

## VIII.

U. S. Ship Vincennes,  
Honolulu, Nov. 23d, 1841.

SIR,—

I have the honour to acknowledge the receipt of your communication of this date, respecting a man belonging to this ship, by the name of Lewis Herron. In replying to it, I would in the first place make known to you the desire I have always evinced, and still do, to cause all under my command to respect the laws of the Islands, and to suffer the penalties when infringed, provided a proper trial has been had. Such not having been the case in the present instance, in my opinion, I deemed it a duty I owe to those under my command, and all other American citizens, as well as to your government, to interpose, and prevent punishments being inflicted.

The case as I view it is this, viz.: Lewis Herron, during his liberty on shore, quietly desires to enter a public house, and is met at the door by a man with a cutlass, who refuses him admittance, and after a little altercation, he is assaulted and wounded in the leg with the cutlass. This excites his passion, (as well it might,) and he takes the weapon from the aggressor and inflicts several blows on him with its flat side; finds himself attacked by several; inflicts a wound, and is found in possession of the weapon by the police; he is apprehended and taken to the fort.

The next day he is brought before you; you hold an examination, without the formality of a trial, receive testimony (not on oath), and pass sentence on him, unknown to any one, to receive one hundred lashes, and pay a fine of fifty dollars.

Application is made to you by my order, for a trial by jury, which I was informed you engaged to give the next morning; to my great surprise, the first news I learn is, that you have inflicted twenty-eight lashes at eight o'clock, and intend to subject him to seventy-two more, and a fine of fifty dollars.

Now it strikes me, that the magnitude of the punishment presented by the laws ought to have caused you to order a trial by jury, which, according to treaty, is fully acknowledged, and then the person would have had full opportunity for a fair and impartial trial.

It appears most clearly to my mind, that you lost sight of the distinction of using weapons to assault and with criminal intention, and their accidental use in defence, or from provocation.

It appears to be very clear that you were of opinion that he did