

LEGAL ANALYSIS OF THE TRIAL

1. How was the Tribunal established (convened by the Commander in Chief)--who were the decisionmakers (seven officers from the national guard--Col. W. Austin Whiting, Pres of Commission) (including their backgrounds), and where did they get their authority? Trial was held in the Throne Room of Iolani Palace, which was apparently the headquarters of the National Guard of Hawaii. Was the public allowed in the trial? Was the press allowed in?

2. What rules of procedure applied to this trial? Were they written specifically for this case? What other cases were covered by the rules?

3. What substantive rules applied to this case? Did the Republic enact new laws applicable to this situation, or was it using the common law, or the laws of the Kingdom?

4. What elements did the prosecution need to establish? [(1)--that she had "knowledge of the commission of treason against the Republic of Hawaii" and (2) that she concealed and failed to disclose her knowledge.] What evidence did the prosecution introduce to sustain its burden? Was the evidence established "beyond a reasonable doubt"? Was this standard applied? To what extent was this evidence credible? (focus on Charles Clark) Was the specification of charges too vague? (misprison of treason) Who was the prosecutor, and how did he do? (Capt. William A. Kinney--Judge Advocate of the Commission)

5. What evidence did the defense introduce to discredit the prosecution and establish affirmative defenses? (challenges to jurisdiction and to the credibility and coercion of witnesses) Challenge to establishment of martial law? (was there really a war or only a domestic disturbance?)(can martial law continue after the disorder was quelled?)(can decision in Duncan v. Kahanamoku be applied back to these facts?) (Lack of jurisdiction over the Queen, because she had not yet formally abdicated?) Who was the defense lawyer, and how did he do? (Paul Neumann, AG under Liliuokalani--where trained? how long in Hawaii?) What other defendants did he represent? (Rickard, Gregg, Wedeman)(sentenced to hang (??), but sentences were commuted & reduced after she renounced her claim to the throne) How was this defense linked to the other cases?

6. Were there other issues that could have been raised, but were not? Illegitimacy of the Republic? (covered to some extent in Neumann's closing argument) Defense of necessity? Jurisdiction over her as a head-of-state? Any potential immunities that could have been raised? Issues related to the (stinking) Oath of Allegiance? Was the trial rushed so that she did not have adequate time to prepare a defense? (trial was only 30 days after the rebellion)

7. Nature of her sentence--hard labor for five years (to be served without hard labor?) plus \$5,000 fine. Actual sentence? House arrest for 13 months?