail should consider the punishment to be inflicted on conviction, and the pecuniary circumstances of the party accused.

7. Where the punishment of the offense is a pecuniary penalty only, the bail must be greater than the highest fine that can be imposed.

8. No person shall be received as a surety for the appearance of the party accused, who does not own or possess property either real or personal within this kingdom, to double the amount of the bail bond. And in case the officer taking the bail shall doubt the sufficiency of such surety, he may compel the surety either by his own oath, or otherwise to furnish proof of his sufficiency.

9. A single surety will be sufficient, if he possesses and owns unincumbered real property within this kingdom to double the amount for which he is bound, otherwise there must be two or more.

10. A woman cannot be received as surety.

11. When the person admitted to bail is a minor or married woman, the engagement shall, notwithstanding, be valid.

12. If owing to mistake or misrepresentation, insufficient bail has been taken, or if the sureties afterwards become insufficient, the accused may be ordered to find sufficient sureties by any magistrate, and on his refusal, he may be committed for trial.

13. In all cases where a magistrate shall either commit for trial, or bail the accused, he may cause each of the witnesses who has been examined and has testified to any material fact or circumstance in the case to enter into a recognizance, with or without surety at his discretion, in a sum fixed by the magistrate, conditioned for his appearance at the sitting of the court, at which the accused is bound or committed to appear. If a witness shall refuse to sign such recognizance when required, he may be committed to prison by the order of the magistrate, and shall be confined until he shall be brought before the court to testify or until he shall give the recognizance.

14. Those who may have become bail for any one, may at any time discharge themselves, by surrendering him to the custody of the marshal or sheriff of the island in which the court at which he was bound to appear shall sit.

15. The magistrate who shall make any commitment or let any person to bail, shall without any unnecessary delay, at the farthest within ten days, transmit to the clerk or presiding judge of the court, which has legal cognizance of the offense charged, all the complaints, depositions, bail bonds, bonds for the appearance of witnesses and other documents in his possession relative to the accusation.

16. The names of all persons who have given bail or have become bound by recognizance to appear in any court, shall be called in open court on the day they are respectively bound to appear, and if they fail to appear before the adjournment of the court, their default shall be entered, and such entry shall be evidence of the breach of their appearance bonds or recognizances.

17. Courts may also, on the motion of the public prosecutor, order the sheriff to arrest and bring before them any person who has been bound by recognizance or summoned to appear and give testimony and who has not attended at the time appointed, and when so arrested the said witnesses may be also fined in any sum not exceeding one hundred dollars for their neglect, and must remain in custody until they give their testimony and are discharged from farther attendance, or until they give such security as shall satisfy the court, for their appearance to testify.

18. Witnesses bound to appear, and persons let out on bail, must not only attend on the day appointed in their respective obligations, but at such other times as the court shall direct, and the obligation continues, until they are discharged by the court.

CHAPTER LII.

FINES.—COSTS.

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- SECTION 1.** When execution may issue for fine.
2. When fine is not paid, the offender to be committed to prison.
 3. Clerks, justices and other officers, to keep an account of fines, &c.
 4. Clerks and other officers neglecting to pay over fines, &c.
 5. Officers suffering offender to escape.
 6. Offender's property liable for costs.
 7. When costs are to be paid out of the treasury.

1. Whenever a fine is imposed by any court or magistrate, according to law, upon any person, and such fine shall not be paid within ten days after such imposition, or an appeal taken, where the trial is in a court not of record, the court or magistrate imposing such fine, may issue an execution for the same, to be levied upon the offender's property, real or personal.

2. When a fine is not paid immediately following the offender's conviction, he shall be committed to prison there to remain at hard labor or otherwise, in the discretion of the court or magistrate, until such fine is paid, or collected out of the offender's property as prescribed in the above section. Provided, however, that when any poor convict shall have been imprisoned for the space of one year for fine, or for fine and costs only, or for either of them, any two magistrates may order such convict to be brought before them for examination, and if upon enquiry, they shall be satisfied that he has not since his conviction, had any estate, real or personal, with which he could have paid the sum for which he stood committed, and that he is held for no other cause, they may direct the jailor, or other person having him in custody, to discharge such convict from prison.

3. Clerks of any court, district justices, and other officers, who shall receive any fines, forfeitures or costs, imposed or awarded by any court to the use of the government, shall keep a correct account of the same, with the names of the persons from whom the same are received, and the dates when they were received ; and shall pay over the same to the governors of their respective islands, except that, on the island of Oahu, all fines, forfeitures and costs shall be paid to the minister of finance ; and moreover, once in three months shall render an account of the same to said governors, or if on Oahu, to said minister of finance.

4. If any clerk or other officer shall neglect to make such payment, or render such account, it shall be deemed a sufficient cause of removal by the power appointing such officer, and the governor of the island or the minister of finance may sue for and recover of him, the amount of such fines, forfeitures and costs, with interest from the receiving the same at the rate of twenty per cent and the costs of suit.

5. If any officer having any person in his custody, by virtue of a sentence of court, for the payment of any sum as a fine, forfeiture or costs, shall voluntarily or negligently suffer such person to escape, he shall be deemed to have received such fine, forfeiture or costs at the time of the escape, and shall be held liable to pay over the same with interest and costs of suit, as provided in the preceding section.

6. Whenever a person shall be convicted of an offense under any provision of the penal code of this kingdom, his property shall be liable for the costs incurred in his prosecution, and the court or magistrate before whom he is tried may issue an execution therefor.

7. When such costs are not paid by the party prosecuted, or collected out of his property, they shall be paid out of the treasury of the kingdom, upon the order of the judge presiding at the trial.

CHAPTER LIII.

JURISDICTION OF POLICE COURTS AND DISTRICT JUSTICES IN CERTAIN CASES.

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- 2. Adultery, fornication, &c.
- 3. Larceny.
- 4. Embezzlement.
- 5. Receiving stolen goods.
- 6. Gross cheats.
- 7. Malicious injuries.
- 8. Cruelty to animals.
- 9. Felonious branding of cattle.
- 10. Furious and heedless riding, &c.
- 11. Obstructing and perverting the course of justice.
- 12. Affrays.
- 13. Drunkenness, blasphemy—profanity.
- 14. Disturbing religious worship—violating the sabbath.
- 15. Common nuisances.
- 16. Vagrants—Disorderly persons.
- 17. Gaming.
- 18. Disturbing the quiet of the night.
- 19. Suppression of drunkenness, &c.
- 20. Keeping disorderly house.

SECTION 2. How and when appeal may be taken.

- 3. Any jurisdiction of an offense gives jurisdiction of the offense of being accessory thereto.

1. The police courts of Honolulu, Lahaina and other towns, and also the district justices of the kingdom shall have jurisdiction for the prosecution, trial and sentence to punishment of any person charged with the following offenses, namely :

(1.) Any assault and battery coming under the ninth section of the ninth chapter, where the corporal injury is slight, and where the punishment is by fine not less than six nor more than one hundred dollars :

(2.) Adultery, fornication and all offenses mentioned in section four, five, six and seven of the thirteenth chapter :

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(3.) Larceny in the second, third and fourth degrees, as described in the second, third and fourth divisions of the fifteenth section of the sixteenth chapter :

(4.) Embezzlement when the amount embezzled is not alleged to exceed twenty dollars, as prescribed in the third section of the nineteenth chapter :

(5.) Receiving stolen goods, when the amount received is not alleged to equal or exceed the value of twenty dollars :

(6.) Gross cheats in the second degree :

(7.) Malicious injuries in the third degree :

(8.) Cruelty to animals :

(9.) Felonious branding of cattle :

(10.) Furious and heedless riding, driving, or conducting animals, or vehicles, and frightening animals, in all cases defined in the twenty-seventh chapter where the punishment prescribed is by fine not less than five dollars nor exceeding one hundred :

(11.) Obstructing and perverting the course of justice, in all cases mentioned in sections 2, 3, 4, 5, 9, 12, of the thirtieth chapter, where the punishment prescribed does not exceed imprisonment for one year and fine to the amount of one hundred dollars :

(12.) Affrays :

(13.) Drunkenness ; blasphemy ; profanity :

(14.) Disturbing religious worship ; violating the sabbath :

(15.) Common nuisances :

(16.) All offenses mentioned in the thirty-eighth chapter, entitled vagrants, disorderly persons :

(17.) Gaming :

(18.) Disturbing the quiet of the night.

(19.) All offenses mentioned in the forty-second chapter, relating to the suppression of drunkenness, &c.

(20.) Keeping a disorderly house.

2. In all the preceding cases, and in all other cases, tried before a police or district justice, the defendant by giving notice of appeal within ten days after trial, and within thirty days after such trial paying the costs accrued and depositing a good and sufficient bond in the penal sum of one hundred dollars, conditioned for the payment of the costs further to accrue in case he is found guilty or defeated in the court above, may take an appeal to the superior or any circuit court, and have a trial by jury.

3. Any court or magistrate having jurisdiction of any offense, has also like jurisdiction of the offense of being an accessory to such offense, either before or after the fact, and also of that of instigating another thereto, and also that of attempting the same.

CHAPTER LIV.

REWARDS TO SHERIFFS.—PREFECTS.—CONSTABLES AND OTHER
PROSECUTORS.

CONTENTS.

- SECTION 1.** One half the fines to go to sheriff or others in what cases.
2. When a person not an officer shall inform and prosecute.
 3. Special rewards in certain cases.
 4. Informer not to be admitted as a witness unless he first relinquish all claims to reward.

1. Where any person is convicted under this code of an offense within the jurisdiction of police and district courts, and sentenced to pay a fine, there shall be paid to the sheriff, prefect, constable, officer or other person, who shall inform against and prosecute such offender, one half of the amount of the fine which shall be actually paid by such convict : Provided, however, that in those cases where the constable or other officer is paid a salary for his services, the reward shall go to the marshal of the kingdom, in cases tried on the island of Oahu, and to the respective sheriffs, in cases tried on the other islands ; and further provided, that in all other cases where the constable or other officer receives no salary, he shall pay the one tenth of all rewards received by him, to the officer next above him.

2. Where a person not an officer shall inform and prosecute another for an offense under this code within the jurisdiction of any police or district court, and any constable or other officer shall arrest such offender and bring him to trial, one fourth of the fine actually paid by such offender shall go to the informer and prosecutor, and one fourth to the constable or officer making the arrest, unless he is a

salaryed officer, in which case, the one fourth shall go to the marshal and sheriffs as specified in the preceding section.

3. There shall be allowed and paid to the person who shall inform and prosecute in the cases hereafter mentioned in this section, the following rewards, that is to say ; the sum of fifty dollars for each person convicted and sentenced for the offense of counterfeiting any gold or silver coin, current by law or usage ; or for the offense of possessing with the intent to utter as true or of knowingly uttering as true any such counterfeit coin ; and the sum of one dollar for each person convicted and sentenced for the offense of being a vagrant under the provisions of the thirty-eighth chapter of this code.

4. No person who shall inform against and prosecute another for an offense in any case where he would be entitled to a reward under the provisions of the first section of this chapter, shall be admitted as a witness against the person prosecuted, unless he shall first relinquish all claim to any such reward : Provided always, that in cases of necessity, no such informer and prosecutor shall be excused from giving his evidence on account of his refusal to relinquish such claim ; but may be compelled so to do without having any claim to reward in case of conviction and sentence.

CHAPTER LV.

REPEAL OF LAWS FOR WHICH THIS CODE IS SUBSTITUTED.

CONTENTS.

- SECTION 1. Time when this code goes into operation, repeal of former laws.
2. Pending prosecutions.
 3. Code to be published in the Elele and Polynesian.

1. The provisions of this code shall take effect and go into operation from and after the first Monday of September, A. D. 1850, and from and after the said day, the fifth chapter, the fifth section of the ninth chapter, the eleventh, twelfth, thirteenth, fourteenth, seventeenth, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second and forty-sixth chapters of the "laws of the Hawaiian islands," the eighth section of the first chapter of an act entitled "an act to organise the judiciary department" and also all other statutes or laws of this kingdom, or parts of such statutes or laws repugnant to the provisions of this code shall be repealed: Provided, however, that such repeal shall not affect any offense committed or penalty or forfeiture incurred, under said repealed laws before the time when such repeal shall take effect, but such laws shall remain in full force and effect in respect to the liability of any person to be proceeded against, tried and punished for any offense so committed, or to suffer any penalty or forfeiture so incurred.

2. No prosecution or suit pending at the time of said repeal for any offense committed, or for the recovery of any penalty or forfeiture, incurred under any law hereby repealed shall be affected by

such repeal, except that the subsequent proceedings in any such suit or prosecution may, when necessary or convenient, be conformed to the provisions of this code.

3. This code shall be published in the Hawaiian and English languages, and in the Elele and Polynesian newspapers.

Done and passed at the Council House at Honolulu, this 21st day of June, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

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AN ACT

TO PROVIDE FOR THE BETTER SUPPORT AND GREATER EFFICIENCY OF THE PUBLIC SCHOOLS.

CONTENTS.

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 3. Minister of public instruction to dispose of said lands.
 4. How the avails of the lands are to be appropriated.
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 7. Sites for school and meeting houses to be reserved as government property.
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 11. When parents are to assist in supporting teachers, &c.
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25. Boys of good character, employed in useful labor, may be exempt from school tax.
26. Minister of public instruction to provide religious instruction for prisons.
27. Chaplains to report their labors to the minister of public instruction.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled, as follows :*

LANDS FOR THE SUPPORT OF SCHOOLS.

1. That there shall be set apart, certain lands amounting as nearly as can be ascertained, without actual measurement, to the one-twentieth part of all the lands now belonging to the government, not otherwise appropriated, for the general purposes of education.

2. It shall be the duty of the minister of public instruction, in consultation with the minister of the interior, to designate said lands, which designation when approved by the privy council, shall be valid.

3. The minister of public instruction shall be authorized to dispose of said lands for the purposes above mentioned, either by sale, lease, or otherwise, as in his judgment and that of the King's cabinet, shall best subserve the interests of education on the islands.

4. All moneys, and other avails of government lands, devoted to the support of schools, shall be kept as a separate fund, to be appropriated as hereinafter provided, from time to time, to the printing of school books, furnishing books and stationery to poor children, the erection of school houses, to defraying the expenses of school agents, furnishing premiums to the most deserving teachers or scholars, procuring agricultural implements, blackboards, or other apparatus for the schools ; aiding select and voluntary schools, or such other objects connected with the interests of education, as the minister of public instruction, in consultation with the King's cabinet, or with any other person or persons authorized by law to consult with him in such cases, shall deem proper. Provided, that the interest only, of all monies received from the sale of school lands shall be expended in promoting the interest of education on the islands : provid-

ed, also, that not less than one half of all the yearly net avails of lands devoted to the support of schools, shall be appropriated to the education of the masses.

5. No money or other avails of said lands shall be appropriated to any object, without the authorization, in writing, of the minister of public instruction, and at least two other members of the King's cabinet, and the order of the minister of public instruction, countersigned by any other two of the King's ministers, shall be a sufficient voucher to the auditor of finance, for the correct disbursement of said school funds.

6. All avails of lands, sold or leased as hereinbefore stated, shall be accounted for, by the minister of public instruction, in his annual returns to the minister of finance, on or before the 31st day of December of each year.

SCHOOL AND MEETING HOUSES.

7. All sites for school houses and houses for public worship, now occupied and in use, and not owned by private parties ; and all lands connected therewith, granted either by the government, or by individuals, chiefs or landlords, with a view to promote the interests of education or religion, shall be reserved as government property, devoted to the purposes above mentioned ; the amount of land reserved for such sites however not to exceed two acres in each case ; and in case the adjacent lands are sold or leased, such land shall not be included.

8. In all cases where the sites and school lands, mentioned in the above section, constitute a part of lands held in joint tenure by the government and individuals, they shall be regarded as making a part of the government portion, and shall be reserved in case the adjacent land is sold or leased by either party.

9. Where a site for a school house is needed, and the same cannot as well be located upon the government land, as upon that of a private individual, the school inspector of the district is authorized

to take a suitable lot, not exceeding one acre, as a site for a school house, on paying to the owner the value thereof; such value, in case of disagreement, to be determined by a jury of three men, to be chosen by the school inspector and the owner of the land. Said jury shall also have power to locate the school house in another place should they deem it more reasonable and proper. It shall be the duty of the minister of public instruction to have all the sites of school and meeting houses, referred to in the above sections and the land connected therewith, surveyed and registered in a book, to be deposited in his office, for the use of the King's government. The expense of such surveys shall be defrayed out of the avails of the school lands.

10. From and after the date of the publication of this act, it shall be the duty of the school inspectors to superintend, through the school trustees, the erection and repairing of all school houses for public schools in their respective districts, and each of said inspectors is authorized to draw on the treasurer or collector of his district for the necessary funds under general instructions from the minister of public instruction, reporting quarterly the amount thus expended, to said minister: and all other laws inconsistent with the provisions of this section are hereby repealed.

11. In case the funds arising from the present school tax are not sufficient to sustain the public schools in operation, at least two hundred days in the year, and also to keep the school houses in repair, it shall be the duty of the parents of the scholars attached to each school to make up the deficiency, by assisting in the support of the teachers, and the repairs of the school houses, as shall be directed by the school inspector and collector of the district.

THE SCHOOL TAX.

Whereas the labor tax, commonly called the *paahao*, or *poalua*, had been found inconvenient and burdensome, and has been much complained of by the people, therefore, be it enacted, as follows:

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166, 1,

(1.) That sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, of article 3, chapter II, part II, of an act to organize the executive departments,

on "internal taxes" excepting what relates to the labor days of the landlords in section 3, and all other acts, or parts of acts requiring the *paahao* or *poalua* tax of three days' labor in each month, for the benefit of schools, be and are hereby repealed; and that section 1, 2, 3, of joint resolutions passed October 12, 1846, are also hereby repealed: Provided, that this law shall still be in force upon all taxable male persons, who refuse or neglect to pay the school tax hereinafter imposed.

12. Each taxable male subject of His Majesty shall pay to the collector of the district in which he resides on or before the first day of January, of each year, the sum of two dollars for the exclusive support of common schools in that district: Provided, that in remote parts of the Islands, where money is difficult to be obtained, three dollars in produce or merchandise at the market price may be received in lieu of the two dollars in money; and provided, also, that this school tax may be paid quarterly in advance; that is to say, fifty cents at the commencement of each quarter, at the discretion of each individual.

13. In case the tax imposed by the above section, is not paid within the specified time, the collector of each district is authorized to require such delinquent to work at some productive employment, for the benefit of the schools, three days in each month, according to article 3, of chapter II, referred to in section 11 of this chapter, so long as he fails to pay his school tax, in money or produce as required in section 12.

14. The only persons exempted from the school tax are the following: all school inspectors properly commissioned, all school teachers duly authorized, all school trustees duly authorized, all persons exempted by law from taxation by reason of age, infirmity or any other cause, all missionaries and two servants to each missionary, all constables and soldiers.

15. In collecting the school tax, it shall be the duty of each collector to commence with the first day of January of each year. He shall pay over immediately to the school treasurer of the district all

money and other avails of the school tax, and account directly to the minister of finance at the close of each quarter for all the avails of the same, furnishing a copy of each quarterly account, to the school inspector of the district to be by him transmitted to the minister of public instruction.

16. It shall be the duty of the minister of public instruction to appoint responsible treasurers for the school funds of the several districts, in order to their safe keeping and proper application; which treasurer shall pay out said school funds on the orders of the school inspectors of their respective districts, and report quarterly to the minister of public instruction all funds that have passed through their hands, and of every such quarterly return, said minister shall pass a copy directly to the minister of finance.

GENERAL PROVISIONS.

17. All police magistrates and district justices, when applied to by parents, teachers, school trustees, or other persons, are authorized to have truant children, and all such as are required by law, to attend school, but who are found about the wharves, streets or public places during school hours, arrested and taken to their respective schools, there to be punished by their teachers according to law.

18. If such children shall persist in forsaking their schools, on a complaint being made before him, any police or district magistrate is authorized to have both the parents or guardians and children arrested, and inflict upon either of them or both, at his discretion, a fine not exceeding five dollars upon the parent or guardian, or one dollar upon the child.

19. Should any parent or guardian prefer to send his child or ward to a select school, supported by voluntary subscription, and feel in consequence of his poverty, that the school tax herein imposed, is too burdensome, the minister of public instruction shall have power to release him from said tax, so long as he continues to educate his children, on a certificate from the school inspector of his district, that he is unable to pay.

20. All school trustees declared by the inspectors of their districts to be faithful in the discharge of their duty, shall be entitled to a compensation out of the school money, to an amount not exceeding their chattle tax. But unfaithful trustees shall be entitled to no pay.

21. The governors of the several islands are hereby authorized to bind out under proper indentures, vicious children convicted of crime or misdemeanor, to persons of good character, who shall teach them the rudiments of knowledge, protect their morals, and teach them trades or useful employments, and become responsible for the payment of their fines within a specified time.

22. The scholars in the public schools shall be supplied by their parents, or guardians, with the books requisite for their success in their studies.

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23. In case any scholar shall not be furnished by his parent or guardian with the requisite books he may be supplied therewith by the school inspector of the district.

24. The school inspector shall inform the tax collector of the district of the names of the scholars thus supplied with books, and the amount expended for each, together with the name of the parents or guardians who should have supplied the same; and in case the inspector and collector shall be of opinion that any such parent or guardian is unable to pay the whole amount of the books so supplied on his account, they may omit to add the whole, or may add only a part thereof, to the annual tax of such parent or guardian; but should it appear evident to them, that he is fully able to pay the amount, then the collector shall add it to the amount of his tax for the next year.

25. Any boy of promise, between sixteen and twenty years of age, on presenting to the collector of the district in which he resides, a certificate from an agent appointed for the purpose, by the minister of public instruction, certifying to his good character, that he is regularly employed in useful labor, learning a good trade, or diligently

employed in the pursuit of knowledge, shall be free from the school tax.

26. The minister of public instruction, is hereby authorized to provide moral and religious instruction for the prisons throughout the islands ; to draw on the district justice, through the treasury department, for a sum not exceeding 12 1-2 cents per day for every twenty prisoners, in order to hire teachers or chaplains, for the above purposes : provided that in imparting such instruction, the rights of conscience shall be in all cases duly respected.

27. It shall be the duty of all teachers or chaplains of prisons to report their labors quarterly to the minister of public instruction, and to inform him fully in regard to the moral condition of the prisoners, and to fill such blanks as may be furnished them by him with this end in view.

28. This act shall take effect and be the law of the land on the 30th day after its publication in the Elele and Polynesian newspapers.

Done and passed at the Council House at Honolulu, July 9, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

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AN ACT

RESPECTING THE PILOTAGE TO BE LEVIED ON WHALE SHIPS.

CONTENTS.

- SECTION 1.** Whalers to pay the same pilotage as merchant vessels.
 2. Repeal of part of a resolution passed on the 15th June, 1847.
 3. Other privileges granted to whalers by said resolution, confirmed.

Whereas the exemption allowed to whale ships from all harbor dues and from duties on goods imported to a certain amount, with the abundance and cheapness of the supplies to be obtained in the ports of this kingdom, afford sufficient encouragement to induce them to frequent these ports : and whereas, the payments of pilots is a heavy burden upon the King's treasury, therefore,

BE IT ENACTED by the *House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. That from and after the date of the publication of this act in the ¹²⁴⁷Polynesian newspaper, all whale ships shall be subjected, on entering any of the ports of this kingdom, to the same charge for pilotage as common merchant vessels. _{76/1}

2. And be it further enacted, that sections III and IV of the joint ¹²⁴⁷resolution passed by the House of Nobles and Representatives on the 15th day of June, 1847, are hereby abolished, and declared void for all purposes declared therein. ₇₆

3. And be it further exacted, that all the other exemptions and

privileges granted to whale ships, in that joint resolution are hereby confirmed.

4. The minister of finance is hereby charged with the execution of this act.

Done and passed at the Council House, in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

363

AN ACT

GRANTING EXEMPTION FROM DUTIES, FOR THE ENCOURAGEMENT OF AGRICULTURE.

CONTENTS.

- SECTION 1.** Certain articles may be exempted from duties by an order in council.
2. How to obtain the exemption.
 3. Collector general may grant exemption in certain cases.
 4. Collector general to make returns of goods exempted under this act.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islnds, in Legislative Council assembled :*

1. His Majesty the King, may, by an order in council, by and with the advice of the board of finance, grant exemptions from duties on the following articles, viz :

On all seeds, roots and plants imported to be sown or planted on these islands :

2. On all plows, hoes and other implements of husbandry imported by any agriculturist or body of agriculturists for their own use :

On all steam engines, sugar mills, coffee mills and other machinery for the promotion and facilitating of agriculture, imported by any agriculturist or body of agriculturists for their own use :

On all horses, mares, bulls, cows, sheep, swine and other domestic animals, imported for the purpose of improving or extending the breeds of these animals within this kingdom.

2. In order to obtain the exemption set forth in the preceding section, the importers of all such articles shall make regular entry of the same at the custom house, as for other goods, with a petition for exemption from duties, which petition the collector general shall

transmit to the minister of finance, that it may be laid before His Majesty the King.

3. In cases of urgency, where an order in council cannot be waited for, the collector general of customs, with the consent of the commissioners of customs, may grant the exemption petitioned for, reporting the same to the board of finance.

4. It shall be the duty of the collector general of customs to preserve an account, and make returns, at the periods of making his usual returns as required by law, of the value, separately, of all such importations, distinguishing the countries whence they were made, and the name of the importers.

5. The minister of finance is hereby charged with the execution of this act, which shall take effect and become a law of the land from and after the date of its passage.

Done and passed at the council house, in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.
19

AN ACT

TO ABOLISH THE DISABILITIES OF ALIENS TO ACQUIRE AND
CONVEY LANDS IN FEE SIMPLE.

CONTENTS.

- SECTION 1.** Any resident alien may acquire land in fee simple, and convey the same by sale or otherwise.
2. When act takes effect—repeal of former laws.

Whereas, the development of the resources of the islands depends essentially upon their agriculture : And whereas, that agriculture requires the aid of foreign capital, skill and labor : And whereas, the King desires to encourage the introduction of foreign capital and labor to the utmost extent that His rights of sovereign jurisdiction and domain will allow, therefore :

BE IT ENACTED by the *House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

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1. That any alien, resident in the Hawaiian islands, may acquire and hold to himself, his heirs and assigns, a fee simple estate in any land of this kingdom, and may also convey the same by sale, gift, exchange, will or otherwise, to any Hawaiian subject, or to any alien, resident as aforesaid : Provided, always, that such alien, his heirs, executors, or administrators, shall in all cases of dispute in relation to his rights, title or interest in any land he may acquire in fee simple, or any part or parcel of said land, submit the same to the judicial tribunals of this kingdom, and abide by the final decision of those tribunals without seeking the intervention of any foreign nation or representative ; and in case he shall refuse so to do, his estate and all his right, title or interest therein shall cease and determine, and

the same shall be immediately forfeited and escheat to the Hawaiian government : And further provided, that no deed or other conveyance of land in fee simple to an alien shall be of any validity or effect, unless it contains a clause providing for such submission, forfeiture and escheat.

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2. This act shall take effect and become a law of the land from and after the day of its passage ; and all acts, or parts of acts, resolves or parts of resolves, as contravene the provisions of this act shall be and the same are hereby repealed.

Done and passed at the council house in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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363

AN ACT

TO EXTEND THE JURISDICTION OF THE SUPERIOR COURT AND OF POLICE JUSTICES OF HONOLULU AND LAHAINA.

CONTENTS.

- SECTION 1. Superior court to have concurrent jurisdiction with the circuit courts.
- 2. Where the police justices are parties to any suit.
- 3. Police justices to have the same powers as judges of the superior court or circuit judges, in certain cases.

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :

1853
 1. That the superior court of law and equity of the Hawaiian islands, shall have concurrent jurisdiction, with the several circuit courts of this kingdom, of all matters and controversies, civil, criminal or mixed.

2. That all matters and controversies civil and criminal to which either the police justice of Honolulu or the police justice of Lahaina is a party, now alone cognizable before the police court of Lahaina or the police court of Honolulu, shall be heard and determined by one of the judges of the superior court of law and equity, or one of the judges of the circuit courts of this kingdom, subject to an appeal as now provided in cases tried before the said police courts, and either one of whom, for that purpose, is hereby invested with all of the rights and duties heretofore alone granted to the said police courts.

3. That the police justices of Honolulu and Lahaina, respectively, shall be invested with all the rights and powers granted to a judge of the superior court or a local circuit judge, in the eighth section of the

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 An act 18th March 42
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first article, of the fourth chapter, of an act entitled "An act to organize the judiciary department," in all cases properly cognizable before the police courts of Lahaina and Honolulu, respectively.

Done and passed at the council house in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

TO PROVIDE FOR THE APPOINTMENT OF CLERKS FOR THE
CIRCUIT COURTS.

CONTENTS.

- SECTION 1.** Chief justice of the superior court to appoint clerks for circuit court.
2. Salaries to be fixed by the judges of the superior court.

BE IT ENACTED by the House of Nobles and Representatives of the
Hawaiian Islands, in Legislative Council assembled :

1. That the chief justice of the superior court of law and equity, shall appoint clerks for the several circuit courts of this kingdom, which clerks are hereby invested with all the necessary powers to carry out the provisions of the statutes granting jurisdiction to the several circuit courts, and required to perform all the duties imposed on the clerk of the superior court relating to the circuit courts, except those prescribed in section fifteen, article second, chapter third of an act entitled "An act to organize the judiciary department."

2. The amount of salary to be paid to the several clerks of the circuit courts appointed pursuant to the provisions of the preceding section, shall be regulated and fixed by the judges of the superior court of law and equity, and shall be paid by the minister of finance, after audit, at the royal exchequer.

Done and passed at the council house in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANI.

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AN ACT

RELATING TO THE REGISTER OF CONVEYANCES.

CONTENTS.

- SECTION 1.** Register of conveyances may appoint a deputy.
2. Register to make an entire literal copy of all instruments required to be recorded in his office.
3. All instruments hereafter recorded shall be deemed duly recorded.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. The register of conveyances of the Hawaiian Islands is hereby required to appoint in writing a deputy, who is hereby required to act as register of conveyances, during the absence or upon the decease of the register, provided his appointment has been announced in the Polynesian newspaper.

2. That from and after this act takes effect, the register of conveyances of the Hawaiian Islands is hereby required to make an entire literal copy of all instruments required to be recorded in his office, in books suitable for such purposes, which are to be provided by the minister of the interior, and at the foot of said transcript certify its correspondence with the original, after which he shall certify upon the exterior or endorse upon said registered instrument, the date of its registry, the book in his office in which and the page of said book at which it was registered.

3. All records of instruments heretofore made in the office of the register of conveyances, whether in the book required by law or otherwise, shall be deemed to have been duly recorded, and sec- 1846 246, 2.

tion second of chapter second, of part fifth of the second act of Kamehameha III is hereby repealed.

Done and passed at the Council House, in Honolulu, this 10th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

TO AMEND THE EXISTING LAW OF MARRIAGE.

CONTENTS.

SECTION 1. Repeal of former laws.

2. Time when this law takes effect.

Whereas, it is desirable that all unnecessary obstacles to marriage should be removed from the existing laws; therefore,

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :

1. That that portion of chapter 52 of "The laws of the Hawaiian Islands," which directs the withholding of licenses to marry from persons who are ignorant of reading, and that any other existing law or regulation which prevents persons from being allowed to marry, solely because they cannot read or write, be and the same are hereby abrogated and declared void.

2. That this law shall take effect from and after the day of its passage, and shall be published in the Elele and Polynesian newspapers.

Done and passed at the Council House at Honolulu, this 10th day of July A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT
TO PROHIBIT NATIVES FROM LEAVING THE ISLANDS.

CONTENTS.

- SECTION 1.** No native to leave the islands without permission of the governor.
2. This act does not relate to sailors, &c.
 3. Cases where the natives have previously received permission to leave the islands.

Whereas, by the census of the islands taken in 1849, the population decreased at the rate of 8 per cent. in 1848, and by the census taken in 1850, the population decreased at the rate of 5 1-7 per cent. in 1849 : Whereas, the want of labor is severely felt by planters and other agriculturists, whereby the price of provisions and other produce has been unprecedentedly enhanced to the great prejudice of the islands : Whereas, many natives have emigrated to California and there died, in great misery, and whereas, it is desirable to prevent such loss to the nation, and such wretchedness to individuals, therefore,

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :

1. That from the day of the publication hereof, no native subject of the King shall be allowed to emigrate to California, or other foreign country, unless for some urgent necessity, connected with his private interests, of which necessity, he or she shall give proof satisfactory to the governor of the island, to which he or she may belong, in which case, it shall be lawful for said governor to grant a letter to such person, stating that such person may obtain a passport to leave the kingdom.

2. Be it enacted, as aforesaid, that nothing in this act shall prevent the governors of islands from granting, as heretofore, under the bonds prescribed by law, permission to native sailors to embark in such foreign ships as may be in distress from want of men to prosecute their voyages, nor shall anything in this act prevent a family leaving the islands, from obtaining permission and a passport to take with them such native nurse or domestic servants as they may urgently require, they giving satisfactory bond for the return of each individual, as required in the case of native sailors embarked in foreign vessels.

3. And be it further enacted, as aforesaid, that in all cases where natives may have obtained permission to leave the islands, prior to the promulgation of this act, or previous to its becoming known on distant islands, and where such natives may have paid for their passages, it shall be lawful, on satisfactory proof thereof, to grant such natives passports allowing them to proceed.

The minister of the interior is charged to publish this act immediately, in Hawaiian and English in the Polynesian, and in Hawaiian in the Elele, and to transmit copies thereof by circular to the governors, collectors of customs, captains of ports and pilots of the respective islands.

Done and passed at the council house in Honolulu, this 2d day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

964

AN ACT
TO REGULATE THE CIRCULATION OF AMERICAN DIMES AND
HALF DIMES.

Whereas, large quantities of American dimes and half dimes exist in this kingdom, and much inconvenience is felt by the merchants and others, from their refusal, by parties ignorant of their value, therefore,

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

That the American dime is a current coin of this kingdom at the value of ten dimes for one dollar, and the half dimes, at the value of twenty half dimes for one dollar, and that dimes and half dimes, if tendered, are to be received at that value, in all payments not exceeding five dollars : and in all payments exceeding five dollars and not exceeding one hundred, in the proportion of ten for every hundred ; and in all payments exceeding one hundred and not exceeding one thousand dollars, in the proportion of eight for every hundred ; and in the proportion of five for every hundred for all payments exceeding one thousand dollars.

Done and passed at the council house in Honolulu, this 11th day of July, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

366

AN ACT

PROVIDING FOR THE SEMINARY AT LAHAINALUNA.

CONTENTS.

- SECTION** 1. Surrender of the seminary to the government confirmed.
2. Annual appropriation for the seminary.
3. Minister of public instruction to have the care of the seminary.
4. Trustees to be appointed to assist in its management.
5. How trustees may be removed.
6. Minister of public instruction to report on the seminary annually.

Whereas, an arrangement has been made between the Hawaiian government and the American board of commissioners for foreign missions, whereby the seminary of Lahainaluna, which cost that board over \$70,000, has been ceded to the King's government, on condition that the government undertakes its support; and whereas, it is desirable to have some institution, where young natives can be properly educated for various occupations, therefore,

1. *Be it enacted by the Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled,* that the arrangement whereby the seminary at Lahainaluna has been surrendered to the King's government, is hereby ratified and confirmed.

2. A sum not exceeding six thousand dollars be appropriated annually out of the public funds, for the support and improvement of that establishment.

3. The said seminary shall be under the care of the King's minister of public instruction; whose duty it shall be to appoint its teachers, and grant them a suitable compensation, out of the funds appropriated for the support of the said institution. He shall

also have the care of the buildings, premises and apparatus, and shall make rules and regulations from time to time for its instruction and government, provided that such rules and regulations do not conflict with the conditions on which that institution was ceded, nor with the laws of this kingdom.

4. The King's minister of public instruction shall be authorized to appoint, with the approbation of the King in council, three trustees, resident on these islands, to aid him in the care and management of this seminary; and it shall be his duty to consult with them on all important matters, relating to the interests of the institution, and their approbation in writing to any measure touching the interests of the school, shall justify the minister of public instruction in carrying it out, provided, that such measures do not conflict with any law of this kingdom.

5. The trustees aforesaid may be removed from office for sufficient cause, and their places filled at any time by the King in council, on motion of the minister of public instruction.

6. It shall be the duty of the minister of public instruction to include in his annual report before the legislature each year a particular statement in regard to said seminary at Lahainaluna. This act shall become a law of the kingdom on the day of its passage by the legislature.

Done and passed at the council house in Honolulu, this 11th day of July, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

364

AN ACT

OPENING THE PORTS OF HILO, KAWAIHAE AND KEALAKEKUA ON THE ISLAND OF HAWAII, AND OF WAIMEA ON THE ISLAND OF KAUI, TO FOREIGN COMMERCE.

CONTENTS.

- SECTION 1. The ports of Hilo, Kawaihae, Kealakekua, on Hawaii, and Waimea on Kauai, opened as ports of entry for foreign vessels.
2. Collector general to appoint collectors for each of the above ports.
 3. Police regulations to be enforced in each of the above ports.
 4. When this act takes effect.

Whereas, the foreign commerce of the islands has greatly increased ; and whereas, it is just that all the printipal islands should enjoy equal facilities of foreign and internal commerce, therefore,

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

1. That the ports of Hilo, Kawaihae and Kealakekua on the island of Hawaii, and the port of Waimea on the island of Kauai, shall be open as ports of entry and departure, to all foreign vessels, as free as the port of Honolulu on Oahu, and the port of Lahaina on Maui, which, heretofore have been the only lawful ports of entry and departure for foreign vessels : Provided, that no such foreign vessel shall engage in the coasting trade of this kingdom.

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2. The collector general of customs shall appoint a collector for each of the above named ports, who shall perform his duties, and make the returns as required by law ; and each collector shall account to the royal exchequer through the collector general.

3. So far as local circumstances will permit, the port and police regulations in force in the port of Honolulu, shall be equally applicable to each of the ports above named.

4. The minister of finance is hereby charged with the execution of this act, which shall take effect from and after the date of its publication in the Polynesian newspaper.

Done and passed at the council house in Honolulu, this 16th day of July, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

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366

AN ACT

TO REGULATE THE ELECTION OF REPRESENTATIVES OF THE
PEOPLE.

CONTENTS.

- SECTION 1. Election to be held on the first Monday in January.
2. Who are to constitute a board of inspectors for each district.
 3. Clerks to be appointed.
 4. Polls to be opened at eight A. M. and closed at five P. M.
 5. Electors to vote by ballot.
 6. Form of ballot prescribed.
 7. Ballots to be put in a box.
 8. Inspectors to count the ballots.
 9. Inspectors to give certificate to the person elected.
 10. When an election may be declared void.
 11. Who are entitled to vote.
 12. Challenging.
 13. Oath to be offered to challenged person.
 14. Rejection of votes.
 15. No civil process to be served on a voter on the day of election.
 16. Inspectors who are guilty of fraud.
 17. Bribing or threatening a voter.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. That the elections for representatives of the people to sit in the legislative council, shall be held in all the districts throughout the kingdom, on the first Moaday of the month of January, every year, at such places as shall be designated by the sheriffs of the respective islands.

2. The elections shall take place in the presence of the district

justices, the tax collector, and the school inspector of the district, or in their absence, of agents appointed by them for that purpose, who shall constitute a board of inspectors to conduct the election and decide on the qualifications of voters. The district justice who has been longest in office, or his agent shall be chairman of said board.

3. The board of inspectors in each district respectively, shall appoint one or more clerks, whose duty it shall be under oath, to be administered to them by the chairman, to record truly the names of all persons who vote at the election.

4. The polls shall be opened, and proclamation made thereof, at eight o'clock in the morning on the day of election, and shall be kept open until five o'clock in the afternoon, and no longer.

5. The electors shall vote by ballot, and each person offering to vote, shall deliver his ballot, so folded as to conceal its contents, to one of the inspectors, in the presence of the others.

6. The ballot shall be a paper ticket, which shall contain, written or printed, or partly written and partly printed, the name or names of the person or persons for whom the elector votes.

7. The inspector who receives the ballot from the hands of the elector, shall put the same immediately into a box to be provided by the inspectors for that purpose, at each place of polling, and the ballots shall not be removed from such box until the same are taken out to be counted by the inspectors.

8. After the close of the polls, the inspectors shall proceed without unnecessary delay to count the number of votes given for the different candidates respectively, and all persons who choose to attend at such counting of votes, shall be at liberty to do so.

9. When the inspectors have ascertained correctly the number of votes, given for each candidate respectively, they shall declare who has received the most, and shall deliver to him a certificate in the following form, viz :

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21,1

" We, the undersigned, inspectors of election for the district of _____, island of _____, do hereby certify that _____, was duly elected representative for said district, on the _____ day of _____, and that he had _____ votes more than any other candidate.

Given unders our hands and seals at _____ island of _____
this _____ day of _____

10. A petition to the legislature signed by fifty or more of the voters of any district, setting forth that the person chosen as representative for that district, has been elected through bribery, or any other unfair means, or that he is not qualified according to law, shall be sufficient ground for the legislature to institute an inquiry as to the truth of the charges in said petition, and if they find the charges to be true, they shall immediately declare his election null and void, and the electors of such district may proceed to choose another person. 121

11. Every male subject of His Majesty, whether native or naturalized, and every denizen of the kingdom, who shall have attained the full age of twenty years, and who shall have resided on these islands for one year immediately preceding the time of election, shall be entitled to one vote for a representative of the district in which he resides : Provided, that no insane person, nor any person who shall at any time have been convicted of an infamous crime, within this kingdom, unless he shall have been pardoned by the King, and by the terms of such pardon restored to all the rights of a subject, shall be allowed to vote. 1846
59.14
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15.78

12. If any person offering to vote shall be challenged as unqualified, by an inspector, or by any other person, entitled to vote at the same poll, the board of inspectors shall declare to the person so challenged the qualifications of an elector.

13. If he shall state himself to be duly qualified, and the challenge shall not be withdrawn, the chairman of inspectors shall tender to him the following oath: " You do swear that you are a subject, (or a denizen) of this kingdom, of the age of twenty years or more, and that you have resided on these Hawaiian Islands for the last year immediately preceding this election."

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14. If any person shall refuse to take the oath so tendered, his vote shall be rejected.

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15. No civil process shall be served in any district of this kingdom, on any person entitled to vote therein, on the day of election for representatives.

16. If any district justice, tax collector, or school inspector, who acts as an inspector at the election for representatives, shall be proved before the governor of the island to have been guilty of fraud or unfair dealing at such election, he shall be immediately deprived of his office, and disqualified from holding any office under the government for five years.

17. If any person shall by bribing another with money or promise of reward, or by using threatening language towards him, induce him to vote for a particular person for whom he otherwise would not have voted, such person so bribing or threatening shall be fined, on conviction before a police or district justice, in the sum of fifty dollars, to be appropriated to the benefit of schools.

18. The minister of the interior is hereby charged with the execution of this act, which shall be published in the Elele and Polyneesian newspapers, he shall also cause five hundred copies in the Hawaiian language and one hundred copies in the English language, to be printed and circulated throughout the kingdom.

Done and passed at the council house in Honolulu, this 30th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

364

AN ACT

TO INCREASE THE NUMBER OF THE REPRESENTATIVES OF
THE PEOPLE IN THE LEGISLATIVE COUNCIL.

SECTION 1. Number of representatives increased to twenty-four.

2. Who are eligible for representatives.
3. Pay and mileage of representatives.
4. Oath of representatives.
5. Ministers entitled to seats in the house of nobles.
6. House to be open to the public.

Whereas, the constitution provides for an increase in the number of the representatives of the people : and whereas, it is proper that His Majesty's subjects of every class, and all the various interests of the nation should be fully represented in the legislature, therefore :

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled ;*

1. That in future the number of the representatives of the people in the legislative council, shall be as follows, viz :

For the island of Hawaii, six ; that is to say :

One for the district of Kona :

One for the district of Kau :

One for the district of Puna :

One for the district of Hilo :

One for the district of Hamakua :

One for the district of Kohala :

For the Island of Maui, five : that is to say :

One for the district of Lahaina, Oloalu, Ukumehame and Kahoolawe :

- One for the district of Kabakuloa, and Kaanapali :
- One from Waihee to Honouala :
- One from Kahihinui to Koolau : one from Hamakualoa to Kula :
- For the island of Molokai one : for the island of Lanai one :
- For the island of Oahu six : that is to say :
- Two from Maunaloa to Moanalua :
- One for the district of Ewa and Waianae :
- One for the district of Waialua :
- One for the district of Koolauloa :
- One for the district of Koolaupoko :
- For the islands of Kauai and Niihau, five : that is to say :
- One for the island of Niihau :
- One from Nualolo to Hanapepe :
- One from Wahiawa to Kipu :
- One for the district of Puna :
- One from Anahola to Awaawapuhi.


2. The following persons shall be eligible for representatives of the people, viz : Every male subject of His Majesty, and every denizen of the kingdom, who shall have arrived at the full age of twenty-five years, and who shall know how to read and write, who shall understand accounts, and who shall have resided in the kingdom at least one year : Provided, he shall not at the time be under indictment or prosecution for any crime or misdemeanor.

3. Every representative shall be allowed three dollars out of His Majesty's treasury, for every day of his attendance in the legislative council, and five cents per mile, calculating by the most direct route, to pay his expenses in going to Honolulu to attend the council, and in returning from it, after the session is over : Provided, that no representative shall be entitled to receive pay for any day on which he is absent from the council, unless such absence be occasioned by his illness.

4. Every representative shall before being admitted to take his seat in the legislative council, take and subscribe the following

oath, viz : " I , elected and declared representative for the district of , island of , most solemnly declare and swear, in the presence of Almighty God, that I will faithfully support the constitution and laws of the Hawaiian Islands, and conscientiously discharge my duty as a representative," which oath, after being subscribed by the party, shall be filed by the clerk of the house.

5. All His Majesty's ministers shall be entitled to seats, and votes in the house of nobles; but when the business of their departments requires their absence, they shall be excused from attendance, unless specially required to render explanations or accounts, which may be called for at any time by a vote of either house, so far as may consist with the King's honor and the good of the public service.

6. The sessions of the legislative council, so soon as they are regularly opened for business, shall be opened to the public : Provided, that any person creating a noise or disturbance, shall be considered guilty of a high contempt, and shall be immediately committed to prison, there to remain during the King's pleasure : and further provided, that the presiding officer may at any time order all strangers to withdraw when the public welfare shall require secrecy. 

7. The minister of the interior is hereby charged with the execution of this act, and he shall cause it to be published in the Elele and Polynesian newspapers, he shall also cause five hundred copies in the Hawaiian language, and one hundred copies in the English language, to be printed and circulated throughout the kingdom.

Done and passed at the council house in Honolulu, this 30th day of July, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

263

AN ACT
 ABOLISHING THE PAYMENT OF TAXES IN PRODUCE.

CONTENTS.

- SECTION 1. Amendment of former laws relating to collection of taxes in produce.
 2. When this act takes effect.

Whereas, the currency throughout the kingdom is now sufficiently extended to enable all to pay the taxes imposed by law, in current coin of this kingdom. And, whereas, it has been found by experience that the payment of taxes in produce has led to divers abuses, and much loss to the King's revenue, without benefitting the producers themselves, therefore :

BE IT ENACTED by the *House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. That all existing laws, rules and enactments, relating to the payment and receipt of any of the King's taxes, in produce or goods or otherwise than in current coin of this kingdom, shall be, and the same are hereby abolished, and that in future all persons liable to taxes of any kind or denomination, shall pay the amount or amounts that may be due for such taxes, only in current coin of this kingdom : Provided, that nothing contained in this act shall apply to the labor tax, which shall continue to be collected as at present : and provided, that nothing in this act shall render it unlawful to distrain and sell so much of the produce, goods or hereditaments of any defaulter in the payment of taxes, as may suffice to make good to the treasury, the full amount for which such person may be in default at the time.

2. This act shall take effect from and after the date of its publication in the Elele newspaper, and the minister of finance is hereby charged with its circulation and execution.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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364

AN ACT
FOR THE GOVERNMENT OF MASTERS AND SERVANTS.

CONTENTS.

- SECTION** 1. Different kinds of servants designated.
2. Minors may be bound as apprentices, and by whom.
3. No minor to be bound as apprentice except by a contract of two parts.
4. Nature of contract.
5. Age to be inserted in contract.
6. Apprentice to receive all considerations for his labor.
7. Persons executing the contract with the master to have a supervision of the minor during apprenticeship.
8. Liability of master for violation of contract.
9. Judgment to be rendered against master for violation of contract.
10. In case complaint is made by such minor without ground.
11. Liabilities of master.
12. 13. By whom and when action may be brought against master.
14. When minor may be discharged from apprenticeship.
15. In case apprentice departs from service of master without just cause.
16. Justice's warrant sufficient authority to convey apprentice to masters residence.
17. Costs, how to be paid.
18. Master may make complaint for gross misbehavior of apprentice or servant.
19. How the case is to be determined.
20. No contract to be binding after death of master.
21. Contract of apprenticeship may be made either with a woman or man.
22. Any person, of the age of twenty years, may bind himself.
23. Engagements contracted in a foreign country.
24. Any person lawfully bound, and absenting himself from master, may be arrested on a warrant of district justice.
25. In case such person refuse to fulfil his contract.
26. Person so refusing may be arrested on warrant, and returned to master.
27. Costs, by whom to be paid.
28. In case of cruelty by master.

29. No contract to be binding after death of master.

30. Action for damages may be instituted by either master or servant.

31. When this act takes effect.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

1. There are two kinds of servants in this kingdom, viz :

(1.) Apprentices, that is, those engaged to serve any one in order to learn some art, trade, profession, or other employment.

(2.) Those who engage to serve by the day, week, month, year or other fixed time, in consideration of certain wages.

2. All minors above the age of ten years, may be bound as apprentices or servants, if females, to the age of eighteen years, or to the time of their marriage within that age, and if males, to the age of twenty years, in the manner following :

(1.) By the father of such minor : if he be dead, or be incompetent so to do from lunacy, idiocy, habitual drunkenness or other cause, or if he shall have abandoned and neglected to provide for his family, then,

(2.) By the mother : if the mother be dead, or incompetent, or if she refuse, then,

(3.) By the guardian of such minor, duly appointed. If such minor have no parent living, or none competent to bind or apprentice him or her, and there be no guardian, then,

(4.) By the governor of the island in which such minor shall reside.

3. No minor shall be bound as aforesaid unless by a contract of two parts, signed and delivered by both parties ; and one part shall be kept for the use of the minor by his father, mother, guardian or the governor.

4. Every contract for the binding out of any minor as aforesaid, shall contain an agreement on the part of the person to whom such minor shall be bound, that he will cause such minor to be instructed to read and write, and if a male, will cause him to be further instructed in the general rules of arithmetic.

5. The age of every minor shall be inserted in the contract, and shall be taken to be the true age, without further proof thereof.

6. All considerations of money or other things, paid or allowed by the master, upon any contract of apprenticeship, made in pursuance of the foregoing provisions of this act, shall be paid or secured to the sole use of the minor thereby bound.

7. Parents, guardians, and the governors of the respective islands shall enquire into the treatment of minors bound by them respectively, and of all who shall have been bound by their predecessors in office, and defend them from all cruelty, neglect, misuseage, or breach of contract, on the part of their master.

8. If any master shall be guilty of any cruelty, misuseage, or violation of the terms of the contract, towards any minor so bound, a complaint may be made by the father, mother, guardian, governor or minor, to any local circuit or district justice of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

9. After a full hearing of the parties, or of the complainant, if the master shall neglect to appear after being duly notified, the magistrate, in case the complaint is sustained, may render a judgment that the minor be discharged from his apprenticeship, and for the costs of the suit against the master, and may issue execution accordingly.

10. If it shall appear that the complaint was made without any just or reasonable cause, the magistrate may award costs for the master against the complainant, and issue execution accordingly.

11. Every master shall moreover be liable, whether such complaint be filed or not, to an action on the contract, for the breach of any covenant on his part therein contained, and all damages recovered in such action shall be the property of the minor.

12. Such action may be brought either by the parent, guardian or governor or their successors in the trust of the minor, or by the minor himself, after the expiration of the term of apprenticeship or service.

13. No such action shall be maintained unless it be commenced during the term of apprenticeship or service, or within two years after the expiration thereof.

14. If judgment in such action, brought during the term of service or apprenticeship, shall be rendered in favor of the plaintiff, the magistrate may upon motion of the plaintiff may discharge the minor from his apprenticeship or service.

15. If any apprentice or servant bound as aforesaid shall, without just cause, depart from the service of his master, any district or police justice of the kingdom, upon complaint made under oath by the master, or by any one on his behalf, may issue a warrant to apprehend the apprentice or servant and bring him before the said justice ; and if the complaint shall be supported, the justice shall order the offender to be restored to his master, and he shall be compelled to serve double the time of his absence, unless he shall make satisfaction for the loss and injury sustained by such absence : Provided, however, that such additional term of service shall not extend beyond one year next after the end of the original term of service.

16. The justice's warrant when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be on any other island in the kingdom.

17. All the costs incurred in any such process against a servant or apprentice, shall be paid, in the first instance by the complainant, and if the complaint shall be supported, the master may recover the amount of such costs in an action against the minor, after he shall arrive at full age.

18. If any such apprentice or servant shall be guilty of any gross misbehavior, or refusal to do his duty, or wilful neglect thereof, his master may make complaint thereof to any local circuit or district justice of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint.

19. After a full hearing of the parties, or of the complainant alone, if the adverse parties neglect to appear after being duly notified, the magistrate, in case the complaint is sustained, may render a judgment that the master be discharged from the contract of apprenticeship or service and for the cost of the suit ; such costs to be recovered of the parent or guardian of the minor, if there be one who executed the contract, and execution therefor may be issued accordingly : and if there be no parent or guardian liable for such costs, the amount thereof may be recovered in an action against the minor, after he shall have arrived at full age.

20. No contract of apprenticeship or service made in pursuance of the foregoing provisions of this act, shall bind the minor after the death of his master, but the apprenticeship or service shall be thenceforth discharged, and the minor may be bound out anew.

21. Any contract of apprenticeship or service made in pursuance of the foregoing provisions of this act, on behalf of a minor, may be made either with a woman or a man, and all the foregoing provisions shall apply as well to mistresses as to masters.

22. Any person who has attained the age of twenty years, may bind himself or herself, by written contract to serve another in any art, trade, profession, or other employment, for any term not exceeding five years.

23. All engagements of service contracted in a foreign country to be executed in this, unless the same be in contravention of the laws of this, shall be binding here : Provided, however, that all such engagements made for a longer period than ten years, shall be reduced to that limit, to count from the day of the arrival of the person bound in this kingdom.

24. If any person lawfully bound to service, shall wilfully absent himself from such service, without the leave of his master, any district or police justice of the kingdom 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 justice ; and if the complaint shall be sustained, the justice shall order such offender to be restored to his master, and he shall be compelled to serve double the time of his absence, unless he shall make satisfaction to the master for the loss and injury sustained by such absence : Provided, always, that such additional term of service shall not extend beyond one year next after the end of the original term of service.

25. 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 or police justice, 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.

26. The justice's warrant or order, mentioned in the twenty-fourth section of this act, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be in any other island in the kingdom.

27. All the costs incurred in any process against a servant under either the twenty-fourth or twenty-fifth sections of this act shall be paid in the first instance by the complainant ; and if the complaint shall be sustained the master shall have judgment and execution therefor against the offending servant.

28. If any master shall be guilty of any cruelty, misusage or violation of any of the terms of the contract, towards any person bound to service either under the twenty-second or twenty-third sections of this act, such person may make complaint to any district or police justice, who shall summon the parties before him, examine into, hear and determine the complaint ; and if the complaint shall be sustained, such person shall be discharged from all obligations of service, and the master shall be fined in a sum, not less than five nor exceeding one hundred dollars, and in default of the payment thereof, be imprisoned at hard labor until the same is paid.

29. No contract of service made in pursuance of the twenty-second or twenty-third sections of this act, shall bind the servant after the death of his master: Provided, however, that where servants shall be so bound by any company of individuals, the death of any one partner or the change of partners in such company, shall not operate to release such servant from the terms of his contract.

30. Nothing in this act contained shall be construed to destroy the right of civil action for damages by the master or servant for breach of contract.

31. This act shall take effect from and after the day of its publication in the Polynesian and Elele newspapers.

Done and passed at the council house in Honolulu, this 21st day of June, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

UPON THE SUBJECT OF DIPLOMATIC PRIVILEGES AND EXEMPTIONS.

CONTENTS.

- SECTION 1. Privileges and immunities to be enjoyed by foreign representatives or diplomatic agents.
2. Duty of minister of foreign relations in reference thereto.
 3. Exemption from duty of goods imported by foreign representatives, prescribed.

Whereas, troublesome questions have arisen with some of the agents of foreign nations, in regard to their privileges, and immunities, in this kingdom, and whereas, such personal questions beget ill feeling, and disturb the harmony of the King's relations with other states, therefore :

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. That from the date of the publication hereof, every representative, or diplomatic agent, of any foreign state, shall enjoy all the privileges, and immunities, that in that foreign state, would be allowed to a representative, or diplomatic agent, of the King, of the same rank, and accredited in the same manner.

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2. That the minister of foreign relations, shall ascertain, officially, of every foreign agent, at this court, what privileges, immunities, and exemptions, the state which he represents, would allow to a Hawaiian agent of similar rank and similarly accredited, and that on receipt of such information, to his satisfaction, he pass officially, a copy

to the ministers of finance, and of the interior, that they may instruct the King's collectors of customs, and tax gatherers, accordingly.

3. That it shall not be lawful for the King's collector general, and collectors of customs, or tax gatherers, hereafter to allow to any foreign representative, or diplomatic agent, any exemption whatever, for goods imported for the use of such agent, except in accordance with the express instructions provided for in the second section of this act.

4. All previous enactments, contrary to the express provisions of this act, are hereby repealed.

The minister of foreign relations is charged to have this act immediately published in Hawaiian, and English in the Polynesian, in Hawaiian in the Elele, and circulated among the agents of foreign nations residing at our court.

Done and passed at the council house in Honolulu, this 11th day of July, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

304

AN ACT

AMENDING THE LAWS RESPECTING HARBOR DUES.

CONTENTS.

- SECTION 1. Tonnage dues to be paid by foreign and Hawaiian vessels specified.
 2. In what case this act is not applicable.
 3. When this act takes effect.

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :

1. All foreign vessels, and all Hawaiian vessels engaged in any voyage between the Hawaiian islands and any foreign country, shall be alike subject to the following dues, viz :

Twenty cents per ton, register, for anchorage within the harbor of Honolulu whenever the vessel lands and takes on board goods ; or tranships goods ; or lands or takes on board more than two passengers ; and ten cents per ton, register, whenever the vessel does not land or take on board goods, or tranship goods, or land or take on board more than two passengers.

Five cents per ton, register, for anchorage in the outer roads of Honolulu, whenever the vessel lands or takes on board goods ; or tranships goods ; or lands or takes on board more than two passengers :

Two dollars for benefit of buoys, for every such vessel anchoring within the harbor of Honolulu, and for every such vessel anchoring in the outer roads thereof and sending any boat or boats within the harbor :

Five cents per ton, register, for anchorage in the harbor or road of Lahaina ; and one dollar for benefit of lights for every such vessel.

Five cents per ton, register, for anchorage in the harbor of Hilo.

Five cents per ton, register, for anchorage in the port of Kawaihae, or Kealakekua.

Five cents per ton, register, for anchorage in the port of Waimea.

2. Nothing in this act contained shall be construed as applying to whaling vessels, vessels of war, steam vessels engaged in carrying mails or passengers and not discharging or taking on board any cargo, and vessels forced by stress of weather or other cause into any port of this kingdom, if the motives which led to their seeking refuge be real and evident, and if no cargo be discharged or taken on board, save such as may relate to the subsistence of the crew, or be necessary for the repair of the vessels, and if they do not stay in port beyond the time necessary, keeping in view the cause which led to their seeking refuge.

3. This act shall take effect and become a law of the land from and after the date of its publication in the Polynesian newspaper.

Done and passed at the council house in Honolulu, this 16th day of July, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

304

AN ACT

TO REGULATE THE DESCENT OF PROPERTY BOTH REAL AND
PERSONAL.
CONTENTS.

- SECTION 1.** Intestate's property to be divided among his heirs.
2. 3. 4. How property shall be divided among heirs of different degrees of kindred.
 5. If intestate leaves no kindred, his estate shall escheat to the government.
 6. Illegitimate child is an heir to his mother.
 7. Where an illegitimate person dies intestate.
 8. Kindred of the half blood.
 9. Eldest child may purchase the portions of the others in real estate.
 10. Posthumous children.
 11. 12. 13. Advancement by way of settlement or portion.
 14. Maintaining and educating a child, is not an advancement.
 15. Actual possession of the property by intestate not requisite.

BE IT ENACTED by the *House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

1. That whenever any person shall die intestate, within this kingdom, his property both real and personal, of every kind and description, shall descend to and be divided among his heirs as hereinafter prescribed.

2. The property shall be divided equally among the intestate's children, and the issue of any deceased child by right of representation ; and if there is no child of the intestate living at his death, his estate shall descend to all his other lineal descendants ; and if all the said descendants are in the same degree of kindred to the intestate, they shall share the estate *per capita*, that is, equally ; otherwise, they shall inherit *per stirpes*, that is, by each of the children taking a share,

and the grand-children, the children of a deceased child taking a share, to be afterwards divided among themselves equally : as, for example, if A. dies leaving P. and E. sons, and K. a daughter, then the estate will be divided equally between the three children, they being all of one degree of kindred to the intestate ; or, if A dies leaving no children, but leaving P. E. and K. grand-children, then the estate will be divided equally between these three, they being all of one degree of kindred to the intestate : again, if A. dies leaving P. a son, and K. and I. the children of his deceased child E. then P will inherit one half of the estate and K. and I. will take the other half between them, that being the share to which their father E. would have been entitled had he been living :

If the intestate shall leave no issue his estate shall descend one half to his widow, and the other half to his father and mother as tenants in common ; and if he leave no widow, nor issue, the whole shall descend to his father and mother, or to either of them if only one be alive :

If he shall leave no issue, nor father, nor mother, his estate shall descend one half to his widow, and the other half to his brothers and sisters, and to the children of any deceased brother or sister by right of representation :

If he shall leave no issue, nor father or mother, and no brother or sister, his estate shall descend one half to his widow, if any, and one half to the brothers and sisters of his father and mother, and to their children by right of representation ; and if he leave no widow, then such collateral heirs shall inherit the whole estate : Provided, always, that if the estate come through either parent, the brothers and sisters of that parent shall be preferred to the others :

If the intestate shall have been married and leave no kindred but a widow, then she shall inherit all his estate ; and if the intestate be a woman and leave no kindred but her husband, then he shall inherit all her estate.

3. If the intestate shall die leaving several children, or leaving one child and the issue of one or more others, and any such surviving child shall die under age and not having been married, all the estate,

that came to the deceased child by inheritance from such deceased parent, shall descend in equal shares to the other children of the same parent, and to the issue of any such other children, who shall have died, by right of representation.

4. If at the death of such child who shall die under age, and not having been married, all the other children of his said parent shall be also dead, and any of them shall have left issue, the estate that came to such child by inheritance from his said parent, shall descend to all the issue of the other children of the same parent : and if all the said issue are in the same degree of kindred to the said child, they shall share the said estate equally ; otherwise they shall take according to the right of representation.

5. If the intestate leave no kindred, his estate shall escheat to the Hawaiian government.

6. Every illegitimate child shall be considered as an heir of his mother, and shall inherit her estate, in whole or in part, as the case may be, in like manner as if he had been born in lawful wedlock.

7. If any illegitimate person shall die intestate, without leaving lawful issue, or a widow, his estate shall descend to his mother : but if he leave a widow, she shall inherit one half and his mother the other half, and if his mother be not living but his widow is, then his widow shall take the whole ; otherwise, his estate shall escheat to the Hawaiian government.

8. The kindred of the half blood shall inherit equally with those of the whole blood in the same degree : Provided, however, that where the inheritance came to the intestate by descent, devise or gift of some one of his ancestors, all those who are not of the blood of such ancestor, shall be excluded from such inheritance.

9. When any part of the property left by the intestate consists of real estate, and the same is to be divided among several children, then the eldest child may, after the property has been duly appraised by a court of probate, elect to pay to the others the amount of their

shares in money, in order that the land may not be divided; and the same rule shall apply where a part of the claimants are the children, and the rest are the issue of deceased children of the intestate.

10. Posthumous children shall, in all cases, inherit the same as if they had been born during their father's life time.

11. If any child of an intestate shall have been advanced by him, by settlement or portion of real or personal estate, or of both of them, the value thereof shall be reckoned for the purposes of this section only, as part of the real and personal estate of such intestate, descendible to his heirs, and to be distributed to his next of kin, according to law. And if such advancement be equal or superior to the amount of the share which such child would be entitled to receive, of the real and personal estate of the deceased, as above reckoned, then such child and his descendants shall be excluded from any share in the real and personal estate of the intestate.

12. But if such advancement be not equal to such share, such child and his descendants shall be entitled to receive so much only, of the personal estate, and to inherit so much only of the real estate of the intestate, as shall be sufficient to make all the shares of the children in such real and personal estate and advancement, to be equal as near as can be estimated.

13. The value of any real or personal estate so advanced, shall be deemed to be that, if any, which was acknowledged by the child by an instrument in writing; otherwise such value shall be estimated according to the worth of the property when given.

14. The maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life, shall not be deemed an advancement.

15. It shall not be requisite that the intestate shall have been in actual possession of the property; it is sufficient if he had a good claim to it at the time of his death.

16. The word "issue," as used in this act, includes all the lawful lineal descendants of the ancestor.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KEONI ANA.

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KAMEHAMEHA.

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AN ACT

RELATING TO THE ENLISTMENT OF NATIVE SAILORS.

CONTENTS.

SECTION 1. Alteration of master's bond.

2. Masters to pay certain sum to the governor.
3. Sailors freed from taxes during their absence from the kingdom.
4. Sailors to pay none of the expenses of shipping.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

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1. That the following words contained in the bond required of the master of a vessel at the shipment of native sailors, the form of which bond is prescribed in section 3, article 3, chapter 4, of part first of the "Act to organize the executive departments," viz : "and shall pay to said governor out of the wages of said seaman, the sum of fifty cents per month for the whole term of their service respectively," shall be and the same are hereby repealed and declared void.

2. That on the enlistment of any native of these islands to serve on board of any vessel bound on a foreign voyage, the master of such vessel shall pay to the governor of the island at which the enlistment takes place, or to his agent, the sum of two dollars, if the term of enlistment does not exceed twelve months; and if the enlistment be for any period over twelve months, then the master shall pay the sum of four dollars.

3. That any native of these islands who enlists on board of a vessel bound on a foreign voyage, the master of which vessel has complied with the provisions of the preceding section, shall be free from all taxes during the whole period of his service on board of such vessel, and until his return to this kingdom.

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4. That no part of the money required to be paid as prescribed in section 2, nor any portion whatever of the expenses of shipping native sailors shall be paid by them, or deducted from the wages due them from the ship, but shall be paid wholly by the master.

5. That this act shall take effect from and after the date of its publication in the Polynesian newspaper.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

364

AN ACT
TO REGULATE BOATS PLYING FOR HIRE IN THE HARBOR OF
HONOLULU.

CONTENTS.

- SECTION 1.** Minister of interior may grant licenses to owners of boats.
2. Licenses and boats to be numbered.
 3. Rates of fare prescribed.
 4. Luggage or goods.
 5. Fine for refusing to take a passenger for the lawful fare.
 6. Boats may be forfeited for certain offenses.
 7. When boats may be required for the King's service.
 8. Boats plying without license.
 9. Minister of the interior may alter the fares.

Whereas, the want of order and due responsibility among the owners and crew of boats, plying in the harbor of Honolulu for hire, has been severely felt: and whereas, it is desirable to remedy the same, therefore,

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled:

1. That the minister of the interior be, and he is hereby authorized to grant licenses to owners of boats plying for hire, in the harbor of Honolulu, on the payment by them of eighteen dollars for every boat with four or more oarsmen, and twelve dollars for every boat with less than four oarsmen; such licenses to be good for one year from the date of issue, and no longer.

2. The minister of the interior shall number all such licenses issued by him, and it shall be the duty of the owner of every boat so licensed,

to have such number painted conspicuously on both bows of his boat, under a penalty of five dollars.

3. The owner of a boat duly licensed shall be entitled to charge as follows, viz : if hired for time, one dollar for each passenger for the first hour, and 50 cents for every succeeding hour, if the boat have four oarsmen ; and only half these fares if the boat have less than four oarsmen :

If hired by distance, 25 cents for each passenger to and from any ship or point within the inner buoy ; 50 cents to any point between the inner and outer buoys : and two dollars to and from any ship or point in the outer anchorage, outside of all the buoys, if the boat have four oarsmen : and only half these fares if the boat have less than four oarsmen : Provided, that if the boat be detained by her passengers, alongside of any ship or at any point, over fifteen minutes, then the owner shall be entitled to charge 50 cents additional for every half hour of such detention.

4. Every passenger hiring such boat shall be entitled to carry with him, free of charge, 100 lbs. of luggage or goods, and no more : and for all the extra luggage or goods he shall pay according to agreement with the owner of the boat.

5. The owner or owners of any such boat who shall refuse to take a passenger or passengers at the above prescribed rates, or who shall charge any person more than these rates, shall, on conviction before the police magistrate be fined five dollars.

6. The owner or owners of any boat licensed as above prescribed, who is detected in knowingly conveying ashore goods which have not paid the King's duties, or the luggage of passengers from foreign ports who have not obtained a permit to land the same, or in knowingly conveying women on board any ship for bad purposes, or persons flying from the kingdom to escape justice or the payment of their debts, or in assisting sailors to desert from any ship, or in communicating with any ship placed under quarantine, shall, on conviction before the police magistrate, forfeit their boat, and the same

shall be sold by the marshal at public auction, and the proceeds paid into His Majesty's treasury.

7. The owners of all such boats, on a written order from the minister of the interior or the governor of Oahu, shall furnish said boats with their oarsmen, for the public service, at the rate of four dollars per diem for any boat with four oarsmen, and two dollars per diem for any boat with less than four oarsmen.

8. Any boat plying for hire in the harbor of Honolulu, whether employed in carrying passengers or in carrying goods, without being licensed as provided in this act, shall, on sufficient proof before the police magistrate, be forfeited to the Hawaiian government.

9. The minister of the interior under a resolution of the King and privy council, shall have power, during the recess of the legislature, to alter any or all of the fares prescribed in this act.

10. This act shall take effect from and after the date of its publication in the Polynesian newspaper, and the minister of the interior is hereby charged with its execution.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

364

AN ACT.

TO AMEND THE LAW RELATING TO THE ISSUE OF PASSPORTS.

CONTENTS.

- SECTION 1.** Minister of foreign relations may appoint agents.
 2 His chief clerk may sign passports.
 3. All passports to be numbered and registered.

Whereas, the existing laws regulating the issue of passports restrict their issue to the minister of foreign relations, who resides in Honolulu, subjecting those who reside in other ports to much delay and expense, before they can obtain passports, therefore :

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

1. That the minister of foreign relations be, and is hereby authorized to appoint agents on all the islands other than Oahu, whose duty it shall be to grant passports to persons applying therefor, in accordance with the laws.

2 That in case of the absence or sickness of the minister of foreign relations, his chief clerk may sign such passports for him as he may direct.

3. That the minister of foreign relations and every agent appointed by him, shall number all passports issued by them consecutively, and register a copy of each in a book to be kept for that purpose.

4. That this act shall take effect from and after the day of its publication in the Polynesian newspaper, and the minister of foreign relations is hereby charged with its execution.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

TO AMEND THE LAW RELATING TO THE LAND TAX.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

That section four of article second, of chapter second, of part third, of second act of Kamehameha III, entitled an act to organize the executive departments of the Hawaiian Islands, which reads as follows :
 “ No land tax shall be imposed for twenty years next ensuing, upon lands patented in fee simple,” be and the same is hereby repealed.

Done and passed at the Council House at Honolulu, this 7th day of August, A. D. 1850.

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KAMEHAMEHA.

KEONI ANA.

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AN ACT

RELATING TO THE LABOR TAX ON ROADS AND LIKE PUBLIC WORKS.

CONTENTS.

- SECTION 1.** Amendment of former law.
2. When the public labor days and the labor days of the landlord are the same.
 3. In case a person fails to perform the labor at the time appointed.
 4. Who are exempted from labor tax.
 5. Duties of those liable to labor tax.
 6. Governors to appoint supervisors.
 7. Duties of supervisors.
 8. The labor tax may be commuted by payment in money.

Whereas, the construction of roads, bridges, and other public works of the kind, are of great importance to the agricultural and commercial prosperity of the islands : and whereas, the wages of labor have so increased throughout the islands, as to render twelve and a half cents per day, the present commutation, altogether inadequate, therefore :

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled :*

1. That from the date of the publication of this act, section 12, article 3, chapter II, part III of an "Act to organize the executive departments of the Hawaiian Islands," be, and is hereby altered to read as follows : It shall be competent for the several governors to assess at their discretion, a distinct labor tax for roads, bridges and other public works of the kind, on all taxable male subjects of the King on their respective islands, whether they be natives, naturaliz-

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ed subjects, or domiciled aliens, who have resided on the islands for one year or more : Provided, that said governors do not require more than twelve days labor yearly from each person; liable to this tax : and provided also, that eight hours per day shall be regarded as a full day's work.

2. Should the public labor on the roads or bridges fall upon the labor days of the landlords, said landlords shall be entitled to no commutation for such days ; nor shall they be entitled to labor on other days in exchange for those.

3. Should any person find it inconvenient to work on the roads as aforesaid in person, at the time appointed, he may employ a substitute, or he may labor on another day to be designated by the road supervisor ; or he shall pay to the supervisor 50 cents for each day, on which he fails to work, as directed by the road supervisor.

All moneys thus collected shall be expended by the road supervisors, for the improvement of the roads in their respective districts, and shall be accounted for by them annually to the governors of their respective islands.

4. All persons exempted from the school tax, except soldiers, constables and school trustees, shall be also exempted from the labor tax on roads : Provided, that soldiers and constables in Honolulu and Lahaina, shall also be exempted.

5. It shall be the duty of every man liable to the labor tax for roads, as before stated, to appear punctually at the time appointed, with suitable implements for the work, and shall work diligently, as directed by the supervisor, otherwise he shall be liable to the penalty hereinafter provided.

6. It shall be the duty of the several governors to appoint competent supervisors of roads, bridges and other similar public works, in the several district of their islands, whose duty it shall be to carry into effect the instructions of said governors, and who shall be entitled to such equitable compensation, as said governors may deem proper, and which shall be approved by the minister of the interior.

7. The road supervisors, in case of indolence, disorderly or mutinous conduct on the part of the workmen, shall have power to authorize and require any constable to apprehend any delinquent and take him before the local magistrate, who shall, unless good cause be shown to the contrary, sentence such delinquent to hard labor on the road, not less than three, and not more than five days.

8. It shall be lawful for the several governors, through the road supervisors, to commute for the labor tax on roads, with all persons employed by the month or year, on plantations, or as domestic servants, or with their employers, either to complete a certain amount of work on the road, or to work by the day with carts, plows and other implements, as may be agreed upon as a commutation for the road tax of all his laborers liable to this tax, or to pay in money an amount equal to twenty-five cents per day, for each man who shall fail to labor on the roads, on the days appointed by the supervisors.

Done and passed at the council house in Honolulu, this 8th day of August, A. D. 1850.

KEONI ANA.

KAMEHAMEHA.

364

AN ACT

TO PROVIDE FOR THE APPOINTMENT OF A CIRCUIT JUDGE FOR
THE ISLAND OF MOLOKAI.

CONTENTS.

SECTION 1. Appointment of circuit judge for Molokai.
2. Power and duties of said circuit judge.

BE IT ENACTED *by the House of Nobles and Representatives of the
Hawaiian Islands, in Legislative council assembled :*

1. That there shall be appointed, as soon after the passage of this act as may be convenient, a local circuit judge for the island of Molokai in the second judicial district of this kingdom.

2. The said local circuit judge shall be appointed in the same manner, shall have the like power, and perform the like duties, under the same responsibility, as the other local circuit judges of the said second judicial district.

Done and passed at the council house in Honolulu, this 9th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

364
AN ACT

TO RENDER UNIFORM THE DISTRICTS FOR EDUCATIONAL AND TAXATION PURPOSES, AND FOR SUBDIVIDING SAID DISTRICTS INTO TOWNSHIPS.

CONTENTS.

- SECTION 1.** Hawaii, Maui, Oahu and Kauai divided into districts named therein.
2. Amendments of former acts relating to districts.
 3. Districts may be subdivided, when and by whom.
 4. Such subdivision of districts to be sanctioned by the governor of the islands.
 5. Each township to receive a separate name.
 6. Local laws may be enacted by the inhabitants of each township.

BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :

1. That for the greater convenience of government officers, the island of Hawaii shall be divided into eight uniform districts, as follows : 1 Hilo, 2 Puna, 3 Kau, 4 South Kona, 5 North Kona, 6 South Kohala, 7 North Kohala, 8 Hamakua. 1827
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The island of Maui shall be divided as follows : 1 From Kahakuloa to Uhamehame, including Kahoolawe, 2 from Waihee to Honuaula, inclusive, 3 Kahikinui, Kaupo, Kipahulu, Hana, Koolau, 4 Hamakualoa, Hamakuapoko, Haliimaile, Makawao, and Kula, 5 Molokai, 6 Lanai.

The island of Oahu shall be divided as follows : 1 from Maunaloa to Moanalua, inclusive, 2 Ewa and Waianae, 3 Waialua, 4 Koolauloa, 5 Koolaupoko.

The island of Kauai shall be divided as follows : 1 from Nualolo to Hanapepe inclusive, 2 from Wahiawa to Mahaulepu inclusive, 3

from Kipu to Kamalomalo inclusive, 4 from Anahola to Kilauea inclusive, 5 from Kalihiwai to Honopu inclusive, 6 Niihau.

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2. Section 2, chapter 2, part 3, and also section 1, chapter 3, part 4, of an act to organize the executive departments of the Hawaiian Islands, shall be, and are hereby so modified, as to render uniform the districts throughout the islands for purposes of taxation and education, agreeable to the foregoing section.

3. It shall be lawful for the collector of taxes, school inspector, and treasurer of each district on the several islands, to subdivide the large districts above mentioned into smaller divisions, to be called Okanas or townships, with a view to promote the general convenience and welfare of the inhabitants : Provided, that the population of each town, township, or okana shall not exceed one thousand, nor be less than one hundred.

4. In carrying out the provisions of the above section, the wishes, opinions, and convenience of a majority of the population interested, shall be regarded as far as a due regard to economy and propriety will allow, and the division shall not be regarded as confirmed, until sanctioned by the governor of the island.

5. It shall be the duty of the aforesaid agents, to affix a distinct and specific name to each township or okana, in their respective districts, and transmit a copy of the same, if approved by the governor of the island, to the minister of the interior for publication.

6. It shall be lawful for all the taxable male inhabitants of each township in the several districts, to meet in public assembly, choose their own officers, and enact such local laws and regulations for their own benefit, as they shall deem proper ; they may enact local regulations in regard to their own agriculture, herds, fisheries, roads, fences, schools, or other objects of local importance : Provided, always, that such regulations do not conflict with the laws of this kingdom : and provided also, that before taking effect, they shall receive the sanc-

tion of the minister of the interior : in which case they shall be binding and be as liable to be enforced, as any other laws of the kingdom, until repealed either by the authority which enacted them, or by the legislature.

Done and passed at the Council House at Honolulu, this 7th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

RELATING TO THE REGISTRY OF BIRTHS, DEATHS AND
MARRIAGES.

CONTENTS.

SECTION 1. A register of births, deaths and marriages to be appointed for each township.

2. How said register is to be compensated.

Whereas, it is of great importance to the government, that an accurate registry be kept, of all births, deaths, and marriages throughout the islands, therefore :

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

1. That it shall be lawful for the school inspectors of each district, to appoint, from among the school teachers, or other suitable persons, in accordance with general instructions from the minister of public instruction, a register of births, deaths and marriages, for each okana, or township, whose duty it shall be to record all births, deaths and marriages, within said township, and to fill suitable blanks for this purpose, to be furnished by the minister of public instruction, which he shall report quarterly to the school inspector of the district, whose duty it shall be to embody all such reports, and forward a copy thereof, quarterly to the minister of public instruction, and a copy of the same to the governor of the island.

2. If the report of the register shall be correct in the opinion of the school inspector, he shall be authorized to give an order on the school treasurer of the district, to an amount equal to two cents each,

for every birth, death and marriage recorded ; and this sum shall be paid out of the school funds of the district.

3. It shall be the duty of the minister of public instruction to furnish the registers above mentioned with the blanks necessary to facilitate their work, in securing the information desired by His Majesty's government.

Done and passed at the council house in Honolulu, this 7th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

26

AN ACT

CONFIRMING CERTAIN RESOLUTIONS OF THE KING AND PRIVY COUNCIL, PASSED ON THE 21ST DAY OF DECEMBER, A. D. 1849, GRANTING TO THE COMMON PEOPLE ALLODIAL TITLES FOR THEIR OWN LANDS AND HOUSE LOTS, AND CERTAIN OTHER PRIVILEGES.

CONTENTS.

- SECTION**
1. Fee-simple titles to be granted to natives occupying certain lands.
 2. Land commission empowered to grant fee-simple titles.
 3. Certain government lands on each island to be offered for sale.
 4. House lots not to exceed one quarter of an acre.
 5. Grants of kalo ground to be limited to actual cultivation by each claimant.
 6. Certain rights reserved to natives.

BE IT ENACTED *by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :*

That the following sections which were passed by the King, in privy council on the 21st of December, A. D. 1849, when the legislature was not in session, be and are hereby confirmed ; and that certain other provisions be inserted, as follows :

1. That fee-simple titles, free of commutation, be and are hereby granted to all native tenants, who occupy and improve any portion of any government land, for the lands they so occupy and improve, and whose claims to said lands shall be recognized as genuine by the land commission : Provided, however, that this resolution shall not extend to konolikis or other persons having the care of government lands, or to the house lots and other lands in which the government have an interest in the districts of Honolulu, Lahaina and Hilo.

2. By and with the consent of the King and chiefs in privy council assembled, it is hereby resolved, that fee-simple titles, free of commutation, be and are hereby granted to all native tenants who occupy and improve any lands other than those mentioned in the preceding resolution, held by the King or any chief or konobiki for the land they so occupy and improve : Provided, however, that this resolution shall not extend to house lots or other lands situated in the districts of Honolulu, Lahaina and Hilo.

3. That the board of commissioners to quiet land titles be, and is hereby empowered to award fee-simple titles in accordance with the foregoing resolutions ; to define and separate the portions of lands belonging to different individuals ; and to provide for an equitable exchange of such different portions, where it can be done, so that each man's land may be by itself.

4. That a certain portion of the government lands in each island shall be set apart, and placed in the hands of special agents, to be disposed of in lots of from one to fifty acres, in fee-simple, to such natives as may not be otherwise furnished with sufficient land, at a minimum price of fifty cents per acre. 1857
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5. In granting to the people, their house lots in fee-simple, such as are separate and distinct from their cultivated lands, the amount of land in each of said house lots shall not exceed one quarter of an acre.

6. In granting to the people their cultivated grounds, or kalo lands, they shall only be entitled to what they have really cultivated, and which lie in the form of cultivated lands ; and not such as the people may have cultivated in different spots, with the seeming intention of enlarging their lots ; nor shall they be entitled to the waste lands.

7. When the landlords have taken allodial titles to their lands, the people on each of their lands, shall not be deprived of the right to take firewood, house timber, aho cord, thatch, or ti leaf, from the land on which they live, for their own private use, should they need 1857
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them, but they shall not have a right to take such articles to sell for profit. They shall also inform the landlord or his agent, and proceed with his consent. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, and running water, and roads shall be free to all, should they need them, on all lands granted in fee-simple : Provided, that this shall not be applicable to wells and water courses which individuals have made for their own use.

Done and passed at the council house in Honolulu, this 6th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

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AN ACT

AMENDING THE LAW RELATING TO THE KING'S CHAMBERLAIN.

CONTENTS.

- SECTION 1.** Duties of the King's chamberlain enumerated.
2. All fish for the King to be delivered to the King's steward.
 3. Powers conferred on chamberlain by previous acts, repealed by this.
 4. Repeal of certain former acts relating to chamberlain.

Whereas, the chamberlain of the King is a high officer of the crown, and whereas, the duties assigned to the chamberlain by law, extend to matters inconsistent with his dignity, and not usually performed by King's chamberlains, therefore :

BE IT ENACTED by the King's Majesty, by and with the advice and consent of the House of Nobles and Representatives of the Hawaiian Islands, in Legislative council assembled :

1. That from the date of the publication hereof, the duties of the chamberlain shall be the following :

- (1.) To see that the Palace and grounds are kept in proper order :
- (2.) To superintend the preparations and dressing of the King for all receptions, audiences, and royal processions :
- (3.) To regulate access to the King, and to receive, make known to His Majesty, and by His Majesty's order, grant or refuse all applications, by all strangers wishing to have such access, excepting foreign ministers, consuls, naval and military officers, or other distinguished foreigners applying to be presented to His Majesty, through the representatives or consuls of their respective nations :
- (4.) To receive and present such petitions to the King as may not be sent through any of the King's ministers :
- (5.) To see that the King's physician, surgeon, apothecary, chap-

lain, barber, &c., are sent for when the King requires their presence, and see that they do not neglect their duties.

(6.) To receive and usher out persons of distinction at the palace, and see that proper courtesies and honors are paid to them :

(7.) To accompany the King on all occasions of state, and visits to persons of rank, and to all public places and entertainments :

(8.) To deliver messages from the King and make calls for His Majesty by His order, to persons of distinction :

(9.) To issue invitations from the King or Queen, and all notices to the public, relating to the King's receptions, entertainments or celebration of grand festivals :

(10.) To attend upon the King, on the occasions of His Majesty's coronation, opening and proroguing of the legislature :

(11.) To arrest and commit by the King's order, all persons guilty of a contempt, uproar or assault, in His Majesty's presence, in His own palace, or within the precincts of the palace :

(12.) To perform any other duty of ceremony, etiquette, form, or respect for His Majesty that it may please His Majesty to assign to him by special order :

(13.) For all reasonable expenses and disbursements in the execution of his duties as abovedefined, the chamberlain shall have power to draw upon the King's treasury, for such sums as may be required to an extent, not exceeding four thousand dollars, for any one year, after audit of the accounts, for which the sum is drawn, by the auditor of public accounts.

2. That from the date of the publication hereof, the delivery of the fish provided for in section 12, of article 5, chapter 6, of part 1, of the second act of Kamehameha III, entitled an "Act to organize the executive departments of the Hawaiian Islands," shall not be made to the chamberlain, but to the person whom the King may please to appoint to be steward and purveyor for His Majesty's palace.

3. That from the date of the publication hereof, all the powers of the chamberlain and all his liabilities, under section 6, of the general

provisions, page 194 of the laws shall cease, and determine, except for transactions previous to said date.

4. That so much of section 5, article 5, of chapter 3, part 3, of the second act of Kamehameha III, entitled an "Act to organize the executive departments of the Hawaiian Islands," as provides for other disbursements of the royal palace, than are provided for in this act, be and is hereby repealed, so far as that section applies to the chamberlain.

Done and passed at the council house in Honolulu, this 14th day of August, A. D. 1850.

KAMEHAMEHA.

KEONI ANA.

TREATY

BETWEEN HIS MAJESTY KAMEHAMEHA III, AND THE UNITED STATES OF AMERICA.

KAMEHAMEHA III., King of the Hawaiian Islands, to all to whom these presents shall come, GREETING :

KNOW YE, that whereas, a treaty of Friendship, Commerce, and Navigation, between our Kingdom and the United States of North America, was concluded and signed by our and their Plenipotentiaries, in the city of Washington, on the 20th day of December, 1849, which treaty is word for word as follows :

The UNITED STATES OF AMERICA and HIS MAJESTY the KING of the HAWAIIAN ISLANDS, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective states, and consolidating the commercial intercourse between them, have agreed to enter into negotiations for the conclusion of a treaty of Friendship, Commerce and Navigation, for which purpose they have appointed Plenipotentiaries, that is to say :

The President of the United States of America, John M. Clayton, Secretary of State of the United States ; and His Majesty the King of the Hawaiian Islands, James Jackson Jarves, accredited as His special commissioner to the Government of the United States ; who, after having exchanged their full powers, found in good and due form, have concluded and signed the following articles :

ARTICLE 1. There shall be perpetual peace and amity between the United States and the King of the Hawaiian Islands, His heirs and His successors.

ARTICLE 2. There shall be reciprocal liberty of commerce and navigation between the United States of America and the Hawaiian Islands.

No duty of customs, or other impost, shall be charged upon any goods, the produce or manufacture of one country, upon importation from such country into the other, other or higher than the duty or impost charged upon goods of the same kind, the produce or manufacture of, or imported from, any other country ; and the United States of America and His Majesty the King of the Hawaiian Islands do hereby engage, that the subjects or citizens of any other state shall not enjoy any favor, privilege, or immunity whatever, in matters of commerce and navigation, which shall not also, at the same time, be extended to the subjects or citizens of the other contracting parties gratuitously, if the concession in favor of that other state shall have been gratuitous, and in return for a compensation, as nearly as possible, of proportionate value and effect, to be adjusted by mutual agreement, if the concessions shall have been conditional.

ARTICLE 3. All articles the produce and manufacture of either country which can legally be imported into either country from the other, in ships of that other country, and thence coming, shall, when so imported, be subject to the same duties, and enjoy the same privileges, whether imported in ships of the one country, or in ships of the other ; and in like manner, all goods which can legally be exported or re-exported from either country to the other, in ships of that other country, shall, when so exported or re-exported, be subject to the same duties, and be entitled to the same privileges, drawbacks, bounties, and allowances, whether exported in ships of the one country, or in ships of the other ; and all goods and articles, of whatever description, not being the produce or manufacture of the United States, which can be legally imported into the Sandwich Islands, shall, when so imported in vessels of the United States, pay no other or higher duties, imposts or charges, than shall be payable upon the like goods, and articles, when imported in the vessels of the most favored foreign nation other than the nation of which the said goods and articles are the produce or manufacture.

ARTICLE 4. No duties of tonnage, harbor, light houses, pilotage, quarantine, or other similar duties, of whatever nature, or under whatever denomination, shall be imposed in either country upon the vessels of the other, in respect of voyages between the United States of America and the Hawaiian Islands, if laden, or in respect of any voyage, if

in ballast, which shall not be equally imposed in the like cases on national vessels.

ARTICLE 5. It is hereby declared, that the stipulations of the present treaty are not to be understood as applying to the navigation and carrying trade between one port and another situated in the states of either contracting party, such navigation and trade being reserved exclusively to national vessels.

ARTICLE 6. Steam vessels of the United States which may be employed by the Government of the said states, in the carrying of their public mails across the Pacific Ocean, or from one port in that ocean to another, shall have free access to the ports of the Sandwich Islands, with the privilege of stopping therein to refit, to refresh, to land passengers and their baggage, and for the transaction of any business pertaining to the public mail service of the United States, and shall be subject in such ports to no duties of tonnage, harbor, light houses, quarantine, or other similar duties of whatever nature or under whatever denomination.

ARTICLE 7. The whaleships of the United States shall have access to the ports of Hilo, Kealakekua and Hanalei, in the Sandwich Islands, for the purposes of refitment and refreshment, as well as to the ports of Honolulu and Lahaina, which only are ports of entry for all merchant vessels, and in all the above named ports, they shall be permitted to trade or barter their supplies or goods, excepting spirituous liquors, to the amount of two hundred dollars *ad valorem* for each vessel, without paying any charge for tonnage or harbor dues of any description, or any duties or imposts whatever upon the goods or articles so traded or bartered. They shall also be permitted, with the like exemption from all charges for tonnage and harbor dues, further to trade or barter, with the same exception as to spirituous liquors, to the additional amount of one thousand dollars, *ad valorem*, for each vessel, paying upon the additional goods, and articles so traded and bartered, no other or higher duties, than are payable on like goods and articles, when imported in the vessels and by the citizens or subjects of the most favored foreign nation. They shall also be permitted to pass from port to port of the Sandwich Islands for the purpose of procuring refreshments, but they shall not discharge their seamen or

land their passengers in the said Islands, except at Lahaina and Honolulu, and, in all the ports named in this article, the whalships of the United States shall enjoy in all respects whatsoever, all the rights, privileges and immunities, which are enjoyed by, or shall be granted to, the whalships of the most favored foreign nation. The like privilege of frequenting the three ports of the Sandwich Islands, above named in this article, not being ports of entry for merchant vessels, is also guaranteed to all the public armed vessels of the United States. But nothing in this article shall be construed as authorizing any vessel of the United States, having on board any disease usually regarded as requiring quarantine, to enter, during the continuance of such disease on board, any port of the Sandwich Islands, other than Lahaina or Honolulu.

ARTICLE 8. The contracting parties engage, in regard to the personal privileges that the citizens of the United States of America shall enjoy in the dominions of His Majesty the King of the Hawaiian Islands, and the subjects of His said Majesty in the United States of America, that they shall have free and undoubted right to travel and to reside in the states of the two high contracting parties, subject to the same precautions of police which are practiced towards the subjects or citizens of the most favored nations. They shall be entitled to occupy dwellings and warehouses, and to dispose of their personal property of every kind and description, by sale, gift, exchange, will, or in any other way whatever, without the smallest hindrance or obstacle ; and their heirs or representatives, being subjects or citizens of the other contracting party, shall succeed to their personal goods, whether by testament or ab intestato; and may take possession thereof, either by themselves, or by others acting for them, and dispose of the same at will, paying to the profit of the respective governments such dues only as the inhabitants of the country wherein the said goods are, shall be subject to pay in like cases. And in case of the absence of the heirs and representative, such care shall be taken of the said goods as would be taken of the goods of a native of the same country in like case, until the lawful owner may take measures for receiving them. And if a question should arise among several claimants as to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. Where, on the decease of any person holding real estate within the territories

of one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the government of the respective states. The citizens or subjects of the contracting parties shall not be obliged to pay, under any pretence whatever, any taxes or impositions, other or greater than those which, are paid, or may hereafter be paid, by the subjects or citizens of the most favored nations in the respective states of the high contracting parties. They shall be exempt from all military service, whether by land or by sea ; from forced loans, and from every extraordinary contribution not general and by law established. Their dwellings, warehouses, and all premises appertaining thereto, destined for the purposes of commerce or residence, shall be respected. No arbitrary search of, or visit to their houses, and no arbitrary examination or inspection whatever of the books, papers or accounts of their trade, shall be made ; but such measures shall be executed only in conformity with the legal sentence of a competent tribunal ; and each of the two contracting parties engages that the citizens or subjects of the other residing in their respective states, shall enjoy their property and personal security, in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries respectively.

ARTICLE 9. The citizens and subjects of each of the two contracting parties shall be free in the states of the other to manage their own affairs themselves, or to commit those affairs to the management of any persons whom they may appoint as their broker, factor or agent, nor shall the citizens and subjects of the two contracting parties be restrained in their choice of persons to act in such capacities, nor shall they be called upon to pay any salary or remuneration to any person whom they shall not choose to employ. Absolute freedom shall be given in all cases to the buyer and seller to bargain together and to fix the price of any goods or merchandize imported into, or to be exported from the states and dominions of the two contracting parties ; save and except generally such cases wherein the laws and usages of the country may require the intervention of any special agents in the states and dominions of the contracting parties. But nothing con-

tained in this or any other article of the present treaty shall be construed to authorize the sale of spirituous liquors to the natives of the Sandwich Islands farther than such sale may be allowed by the Hawaiian laws.

ARTICLE 10. Each of the two contracting parties may have, in the ports of the other, consuls, vice consuls, and commercial agents, of their own appointment, who shall enjoy the same privileges and powers with those of the most favored nation ; but if any such consuls shall exercise commerce, they shall be subject to the same laws and usages to which the private individuals of their nation are subject in the same place. The said consuls, vice consuls, and commercial agents are authorized to require the assistance of the local authorities for the search, arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose, they shall apply to the competent tribunals, judges and officers, and shall in writing demand the said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews ; and this reclamation being thus substantiated, the surrender shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls or commercial agents, and may be confined in the public prisons at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessel to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever. The agents, owners or masters of vessels on account of whom the deserters have been apprehended, upon requisition of the local authorities shall be required to take or send away such deserters from the states and dominions of the contracting parties, or give such security for their good conduct as the law may require. But if not sent back nor reclaimed within six months from the day of their arrest, or if all the expenses of such imprisonment are not defrayed by the party causing such arrest and imprisonment, they shall be set at liberty and shall not be again arrested for the same cause. However, if the deserters should be found to have committed any crime or offence, their surrender may be delayed until the tribunal before which their case shall be depending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 11. It is agreed that perfect and entire liberty of conscience shall be enjoyed by the citizens and subjects of both the contracting parties, in the countries of the one and the other, without their being liable to be disturbed or molested on account of their religious belief. But nothing contained in this article shall be construed to interfere with the exclusive right of the Hawaiian Government to regulate for itself the schools which it may establish or support within its jurisdiction.

ARTICLE 12. If any ships of war or other vessels be wrecked on the coasts of the states or territories of either of the contracting parties, such ships or vessels, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandise which shall be saved therefrom, or the produce thereof if sold, shall be faithfully restored with the least possible delay to the proprietors, upon being claimed by them, or by their duly authorized factors; and if there are no such proprietors or factors on the spot, then the said goods and merchandise, or the proceeds thereof, as well as all the papers found on board such wrecked ships or vessels, shall be delivered to the American or Hawaiian consul, or vice consul, in whose district the wreck may have taken place; and such consul, vice consul, proprietors or factors, shall pay only the expenses incurred in the preservation of the property, together with the rate of salvage and expenses of quarantine which would have been payable in the like case of a wreck of a national vessel; and the goods and merchandise saved from the wreck shall not be subject to duties unless entered for consumption; it being understood that in case of any legal claim upon such wreck, goods or merchandise, the same shall be referred for decision to the competent tribunals of the country.

ARTICLE 13. The vessels of either of the two contracting parties which may be forced by stress of weather or other cause into one of the ports of the other, shall be exempt from all duties of port or navigation paid for the benefit of the state, if the motives which led to their seeking refuge be real and evident, and if no cargo be discharged or taken on board, save such as may relate to the subsistence of the crew, or be necessary for the repair of the vessels, and if they do not stay in port beyond the time necessary, keeping in view the cause which led to their seeking refuge.

ARTICLE 14. The contracting parties mutually agree to surrender, upon official requisition, to the authorities of each, all persons who, being charged with the crimes of murder, piracy, arson, robbery, forgery or the utterance of forged paper, committed within the jurisdiction of either, shall be found within the territories of the other ; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the person so charged shall be found, would justify his apprehension and commitment for trial if the crime had there been committed ; and the respective judges and other magistrates of the two governments, shall have authority, upon complaint made under oath, to issue a warrant for the apprehension of the person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered ; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

ARTICLE 15. So soon as steam or other mail packets under the flag of either of the contracting parties, shall have commenced running between their respective ports of entry, the contracting parties agree to receive at the post offices of those ports all mailable matter, and to forward it as directed, the destination being to some regular post office of either country ; charging thereupon the regular postal rates as established by law in the territories of either party receiving said mailable matter, in addition to the original postage of the office whence the mail was sent. Mails for the United States, shall be made up at regular intervals at the Hawaiian post office, and despatched to ports of the United States, the postmasters at which ports shall open the same, and forward the enclosed matter as directed, crediting the Hawaiian Government with their postages as established by law and stamped upon each manuscript or printed sheet.

All mailable matter destined for the Hawaiian Islands shall be received at the several post offices in the United States and forwarded to San Francisco or other ports on the Pacific coast of the United States, whence the postmasters shall despatch it by the regular

mail packets to Honolulu, the Hawaiian Government agreeing on their part to receive and collect for and credit the post office department of the United States with the United States rates charged thereupon. It shall be optional to prepay postage on letters in either country, but postage on printed sheets and newspapers shall in all cases be prepaid. The respective post office departments of the contracting parties shall, in their accounts, which are to be adjusted annually, be credited with all dead letters returned.

ARTICLE 16. The present treaty shall be in force from the date of the exchange of the ratifications for the term of ten years, and further, until the end of twelve months after either of the contracting parties shall have given notice to the other of its intention to terminate the same, each of the said contracting parties reserving to itself the right of giving such notice at the end of the said term of ten years, or at any subsequent term. Any citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same, and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation.

ARTICLE 17. The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States, and by His Majesty, the King of the Hawaiian Islands, by and with the advice of His Privy Council of State, and the ratifications shall be exchanged at Honolulu within eighteen months from the date of its signature, or sooner if possible.

In witness whereof, the respective plenipotentiaries have signed the same in triplicate, and have thereto affixed their seals. Done at Washington, in the English language, the twentieth day of December, in the year one thousand eight hundred and forty nine.

[Seal.]

JOHN M. CLAYTON.

[Seal.]

JAMES JACKSON JARVES.

AND WHEREAS, We have carefully examined all the points and articles thereof, by and with the advice of Our Privy Council of State, We have confirmed and ratified the foregoing treaty, and We do confirm and ratify the same, in the most effectual manner, promising on Our faith and word as King, for Us and Our successors, to fulfil and observe it, faithfully and scrupulously in all its clauses.

In faith of which We have signed this ratification with Our own hand, and have affixed thereto the great seal of Our Kingdom.

Given at Our palace at Honolulu, this nineteenth day of August in the year of our Lord one thousand eight hundred and fifty, and in the twenty-fifth of Our reign.

KEONI ANA.

[Seal.] **KAMEHAMEHA.**

By the King and the Premier.

R. C. WYLLIE,

Minister of Foreign Relations.

EXCHANGE OF RATIFICATIONS.

WE, the undersigned, **ROBERT CRICHTON WYLLIE**, Minister of Foreign Relations of His Majesty the King of the Hawaiian Islands, and **CHARLES BUNKER**, Consul of the United States, for Lahaina, having been authorized by our respective Governments to exchange the Ratifications of the Treaty of Friendship, Commerce and Navigation between His Hawaiian Majesty and the United States, concluded and signed at Washington, on the twentieth day of December, one thousand, eight hundred and forty-nine, certify :

That we have, this day, met for that purpose, and after comparing the said Ratifications each with the other, and both with the original of said Treaty, have effected the exchange accordingly.

In witness whereof, we have signed this certificate, at Honolulu, this twenty-fourth day of August, one thousand, eight hundred and fifty and have thereunto affixed our respective Seals.

[L. S.] **R. C. WYLLIE.**

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[L. S.] **CHARLES BUNKER.**

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