

THE
CIVIL CODE
OF THE
HAWAIIAN ISLANDS.

BE IT ENACTED, BY THE KING, THE NOBLES, AND THE REPRESENTATIVES OF THE HAWAIIAN ISLANDS IN LEGISLATIVE COUNCIL ASSEMBLED: (MAY 17TH, A. D. 1859.)

TITLE 1.—OF LAWS.

CHAPTER I.

OF THE PROMULGATION OF THE LAWS.

1. No written law shall be obligatory without being first printed and made public.

§2. All laws enacted by the Legislative power of the kingdom, shall be deposited and preserved in the office of the Minister of the Interior, who shall promulgate the same by publication in such newspaper or newspapers, printed at the Seat of Government, as he may deem proper.

§3. It shall be the duty of the Minister of the Interior to furnish a copy of the Laws, immediately after their publication, to each of the Executive Ministers, Governors, Judges and District Attorneys.

§4. All Laws, unless otherwise specially provided, shall take effect on the Island of Oahu ten days after the promulgation of the same, and on each of the other islands, thirty days after such promulgation; after which no one shall be allowed to allege ignorance of the law as an excuse or justification for a violation thereof.

CHAPTER II.

OF THE EFFECTS OF LAWS.

Const., Art. 16.
Norton v. Pa-
hana. 3d H. R.
300.

§5. No law shall have any retrospective operation.

§6. The laws are obligatory upon all persons, whether subjects of this kingdom, or citizens or subjects of any foreign State, while within the limits of this kingdom, except so far as exception is made by the laws of nations in respect to Ambassadors or others. The property of all such persons, while such property is within the territorial jurisdiction of this kingdom, is also subject to the laws.

§7. Private agreements shall have no effect to contravene any law which concerns public order or good morals. But individuals may, in all cases in which it is not expressly or impliedly prohibited, renounce what the law has established in their favor, when such renunciation does not affect the rights of others, and is not contrary to the public good.

§8. Whatever is done in contravention of a prohibitory law is void, although the nullity be not formally directed.

CHAPTER III.

OF THE CONSTRUCTION OF LAWS.

§9. The words of a law are generally to be understood in their most known and usual signification, without attending so much to the literal and strictly grammatical construction of the words as to their general or popular use or meaning.

§10. Where the words of a law are dubious, their meaning may be sought by examining the context, with which the ambiguous words, phrases and sentences may be compared, in order to ascertain their true meaning.

§11. Laws in *pari materia*, or upon the same subject matter, must be construed with reference to each other; what is clear in one statute may be called in aid to explain what is doubtful in another.

§12. One of the most effectual ways of discovering the true meaning of the law, when its expressions are dubious, is by considering the reason and spirit of it, or the cause which induced the Legislature to enact it.

§13. When the words of a law are ambiguous, every construction which leads to an absurdity should be rejected.

§14. The Judges have equitable as well as legal jurisdiction, and in all civil matters, where there is no express law, they are bound to proceed and decide according to equity, applying neces- § 823.
Kake v. Horton. 2 H.R. 212.

sary remedies to evils that are not specifically contemplated by law, and conserving the cause of morals and good conscience. To decide equitably, an appeal is to be made to natural law and reason, or to received usage, and resort may also be had to the laws and usages of other countries.

§15. Every word importing the singular number only, may extend to and embrace the plural number; and every word importing the plural number only, may be applied and confined to the singular number as well as the plural; and every word importing the masculine gender only, may extend to and include females as well as males.

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

§17. The word *person*, or 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.

§18. The word *month* shall be construed to mean a calendar month, unless otherwise expressed; and the word *year*, a calendar year, unless otherwise expressed.

§19. The word *oath* shall be construed to include affirmation, when made by one alleging himself to be a member of the Society of Friends.

CHAPTER IV.

OF THE REPEAL OF LAWS.

§20. The repeal of any law shall not be construed to revive any other law which has been repealed, unless it be so clearly expressed. Laws may be repealed either entirely or partially by other laws.

§21. The repeal of a law is either express or implied ; it is express when it is literally declared by a subsequent law ; it is implied when the new law contains provisions contrary to, or irreconcilable with, those of the former law.

§22. The repeal of any law shall, in no case, affect any act done, or any right accruing, accrued, acquired or established, or any suit or proceeding had or commenced in any civil case, before the time when said repeal shall take effect. Norton v. Pea-
hama. 3d H. R.
300.

§23. No suit or prosecution pending at the time of the repeal of any law, for any offence committed, or for the recovery of any penalty or forfeiture incurred under the law so repealed, shall in any case be affected by such repeal.