WHEN AND HOW DID HAWAIIANS LOSE THEIR SOVEREIGNTY?

The November 23, 1993, Apology Resolution alleges that “the illegal overthrow of the Kingdom of Hawaii on January 17, 1893, . . . resulted in the suppression of the inherent sovereignty of the Native Hawaiian people” and in “the deprivation of the rights of Native Hawaiians to self-determination”. These allegations are utterly false.

A government has sovereignty when it holds supreme, independent authority and full control over affairs within a geographical area. The 1893 overthrow is not what caused Hawaiians to lose their “supreme, independent authority and full control over affairs within” Hawai‘i and their right to self-determination. Those losses occurred prior to 1893. In 1893, pre-overthrow, Hawaiians were not in control of the government of Hawai‘i. A mix of Hawaiians and other non-Asians in Hawai‘i, particularly those qualified to vote, were in control. This mix had sovereignty.

The mixing of Hawaiians and other non-Asians began before Hawai‘i became a nation. Two Europeans, John Young and Isaac Davis, provided essential military assistance to Kamehameha in his long and successful quest to create the Nation of Hawai‘i. Kamehameha started the Nation in 1810, thirty-two years after Captain Cook first arrived. It began as an absolute monarchy/feudal aristocracy (king/queen/ali‘i/commoner). Young and Davis became Kamehameha’s advisors, business agents, interpreters and relatives. Davis married Kamehameha’s granddaughter. Young married Kamehameha’s niece and is Queen Emma’s grandfather. Young is buried in the Royal Mausoleum of Hawaii, in Nu‘uanu Valley.

In 1810, Hawai‘i’s government was an absolute monarchy. Kamehameha was the “supreme authority”. Kamehameha had total control of all aspects of life in Hawai‘i. Between 1810 and 1893, pre-overthrow, substantial changes were made to Hawai‘i’s social, cultural, political, legal and economic systems, land ownership, predominant religion and ethnic population. Those changes were the result of decisions made and not made by Hawaiian ali‘i and actions taken and not taken by Hawaiian ali‘i. Those decisions, actions and changes allowed other non-Asians in Hawai‘i to become a substantial part of the group that controlled the government to the point where, in 1893, pre-overthrow, a mix of Hawaiians and other non-Asians in Hawai‘i, particularly those qualified to vote, had control of the government.

Kamehameha III’s 1840 Constitution terminated the absolute monarchy/feudal aristocracy and replaced it with a constitutional monarchy (king/queen, cabinet, legislature, voters, judiciary).

An 1841 law authorized naturalization of foreigners who married Hawaiian subjects of the Kingdom.

This constitutional monarchy was modified by new Constitutions in 1852 (Kamehameha III), 1864 (Kamehameha V) and 1887 (Kal_kaua).
The 1859 Hawaiian Civil Code stated:

Denizen. The Monarch can confer upon any alien resident abroad, or temporarily resident in this Kingdom, letters patent of denization, conferring upon such alien, without abjuration of allegiance, all the rights, privileges and immunities of a native. The letters patent shall render the denizen in all respects accountable to the laws of the Hawaiian Kingdom, and impose upon him the like fealty to the King, as if he had been naturalized. (§ 433, Article VIII, Hawaiian Civil Code).

The 1852 Constitution allowed denizens to be, and vote for, elected Representatives.

The 1859 Hawaiian Civil Code stated:

Naturalize. The Minister of the Interior, with the approval of the Monarch, shall have the power in person upon the application of any alien foreigner who shall have resided within the Kingdom five years or more, stating his intention to become a permanent resident of the Kingdom, to administer the oath of allegiance to such foreigner, if satisfied that it will be for the good of the Kingdom. (§ 429, Article VIII, Hawaiian Civil Code).

The United States allowed its citizens by birth to “most solemnly swear, in the presence of Almighty God, that I will faithfully support the Constitution of the Hawaiian Kingdom” and to become “subjects of the Kingdom” without jeopardizing their United States citizenship.

The 1840 Constitution noted that “Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property.” This changed in 1845 when Kamehameha III and the legislature commenced a division (mahele) of land process. In the latter 1840s and early 1850s, Kamehameha III divided Hawai‘i’s land into the following four parts: (1) the King’s Crown lands; (2) the Government lands; (3) the Chiefs’ lands; and (4) the commoners’ lands. This “Great Mahele” distributed most of the land to the King, the government and the Chiefs.

Kamehameha III approved the Resident Alien Act of 1850 which permitted “resident aliens” to acquire and own Hawai‘i land in fee. Thereafter, non-Hawaiians purchased Crown land, Government land and Chiefs’ land. For example, Kamehameha IV agreed to sell and Elizabeth Sinclair and her sons agreed to purchase the island of Ni‘ihau. Kamehameha V completed the conveyance after Kamehameha IV died.

The King appointed the members of the Hawaii Supreme Court. From its beginning in 1852 to 1893, the only Hawaiian who served as a Hawaii Supreme Court Justice was John (Keoni) Papa ‘ī‘ī and he served from 1852 to 1864.

The United States government was not involved in Kalākaua’s approval of the 1887 Constitution. Kalākaua and Lili‘uokalani recognized the validity of the 1887 Constitution and governed in accordance with it.

To qualify to be a voter, a person had to be a no less than twenty year old “male resident
of the Hawaiian Islands of Hawaiian, American or European birth or descent” who had taken an oath to support the 1887 Constitution and laws. All those otherwise qualified who did not register and vote at the first election under the 1887 Constitution were required to be able to read and comprehend an ordinary newspaper printed in either the Hawaiian, English or some European language.

To qualify to vote for a Noble, a resident had to own and possess taxable property in Hawai‘i of the value of not less than three thousand dollars over and above all encumbrances, or have received an income of not less than six hundred dollars during the year next preceding the election.

The four member Cabinet included the Minister of Foreign Affairs, the Minister of the Interior, the Minister of Finance, and the Attorney General. They were appointed by the King/Queen but could be removed only upon a vote of want of confidence passed by a majority of all the elective members of the Legislature or upon conviction of felony or by impeachment.

About two-thirds of the qualified voters for Representatives were Hawaiians. In contrast, about two-thirds of the qualified voters for Nobles were those who were of “American or European birth or descent”. There were twenty-four Nobles and twenty-four Representatives. A majority of these forty-eight could oust Cabinet members. The four Cabinet members were ex-officio voting members of the legislature except on a question of want of confidence in them. The fifty-two members sat together as one legislative body.

In 1889, the Hawaii Supreme Court interpreted the 1887 Constitution and instructed Kalākaua that “Your Majesty shall in future sign all documents and do acts which under the laws or the Constitution require the signature or acts of the Sovereign, when advised so to do by the Cabinet, the Cabinet being solely and absolutely responsible for the signature of any document or act so done or performed by their advice.” In 1890, the Hawaii Supreme Court ruled that the decision of no less than three of the four Cabinet members was the decision of the Cabinet.

Lili‘uokalani noted that

[i]t was a practice among some of the native members [of the legislature] to sell their votes for a consideration. This was taught them by the Thurston party. They would come to me and then return to that party and repeat all that was said, for which they were usually paid something. The Liberals won and the cabinet was voted out, partly because they were so sure of their success and on account of their own corrupt practices.

On January 14, 1893, Lili‘uokalani was prepared to ignore the constitutionally mandated
approval-by-two-successive Legislatures process for amendments to the Constitution and to announce her new constitution in place of Kal_kaua’s 1887 Constitution but did not do so because the Cabinet she appointed on January 13, 1893, and did not have the power to remove, refused her authorization request. The overthrow occurred on January 17, 1893.

Hawai‘i once was a Nation controlled by Hawaiians. That started to change after Kamehameha III signed the 1852 Constitution. The change accelerated after Kamehameha V signed the 1864 Constitution. The change was completed after Kal_kaua signed the 1887 Constitution. In 1893, pre-overthrow, the Nation of Hawai‘i was not controlled by Hawaiians.

In 1893, pre-overthrow, Hawaiians did not have the votes to control the Legislature, did not have the votes to change the 1887 Constitution, did not control the Cabinet, did not control the Hawaii Supreme Court, and did not control the economy. The Queen was the nominal Chief Executive. After she appointed the Cabinet, it controlled her. In her words, she was “a nonentity, a figurehead”. While the Legislature was in session, it controlled the Cabinet.

In 1893, pre-overthrow, neither the Hawaiians nor the other non-Asians in Hawai‘i had control of Hawai‘i’s government. Together they had control. That is why Lili‘uokalani sought to change the 1887 Constitution and failed. It is also why a few non-Hawaiians, most of whom were qualified voters, instigated the overthrow.