

reach. The code is made for the purpose of punishing those who commit murder, and not those who are murdered.

The Attorney-General has cited the case of the *Commonwealth v. George Bowen* (13 Mass. 354). Chief Justice Parker charged the jury that, if one counsel another to commit suicide, and the other, by reason of the advice, kill himself, the adviser is guilty of murder as principal. Admit this as sound law, it does not follow that a person who commits suicide is a murderer according to the provisions of the code or at common law. A contrary opinion is expressed by Chief Baron Alderson, in the case of *Regina v. Leddington* (9 Carrington & Payne, 79), in his charge to the jury. He says to them that they have no right to inquire into this charge. It is a case of suicide, and the prisoner is charged with inciting it. It is a case we cannot try, and the prisoner must be acquitted.

No punishment by a human tribunal can be inflicted on the self-murderer. Can a punishment, then, be inflicted on one who attempts to commit the act? The court has been unable to find in any penal statute any provision against an attempt to commit self-murder, and for the very reason that he who commits the act is his own executioner; and this is the first indictment we have ever heard of, charging the attempt to commit suicide as an attempt to commit murder, unless there is an analogy in the case of the *Commonwealth v. Bowen*, above stated. It is very evident that this indictment cannot be sustained by any provision of the criminal code of this kingdom, and we are not aware of any code against which it is an offence. That it is a wicked and highly immoral act is true; but the wisdom of legislative bodies has never deemed it wise to make a provision to apply to the act charged against the defendant, and we are of opinion that we should be slow to give an entirely new construction to the code concerning murder, and to impose a punishment never contemplated, and of the wisdom of which the framers of the law have not as yet expressed a favorable opinion.

Our statutes, the Attorney General contends, should be construed in reference to the statutes of other countries and to the common law. So far as these statutes and the common law can impart any knowledge of the terms used, it is a sound suggestion; but it would not be contended that it was the duty of the court to modify a statute to make it similar in its provisions to any other. Every statute must have the force of its clearly defined terms. We find, however, no statute of any country, nor any provision of the common law, which will sustain this indictment.

The demurrer is sustained, and the indictment quashed. —*Hawaiian Gazette.*

GENERAL CORRESPONDENCE.

Discussion of Judicial decisions—Points reserved by County Judge.

TO THE EDITOR OF THE LAW JOURNAL.

DEAR SIR,—Permit us, through the columns of your Journal, to place before the profession

the ruling of the Judge of the County Court of the County of Ontario, in a certain cause tried before him at the last sittings of the said Court. This is done with all due deference to the learned Judge, and with the hope that you or some other member of the profession may attack or justify his conduct.

The action was brought on a promissory note, and was originally commenced in the Court of Queen's Bench; but by an order of the Hon. Mr. Justice Morrison, it was brought down to be tried at the last sittings of the said County Court, under 23 Vict., cap. 42, sec. 4.

The action was against a company, and two other defendants, individually. The company and one of the other two defendants appeared by the same attorney, but the other defendant did not appear, against whom, consequently, judgment was signed by default. The declaration was in the usual form against those who had appeared, and contained a suggestion that judgment by default had been signed and obtained against him who had not appeared to the writ.

The only plea pleaded to this declaration was simply that of *payment*, upon which the plaintiffs joined issue in the usual way. When the case came on for trial the defendants' attorney appeared in person and made the following objections: firstly, that the record was insufficient, because a *copy* of the Judge's order directing the case to be tried at the County Court, instead of the order itself, ought to have been attached thereto; and, secondly, that the declaration disclosed no cause of action against one of the defendants, inasmuch as the note, upon which the suit was brought, was signed by him as Managing Director of the said Company.

In answer to the first objection, it was strongly urged by the plaintiffs' counsel, that the statute above referred to expressly provides that the order itself, and not a *copy thereof*, shall be annexed to the record; and to the second, that the defendants' attorney was estopped from raising such an objection, inasmuch as the only plea was that of *payment*; that if the record were not sufficient, advantage ought to have been taken of the defect before that stage of the proceedings; that the plea of *payment* admitted the sufficiency of the record, both in form and substance; and that, as the objections were merely for time, the learned judge ought not to defeat the very