

# Overthrow

Some suggest the overthrow of the Hawai'i constitutional monarchy was neither unexpected nor sudden. The following are issues that some have suggested led to the overthrow. This summary is not an evaluation of whether the overthrow was good/bad, justified/unjustified – it is merely a summary of what others have claimed eventually led to the overthrow and subsequent activities.

Dissatisfaction with the rule of Kalākaua, and later Lili'uokalani, initially led to the 'Bayonet Constitution,' then, the overthrow. Mounting dissatisfaction with government policies and private acts of officials led to the formation of the Hawaiian League, a group of Honolulu businessmen. (Forbes) Some of those are:

## Challenges with Kalākaua

### Polynesian Confederacy

- 1 • “Kalākaua (one of the most theoretical of men) was filled with visionary schemes for the  
2 protection and development of the Polynesian race; (Walter Murray Gibson) fell in step with him  
3 ... The king and minister at least conceived between them a scheme of island confederation.”  
4 (Stevenson) Kalākaua was seeking leadership of other Islands in the Pacific.
- 5 • “(Gibson) discerned but little difficulty in the way of organizing such a political union, over which  
6 Kalākaua would be the logical emperor, and the Premier of an almost boundless empire of  
7 Polynesian archipelagoes.” (Daggett; Pacific Commercial Advertiser, February 6, 1900)
- 8 • “The first step once taken between the Hawaiian and Samoan groups, other Polynesian groups  
9 and, inclusively, Micronesian and Melanesian groups, might gradually be induced to enter into  
10 the new Polynesian confederation just as Lord Carnarvon gets colony after colony to adopt His  
11 Lordship's British Federal Dominion policy.” (Pacific Commercial Advertiser, November 17, 1877)
- 12 • John Bush, Hawai'i's ambassador to Sāmoa, succeeded in negotiating Articles of Confederation,  
13 which the Hawaiian cabinet ratified in March 1887. Kalākaua sent the Kaimiloa to salute High  
14 Chief Malietoa Laupepa in Sāmoa. (However, a German warship there warned Kalākaua to stop  
15 meddling in Samoan affairs.) (Chappell)
- 16 • Eventually, the confederacy attempts failed. It part, it is believed too many changes to existing  
17 systems were proposed, many of which were modeled after the Western way.
- 18 • Later, the Berlin Act (signed June 14, 1889,) between the US, Germany and Britain, established  
19 three-power joint rule over Sāmoa. This ultimately led to the creation of American Sāmoa.

### Opium License Bribery Case

- 20 • Another issue that particularly incensed people was the opium franchise bribery case, in which  
21 the King was implicated. (Forbes)
- 22 • An opium bill was passed providing for a license for four years, to be granted by the minister of  
23 the interior with the consent of the King. (Reports of Committee on Foreign Relations)
- 24 • “Early in November, 1886, Junius Kaae, (who has access to the King,) informed a Chinese rice  
25 planter named Tong Kee, alias Aki, that he could have the opium license granted to him if he  
26 would pay the sum of \$60,000 to the King's private purse, but that he must be in haste because  
27 other parties were bidding for the privilege.” (Executive Documents US House of Representatives,  
28 1895)
- 29 • “With some difficulty Aki raised the money, and secretly paid it to Kaae and the King in three  
30 instalments between December 3d and December 8th, 1888. Soon afterwards Kaae called on Aki

- 1 and informed him that one, Kwong Sam Kee, had offered the King \$75,000 for the license, and  
2 would certainly get it, unless Aki paid \$15,000 more. Accordingly Aki borrowed the amount and  
3 gave it to the King personally on the 11th. Shortly after this another Chinese syndicate, headed by  
4 Chung Lung, paid the King \$80,000 for the same object, but took the precaution to secure the  
5 license before handing over the money.” (Alexander)
- 6 • In a later affidavit, Tong Kee (Aki) noted, “I asked the King to return me all of my money and drop  
7 the whole thing. He exclaimed that this could not be done that it was all understood and arranged  
8 about the division of the license and could not be changed.” (Hawaiian Gazette, May 17, 1887)
  - 9 • Initially the king, through his minister of foreign affairs, disclaimed any involvement. However,  
10 “To cap the climax of the opium matter, the Attorney General proceeds to acknowledge that the  
11 money was paid over by the Chinese ... (H)e informed the gentlemen interested in getting the  
12 money back that he would never accomplish his object so long as he allowed the newspaper to  
13 speak of the affair.” (Hawaiian Gazette, May 17, 1887)
  - 14 • “The Attorney General then sees that there is no use in denying the receipt of the money but  
15 suggests that if a quiet tongue is kept in the matter the cash received for the bribe may be  
16 returned. ... This is a pretty piece of morality for the Attorney General to put forth and shows the  
17 obliquity of vision of all who are connected with the government.” (Hawaiian Gazette, May 17,  
18 1887)

### Extravagance/Debt

- 19 • Although Kalākaua had been elected and serving as King since 1874, upon returning from a trip  
20 around the world (1881), he determined that Hawai‘i’s King should also be properly crowned.
- 21 • “‘Iolani Palace, the new building of that name, had been completed the previous year (1882), and  
22 a large pavilion had been erected immediately in front of it for the celebration of the coronation.  
23 This was exclusively for the accommodation of the royal family; but there was adjacent thereto a  
24 sort of amphitheatre, capable of holding ten thousand persons, intended for the occupation of  
25 the people.” (Lili‘uokalani)
- 26 • “On Monday, 12<sup>th</sup> February, the imposing ceremony of the Coronation of their Majesties the King  
27 and Queen of the Hawaiian Islands took place at ‘Iolani Palace. ... Like a mechanical transformation  
28 scene to take place at an appointed minute, so did the sun burst forth as the clock struck twelve,  
29 and immediately after their Majesties had been crowned.” (Pacific Commercial Advertiser,  
30 February 17, 1883)
- 31 • The building of ‘Iolani Palace, in and of itself was an enormous extravagance, and so far as its cost  
32 is concerned remains a mystery to this day. The contract was not put out to tender in the  
33 customary manner, but the work was given for private reasons to architects and builders whom  
34 the King wished to favor. There were no requisitions upon the Treasury, and bills were paid by the  
35 King without any Ministerial intervention. (Krout)
- 36 • During the Aki Opium Bribery Case, noted above, it was learned that, “the King’s liabilities of one  
37 kind and another amounted to more than \$250,000. He was finally induced to make an  
38 assignment for the benefit of his creditors ... it was decided, in conformity with the Constitution,  
39 which adhered to the old mediaeval tradition, that the King could ‘do no wrong.’ This  
40 interpretation meant that Kalākaua ‘could not be sued or held to account in any court of the  
41 kingdom,’ but the revenue in the hands of the trustees was held liable to Aki’s claim.” (Krout)
- 42 • “Official advices from Honolulu, just received here, shows that the financial condition of the  
43 Hawaiian Kingdom is such that there is not the slightest hope of the Government ever again being  
44 independent of money lenders. The consequence will be trouble which must come sooner or

1 later, involving the interest of Americans, Englishmen and Germany. It is understood that when  
2 that period is reached our Government will insist that only American authority shall be recognized  
3 in the Hawaiian Kingdom, in what form this control will be established has not been considered,  
4 but no foreign Government will be permitted, under plea of setting up a protectorate, to establish  
5 itself in that country.” (Sacramento Daily Union, June 29, 1887)

### Bayonet Constitution (1887)

- 6 • “Kalākaua valued the commercial and industrial prosperity of his kingdom highly. ... He freely gave  
7 his personal efforts to the securing of a reciprocity treaty with the United States, and sought the  
8 co-operation of that great and powerful nation, because he was persuaded it would enrich, or  
9 benefit, not one class, but, in a greater or less degree, all his subjects.” (Lili’uokalani)
- 10 • In 1887, the struggle for control of Hawai’i was at its height with David Kalākaua on the throne.  
11 But some of the businessmen were distrustful of him. “So the mercantile element, as embodied  
12 in the Chamber of Commerce, the sugar planters, and the proprietors of the ‘missionary’ stores,  
13 formed a distinct political party, called the ‘down-town’ party, whose purpose was to minimize or  
14 entirely subvert other interests, and especially the prerogatives of the crown, which, based upon  
15 ancient custom and the authority of the island chiefs, were the sole guaranty of our nationality.”  
16 (Lili’uokalani)
- 17 • With firearms in hand, in 1887, members of the Hawaiian League presented King Kalākaua with a  
18 new constitution. Kalākaua signed the constitution under threat of use of force. (hawaiiibar-org)
- 19 • The opposition used the threat of violence to force the Kalākaua to accept a new constitution that  
20 stripped the monarchy of executive powers and replaced the cabinet with members of the  
21 businessmen's party. (archives-gov)
- 22 • The Hawaiian League came into control of the Honolulu Rifles (made of about 200 armed men.)  
23 In June 1887, the Hawaiian League used the Rifles to force King Kalākaua to enact a new  
24 Constitution. (Kukendall) As a result, the new constitution earned the nickname, The Bayonet  
25 Constitution.
- 26 • “On July 7, 1887, Kalākaua signed a proclamation stating that he ‘being moved thereto by the  
27 advice of my Cabinet Council; and in pursuance of such advice did sign, ordain, and publish a new  
28 Constitution.’” (UH Law School)
- 29 • On July 30, 1889, Robert William Wilcox led a rebellion to restore the rights of the monarchy, two  
30 years after the Bayonet Constitution of 1887 had left King Kalākaua a mere figurehead. By the  
31 evening, Wilcox became a prisoner and charged with high treason by the government. He was  
32 tried for treason, but acquitted by the jury.

### Concern with Lili’uokalani’s Attempt to Rewrite the Constitution

- 33 • “When Lili’uokalani became Queen, she took the following oath: ‘I solemnly swear in the presence  
34 of Almighty God, to maintain the Constitution of the Kingdom whole and inviolate, and to govern  
35 in conformity therewith.’” (UH Law School)
- 36 • “The four member Cabinet included the Minister of Foreign Affairs, the Minister of the Interior,  
37 the Minister of Finance, and the Attorney General. They were appointed by the King/Queen but  
38 could be removed only upon a vote of want of confidence passed by a majority of all the elective  
39 members of the Legislature or upon conviction of felony or by impeachment.” (UH Law School)
- 40 • “Article 78 of the 1887 Constitution stated that ‘[w]herever by this Constitution any Act is to be  
41 done or performed by the King or the Sovereign, it shall unless otherwise expressed, mean that

- 1 such Act shall be done and performed by the Sovereign by and with the advice and consent of the  
 2 Cabinet.” (UH Law School)
- 3 • “In 1889, the Hawaii Supreme Court, whose members had been appointed by Kalākaua,  
 4 interpreted the 1887 Constitution and instructed Kalākaua that ‘Your Majesty shall in future sign  
 5 all documents and do acts which under the laws or the Constitution require the signature or acts  
 6 of the Sovereign, when advised so to do by the Cabinet, the Cabinet being solely and absolutely  
 7 responsible for the signature of any document or act so done or performed by their advice.’ In  
 8 1890, the Hawaii Supreme Court ruled that the decision of no less than three of the four Cabinet  
 9 members was the decision of the Cabinet.” (UH Law School)
  - 10 • “On January 14, 1893, Lili‘uokalani was prepared to ignore the constitutionally mandated  
 11 approval-by-two-successive Legislatures process for amending the 1887 Constitution by  
 12 announcing a new constitution in place of Kalākaua’s 1887 Constitution.” (UH Law School)
  - 13 • “She did not do so because the Cabinet she appointed on January 13, 1893, refused her  
 14 authorization request. The members of that Cabinet were Samuel Parker, William Henry Cornwell,  
 15 Jr., Arthur P. Peterson and John Colburn. Parker was a Native Hawaiian.” (UH Law School)
  - 16 • “Saturday afternoon between 1 and 2 o'clock, the community was startled by the information  
 17 that a coup d'etat, was in progress, and that the Queen was endeavoring to force her Cabinet to  
 18 sign a new Constitution which she then proposed to promulgate immediately to the people. The  
 19 information was at first disbelieved by some, but it was speedily confirmed.” (Hawaiian Gazette,  
 20 January 17, 1893)

## Some Native Hawaiian Dissatisfaction with the Acts of Kalākaua and Lili‘uokalani

- Kawainui - editor of the most prominent newspaper in the Kingdom - the Kuakoa (all quotes from  
 Kawainui, Morgan Report)
  - 21 ○ “The Kamehameha dynasty had a strong hold upon the native heart because of its noble  
 22 ancestry, but Kalākaua and the late Queen, on account of their comparatively ignoble  
 23 origin, did not command the respect due to genuine high chiefs. The corruption of  
 24 Kalākaua and her late majesty have brought sore evils upon the Hawaiians.”
  - 25 ○ “What I want is good government. I do not care for a condition of affairs that is constantly  
 26 shifting. We need a government that will be respected abroad and trusted at home.”
  - 27 ○ “Either annexation to the United States or a protectorate. I prefer the former because of  
 28 its greater stability. With annexation we should, of course, to a great degree enjoy the  
 29 same condition of things that prevails in America.”
  - 30 ○ “I have had enough of monarchy, and believe that the safety and prosperity of the country  
 31 is dependent upon its annexation to the United States, and there are many of the  
 32 intelligent native Hawaiians who agree with me in this opinion.”
  - 33 ○ “The majority of my race are ignorant of what is really conducive to their best interests.  
 34 It can not be a matter of surprise that they look with fond recollections to the throne and  
 35 the old institutions. The future seems so uncertain that they can not conceive what is in  
 36 store for them, but when they find that they are treated justly under the (Provisional)  
 37 government, as they have been from the first day of its formation, and indorsed their  
 38 attempts to effect organic union with the United States, they will quickly give it their  
 39 confidence.” (Kawainui - editor of the most prominent newspaper in the Kingdom - the  
 40 Kuakoa; Morgan Report)

- Kahi - a prominent member of the last royal Hawaiian Legislature (all quotes from Kahi, Morgan Report)

1           ○ “I am 53 years old. During all these years I have lived under the Hawaiian monarchy, that  
2           is, under Kamehameha III, IV, and V, Lunalilo, Kalākaua, and the late Queen Lili‘uokalani.  
3           I was personally acquainted with all of these rulers, but it was not until the reign of  
4           Kalākaua that I commenced to take an active part in public life.”  
5           ○ “I was perfectly familiar with the whole of that monarch’s career. During the first half of  
6           his reign he conducted the Government with some regard to decency, but during the  
7           latter half the native Hawaiian people strongly objected to his actions.”  
8           ○ “During the whole of this period the voice of the common people was never heard or felt  
9           in the Legislature.”  
10          ○ “The King's henchmen and creatures were elected through the power and influence of  
11          the Crown for the sole purpose of carrying out the wishes of the King, in utter disregard  
12          of the desires and rights of the masses of the Hawaiian people. The common people had  
13          no show whatever at the elections.”  
14          ○ “The Government officials were everywhere instructed to compel the people to elect the  
15          King's favorites. During these years many self-respecting Hawaiians resisted the  
16          encroachments of absolutism and made a desperate, but unavailing, fight against  
17          overwhelming odds.”  
18          ○ “Kalākaua controlled every district justice, assessor, tax-collector, sheriff, and all other  
19          Government officials, and, through them, controlled the polls and drowned the voice of  
20          the people.”  
21          ○ “The rule of the late Queen has been just as rotten and corrupt as that of her brother  
22          Kalākaua. The greatest mistake of her reign was the fact that she exceeded her brother in  
23          seeking and acting upon the advice of the most unwise and corrupt counselors, and it was  
24          this mistake on her part that cost her her throne. I stand for the rights of the people and  
25          not for the rights of any privileged person.”  
26          ○ “Monarchy is dead, and I am glad of it. I rejoice and am proud to support the Provisional  
27          Government, for it commands my perfect confidence, and I was the fifth person in the  
28          country to swear my allegiance to it.”  
29          ○ “What I desire is a firm and strong government, and I shall do everything to promote its  
30          stability.”  
31          ○ “I believe that all those who will stop to think will agree with the views which I have  
32          expressed. I shall do everything in my power to show my constituents that these views  
33          are the only path to prosperity, and I believe that I shall succeed. The great mass of the  
34          Hawaiians are very poor, and some radical change must be made or they will be unable  
35          to obtain their means of livelihood.”

- Robert W Wilcox - the man who figured so prominently & conspicuously in the revolution of 1889 (all quotes from Wilcox, Morgan Report)

36          ○ “Queen Lili‘uokalani brought these evils upon herself and the country both by her  
37          personal corruption, and that of her Government.”  
38          ○ “She surrounded herself with bad advisers, and seemed determined to drive the nation  
39          to destruction. Good people had no influence over her whatever, for she indignantly  
40          refused to listen to them.”

- 1 ○ “I believe that if we can be annexed to the United States, the rights of all of our citizens,  
2 and especially those of the native Hawaiians, will be protected more carefully than they  
3 have ever been under the monarchy.”
- 4 ○ “My countrymen, with the exception of the most intelligent among them, do not  
5 understand much about these things. They need to be educated. They have so often been  
6 told by designing men that the United States was their enemy that they are naturally  
7 suspicious.”
- 8 ○ “Politicians who have sought to use the natives simply as so many tools have deceived  
9 them. When they understand from the lips of disinterested men and patriots what  
10 annexation means, and become acquainted with the benefits that it will bring them, they  
11 will be as much in favor of the movement as any of our other classes of citizens.
- 12 ○ “They are naturally somewhat prejudiced against (the Provisional Government), as  
13 monarchy is the only form of Government with which they are familiar, but this feeling  
14 will quickly wear away as the Hawaiians are led to see that the Government is friendly to  
15 them and their interests. They already have confidence in the integrity and patriotism of  
16 President Dole.
- 17 ○ “I have repeatedly (advocated annexation to the United States) in public meetings held in  
18 this city. ... but I am compelled to move cautiously or I shall lose my influence over them.  
19 I believe I am doing a good work by constantly conversing with them on the subject.”
- 20 ○ “I have told my countrymen that the monarchy is gone forever, and when they ask me  
21 what is the best thing to follow it I tell them annexation, and I firmly believe that in a very  
22 short time every Hawaiian will be in favor of that step.” (Robert W Wilcox - the man who  
23 figured so prominently & conspicuously in the revolution of 1889; Morgan Report)

## Repeated Changes in Cabinet Ministers in the Kalākaua and Lili‘uokalani Reigns

- 24 ● “Under every constitution prior to 1887 the ministers were appointed by the King and removed  
25 by him; but until Kalākaua’s reign it was a very rare thing that any King changed his ministry. They  
26 had a pretty long lease of political life.” (Judd; Blount Report)
- 27 ● “It was a very rare political occurrence, and made a great sensation when a change was made.”  
28 (Judd; Blount Report) if

### Kalākaua Reign

- 29 ● “Under Kalākaua things were different; I think we had twenty-six different cabinets during his  
30 reign.” (Judd; Blount Report)
- 31 ● “The record discloses thirteen cabinets.” (Judd; Blount Report)
- 32 ● “Prior to July 6, 1887, the king had a constitutional right to dismiss his ministers as well as to  
33 appoint them, and Kalākaua exercised the right very freely.” (Kuykendall)
- 34 ● “During the first two or three years of the reign, changes of personnel within the cabinet were  
35 caused by disagreements among the ministers, but from 1878 to 1887 the changes were made at  
36 the will of the king.” (Kuykendall)
- 37 ● “In the first four and one-half years of the reign, the four cabinet posts were held by twelve  
38 different men.” (Kuykendall)
- 39 ● “In 1876, 1878, 1880, and 1882, there were complete changes of the cabinet (two in 1880). In the  
40 five years, 1882-87, that Walter Murray Gibson headed the cabinet, the four positions were held  
41 by thirteen different men.” (Kuykendall)

- 1 • “Two of these were directly forced on him by the reformers. Of the others, six were in sympathy  
2 with the reformers and eminent in their confidence.” (Judd; Blount Report)
- 3 • “The great stir in cabinet changes commenced with the Gibson cabinet in 1882. He was a man of  
4 large information, free from all suspicion of bribery, politically ambitious, and led the natives and  
5 some whites.” (Judd; Blount Report)
- 6 • “In 1887 there was a complete change when Gibson was forced out of office; and in 1890 there  
7 was another complete change when the cabinet resigned after an adverse vote in the Legislative  
8 Assembly, in which the king had a hand.” (Kuykendall)
- 9 • In the Constitution of 1887 (Bayonet Constitution,) “The power of appointing a cabinet was left  
10 with the King.” (Alexander)
- 11 • “His power to remove one was taken away. The removal could only be accomplished by a vote of  
12 want of confidence by a majority of all the elective members of the Legislature. The tenure of  
13 office of a cabinet minister henceforth depends on the pleasure of the Legislature.” (Alexander)

### Lili’uokalani Reign

- 14 • “Queen Lili’uokalani marked the beginning of her reign by requesting the resignations of the hold-  
15 over cabinet ministers who had been appointed and commissioned by the late king.” (Kuykendall)
- 16 • “The ex-Queen’s rule was even more reckless and retrogressive than her brother’s. Less politic  
17 than he, and with less knowledge of affairs, she had more determination and was equally  
18 unreliable and deficient in moral principle.” (Alexander)
- 19 • With the death of Kalākaua, on “February 25 (1891,) the queen appointed a new cabinet  
20 consisting of Samuel Parker, minister of foreign affairs; Charles N. Spencer, minister of the  
21 interior; Herman A. Widemann, minister of finance; William Austin Whiting, attorney general.”  
22 (Kuykendall)
- 23 • “The session of the legislature of 1892 was the longest that had ever occurred in our history, and  
24 was characterized by a most obstinate struggle for personal control of the Government and the  
25 legislature on the part of the Queen. This was strenuously resisted by the opposition.” (Alexander)
- 26 • “The feature of the 1892 legislative session that gave it a unique character was the long and bitter  
27 struggle for control of the cabinet; this also was the chief cause of the delay in completing action  
28 on the appropriation bill and other important measures”. (Kuykendall)
- 29 • “The cabinet in office when the legislature opened was the one appointed by Queen Lili’uokalani  
30 after she ascended the throne.” (Kuykendall)
- 31 • “During this contest four ministerial cabinets were appointed and unseated, and the lottery-  
32 franchise bill, which had been withdrawn early in the session for want of sufficient support, was  
33 at the last moment, when the opposition was weakened by the absence of several of its members,  
34 again brought forward and passed through the exercise of improper and illegitimate influences  
35 upon the legislators, among which were personal appeals on the part of the Queen to them.”  
36 (Alexander)
- 37 • “The cabinet which represented the opposition and the majority of the legislature which the  
38 Queen had been compelled to appoint was unseated by similar means, and with a new cabinet of  
39 her own choice the legislature was prorogued.” (Alexander)
- 40 • “On January 13, 1893, after the legislature’s vote of want of confidence ousted the Wilcox  
41 Cabinet, Lili’uokalani appointed the Parker-Colburn-Cornwell-Peterson Cabinet.” (Road to  
42 Statehood)

## January 14, 1893 Lili'uokalani's Ministers Refused to Support Her Constitution - Threats of Bloodshed were Made Against Her Cabinet Ministers

- 1 • “The Queen retired to the blue room and summoned the ministers (Samuel Parker – Minister of  
2 Foreign Affairs; John F Colburn – Minister of Interior; William H Crowell – Minister of Finance; Arthur  
3 P Peterson – Attorney General) who repaired at once to the palace. The Queen was at a table, still  
4 dressed in the magnificent costume of the morning, and sparkling in a coronet of diamonds.”
- 5 • “She at once presented them with the draft of the new constitution, demanded their signatures,  
6 and declared her intention to promulgate the same at once.”
- 7 • “Attorney-general Peterson and Minister of Interior Colburn decidedly refused to do so, and  
8 Ministers Cornwell and Parker, though more hesitatingly, joined their colleagues in this refusal.”
- 9 • “All the cabinet now perceived the expediency of advising Her Majesty not to violate the law, but  
10 she was not to be dissuaded from her mad course.”
- 11 • “Bringing her clenched hand down upon the table Queen Liliuokalani said: ‘Gentlemen, I do not wish  
12 to hear any more advice. I intend to promulgate this constitution, and to do it now.’”
- 13 • “Proceeding, she told the cabinet that unless they abandoned their resistance at once she would go  
14 out upon the steps of the palace and tell the excited crowd there assembled that she wished to give  
15 them a new constitution, but that her ministers were inside the palace, hindering her from doing  
16 it.”
- 17 • “The ministers remembered the riot at the court house (when Emma lost to Kalākaua in 1874,) and  
18 the fate of the unlucky representatives who fell into the hands of the mob. They knew what the  
19 threat might mean, and before it could be put into execution they retired from the palace.”
- 20 • “The Queen was a very angry woman, when at 4 pm Saturday she returned to the throne room,  
21 where were assembled the Hui Kālai’āina with most of the native members of the Legislature, the  
22 cabinet, the governor of Oahu, the young princes, Chief-Justice Judd and Mr. Justice Bickerton, the  
23 staff, ladies of the court, kahili bearers, etc. She ascended the dais and spoke substantially as  
24 follows:”
  - 25 ○ “‘Princes, Nobles, and Representatives: I have listened to the thousands of voices of my  
26 people that have come to me, and I am prepared to grant their request. The present  
27 constitution is full of defects, as the chief justice here will testify, as questions regarding it  
28 have so often come before him for settlement. It is so faulty that I think a new one should  
29 be granted. I have prepared one, in which the rights of all have been regarded—a  
30 constitution suited to the wishes of the people.’”
  - 31 ○ “‘I was ready and expected to proclaim the new constitution to-day, as a suitable occasion  
32 for it, and thus satisfy the wishes of my dear people. But, with deep regret, I say that I have  
33 met with obstacles that prevent it.’”
  - 34 ○ “‘Return to your homes peaceably and quietly and continue to look towards me, and I will  
35 look towards you. Keep me ever in your love. I am obliged to postpone the granting of the  
36 constitution for a few days. I must confer with my cabinet, and when, after you return home,  
37 you may see it, receive it graciously. You have my love, and with sorrow I now dismiss you.’”
- 38 • “Mr. White replied, thanking the Queen and assuring her of the love of the people, and that they  
39 would wait patiently until their desires should be fulfilled, to which the Queen responded with  
40 thanks, and left the throne room.”
- 41 • “Mr. (John Kahalewai) Kaunamano (a representative in the legislature) then began in a loud voice  
42 an inflammatory harangue which was suppressed. He demanded the lives of the members of the  
43 cabinet who had opposed the wishes of Her Majesty, and declared that he thirsted for bloodshed.”



- 1 • “A few moments later the Queen went out upon the upper balcony of the palace and addressed  
2 the crowd. She told them that on account of the perfidy of her ministers she was unable to give  
3 them the constitution which she had promised them, but that she would take the earliest  
4 opportunity of procuring it for them. (The crowd then gave three cheers.)”
- 5 • “Representative (William Pūnohu) White then...told the crowd that the cabinet had betrayed  
6 them, and that instead of going home peaceably they should go into the palace and kill and bury  
7 them.” (The Pacific Commercial Advertiser stated (January 16, 1893) he said, “kill and bury her”  
8 (ie the Queen.) White later said he would sue the newspaper for malicious libel; no known suit  
9 was filed.)
- 10 • “Attempts were made to stop him, which he resisted, saying that he would never close his mouth  
11 until the new constitution was granted. Finally he yielded to the expostulations of Col. Boyd and  
12 others, threw up his hands and declared that he was pau, for the present. After this the audience  
13 assembled dispersed.”
- 14 • “The constitution which the Queen wished to force upon the people deprived them of all voice in  
15 the choice of the house of nobles, the appointment of which was vested in the sovereign. The  
16 system of cabinet responsibility was abolished, the choice and removal of ministers being vested  
17 solely in the Queen. Native Hawaiians were to be exempt from the payment of personal taxes,  
18 and all white men were to be deprived of the franchise except those who were married to native  
19 wives.”
- 20 • “News was brought to the citizens down town that the attempt to carry the revolution through  
21 had for the moment failed. The meeting, however, appreciating the fact that the trouble had but  
22 just begun, did not break up, but continued the consideration of the emergency. A committee of  
23 public safety was formed, to which the further consideration of the situation was delegated, after  
24 which the assembly, which had been animated by one heart and soul from the beginning,  
25 dispersed.” (Blount Report)

## January 16, 1893 Committee of Safety Letter Seeking US Protection

- 26 • On January 16, 1893, the Committee of Safety wrote a letter to John L Stevens, American Minister,  
27 that stated:
  - 28 ○ “We, the undersigned citizens and residents of Honolulu, respectfully represent that, in  
29 view of recent public events in this Kingdom, culminating in the revolutionary acts of  
30 Queen Lili’uokalani on Saturday last, the public safety is menaced and lives and property  
31 are in peril, and we appeal to you and the United States forces at your command for  
32 assistance.”
  - 33 ○ “The Queen, with the aid of armed force, and accompanied by threats of violence and  
34 bloodshed from those with whom she was acting, attempted to proclaim a new  
35 constitution; and, while prevented for the time from accomplishing her object, declared  
36 publicly that she would only defer her action.”
  - 37 ○ “This conduct and action was upon an occasion and under circumstances which have  
38 created general alarm and terror. “We are unable to protect ourselves without aid, and  
39 therefore pray for the protection of the United States forces.”
- 40 • On the afternoon of January 16, 1893, 162-sailors and Marines aboard the USS Boston in  
41 Honolulu Harbor came ashore under orders of neutrality.
- 42 • To avoid bloodshed, the Queen yielded her throne on January 17, 1893 and temporarily  
43 relinquished her throne to ‘the superior military forces of the United States’. A provisional  
44 government was established.

## January 17, 1893 the constitutional monarchy was overthrown-not Hawaiian race

- 1 • All subjects and citizens of the Hawaiian Kingdom were affected by the overthrow, not just native  
2 Hawaiians. Today's discussion on Hawaiian Kingdom restoration appears to only include native  
3 Hawaiians ... Why?
- 4 • 'Nationality' means the legal bond between a person and a State and does not indicate the  
5 person's ethnicity. Everyone has the right to a nationality. (European Convention on Nationality)
- 6 • One of the earliest laws in Hawai'i dealt with citizenship; it was part of King Kamehameha III's  
7 Statute Laws 1845-1846. The Chapter for that law was titled: "Of Subjects and Foreigners" and  
8 the specific Article was labeled "Aliens, Denizens and Natives."
  - 9 ○ Section III of that law noted: "All persons born within the jurisdiction of this kingdom,  
10 whether of alien foreigners, of naturalized or of native parents, and all persons born  
11 abroad of a parent native of this kingdom, and afterwards coming to reside in this, shall  
12 be deemed to owe native allegiance to His Majesty. All such persons shall be amenable  
13 to the laws of this kingdom as native subjects." (Ka Huli Ao Digital Archives–Punawaiola)
- 14 • Subsequent laws through the Republic, Territory and State provide that "All persons born or  
15 naturalized in the Hawaiian Islands, and subject to the jurisdiction of the Republic, are citizens  
16 thereof."
- 17 • A lot of non-kānaka maoli were born in the Islands or became naturalized citizens, or are  
18 descendants of such. By laws and practice, they, too, are Hawaiian citizens ... history and the laws  
19 related to Hawaiian citizen status are clear and unambiguous.
- 20 • In 1893, all Hawaiian citizens lost their nation, Hawaiian citizens with varying ethnicities. As noted  
21 by Keanu Sai, "Hawai'i was a country of laws and nationality and not necessarily a specific race."
- 22 • If there are to be discussions leading to restoration, reparation, sovereignty, independence, etc  
23 that affect all Hawaiian citizens, whatever their ethnicity, all should be included in that process.

## Missionaries did not participate in the overthrow of the Hawai'i Constitutional Monarchy in 1893 – There Were No Missionaries After 1863

- 24 • There were no missionaries in the Islands after 1863 (30-yrs, a generation, before the overthrow).
  - 25 ○ Over the course of a little over 40-years (1820-1863 - the "Missionary Period",) about 184-  
26 men and women in twelve Companies served in Hawai'i to carry out the mission of the  
27 American Board of Commissioners for Foreign Missions (ABCFM) in the Hawaiian Islands.
- 28 • At its General Meeting from June 3, 1863 to July 1, 1863, the Sandwich Islands Mission of the  
29 American Board of Commissioners for Foreign Mission (ABCFM) met to discuss the future of the  
30 Mission. They formed the "Board of the Hawaiian Evangelical Association." (Missionary Papers,  
31 1867)
- 32 • "After twenty-one days of debate, the result was reached with perfect unanimity, and the  
33 Association agreed to assume the responsibility hitherto sustained by the Board. This measure  
34 was consummated by the Board in the autumn following, and those stations no longer look to the  
35 American churches for management and control." (Missionary Papers, 1867)
- 36 • In effect, "The mission has been, as such, disbanded and merged in the community." (1863)
- 37 • Some suggest there was a 'Missionary Party' – suggesting it was made up of missionaries. That is  
38 not true; there was no formal 'Missionary Party' – in fact, in part, "(native Hawaiians) sarcastically  
39 termed Americans 'the Missionary Party.'" (LaFeber)

- 1 • “By Missionary party is not meant that the members of it are missionaries, but that they are
- 2 descendants of the early missionaries who went to the islands ... The descendants are not
- 3 missionaries, but are mostly politicians and business men.” (Honolulu Republican, Sept 19, 1901)
- 4 • “An attempt has been made to try and call the Anglo-Saxon party, or better the commercial and
- 5 agricultural party, the Missionary party, and papers abroad have been weak enough to be taken
- 6 in by the claptrap.” (Hawaiian Gazette, August 23, 1882)

### **Citizenship of the 13-members of the organizing group of the Committee of Safety (it was also known as Annexation Club; it started in 1887 as the Hawaiian League)**

- 7 • The Committee of Safety was made up of 6-Hawaiian citizens (naturalized or by birth,) 5-
- 8 Americans, 1-Scotsman and 1-German. (They were all residents of Hawai’i and registered voters).
- 9 None were missionaries; only 3 of the 13 had any link to the American Protestant missionaries.)
- 10 ○ Hawaiian Citizens (6 of the 13)
- 11     ▪ Crister Bolte was a German national who became a naturalized Hawaiian subject
- 12     (1884); he was a merchant at Grinbaum & Co and was connected with the
- 13     Planters’ Labor and Supply Association and a sugar shareholder.
- 14     ▪ William Richards Castle, son of missionary Samuel Northrup Castle (who formed
- 15     Castle & Cooke), was born in Honolulu; he was attorney general for Kalākaua
- 16     1876, Hawaiian legislator 1878-1886, the House of Nobles 1887-1888.
- 17     ▪ William Owen Smith, son of American missionaries was born on Kauai; while
- 18     serving as sheriff on Maui, he planted the banyan tree on Front Street in Lāhainā
- 19     (to commemorate the 50th anniversary of the American Protestant Mission
- 20     there.) He was later law partner with Lorrin Thurston.
- 21     ▪ Lorrin A Thurston, grandson of American missionaries, was born in Honolulu; he
- 22     was a lawyer and publisher (Pacific Commercial Advertiser – later, Honolulu
- 23     Advertiser.) He later worked with George Lycurgus and others to have the
- 24     volcano area made into Hawai’i Volcanoes National Park.
- 25     ▪ Henry Waterhouse was born in Tasmanian and became a naturalized citizen
- 26     (1869); he operated Henry Waterhouse Trust Company, real estate and
- 27     investment firm.
- 28     ▪ William Chauncey Wilder, born in Canada, became a naturalized Hawaiian subject
- 29     (1888); his brother (Samuel G Wilder of the Wilder Steamship Company) sent for
- 30     him to come work with him in the Islands. He was active in the transportation
- 31     business.
- 32 ○ American Citizens (5 of the 13)
- 33     ▪ Henry Ernest Cooper was an American lawyer specializing in real estate abstract
- 34     ▪ John Emmeluth was an American citizen who emigrated to Hawai’i in 1879; he
- 35     owned John Emmeluth and Company, Honolulu’s principal plumbing and
- 36     household furnishings business. He was also a pineapple grower and
- 37     experimented with pineapple canning. He later joined forces with Robert Wilcox
- 38     in the Home Rule Party.
- 39     ▪ Theodore F Lansing was an American citizen (from New York); he was an
- 40     insurance agent and commission agent
- 41     ▪ John Andrew McCandless was an American (Pennsylvania); he was a well-driller
- 42     and cattleman.

- 1                   ▪ Frederick W McChesney, an American, worked for his father, a tanner by trade  
2                   and established a small tannery in connection with a grocery store and later  
3                   formed MW (Matthew Watson) McChesney & Sons. They later added Honolulu  
4                   Soap Works; Frederick also worked in the fruit trade, with Woodlawn Fruit.  
5           ○ Scottish National (1 of the 13)  
6                   ▪ Andrew Brown was a Scottish national; he was formerly a coppersmith at the  
7                   Honolulu Iron Works and later superintendent of the Honolulu water-works  
8           ○ German National (1 of the 13)  
9                   ▪ Edward Suhr, was a German citizen, worked for H Hackfeld & Company. Hackfeld  
10                  developed a business of importing machinery and supplies for the spreading  
11                  sugar plantations and exported raw sugar.
- 12 • Henry F. Glade (German citizen) and A.S Wilcox (Hawai'i born with American parents) had been  
13   initial members of the Committee, but they resigned after a couple of days.
  - 14 • On January 16, 1893, the Committee of Safety wrote a letter to John L Stevens, American Minister,  
15   that stated:
    - 16   ○ “We, the undersigned citizens and residents of Honolulu, respectfully represent that, in  
17   view of recent public events in this Kingdom, culminating in the revolutionary acts of  
18   Queen Lili'uokalani on Saturday last, the public safety is menaced and lives and property  
19   are in peril, and we appeal to you and the United States forces at your command for  
20   assistance.”
    - 21   ○ “The Queen, with the aid of armed force, and accompanied by threats of violence and  
22   bloodshed from those with whom she was acting, attempted to proclaim a new  
23   constitution; and, while prevented for the time from accomplishing her object, declared  
24   publicly that she would only defer her action.”
    - 25   ○ “This conduct and action was upon an occasion and under circumstances which have  
26   created general alarm and terror. “We are unable to protect ourselves without aid, and  
27   therefore pray for the protection of the United States forces.”
  - 28 • When asked to provide membership information in the Annexation Club to JH Blount (1893,) JW  
29   Jones, Secretary of the Annexation Club noted the following:
    - 30   ○ “(T)he names on our great register (of membership in the Annexation Club) to date are  
31   5,500 and that we are advised of 190 odd on rolls not yet entered on the other islands.”
    - 32   ○ This included:
      - 33           ▪ Portuguese – 2,261, “being 73 per cent of Portuguese on islands and 41 per cent  
34           of club rolls.”
      - 35           ▪ Americans - 1,218, “being 90 odd per cent of the total number of Americans on  
36           the islands and 20 odd per cent of those on the club rolls.”
      - 37           ▪ Hawaiian – 1,022, “being 11 per cent of those on islands and 18 per cent of club  
38           rolls.”
      - 39           ▪ Germans – 351, “being 53 per cent of those on islands and 6 per cent on club rolls.
      - 40           ▪ English - 251, “being 26 per cent of those on the islands and 4 per cent of club  
41           rolls.”
      - 42           ▪ Norwegians – 69, “being 50 per cent of those on islands and 1 per cent of club  
43           rolls.”
      - 44           ▪ Others, 328, unclassified. (JW Jones, Secretary Annexation Club (July 9, 1893)  
45           (Blount Report))

## The Hawaiian Kingdom was recognized by international entities; the Provisional Government (de facto), Republic of Hawai'i (de jure) and Territory of Hawai'i (UN delisting of Non-Self-Governing Territory) also received international recognition

- 1 • “The term ‘recognition,’ when used in the context of recognition of States and governments in  
2 international law, may have several different meanings. It may indicate the recognizing State’s  
3 willingness to enter into official relations with a new State or government, or manifest its opinion on  
4 the legal status of a new entity or authority, or both.”
- 5 • “Recognition is a unilateral act performed by the recognizing State’s government. It may be express  
6 or implicit.” (Talmon)
- 7 • “The subject has been complicated by the introduction of several variants of the term. Distinctions  
8 between ‘de facto recognition,’ ‘diplomatic recognition’ and ‘de jure recognition’ may be traced back  
9 to the secession of the Spanish provinces in South America in early 19th century.”
- 10 • “Like ‘recognition,’ these terms can be given meaning only by establishing the intention of the  
11 authority using them within the factual and legal context of each case.” (Talmon)
- 12 • If a state is accorded de jure recognition that means all the preconditions under international law for  
13 final and complete recognition have been fulfilled. De facto recognition has a comparatively less  
14 binding effect, because the legal relationship - though effectively in existence - is only provisional.  
15 (Blazek, Swiss Government Portal)
- 16 • The Hawaiian Kingdom became recognized through statements and treaties with:
  - 17 ○ Austria-Hungary (June 18, 1875), now Austria and Hungary; Belgium (October 4, 1862);  
18 Bremen (March 27, 1854) now Germany; Denmark (Oct. 19, 1846); France (September 8,  
19 1858); French Tahiti (November 24, 1853); Germany (March 25, 1879); Great Britain (March  
20 26, 1846); Great Britain’s New South Wales (March 10, 1874), now Australia; Hamburg  
21 (January 8, 1848), now Germany; Italy (July 22, 1863); Japan (Aug. 19, 1871, January 28, 1886);  
22 Netherlands (October 16, 1862); Portugal (May 5, 1882); Russia (June 19, 1869); Samoa  
23 (March 20, 1887); Spain (October 9, 1863); Sweden and Norway (April 5, 1855), now separate  
24 States; Switzerland (July 20, 1864); and the United States of America (December 20, 1849.)  
25 (Sai)
- 26 • The Provisional Government de facto recognition:
  - 27 ○ John L Stevens, for the US Legation, acknowledged the Provisional Government on January  
28 17, 1893. On January 18, 1893, the Imperial German Consulate, Austro-Hungarian Consulate,  
29 Consul for Italy, Russian acting consul, Vice-Consul for Spain, Consulate of The Netherlands,  
30 Royal Danish Consulate, Consulate of Belgium, Consul for Mexico, Consulate of Chile, Office  
31 of the Peruvian Consulate, Consul-General and Charge d’Affaires of Portugal, Consulate and  
32 Commissariat of France and Chinese Commercial Agency wrote letters acknowledging (de  
33 facto) the Provisional Government. On January 19, 1893, the British Legation and His Imperial  
34 Japanese Majesty’s Consulate gave recognition.
- 35 • The Republic of Hawai’i de jure (formal diplomatic) recognition:
  - 36 ○ With respect to transformation of the State status in Hawai’i, the Provisional Government of  
37 Hawai’i then established voter eligibility, convened a constitutional convention, approved a  
38 new constitution and the Republic of Hawai’i was established on July 4, 1894.
  - 39 ○ Shortly after (from August 1894 through January 1895,) a number of letters of formal  
40 diplomatic recognition (de jure) of the Republic of Hawai’i were conveyed to the Republic of  
41 Hawai’i President Sanford Dole.
    - 42 ■ These included formal letters from Austria/Hungary, Belgium, Brazil, Britain,  
43 Chile, China, France, Germany/Prussia, Guatemala, Italy, Japan, Mexico, Netherlands,

1 Norway and Sweden, Peru, Portugal, Russia, Spain, Switzerland and the United  
2 States. (These were countries that had prior agreements and treaties with the  
3 Hawaiian Monarchy.)

- 4     ▪ An August 7, 1894 letter notes US President Grover Cleveland wrote to Republic  
5 of Hawai'i President Sanford B Dole, saying "... I cordially reciprocate the  
6 sentiments you express for the continuance of the friendly relations which have  
7 existed between the United States and the Hawaiian islands".
- 8     ▪ In his annual 'Message to Congress' (1895,) President Cleveland noted, "Since  
9 communicating the voluminous correspondence in regard to Hawai'i and the  
10 action taken by the Senate and House of Representatives on certain questions  
11 submitted to the judgment and wider discretion of Congress the organization of  
12 a government in place of the provisional arrangement which followed the  
13 deposition of the Queen has been announced, with evidence of its effective  
14 operation. The recognition usual in such cases has been accorded the new  
15 Government."
- 16     ○ The United Nations delisted Hawai'i as a Non-Self-Governing Territory
  - 17         ▪ In 1946, the eight Administering Powers (Australia, Belgium, Denmark, France,  
18 Netherlands, New Zealand, United Kingdom and United States) submitted a total  
19 of 74 countries to be listed as Non-Self-Governing Territories under Chapter XI of  
20 the Charter.
  - 21         ▪ These territories under Chapter XI were administered by the Allied powers before  
22 the war, and do not include the countries ruled by the Axis powers (German, Italy  
23 and Japan) before the war. Those territories fell under what was called a  
24 "Trusteeship," and listed under Articles XII and XIII of the Charter.
  - 25         ▪ According to UN General Assembly Resolution 1541 (XV), a non-self-governing  
26 territory "can be said to have reached a full measure of self-government by: (a)  
27 Emergence as a sovereign independent State; (b) Free association with an  
28 independent State; or (c) Integration with an independent State."
  - 29         ▪ "In the period from 1953-1969, the General Assembly, having examined the  
30 information transmitted in accordance with resolution 222 (III), approved the  
31 cessation of information on six territories."
  - 32         ▪ "In the order of the decisions taken, they were, under resolution 748 (VIII) of 27  
33 November 1953, Puerto Rico, which became a Commonwealth associated with  
34 the United States under resolution 849 (IX) of 22 November 1954, Greenland,  
35 which was integrated with Denmark; under resolution 945 (X) of 15 December  
36 1955, Netherlands Antilles (originally listed as Curacao) and Surinam, which  
37 became self-governing parts of the Netherlands and, under resolution 1469 (XIV)  
38 of 12 December 1959, Alaska and Hawai'i, which were integrated with the United  
39 States. (UN)

## **The Provisional Government (and subsequent Republic, Territory & State) did not steal the land from the Hawaiian people – Crown Lands Remain in the Public Trust**

- 40     • Crown and Government Lands, though under the control of changing sovereigns and governments  
41 (Kingdom to Provisional Government to Republic to Territory to State,) were in and continue to  
42 remain in the 'public domain' for the public good.

- 1 • US Court of Claims noted, “It may not be unworthy of remark that it is very unusual, even in cases  
2 of conquest, for the conqueror to do more than to displace the sovereign and assume dominion  
3 over the country.”
- 4 • The Court concluded, “The crown lands were the resourceful methods of income to sustain, in  
5 part at least, the dignity of the office to which they were inseparably attached. When the office  
6 ceased to exist they became as other lands of the Sovereignty and passed to the defendants as  
7 part and parcel of the public domain.”
- 8 • The Court further noted, “The constitution of the Republic of Hawai‘i, as respects the crown lands,  
9 provided as follows: ‘That portion of the public domain heretofore known as crown land is hereby  
10 declared to have been heretofore, and now to be, the property of the Hawaiian Government ...’  
11 (Lili‘uokalani v The United States, 1910)
- 12 • We now generally refer to the Crown and Government Lands as ‘ceded’ lands. Under the  
13 Admission Act, about 1.2-million acres are to “be held by (the) State as a public trust” to promote  
14 one or more of five purposes:
  - 15 ○ support of the public schools and other public educational institutions
  - 16 ○ betterment of the conditions of native Hawaiians (per the Hawaiian Homes Act, 1920)
  - 17 ○ development of farm and home ownership on as widespread a basis as possible
  - 18 ○ making of public improvements
  - 19 ○ provision of lands for public use

**The United States does not have to acquire property only through a Treaty of Annexation with a concurring vote by the US Senate.**

- 20 • Annexation of Hawai‘i to the US was not a hostile takeover, it was something the Republic of  
21 Hawai‘i sought. “There was no ‘conquest’ by force in the annexation of the Hawaiian Islands nor  
22 ‘holding as conquered territory;’ they (Republic of Hawai‘i) came to the United States in the same  
23 way that Florida did, to wit, by voluntary cession”. (Territorial Supreme Court; Albany Law Journal)
- 24 • “There is no provision in the Constitution by which the national government is specifically  
25 authorized to acquire territory; and only by a great effort of the imagination can the substantive  
26 power to do so be found in the terms of any or all of the enumerated powers.” (Legal Issues Raised  
27 by Proposed Presidential Proclamation To Extend the Territorial Sea, October 4, 1988)
- 28 • “The United States has acquired territory through cession, purchase, conquest, annexation,  
29 treaty, and discovery and occupation. These methods are permissible under international law and  
30 have been approved by the Supreme Court.” (Legal Issues Raised by Proposed Presidential  
31 Proclamation To Extend the Territorial Sea, October 4, 1988)
- 32 • “The executive and the legislature have performed different roles in the acquisition of territory  
33 by each of these means. Unfortunately, the historical practice does not supply a precise  
34 explanation of where the Constitution places the power to acquire territory for the United States.”  
35 (Legal Issues Raised by Proposed Presidential Proclamation To Extend the Territorial Sea, October  
36 4, 1988)
  - 37 ○ “An act of congress passed in 1856, declared that guano islands taken into possession and  
38 occupation by American citizens, might be declared by the President to be ‘appertaining  
39 to the United States.’” (Handbook of American Constitutional Law)
  - 40 ○ “An act of Congress provides for the acquisition by Executive proclamation of any islands  
41 valuable for their deposits of guano, discovered by citizens of the United States and not,  
42 at the time of discovery, occupied or possessed by any other government or its citizens.”  
43 (George Sutherland, Constitutional Power and World Affairs (1919))

- 1           ○ In 1811, annexation of foreign territory (West Florida) resulted from a Presidential
- 2           Proclamation followed by an act of Congress (House and Senate participation.)
- 3           ○ The Supreme Court, in speaking of the power of Congress to establish the Territorial
- 4           Government in Florida until it should become a state, declared, “In the mean time, Florida
- 5           continues to be a territory of the United States governed by virtue of that clause in the
- 6           Constitution, which empowers Congress ‘to make all needful rules and regulations,
- 7           respecting the territory, or other property belonging to the United States.’”
- 8           ○ “Perhaps the power of governing a territory belonging to the United States, which has
- 9           not, by becoming a state acquired the means of self-government, may result necessarily
- 10          from the facts, that it is not within the jurisdiction of any particular state, and is within
- 11          the power and jurisdiction of the United States.”
- 12          ○ “The right to govern, may be the inevitable consequence of the right to acquire territory.
- 13          Whichever may be the source whence the power is derived, the possession of it is
- 14          unquestioned.” (Canter Decision - Decision also cited in Dred Scott Decision)
- 15          ● “The President (of the Republic of Hawai‘i,) with the approval of the cabinet, is hereby expressly
- 16          authorized and empowered to make a treaty of political or commercial union between the
- 17          Republic of Hawai‘i and the United States of America, subject to the ratification of the Senate.”
- 18          (The Hawaiian resolution for ratification of annexation was unanimously adopted by the Senate
- 19          of the Republic of Hawai‘i on September 9, 1897.) (US Secretary of State Sherman, June 15, 1897)
- 20          ● “The United States also annexed Hawai‘i by joint resolution in 1898.” (Legal Issues Raised by
- 21          Proposed Presidential Proclamation To Extend the Territorial Sea, October 4, 1988)

## Voting Rights and Participation in Hawai‘i

- 22          ● Kamehameha III initiated and implemented Hawai‘i’s first constitution (1840) (one
- 23          of five constitutions governing the Islands – and then, later, governance as part of the United
- 24          States.) Of his own free will he granted the Constitution of 1840, as a boon to his country and
- 25          people, establishing his Government upon a declared plan. (Rex v. Booth - Hanifin)
- 26          ● That constitution introduced the innovation of representatives chosen by the people (rather than
- 27          as previously solely selected by the Ali‘i.) This gave the common people a share in the
- 28          government’s actual political power for the first time.
- 29          ● In addition, the 1840 Constitution recognized rights of the people; its preamble read, “‘God hath
- 30          made of one blood all nations of men to dwell on the earth,’ in unity and blessedness. God has
- 31          also bestowed certain rights alike on all men and all chiefs, and all people of all lands.”
- 32          ● “Absolute monarchy had come to an end in 1840. Since that time the kingdom had been governed
- 33          under no less than four constitutions: the original one freely granted by Kamehameha III in 1840;
- 34          one adopted by the legislature with the concurrence of the same King in 1852; one promulgated
- 35          by Kamehameha V in 1864 on his own authority; and one granted in 1887 by Kalākaua as the
- 36          result of a popular uprising.” (Spaulding – Kosaki)
- 37          ● For two centuries, the trend in Hawai‘i has been toward expanding the numbers of people who
- 38          have a say in all parts of their government: from Kamehameha I’s near-absolute monarchy to a
- 39          hereditary oligarchy, to an oligarchy open to men with money, to American republic. (Hanifin)
- 40          ● “Although the Constitution of 1840 provided for a "representative body" of legislators, more than
- 41          ten years passed before a formal election was held. An 1842 law specified that representatives
- 42          were to be chosen by public petitions sent to the King, and this procedure was followed for the
- 43          rest of the decade.” (Schmitt)



- 1 • “Then, on July 30, 1850, two new election laws were approved. The first provided for annual  
2 elections, to be held the first Monday of January, and set the qualifications of voters. Under this  
3 act, a voter had to be a male subject (either native or naturalized) or denizen, at least 20 years of  
4 age, who had lived at least one year in Hawaii, and was not insane or an unpardoned felon.”  
5 (Schmitt)
- 6 • “The second law set the size of the House of Representatives at twenty-four, including two to be  
7 elected from Honolulu and one each from twenty-two single-member districts in rural Oahu and  
8 on the neighbor islands. Elective offices included representatives and road supervisors but not, of  
9 course, members of the House of Nobles or the King. These two laws were the basis for the first  
10 general election in the islands, held the following January.”
- 11 • “Both frequency of elections and legislative apportionment were changed over the years. The  
12 Constitution of 1852 provided for reapportionment every six years, to be based on official census  
13 results.”
- 14 • “The 1853 Legislature increased the number of Representatives from Honolulu to four and from  
15 Hilo, Lahaina, and Molokai-Lanai to two each. Elections were put on a biennial basis after 1856.  
16 The Constitution of 1894 revised district boundaries and moved the biennial elections to the last  
17 Wednesday of September.”
- 18 • “Voter qualifications also were changed from time to time. The 1864 Constitution added a  
19 property or income requirement: voters had to have either real property valued (over and above  
20 encumbrances) at \$150 or more, or a leasehold paying rent of \$25 or more annually, or a yearly  
21 income not less than \$75. Moreover, if born since 1840, they had to be able to read and write.”
- 22 • “The real property/income requirement was repealed in 1874 but was reinstated, in modified  
23 form, by the Constitution of 1887.”
- 24 • “The latter document (Constitution of 1887) made the House of Nobles an elective body for the  
25 first time in Hawaiian history, but with considerably more restrictive voter requirements than for  
26 voters for Representatives. Property worth \$3,000 or an annual income of \$600 or more were  
27 necessary to vote for Nobles, but no property or income minimums were set for voters for  
28 Representatives. The residence requirement was one year to vote for members of the lower  
29 house but three years for those of the upper house.”
- 30 • “All voters had to be able to read Hawaiian, English, or another European language (although this  
31 requirement was waived for voters for representative born in 1840 or before) and had to be of  
32 Hawaiian, American, or European birth or descent. Similar requirements were set by the  
33 Constitution of 1894, which in addition changed the name of the upper house to Senate and  
34 provided for fractional votes.” (Schmitt)
- 35 • In 1887, 50% of the population was Hawaiian – they were 64% of the registered voters for  
36 Representatives and 36% of the registered voters for Nobles (Schmitt)
- 37 • In 1890, Hawaiians and part Hawaiians were 70.3% of the registered voters; Portuguese were  
38 15.4% of the registered voters; Hawaii born of foreign parents were 1.1%; American were 4.7%,  
39 British were 3.7% and German were 2.8% of the registered voters) (Schmitt)
- 40 • In October 1894, total of 1,917 registered voters – 509-Hawaiian; 466-American; 274-British;  
41 3623-Portuguese; 175-German and 131-Other Nationalities (Schmitt)
- 42 • In 1896, Hawaiians were about 60% of the registered voters (Palmer). Total registered voters were  
43 2,687; of those, 1,126-Hawaiians voted (41.9%) (Van Dyke)
  
- 44 • In 1893, of the 877-people on the monthly payroll of the entire civil service of the Provisional  
45 Government, 459 (53.3%) were Hawaiian; 205 (23.4%) - of which 77 were school teachers - were  
46 American (Blount Report)

## The Apology & the Supreme Court

- 1       • On March 31, 2009, the Supreme Court of the United States reversed the Hawai'i Supreme Court  
2       and rendered a decision on a case between the State of Hawai'i and OHA relating to the transfer  
3       of ceded lands.
  
- 4       • In that decision, the US Supreme Court discusses the 1993 'Apology' Resolution, as well as makes  
5       references to Hawaiian Sovereignty. The following are quotes from the US Supreme Court  
6       decision: "In 1893, '[a] so-called Committee of Safety, a group of professionals and businessmen,  
7       with the active assistance of John Stevens, the United States Minister to Hawai'i, acting with the  
8       United States Armed Forces, replaced the [Hawaiian] monarchy with a provisional government.'  
9       'That government sought annexation by the United States' (Newlands Resolution)."
  
- 10      • "Pursuant to the Newlands Resolution, the Republic of Hawai'i 'cede[d] absolutely and without  
11      reserve to the United States of America all rights of sovereignty of whatsoever kind' and further  
12      'cede[d] and transfer[red] to the United States the absolute fee and ownership of all public,  
13      Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and  
14      all other public property of every kind and description belonging to the Government of the  
15      Hawaiian Islands, together with every right and appurtenance thereunto appertaining'  
16      (hereinafter ceded lands)."
  
- 17      • "The Newlands Resolution further provided that all 'property and rights' in the ceded lands 'are  
18      vested in the United States of America.'" "Two years later, Congress established a government  
19      for the Territory of Hawai'i. ... The Organic Act reiterated the Newlands Resolution and made clear  
20      that the new Territory consisted of the land that the United States acquired in 'absolute fee' under  
21      that resolution."
  
- 22      • "In 1959, Congress admitted Hawai'i to the Union (hereinafter Admission Act). Under the  
23      Admission Act, with exceptions not relevant here, 'the United States grant[ed] to the State of  
24      Hawai'i, effective upon its admission into the Union, the United States' title to all the public lands  
25      and other public property within the boundaries of the State of Hawai'i, title to which is held by  
26      the United States immediately prior to its admission into the Union.'"
  
- 27      • "Hawai'i state law also authorizes the State to use or sell the ceded lands, provided the proceeds  
28      are held in trust for Hawaiian citizens. In 1993, Congress' joint Apology Resolution "apologize[d]"  
29      for this country's role in overthrowing the Hawaiian monarchy, and declared that nothing in the  
30      resolution was 'intended to serve as a settlement of any claims against the United States.'"
  
- 31      • "In 1993, Congress enacted a joint resolution 'to acknowledge the historic significance of the  
32      illegal overthrow of the Kingdom of Hawai'i, to express its deep regret to the Native Hawaiian  
33      people, and to support the reconciliation efforts of the State of Hawai'i and the United Church of  
34      Christ with Native Hawaiians.' Joint Resolution to Acknowledge the 100th Anniversary of the  
35      January 17, 1893 Overthrow of the Kingdom of Hawai'i, ... (hereinafter Apology Resolution)."
  
- 36      • "Turning to the merits, we must decide whether the Apology Resolution 'strips Hawai'i of its  
37      sovereign authority to sell, exchange, or transfer' the lands that the United States held in  
38      "absolute fee" and "grant[ed] to the State of Hawai'i, effective upon its admission into the Union".  
39      We conclude that the Apology Resolution has no such effect."

- 1 • “The Apology Resolution did not strip Hawai‘i of its sovereign authority to alienate the lands the  
2 United States held in absolute fee and granted to the State upon its admission to the Union.”
- 3 • “The resolution’s first substantive provision uses six verbs, all of which are conciliatory or  
4 precatory. Specifically, Congress ‘acknowledge[d] the historical significance’ of the monarchy’s  
5 over-throw, ‘recognize[d] and commend[ed] efforts of reconciliation’ with native Hawaiians,  
6 ‘apologize[d] to [n]ative Hawaiians’ for the overthrow, ‘expresse[d] [Congress’s] commitment to  
7 acknowledge the ramifications of the overthrow,’ and ‘urge[d] the President ... to also  
8 acknowledge [those] ramifications’.”
- 9 • “Such terms are not the kind that Congress uses to create substantive rights - especially those  
10 that are enforceable against the cosovereign States.”
- 11 • “The Apology Resolution’s second and final substantive provision is a disclaimer, which provides:  
12 ‘Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the  
13 United States.’ By its terms, speaks only to those who may or may not have ‘claims against the  
14 United States.’”
- 15 • “The State Supreme Court, however, read [this] as a congressional recognition - and preservation  
16 - of claims against Hawai‘i. There is no justification for turning an express disclaimer of claims  
17 against one sovereign into an affirmative recognition of claims against another.”
- 18 • The US Supreme Court concluded, “First, ‘whereas’ clauses like those in the Apology Resolution  
19 cannot bear the weight that the lower court placed on them. As we recently explained in a  
20 different context, ‘where the text of a clause itself indicates that it does not have operative effect,  
21 such as ‘whereas’ clauses in federal legislation ..., a court has no license to make it do what it was  
22 not designed to do.’”
- 23 • “Second, even if the ‘whereas’ clauses had some legal effect, they did not ‘chang[e] the legal  
24 landscape and restructur[e] the rights and obligations of the State.’”
- 25 • “The Apology Resolution reveals no indication - much less a ‘clear and manifest’ one - that  
26 Congress intended to amend or repeal the State’s rights and obligations under Admission Act (or  
27 any other federal law); nor does the Apology Resolution reveal any evidence that Congress  
28 intended sub silentio to ‘cloud’ the title that the United States held in ‘absolute fee’” and  
29 transferred to the State in 1959.”
- 30 • “Third, the Apology Resolution would raise grave constitutional concerns if it purported to ‘cloud’  
31 Hawaii’s title to its sovereign lands more than three decades after the State’s admission to the  
32 Union. We have emphasized that ‘Congress cannot, after statehood, reserve or convey  
33 submerged lands that have already been bestowed upon a State.’”
- 34 • A later Hawai‘i Supreme Court case noted (in 2014,) “The US Supreme Court reversed this court,  
35 holding that the Apology Resolution did not confer substantive rights or have a substantive legal  
36 effect. Thus, the Apology Bill cannot serve to support a fundamental right to nation-building”.  
37 (SCWC-29794)