

page, [Native version, 143d English,] 1st and 2d par.; and George Cope, you will pay any damages which Morgan may have against you [for your ill treatment to him.] (Such is the testimony.)

Reasons of Inferior Judges for Fining of James Gray and George Cope; and these are the Laws by which we defend our Decision.

MR. JUDD.—Addressing himself to the jury—Gentlemen, you will take notice of this law—[the 33d Chapter of the Hawaiian Statutes]—(whose translation into the English has one paragraph left out)—the law (I say) was made shortly after the unfortunate occurrence which has been alluded to by the American Commissioner,—the attack of the British Consul on Mr. Jarves,—in order to place in the hands of the judges some additional discretionary power. (Reading.) "In the 33d law, 132d page, sec. 1, [of the Hawaiian version:]—"But if the Judge perceives that although the injury is not great, there being aggravated circumstances, on account of premeditation or on account of the peaceable character of one party, or on account of the aggravated nature of the transaction, he then shall have power to increase the fine up to fifty dollars." That is the law by which James Gray and George Cope were condemned." The Judges also allude to the 3d page of the law sec. 3, by which it is stated that the laws are for the protection of men's persons if the injured party complain of it. "The law shall protect—this is the Constitution—the law shall protect every man who is injured without fault. It shall protect all men who are attending to their own business. All men who injure the Government or the people, shall be punished. But the laws shall (not) be enacted to favor one party, or injure another. There is also another law of similar effect, in the second page of the book, 2d section, (Hawaiian version.) The persons of men are protected; their lands; their enclosures, and their property. The laws [protect them] nor shall they be taken away contrary to law. And in the 30th chapter, 146th page, (Hawaiian version,) in the first (part) of the 5th paragraph, there is a statute in regard to beating or assaults, and also of murder. [Mr. Judd advertising to that law said:—This paragraph is of similar import, protecting persons with great strength by the law.] We think that this last statute has some reference to the case of George Cope; for George Cope and Jim Gray beat George Morgan with premeditation; with consent they went to beat him, because of George Cope's anger to Morgan; and therefore George Cope sought for the means of conquering George Morgan, and George Cope induced Jim Gray to go with him to aid him. They two together went to beat George Morgan, and Jim Gray was willing to abet George Cope; and in going to beat George Morgan they were guilty of a misdemeanor where they two, Jim Gray and George Cope, are alike guilty; and we consider Jim Gray to be the aider and abettor of this misdemeanor. We consider that they are fineable by the 132d page (H. version) of the laws, 1st and 2d par. We request that it may be read and considered on, as that is the rule by which we have sentenced the fine. We do not fine them according to the 39th (H. version) law against drunkenness, which was enacted (in) the year 1835, because Jim Gray and George Cope were not drunkards, going about riotously, beating whoever they fell in with; they beat no one else, but went directly to the place of George Morgan, as they had agreed, and made themselves ready to do, for the purpose of beating him. And therefore we don't fine him according to the other law against drunkenness and common riotous conduct towards any person indifferently. And in the assault of George Cope and Jim Gray, the life of George Morgan was saved by the interference of William, and of Jim Smith; and that is why he was delivered. We think that the good fortune and escape of George Morgan was great; and in consequence of that interference, the injury meditated against him by G. Cope and Jim Gray, was materially diminished. These are the considerations which have (induced us to give our decision.) By this transaction, the right which Morgan had was infringed upon. The protection of his person was taken from him, (he) being beaten without cause, (and) this straight (is what) he was brought (to) by the ill treatment of George Cope and Jim Gray. They may think themselves as having come off well, that they are not more severely punished, (according to the laws,) (which) allow them to be fined (as high) as \$50. Other laws (which) we have not cited, allow a fine of \$100. But we have not acted upon those laws. We have not punished these men in anger, or with a wish to do wrong or to act partially. We have done it with due regard to their interests. The laws have compelled us to this decision. (End of the reasons put forth by the inferior judges.) (Mr.

Halai, Judge of the inferior court, here spoke to Mr. Judd, who observed to the court.)—One of the Judges who has furnished this decision, wishes me to read to the jury what they are to decide upon, I suppose however it would be better to do so after the testimony. MR. GILLESPIE OR MR. BOGARDUS.—May I beg to ask whether that was written previous to the sentence being given, and in presence of the men? MR. JUDD.—He has written his reasons for the decision since the appeal, and on account of the appeal, because it went to impugn his decision. The notes were taken at the time. After the testimony was taken the Judges retired and gave their decision the same day. MR. GILLESPIE OR M. BOGARDUS.—I understood that was written before. MR. BROWN.—Is the case to go before the jury? MR. JUDD.—Do you wish to address the jury? MR. BROWN.—I wish to address the Judge. (To Mr. Chamberlain.) Now I want you to tell the Governor that all this trial which has been read here before (the Court,) I protest against as having been contrary to the laws of the land, and therefore ought not to have been brought before this Court. The man stands here de novo. He stands here for the first time. He has never been tried yet. I wish you to state also that the Governor by his prerogative or power (is so placed.) that he shall preside over all the Judges of his Island and see their sentences executed. That therefore it is his duty to see that they judge according to the law. Well, now I come to the point that this trial has not been according to law. It (taking up the record of the trial below.) says here in the first place that the trial has been according to law. * * * * * But it (the law) goes on afterwards to say, that they shall be brought face to face. "If a witness come forward upon the trial of an important case he shall not be allowed to testify until he has taken his oath (or affirmation) on the word of God to speak the whole truth with which he is acquainted, after which he may testify to what he knows." But the word of God (was not used) (The) 171 page (English version) REGULATION OF COURTS also mentions that 'if a man be brought to trial for any manner of offence and he desire a jury one shall be allowed him.' But in this case George Morgan the principal witness against this man was brought before the Inferior Court, was not sworn, and gave his testimony without being sworn on the holy Bible. And that the Interpreter who interpreted to the Judges what George Morgan said and the other witnesses, was not sworn to interpret correctly. Of both these facts I have good evidence. And therefore I contend that he (the Governor) has a right under the power which the Constitution gives him to quash the whole of the proceedings before the Inferior Judges. And that if he will hear the evidence which I can bring to prove what I have stated I am ready to bring it at once for him to decide upon the point. MR. JUDD.—As far as he knows he is not aware of any reason why he should interfere at all in the matter. You can produce (your witnesses) to prove these things if you please. MR. BROWN.—I wish to do so because the Judge says this is a case of appeal, and that the person who now appears here appears as plaintiff. I contend this is his first trial by the laws of the Country. In the first place he might have (had) a jury if he chose. He never was asked (whether he wished one,) whereas being an important case he ought to have been. And secondly the trial was not according to law. MR. JUDD.—There is a limit with regard to new trials. MR. BROWN.—I don't know the appeal was made at (the) time. What I demand of the Governor is to decide whether this case was tried properly. This is in his power. This is an appeal. I wish Francis Manine to be summoned. (Francis Manine having been sworn.) MR. BROWN.—What is your name? (FRANCIS MANINE pronounced his name.) MR. BROWN.—Did you act as Interpreter in the case of Morgan vs. Cope and Gray. F. MANINE.—Yes Sir. MR. BROWN.—Who called upon you to act? F. MANINE.—The Judge. MR. BROWN.—Were you sworn upon the holy Evangelists to interpret correctly? F. MANINE.—(No Sir.) MR. JUDD.—Did you interpret correctly? F. MANINE.—Yes Sir. MR. BROWN.—That is another thing, We may have no doubt about that. MR. JUDD.—I wish it to be known, as he is upon oath now. MR. BROWN.—Perhaps we may get along without the evidence of Morgan.—I believe it was acknowledged that the evidence of Morgan was not sworn to. (To Manine) Do you remember whether the first man brought forward was sworn?

F. MANINE.—I don't recollect. [Mr. Brown not having any more questions to ask this witness, he was dismissed.] HALAI, [Judge of the Inferior Court] called and sworn. MR. BROWN.—[To Mr. Judd.] Will you ask him whether George Morgan the person whose evidence was taken, was sworn upon the Bible? HALAI.—[Through Mr. Judd.] No, he was not. MR. BROWN.—Now tell the Governor that I leave it to him to say whether he as overseer of the Inferior Judges decides that that was a fair trial and a trial according to the Hawaiian laws? MR. JUDD.—The Governor asked him (Halai) why he did not [swear the man] and he says that he [Morgan] was there as a person complained of. He never swore a person in such a case. GOVERNOR.—(By Mr. Chamberlain.) That is correct. MR. JUDD.—Cope who entered the complaint complained of Morgan as well as the others. MR. BOGARDUS.—(Why, Morgan) was the accuser. MR. BROWN.—This shows the system under which we live! MR. JUDD.—There was a dispute between them. (Each party accused and was accused in turn,) and he was obliged to hear the statement (of all.) MR. BOGARDUS.—Why did't he swear the interpreter? MR. JUDD.—It is not their rule. MR. BROWN.—Ask him why he put down George Morgan's testimony on paper unless it was necessary, and if it was necessary, why was he not sworn? MR. CHAMBERLAIN.—He (the witness) says he [Morgan] was not sworn because he merely gave in his testimony before-hand,—and there was testimony to be taken afterwards. MR. RICORD.—Complainants (of the same description) are not sworn in the U. S. of America. MR. BOGARDUS.—They are, sir. If you knew any thing about it you would know that. MR. CHAMBERLAIN.—(After listening to a remark addressed to him by the Judge Halai.) I am not sufficiently conversant with their terms to catch the whole idea at once. He says that he has acted according to this law: "When a thing of great importance is to be tried if one arise and testify &c." (Mr. Brown made a remark about what Mr. Ricord had said with regard to the custom of the Police courts in the United States in cases similar to the one under consideration, denying its truth.) * * * * * MR. BROWN (referring to what had been said of Morgan's not having been sworn, said):—I want to know whether this is according to law. I want to have a fair understanding about those things. MR. CHAMBERLAIN.—The witness, (Halai) says that he (Morgan) merely made a statement of the case. MR. JUDD.—Is it your custom to swear the complainant? (Halai answered in the negative.) We know they don't swear (them). I know that. That is what I want (to prove). I want to show that is how things are conducted in those very Inferior courts. Ask the Governor whether the trial was according to the printed laws of this country. MR. CHAMBERLAIN.—He says it was according to the laws. MR. BROWN (to Mr. Bogardus).—Put that down. That the interpreters shall not be sworn, and the witness shall not be sworn that his evidence is true. We are certainly living under queer laws! [Here a question was put by Mr. Ricord to Mr. Chamberlain who Mr. Brown had provided as his interpreter, as to whether he had been sworn. After a short pause Mr. Chamberlain and Mr. Brown both replied in the negative. And on Mr. Ricord's asking Mr. Chamberlain whether he would be then sworn.] MR. BROWN.—It is better he should be sworn. I have no objection to it. I brought him here for my purposes. (Mr. Chamberlain said he could only interpret according to the best of his abilities, which he endeavored to do, and would for the future. After a few remarks on the same subject, he was duly sworn.) [Mr. Brown asked whether the party before the court was accuser or accused. MR. BROWN.—I wish to know whether he is defendant or plaintiff. MR. JUDD.—Plaintiff on appeal, complaining that he has been unjustly punished. (TO BE CONTINUED.)

THE POLYNESIAN. OFFICIAL JOURNAL OF THE HAWAIIAN GOVERNMENT. HONOLULU, SATURDAY, MARCH 29, 1845.

The Montreal, from Boston, arrived off our harbor on Sunday last, at day break.—Her ensign was noticed to be half-mast, and various conjectures began to circulate through the town, when William Richards, Esq., H.H.M.'s Commissioner to the U. States and Europe, whose arrival has been so long and anxiously awaited, landed and proceeded directly to the palace, where he immediately made known to their Majesties the melancholy news of the death of his fellow Commissioner, Mr. T. Haalilio, who died at sea on the 3d Dec. ult. The sad intelligence soon spread over the place; the flags of the men of war, merchant vessels, the consulates, batteries and other places, were immediately lowered to half-mast as a general expression of sympathy at the nation's loss. Great hopes had been entertained both among Hawaiians and foreigners, of the good results that would ensue to the kingdom from the addition to its councils of one of so intelligent a mind, stored as it was with the fruits of observant-travel, and the advantages derived from long and familiar intercourse in the best circles of Europe and the United States. A numerous band of personal friends to whom he had been endeared from his earliest intercourse by his sincerity of manners and peculiarly affectionate deportment, were earnestly looking to welcome him home. But above all, their Majesties, his intimate friends, the Governors, the other high chiefs and his widowed mother were awaiting his arrival with an earnestness of hope that the deepest affections of the heart can alone produce. The last tidings from him had been those of health. He was then soon to embark, and his speedy arrival to the shores and friends he loved so well, was anticipated without a doubt. So unexpected a termination of his existence, after having escaped the dangers of long and trying journeys and voyagings, while as it were, on the very eve of again treading his native land, brings with it more than common auguish. It is not for us to lift the veil and expose the scene which ensued at the palace upon the communication of the tidings. The whole court were there assembled. Those who had been suddenly deprived of their choicest hope when on the eve of its full indulgence, can alone estimate the bereavement. It is satisfactory to know that every attention affection or sympathy could suggest, was afforded the deceased. Previous to our own departure from the United States, we were a witness to the deep interest and respect which Mr. Haalilio received in the refined society of Boston. But our already crowded columns will not allow us further to dilate. From Mr. Richards he received in all stages of his journey the most unremitting care, and towards the close of his life he was ever at his bed-side. Our readers will be able to glean from the brief memoir which follows this, prepared by Mr R. some further insight into his life and untimely end. We say untimely, but man seeth not as God seeth. (Haalilio was born in 1808, at Koolau, Oa'u. His parents were of respectable rank, and much esteemed. His father died while he was quite young, and his widowed mother subsequently married the Governor of Molokai, an island dependant on the Governor of Maui. After his death, she retained the authority of the island, and acted as Governess for the period of some fifteen years. At the age of about eight years, Haalilio removed to Hilo on Hawaii, where he was adopted into the family, and became one of the playmates, of the young prince, now King of the Islands. He traveled round to different parts of the Islands with the prince, conforming to the various heathenish rites which were then in vogue. From that period he remained one of the most intimate companions and associates of the King.