LOSS OF “SOVEREIGNTY” AND “INHERENT SOVEREIGNTY”
BLAME THE ALI‘I, NOT THE 1893 OVERTHROW

What is “sovereignty”? The Law Dictionary defines “sovereignty” as “[t]he possession of sovereign power; supreme political authority; paramount control of the constitution and frame of government and its administration[.]”

PRIOR TO THE 1893 OVERTHROW,
THE HAWAIIAN ALI‘I RELINQUISHED HAWAIIAN SOVEREIGNTY

In 1810, Hawaiians were the sovereigns of the Nation of Hawai‘i. They were in total control. Over the course of the following eighty-two years prior to the 1893 overthrow, however, decisions made and not made by Hawaiian ali‘i and actions taken and not taken by Hawaiian ali‘i allowed a substantial number of American and European males to become residents, subjects, voters, land owners and lessees, businessmen, legislators, Cabinet members, Supreme Court Justices and other government officials to the point where in 1893, prior to the overthrow, Hawaiians did not have “sovereign power; supreme political authority; paramount control of the constitution and frame of government and its administration”. By then, Hawaiian ali‘i had relinquished sovereignty to a multi-racial group of Hawaiians, Americans and Europeans in Hawai‘i. This multi-racial group was not controlled by Hawaiians.

J Kehaulani Kauanui described “the Hawaiian Kingdom government” as “an independent state comprising Kanaka Maoli [indigenous] and non-indigenous subjects”. Instead of “non-indigenous subjects”, she should have used the phrase “non-indigenous residents”. Under the 1887 Constitution, many residents who were of American or European birth or descent were qualified to vote. Although many of these American and European residents were “subjects of the Kingdom”, being a “subject” was not a requirement. These non-indigenous residents had as much political power as did the Kanaka Maoli and much more economic power.

THE IMPOTENCE OF THE 1993 APOLOGY RESOLUTION

In Hawaii v. Office of Hawaiian Affairs, 556 U.S. 163, 175 (2009), the U.S. Supreme Court decided that (1) the Apology Resolution does not convey any rights or make any legal findings in support of Hawaiian claims and (2) its thirty-seven “whereas” clauses have no operative or legal effect. In other words, the contents of the Apology Resolution are no more than the personal opinions of those voted for it or approved it. It does not legally bind Congress, the President or the United States to what it says.

SOME OF THE 1993 APOLOGY RESOLUTION’S FALLACIES

The fifth “Whereas” paragraph of the Apology Resolution states in part:
Whereas, on January 14, 1893, . . . the United States Minister . . . conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii, including citizens of the United States, to invade the sovereign Hawaiian nation on January 16, 1893, . . .

This statement is partially false because on January 14, 1893, the sovereign Nation of Hawai‘i was not “the sovereign Hawaiian nation”.

The twenty-fifth Whereas paragraph states:

Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government.

The Republic of Hawaii ceded Crown, government and public lands to the United States in 1898. It did so without the consent of the “sovereign government” of “the Native Hawaiian people of Hawaii” because at that time and when the 1893 overthrow occurred no such government existed. If compensation was owed, it was owed to all of the people of Hawai‘i, not only to “the Native Hawaiian people of Hawaii”.

The Apology Resolution’s twenty-ninth “Whereas” paragraph states in part:

Whereas, the indigenous Hawaiian people never directly relinquished their claims . . . over their national lands to the United States, either through their monarchy or through a plebiscite or referendum[.]

Presumably, these “national lands” are the “1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii”. In 1893, prior to the overthrow, these lands were not the lands of “the indigenous Hawaiian people”. The Crown lands were managed “for the benefit of the Monarchy and the people”, including many Americans and Europeans. The public lands and the government lands were owned by the government of the Nation of Hawai‘i, the Nation of Hawai‘i included many Americans and Europeans, and the government of the Nation of Hawai‘i was not controlled by “the Native Hawaiian people”.

The thirty-fourth Whereas paragraph of the Apology Resolution states in part:

Whereas the Native Hawaiian people are determined to preserve, develop and transmit to future generation their ancestral territory, . . . .

In 1893, prior to the overthrow, “the Native Hawaiian people” did not have a valid legal claim to “their ancestral territory”. Some of “their ancestral territory” was privately owned. Some of “their ancestral territory” was “Crown Lands [to] be managed exclusively for the benefit of the Monarchy and the people.” The remainder of “their ancestral territory” was owned by the
government of the Nation of Hawai‘i for the benefit of the people, including many Americans and Europeans. The government of the Nation of Hawai‘i was not controlled by “the Native Hawaiian people”. They did not have sovereignty.

The Apology Resolution states in part:

SECTION 1. ACKNOWLEDGMENT AND APOLOGY.

The Congress -

. . .

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

. . .

The Apology Resolution apologizes “to Native Hawaiians on behalf of the people of the United States for . . . the deprivation of the rights of Native Hawaiians to self-determination”, It apologizes for a result not caused on January 17, 1893, and not caused by the United States. Prior to January 17, 1893, Hawaiian ali‘i had relinquished “the rights of Native Hawaiians to self-determination” to a multi-racial group of Hawaiians, Americans and Europeans in Hawai‘i. This multi-racial group was not controlled by Hawaiians.

INHERENT SOVEREIGNTY

The Apology Resolution’s twenty-fourth “Whereas” paragraph states:

Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States;

The statement that in 1898 “the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States” implicitly recognizes that in 1893 the sovereignty of the Nation of Hawai‘i passed to the Provisional Government and in 1894 it passed to the Republic of Hawaii.

The Apology Resolution states in part:

Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people . . . to the United States, either through their monarchy or through a plebiscite or referendum”.

...
SECTION 1. ACKNOWLEDGMENT AND APOLOGY.

The Congress -

(1) on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawaii on January 17, 1893, acknowledges the historical significance of this event which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people;

Why did the Apology Resolution use the phrase “inherent sovereignty” rather than the word “sovereignty”? What is “inherent sovereignty”?

In May 2013 the United States' Federal Register issued an official list of 566 tribes that are eligible to receive services from the United States Bureau of Indian Affairs. Indian tribes in the United States have “inherent sovereignty”.

The powers of Indian tribes are, in general, “inherent powers of a limited sovereignty which has never been extinguished.” F. Cohen, Handbook of Federal Indian Law 122 (1945) (emphasis in original). Before the coming of the Europeans, the tribes were self-governing sovereign political *323 communities. See McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164, 172, 93 S.Ct. 1257, 1262, 36 L.Ed.2d 129. Like all sovereign bodies, they then had the inherent power to prescribe laws for their members and to punish infractions of those laws.

Indian tribes are, of course, no longer “possessed of the full attributes of sovereignty.” United States v. Kagama, supra, 118 U.S., at 381, 6 S.Ct., at 1112. Their incorporation within the territory of the United States, and their acceptance of its protection, necessarily divested them of some aspects of the sovereignty which they had previously exercised. By specific treaty provision they yielded up other sovereign powers; by statute, in the exercise of its plenary control, Congress has removed still others.

But our cases recognize that the Indian tribes have not given up their full sovereignty. We have recently said that: “Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and their territory . . . . [They] are a good deal more than ‘private, voluntary organizations.’ ” United States v. Mazurie, 419 U.S. 544, 557, 95 S.Ct. 710, 717, 42 L.Ed.2d 706; see also Turner v. United States, 248 U.S. 354, 354-355, 39 S.Ct. 109, 63 L.Ed. 291; Cherokee Nation v. Georgia, supra, 5 Pet. at 16-17. The sovereignty that the Indian tribes retain is of a unique and limited character. It exists only at the sufferance of Congress and is subject to complete defeasance. But until Congress acts, the tribes retain their existing sovereign powers. In sum, Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status. See Oliphant v. Suquamish Indian Tribe, 435 U.S. 191, 98 S.Ct. 1011, 55 L.Ed.2d 209.

United States v. Wheeler, 435 U.S. 313, 322-323, 98 S.Ct. 1079 (1978). Simply stated, when Indian tribes relinquished their sovereignty to the United States, they expressly retained “inherent sovereignty”, a limited sovereignty that “exists only at the sufferance of Congress and is subject to complete defeasance.”
PRIOR TO 1893, HAWAIIAN ALI‘I RELINQUISHED HAWAIIAN SOVEREIGNTY WITHOUT RETAINING INHERENT SOVEREIGNTY

The Apology Resolution’s statement 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” is wrong. It ignores the relevant events that occurred after Captain Cook arrived in 1778 and before the overthrow in 1893.

The following history describes some of the decisions made and not made by Hawaiian ali‘i and actions taken and not taken by Hawaiian ali‘i between 1778 and 1893 whereby Hawaiians relinquished their sovereignty to a multi-racial group of Hawaiians, Americans and Europeans in Hawai‘i without retaining inherent sovereignty.

The mixing of Hawaiians, Americans and Europeans in Hawai‘i began before Hawai‘i became a nation. For example, 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 arrived in 1778. 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. In the early 1800s, Young served as the Royal Governor of the Island of Hawai‘i. He is buried in the Royal Mausoleum of Hawai‘i, in Nu‘uanu Valley. Davis served as the Royal Governor of O‘ahu.

The Nation of Hawai‘i began in 1810 as an Absolute Monarchy. When Kamehameha died in 1919, the government became a Monarchy/Feudal Aristocracy (King/Kuhina Nui/ali‘i/commoners). Until the mid-1840s, except for land gifted by Kamehameha to John Young, John Elliot de Castro, Alexander Napunako Adams and others, and land Queen Ka‘ahumanu gave to Adams and others, Kamehameha held all of the land in Hawai‘i first for himself and his family and second in trust for all of the people of Hawai‘i, including those who were not Hawaiians.

In her paper “Imposition of a Western Judicial System in the Hawaiian Monarchy”, https://evols.library.manoa.hawaii.edu, Jane L. Silverman wrote in part:

Three groups were active in imposing a Western judicial system on Hawaii in the first half of the 19th Century. The first group, women ali‘i (chiefs), reached out from their traditional culture to adopt Western judicial forms. The second group, American protestant missionaries, taught Christian ethical standards and principles of civil government. The third group, American lawyers, transferred American laws and recreated their judicial environment in the islands. By the time of the 1852 Constitution, these groups had used ali‘i authority combined with Western precedents to create a Hawaiian judicial system that was Western in philosophy, structure and procedure.

Women ali‘i created the condition which made the imposition of a Western judicial system possible, and then led its actual imposition. The women ali‘i brought about the abolition of the traditional religious kapu shortly after Kamehameha’s death in 1819. They did away with an
intricate system of regulations intertwined with the functions of daily life and removed the power of the kahuna (priests) to try and to punish the people for breaches of those regulations. . . .

The formal structure of a Western judicial system was imposed in Hawaii with a minimum of cultural conflict. This happened because women ali`i, persons with power and authority in the traditional culture, began the process of adopting Western judicial forms, and ali`i participated in authoritative positions as judges in the new system.

Kamehameha III’s 1840 Constitution changed the government to a Constitutional Monarchy (King/Legislature/Judiciary). This Constitutional Monarchy was modified by new Constitutions in 1852 (Kamehameha III), 1864 (Kamehameha V) and 1887 (Kal_kaua).

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

An 1846 law adopted the common law rule that “[a]ll persons born within the jurisdiction of this kingdom, whether of alien foreigners, of naturalized or of native parents, . . . , shall be amenable to the laws of this kingdom as native subjects.”

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.” This changed when Kamehameha III commenced a division (mahele) of land process.

In State by Kobayashi v. Zimring, 58 Hawaii 106, 566 P.2d 725, 729 (1977), in an opinion authored by Chief Justice William S. Richardson, the Hawaii Supreme Court explained the Great Mahele (footnotes omitted):

Responding to pressure exerted by foreign residents who sought fee title to land, and goaded by the recognition that the traditional system could not long endure, Kamehameha III undertook a reformation of the traditional system of land tenure by instituting a regime of private title in the 1840’s. . . .

A Board of Commissioners to Quiet Land Title, commonly known as the Land Commission, was created in 1846 for the “investigation and final ascertainment or rejection of all claims of private individuals,” and was empowered to make Land Commission Awards. . . .

In 1847, the King together with the Privy Council determined that a land mahele, or division, was necessary for the prosperity of the Kingdom. The rules adopted to guide such division were, in part, (1) that the King shall retain all his private lands as individual property and (2) that of the remaining lands, one-third was to be set aside for the Government, one-third to the chiefs and konohiki [agents of the chiefs], and one-third for the tenants. The Great Mahele was started in 1848, with the chiefs and konohiki first coming forward to settle their interests by agreement with the King. . . .
Once the Mahele agreements with the chiefs and the konohiki had been completed, there was to be a division of the remaining lands between the King and the Government.

. . . To effect this, the King signed and sealed two instruments. By one instrument, the King, having “set apart forever to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government,” retained for himself and his heirs certain designated lands, thereafter referred to as Crown Lands. By the second instrument, the King “set apart forever to the chiefs and people of my Kingdom” the remaining designated lands.

The public domain, which previous to the Mahele had been all-inclusive, was diminished by withdrawals of the Crown Lands and the lands successfully claimed by chiefs, konohiki and tenants. It included, inter alia, the lands surrendered to the Government by the King, the lands ceded by the chiefs in lieu of commutation, the lands purchased by the government, and all lands forfeited by the neglect of claimants to present their claims to the Land Commission within the period fixed by law. In 1893, following the overthrow of the monarchy, the Republic declared that Crown Lands were Government property and part of the public domain.

As to lands which were overlooked in the Mahele and thus unassigned, the question arose whether they were Crown or Government Lands. This court in *Thurston v. Bishop*, 7 Haw. 421 (1888), adopted the position that such unassigned lands remained part of the public domain.

Following the Mahele, portions of the public domain were sold from time to time in order to provide landless citizens with land and to obtain revenues for public expenditures. Purchasers of these lands were issued documents called Grants or Royal Patent Grants.

The act of June 7th, 1848, stated that the Crown Lands were “the private lands of his Majesty Kamehameha III., to have and to hold to himself, his heirs and successors forever; and said lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants.”

Kamehameha III approved the Resident Alien Act of 1850 which permitted “resident aliens” to acquire and own Hawai‘i land in fee. Thereafter, the King sold large amounts of Crown Land, the King and the Legislature sold large amounts of Government land and many of the Chiefs sold all or some of their land to American and European residents.

The Kuleana Act of 1850 is an Act confirming certain resolutions of the King and Privy Council passed on the 21st day of December 1849 which granted to the maka‘ainana (native Hawaiian tenants) an opportunity to obtain fee simple titles for lands and house lots situate within the boundaries of Crown Land, Government Land or the Chiefs’ lands or to purchase Government Land, and to enjoy certain other privileges. It stated in part:

Be it enacted by the Nobles and Representatives of the People of the Hawaiian Islands in Legislative Council assembled;

. . .
Section 1  Resolved. That fee simple titles, free of commutation, be and are hereby granted to all native tenants, who occupy and improve any portion of any Government land, for the land they so occupy and improve, and whose claims to said lands shall be recognized as genuine by the Land Commission; Provided, however, that the Resolution shall not extend to Konohikis or other persons having the care of Government lands or to the house lots and other lands, in which the Government have an interest, in the Districts of Honolulu, Lahaina and Hilo.

Section 2  By and with the consent of the King and Chiefs in Privy Council assembled, it is hereby resolved, that fee simple titles free of commutation, be and are hereby granted to all native tenants who occupy and improve any lands other than those mentioned in the preceding Resolution, held by the King or any chief or Konohiki for the land they so occupy and improve. Provided however, this Resolution shall not extend to house lots or other lands situated in the Districts of Honolulu, Lahaina and Hilo.

Section 3  Resolved that the Board of Commissioners to quiet Land titles be, and is hereby empowered to award fee simple titles in accordance with the foregoing Resolutions; to define and separate the portions belonging to different individuals; and to provide for an equitable exchange of such different portions where it can be done, so that each man’s land may be by itself.

Section 4  Resolved that a certain portion of the Government lands in each Island shall be set apart, and placed in the hands of special agents to be disposed of in lots of from one to fifty acres in fee simple to such natives as may not be otherwise furnished with sufficient lands at a minimum price of fifty cents per acre.

Section 5  In granting to the People, their House lots in fee simple, such as are separate and distinct from their cultivated lands, the amount of land in each of said House lots shall not exceed one quarter of an acre.

Section 6  In granting to the people their cultivated grounds, or Kalo lands, they shall only be entitled to what they have really cultivated, and which lie in the form of cultivated lands; and not such as the people may have cultivated in different spots, with the seeming intention of enlarging their lots; nor shall they be entitled to the waste lands. [Generally wetlands, ponds, and fallow fields. See citations later in this section.]

Section 7  When the Landlords have taken allodial titles to their lands the people on each of their lands shall not be deprived of the right to take firewood, aho cord, thatch, or ti leaf from the land on which they live, for their own private use, should they need them, but they shall not have a right to take such articles to sell for profit. They shall also inform the Landlord or his agent, and proceed with his consent. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, and running water, and roads shall be free to all should they need them, on all lands granted in fee simple. Provided, that this shall not be applicable to wells and water courses which individuals have made for their own use.

Each claim was required to be supported by a survey and two witnesses attesting to the validity of the claim. The Land Commission decided the validity of each claim. Land not validly claimed was added to the Government Lands.

In his book The Great Mahele, Jon Chinen wrote:
The Kuleana Act of 1850 allowed commoners with Kuleana rights (a Hawaiian law that assures property owners with land within a larger property owned by someone else to have the right to access their property) and who had occupied chiefs' land prior to the Great Mahele to own land. The Kuleana Act also gave Hawaiians the opportunity to claim the land their ancestor's already claimed. Even though this was a great opportunity, it also created problems. The chiefs discouraged Hawaiians from claiming land because they needed them to continue working their taro patches. There were several requirements that Hawaiians did not understand needed to be done. These included having the land surveyed, filing a claim and supporting the claim with proof that the family worked the land. The commoners had 4 years to submit their claim or their Kuleana rights would be lost forever.

The act of June 7th, 1848, stating that the Crown Lands were "the private lands of his Majesty Kamehameha III., to have and to hold to himself, his heirs and successors forever" was replaced by an 1865 "Act to Relieve the Royal Domain from Encumbrances and to Render the Same Inalienable". It provided for the payment of the debts secured by mortgages on the Crown lands. It stated that the remaining Crown lands are to be "henceforth inalienable and shall descend to the heirs and successors of the Hawaiian Crown forever" and that "it shall not be lawful hereafter to lease said lands for any terms of years to exceed thirty." It created a Board of Commissioners of Crown Lands consisting of three persons to be appointed by the King, two of whom were required to be selected from among the members of the King's Cabinet Council. The third was to act as Land Agent and be paid out of the revenues of the Crown Lands. In his book "Who Owns The Crown Lands Of Hawaii?", Professor Van Dyke explained at page 378 that this law "was designed (1) to address and eliminate the considerable debt that the previous Monarchs had accumulated and (2) to protect the Crown Lands from further depletion."

Under Kamehameha V’s 1864 Constitution, eligibility to be a Representative required ownership of real estate within the Kingdom of a clear value, over and above all encumbrances, of at least five-hundred dollars, or an annual income of at least two-hundred-fifty dollars derived from any property or some lawful employment. Eligibility to vote for district Representatives required possession of real property in the Kingdom of a value over and above all encumbrances of one-hundred and fifty dollars or of a leasehold property on which the rent was twenty-five dollars per year or an annual income of not less than seventy-five dollars derived from any property or some lawful employment and, if born after 1840, the ability to read and write. In 1874, a constitutional amendment deleted the requirement eligibility to be a Representatives required ownership of real estate within the Kingdom of a clear value, over and above all encumbrances, of at least five-hundred dollars. No change was made to the requirement of an annual income of at least two-hundred-fifty dollars derived from any property or some lawful employment.

On January 21, 1868, Minister of the Interior Ferdinand Hutchison stated the criteria for citizenship:

In the judgment of His Majesty’s Government, no one acquires citizenship in this Kingdom unless he is born here, or born abroad of Hawaiian parents, (either native or naturalized) during their
temporary absence from the kingdom, or unless having been the subject of another power, he becomes a subject of this kingdom by taking the oath of allegiance.

Many non-Hawaiians were “subjects of the Kingdom”. Those who had been naturalized are listed at [http://www.hawaiiankingdom.org/info-registry.shtml](http://www.hawaiiankingdom.org/info-registry.shtml) in the section titled “Registry of Naturalized subjects in the Hawaiian Kingdom (circ. 1840-1893)”.

Lunalilo died in 1874. Emma was the widow of Kamehameha IV and the granddaughter of John Young. Emma and David Kal_kaua declared themselves as candidates for the throne. The British supported Emma. The Americans supported Kal_kaua.

In 1893, President Cleveland appointed James H. Blount as Special Commissioner to come to the Hawaiian Islands, conduct an investigation, and submit a written report. The Blount Report stated:

> It may not be amiss to present some of the criticisms against Kalakaua and his party formally filed with me by Prof. W. D. Alexander, a representative reformer.

> On the 12th of February, 1874, Kalakaua was elected King by the legislature. The popular choice lay between him and the Queen Dowager.

> In regard to this, Mr. Alexander says that “the cabinet and the American party used all their influence in favor of the former, while the English favored Queen Emma, who was devoted to their interest.”

> Notwithstanding there were objections to Kalakaua’s character, he says: “It was believed, however, that if Queen Emma should be elected there would be no hope of our obtaining a reciprocity treaty with the United States.”

> The Legislative Assembly voted in favor of Kal_kaua. Supporters of Queen Emma who sought to punish the Representatives who voted against her initiated a riot. The rioters entered the court house, physically beat the Representatives and vandalized their offices. The police were unable to stop the riot. One of Kal_kaua’s ministers requested foreign intervention. United States and British soldiers from warships in the harbor stopped the riot. Twelve Representatives were injured. One Representative died of his injuries.

In 1778, when his sugar empire extended from Philadelphia to California, Claus Spreckels leased 24,000 acres of Crown Lands in central Maui. Ruth Ke’elikolani, the sole heir of Kamehameha V, owned most of the land passed down by her Kamehameha relatives (particularly Victoria Kam_malu Ka’ahumanu IV). Ruth asserted a dubious claim to ownership of a one-half interest in all of the Crown Lands. In 1880, Spreckels purchased Ruth’s claim. The reason for the purchase was confirmed in 1882 when, as noted by W. D. Alexander, Kal_kaua and Gibson persuaded the legislature to pass a bill conveying

> to Claus Spreckels the crown lands of Wailuku, containing some 24,000 acres, in order to compromise a claim which he held to an undivided share of the crown lands. He had purchased
from Ruth Keelikolani, for the sum of $10,000, all the interest which she might have had in the crown lands as being the half-sister of Kamehameha IV., who died intestate. . . .

The King appointed the members of the Hawaii Supreme Court for life subject to impeachment. From its beginning in 1852 to 1893, the only Hawaiian who served as a Hawaii Supreme Court Justice was John (Keoni) Papa and he served from 1852 to 1864. The members of the Hawaii Supreme Court and the years of their service were:

William Little Lee 1852–1857; Chief Justice 1852-1857;
John (Keoni) Papa 1852–1864;
Lorrin Andrews 1852–1854;
Elisha Hunt Allen 1857–1877; Chief Justice 1857-1877;
George Morrison Robertson 1855-1863, 1864-1867;
Robert Grimes Davis 1864–1868;
James W. Austin 1868–1869;
Hermann A. Widemann 1869–1874;
Charles C. Harris 1874–1881; 1877–1881; Chief Justice 1877–1881;
Albert Francis Judd 1874–1900 1881–1900; Chief Justice 1881-1900;
Lawrence McCully 1877–1892;
Benjamin H. Austin 1881–1885;
Edward Edward Preston 1885–1890;
Richard Fredrick Bickerton 1886–1895;
Abraham Fornander 1886–1887; and
Sanford B. Dole 1887–1893.

In 1882, a public meeting was held where the Planters Labor and Supply Company, a company formed by plantation owners in Hawai‘i to facilitate the importation of laborers, adopted two resolutions. First, a charge that the alienation of Crown lands, extravagance of spending, and contempt for the judiciary had caused a loss of confidence in the government. Second, a request asking Kalākaua to dismiss his Cabinet (Kaai, Gibson, Bush, Preston), especially Gibson. Kalākaua denied both the charges and the request.

In 1886, Kalākaua approved legislation authorizing the issuance to someone applying therefor a license “to import and sell opium or any preparation of opium, in this Kingdom”. The term of the license was four years. The licensee was required to insure that he “will not sell, give or furnish any opium, or preparation of opium, to any native Hawaiian or Japanese, or to any other person who has not received a certificate from some physician stating that opium is the property remedy for the disease from which the bearer is suffering”. This 1886 legislation also required any person or persons desiring to purchase or use opium, or any preparation thereof “to obtain a license authorizing the purchase or use of opium or any preparation thereof.”

W. D. Alexander described relevant subsequent events:

The main facts of the case, as proved before the court, are as follows: Early in November, 1886, one, Junius Kaae, a
palace parasite, informed a Chinese rice-planter named Tong Kee, alias Aki, that he could have the opium license granted to him if he would pay the sum of $60,000 to the King's private purse, but that he must be in haste because other parties were bidding for the privilege. With some difficulty Aki raised the money, and secretly paid it to Kaae and the King in three instalments between December 3d and December 8th, 1886. Soon afterwards Kaae called on Aki and informed him that one, Kwong Sam Kee, had offered the King $75,000 for the license, and would certainly get it, unless Aki paid $15,000 more. Accordingly Aki borrowed the amount and gave it to the King personally on the 11th.

... 

Shortly after this another Chinese syndicate, headed by Chung Lung, paid the King $80,000 for the same object, but took the precaution to secure the license before handing over the money. Thereupon Aki, finding that he had lost both his money and his license, divulged the whole affair, which was published in the Honolulu papers. He stopped the payment of a note at the bank for $4,000, making his loss $71,000.

... 

It has been seen that on the 30th of June, 1887, Kalakaua promised in writing that he would "cause restitution to be made" of the $71,000 which he had obtained from Aki, under a promise that he (Aki) should receive the license to sell opium, as provided by the Act of 1886.

The Reform cabinet urged the King to settle this claim before the meeting of the Legislature, and it was arranged that the revenues from the Crown lands should be appropriated to that object. When, however, they ascertained that his debts amounted to more than $250,000 they advised the King to make an assignment in trust for the payment of all claims pro rata. Accordingly, a trust deed was executed November 21, 1887, assigning all the Crown land revenues and most of the King's private estate to three trustees for the said purpose, on condition that the complainant would bring no petition or bills before the Legislature, then in session.

Some three months later these trustees refused to approve or pay the Aki claim, on which Aki's executors brought suit against them in the Supreme Court.

After a full hearing of the evidence, Judge Preston decided that the plea of the defendants that the transaction between Aki and the King was illegal could not be entertained, as by the constitution the King "could do no wrong," and "could not be sued or held to account in any court of the Kingdom." Furthermore, as the claimants had agreed to forbear presenting their claim before the Legislature in consideration of the execution of the trust deed, the full court ordered their claim to be paid pro rata with the other approved claims.

The January 25, 1891, edition of the Pittsburg Dispatch newspaper reported an interview of Dr. John H. Kimball, a former resident of Hawai'i who had served a year as President of the Board of Health:

... When you ask about his moral character, it must be admitted that, like many other monarchs, he had his personal vices; while it is notorious that in his financial administrations he seemed nowise troubled by any high standard of ethics.

... 

... Kal_kaua was passionately fond of gambling, was given to strong drink, and always
had about him a set of male cronies who gambled and drank with him to his heart’s content. I never saw him intoxicated, but it is well known that he indulged to the detriment of himself and the Government.

. . . [A]fter the adoption of the new Constitution in 1887 an investigation showed that he was $250,000 in debt.

American Minister George W. Merrill wrote that late on June 27, 1887, he met with Kal_kaua at Kal_kaua’s request and informed him that there were loud complaints against the manner in which the public funds were being expended, that instead of being expended on necessary internal improvements, such as dredging the harbor, repairing roads and bridges, they were being expended in the purchase and repair of a training ship and equipping her for an unnecessary expedition, the sending a Mission to Samoa and maintaining unnecessary agents in foreign Countries.

I also informed him . . . that there was much complaint among the people on account of the belief which was prevalent that His Majesty interfered with the actions of his Cabinet in all matters directly or indirectly effecting the revenues - especially in political elections, appointments and Legislative action, therefore there was much unanimity among the tax payers that the Cabinet should be left to act independently and made responsible to the people direct.

I informed him that I believed the retention of the present Ministry was daily intensifying the people and that, since he had frankly asked my opinion, I thought it was better for many reasons to heed the voice of the people especially those who were paying the taxes, had accumulated the wealth to the country and were directly interested.

On June 29, 1887, notice of a public meeting was published in the newspaper. At the public meeting on June 30, 1887, resolutions were presented. The approved resolutions requested the following from Kal_kaua:

First - That he shall at once and unconditionally dismiss his present Cabinet from office, and we ask that he shall call one of these persons, viz: William L. Green, Henry Waterhouse, Godfrey Brown or Mark P. Robinson to assist him in selecting a new Cabinet, which shall be committed to the policy of securing a new constitution.

Second - That Walter M. Gibson shall be at once dismissed from each and every office held by him under the Government.

Third - In order, so far as possible, to remove the stain now resting on the throne, we request of the King that he shall cause immediate restitution to be made of the sum, to wit: Seventy-one thousand dollars ($71,000), recently obtained by him in violation of law and of his oath of office, under promise that the persons from whom the same was obtained should receive the license to sell opium, as provided in the statute of the year 1886.

Fourth - Whereas, one Junius Kaae was implicated in the obtaining of said seventy-one thousand dollars ($71,000), and has since been, and still is retained in office as Registrar of Conveyances, we request, as a safeguard to the property interests of the country, that said Kaae be at once dismissed from said office, and that the records of our land titles be placed in hands of one in whose integrity the people can safely confide.
Fifth - That we request a specific pledge from the King

(1) That he will not in future interfere either directly or indirectly with the election of representatives.

(2) That he will not interfere with or attempt to unduly influence legislation or legislators.

(3) That he will not interfere with the constitutional administration of his cabinet.

(4) That he will not use his official position or patronages for private ends.

Kal_kaua was given twenty-four hours to reply, and another public meeting was authorized if he refused to agree to the requests.

Kal_kaua called in the representatives of the United States, Great Britain, Prance, Portugal and Japan. American Minister Merrill wrote that Kal_kaua expressed his desire to place the control of the affairs of the kingdom in “our” hands.

This offer we informed him could not be accepted and it was the desire of all of the representatives of other powers that he should maintain himself in authority and as he informed us that he had agreed to the wishes of the people, expressed at the Mass Meeting the day previous, and would shortly so inform the Committee in writing, we advised him to at once authorize Mr. Green, if he was the person selected, to form a Ministry when it was believed affairs would assume a quiet attitude.

We immediately retire and passing down to the central portion of the city, assured the people that the King had acceded to their request and was now forming a Ministry with Mr. Green as Premier and no necessity for further excitement existed.

In his written reply to the resolutions, Kal_kaua responded:

To Honorable Paul Isenberg and the Gentlemen Composing the Committee of a Meeting of Subjects and Citizens:

Gentlemen: In acknowledging the receipt of the Resolutions adopted at a Mass Meeting held yesterday and presented to Us by you We are pleased to convey through you to Our loyal subjects as well as to the citizens of Honolulu Our expression of good-will and our gratification that Our people have taken the usual constitutional step in presenting their grievances.

To the first proposition contained in the resolutions passed by the meeting, . . . we reply that it has been substantially complied with by the formal resignation of the Ministry, which took place on the 28th day of June, and was accepted on that date, and that we had already requested the Hon. W. L. Green to form a new Cabinet on the day succeeding the resignation of the Cabinet.

To the second proposition, we reply that Mr. Walter M. Gibson has severed all his connections with the Hawaiian Government by resignations.

To the third proposition, we reply that we do not admit the truth of the matter stated therein, but will submit the whole subject to Our new Cabinet and will gladly act according to their advice and will cause restitution to be made by the parties found responsible.
To the fourth proposition, we reply that at Our command Mr. Junius Kaee resigned the office of Registrar of Conveyances on the 28th day of June, and his successor has been appointed.

To the fifth proposition, we reply that the specific pledges required of Us are each severally acceded to.

Kal_kaua then appointed his Green-Brown-Thurston-C.W. Ashford Cabinet. This Cabinet participated in the drafting of a new Constitution. On July 6, 1887, they presented it to Kal_kaua for his signature and he signed it. Had he not signed it, a move would have been made for the abolition of the Monarchy and the declaration of a Republic.

The United States was not involved in Kal_kaua’s approval of the 1887 Constitution. All that happened at that time was an internal affair.

After signing the 1887 Constitution, Kal_kaua conducted business as usual. On December 6, 1884, the United States and Hawai‘i signed a Supplemental Reciprocity Convention. Ratifications were exchanged in Washington on November 9, 1887, four months after the signing of the 1887 Constitution. In his speech to the opening session of the legislature elected pursuant to the 1887 Constitution, Kal_kaua stated:

I take great pleasure in informing you that the Treaty of Reciprocity with the United States of America has been definitely extended for seven years upon the same terms as those in the original treaty, with the addition of a clause granting to national vessels of the United States the exclusive privilege of entering Pearl River Harbor and establishing there a coaling and repair station. This has been done after mature deliberation and the interchange between my Government and that of the United States of an interpretation of the said clause whereby it is agreed and understood that it does not cede any territory or part with or impair any right of sovereignty or jurisdiction on the part of the Hawaiian Kingdom and that such privilege is coterminous with the treaty.

I regard this as one of the most important events of my reign, and I sincerely believe that it will re-establish the commercial progress and prosperity which began with the Reciprocity Treaty.

The 1887 Constitution specified that the Cabinet “shall be appointed and commissioned by the King and shall be removed by him, 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, and shall be subject to impeachment.” Except in the situation where the votes in the Legislature were evenly split, this provision gave the Legislature the power to control the Cabinet.

The 1887 Constitution stated that “[t]he Cabinet hold seats ex-officio, in the Legislature, with the right to vote, except on a question of want of confidence in them.” In the situation where the votes in the Legislature were evenly split, this provision gave the Cabinet the power to control the Legislature.

The following is a list of the members of the Cabinet and the dates of their appointment. Predecessors were out-of-office prior to the appointment of successors.
<table>
<thead>
<tr>
<th>Date</th>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-30-86</td>
<td>Minister of Finance</td>
<td>Paul Puhuiula Kanoa</td>
</tr>
<tr>
<td></td>
<td>Minister of Foreign Affairs</td>
<td>Robert James Creighton</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>John T. Dare</td>
</tr>
<tr>
<td></td>
<td>Minister of the Interior</td>
<td>Walter Murray Gibson</td>
</tr>
<tr>
<td>10-13-86</td>
<td>Minister of Foreign Affairs</td>
<td>Walter Murray Gibson</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>John Lot Kaulukou</td>
</tr>
<tr>
<td></td>
<td>Minister of the Interior</td>
<td>Luthur Aholo</td>
</tr>
<tr>
<td>10-22-86</td>
<td>Attorney General</td>
<td>Luther Aholo</td>
</tr>
<tr>
<td>11-15-86</td>
<td>Attorney General</td>
<td>Antone Ross</td>
</tr>
<tr>
<td>7-1-87</td>
<td>Minister of Finance</td>
<td>Godfrey Brown</td>
</tr>
<tr>
<td></td>
<td>Minister of Foreign Affairs</td>
<td>William Lowthian Green</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>Clarence W. Ashford</td>
</tr>
<tr>
<td></td>
<td>Minister of the Interior</td>
<td>Lorrrin Andrews Thurston</td>
</tr>
<tr>
<td>12-28-87</td>
<td>Minister of Foreign Affairs</td>
<td>Jonathan Austin</td>
</tr>
<tr>
<td>9-27-88</td>
<td>Minister of the Interior</td>
<td>Jonathan Austin</td>
</tr>
<tr>
<td>10-27-88</td>
<td>Minister of the Interior</td>
<td>Lorrrin Andrews Thurston</td>
</tr>
<tr>
<td>7-22-89</td>
<td>Minister of Finance</td>
<td>Samuel Mills Damon</td>
</tr>
<tr>
<td>6-17-90</td>
<td>Minister of Foreign Affairs</td>
<td>John Adam Cummins</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>Arthur P. Peterson</td>
</tr>
<tr>
<td></td>
<td>Minister of the Interior</td>
<td>Charles Nicholas Spencer</td>
</tr>
<tr>
<td>7-17-90</td>
<td>Minister of Finance</td>
<td>Godfrey Brown</td>
</tr>
<tr>
<td>2-25-91</td>
<td>Minister of Foreign Affairs</td>
<td>Hermann Adam Widman</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>Samuel Parker</td>
</tr>
<tr>
<td></td>
<td>Attorney General</td>
<td>William A. Whiting</td>
</tr>
<tr>
<td>3-10-91</td>
<td>Minister of Finance</td>
<td>Samuel Parker</td>
</tr>
<tr>
<td>7-27-92</td>
<td>Attorney General</td>
<td>Hermann A. Widemann</td>
</tr>
</tbody>
</table>
Samuel “Kamuela” Parker was a Native Hawaiian, Kal_kaua’s classmate and the grandson of John Palmer Parker and Chiefess Kipikane. His father was Ebenezer Parker and his mother was Kilia Nahulanui. His second wife was Abigail Kuaihelani Maipinepine, widow of industrialist James Campbell. His stepdaughter Abigail married Prince David Kawananakoa. This family and its descendants became known as the House of Kawananakoa.

The 1864 Constitution stated that “[n]o act of the King shall have any effect unless it be countersigned by a Minister, who by that signature makes himself responsible.” The 1887 Constitution specified in its Article 78:

Wherever by this Constitution any Act is to be done or performed by the King or the Sovereign, it shall unless otherwise expressed, mean that such Act shall be done and performed by the Sovereign by and with the advice and consent of the Cabinet.

In the case of In re Authority of the Cabinet, 7 Haw. 783 (1889), the Hawaii Supreme Court agreed with the following statements:

The Government in all its departments must be conducted by the Cabinet, who will be solely and absolutely responsible for such conduct.

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 the appeal of *In re Responsibility of Cabinet*, 8 Haw. 566 (1890), the Hawaii Supreme Court decided that it was not necessary for the Cabinet to be unanimous. Only three of the four votes were required. Stated simply, Lili‘uokalani was required to do what no less than three of the four Cabinet members told her to do. In *Liliuokalani, 1893 to James H. Blount*, Lili‘uokalani accurately described herself as “a nonentity, a figurehead”.

Kal_kaua died in January 1891 and his sister Lili‘uokalani became Queen. Lili‘uokalani unhesitatingly took the following oath: “I solemnly swear in the presence of Almighty God, to maintain the Constitution of the Kingdom whole and inviolate, and to govern in conformity therewith.”

In its Article 82, the 1887 Constitution stated:

Any amendment or amendments to this Constitution may be proposed in the Legislature, and if the same shall be agreed to by a majority of the members thereof, such proposed amendment or amendments shall be entered on its journal, with the yeas and nays taken thereon, and referred to the next Legislature; which proposed amendment or amendments shall be published for three months previous to the next election of Representatives and Nobles; and if in the next Legislature such proposed amendment or amendments shall be agreed to by two-thirds of all the members of the Legislature, such amendment or amendments shall become part of the Constitution of this Kingdom.

In *Liliuokalani, 1893 to James H. Blount*, Lili‘uokalani wrote in part:

At the commencement of my reign petitions were sent from all parts of the kingdom asking for a new constitution. . . . Mr. Parker, from the commencement of his ministry, advocated a new constitution, as well as most of my friends, but I was cautious in my answers to them; but to Mr. Parker I had always said it would be a good thing, and he said he would sustain me when the proper opportunity arrived.

A month later I met two members of the Legislature, and started in to make up a new constitution from Kamehameha V and that of 1887. After completing it, I kept it till the month of October, when I placed in the hands of Mr. A. P. Peterson, and asked him to correct it, and if he found any defects to strike them out and to put in such clauses as he thought would be good for the people and for the country. . . . When it was returned I looked it over and found no changes had been made, so I concluded that it was all right.

. . . Early in January I mentioned to Capt. Nowlein, of the household guards, and Mr. Wilson, the marshal, my intention to promulgate a new constitution, and to prepare themselves to quell any riot or out break from the opposition. . . .

Mr. Parker and Mr. Cornwell had given me assurances of their support before their appointment as ministers, while Mr. Peterson understood that such was my intention, and although I had not mentioned it to Mr. Colburn, he had heard of it already from Mr. Peterson.

. . . When the ministers arrived [on Saturday, January 14, 1893] I told them everything in the
throne room was ready and the guests were awaiting our presence; that we must not keep them waiting. I was surprised when the cabinet informed me that they did not think it advisable for me to take such a step, that there was danger of an uprising, etc.

The three ministers left Mr. Parker to try to dissuade me from my purpose, .

... Mr. Peterson . . . begged that I should wait for two weeks; in the meantime they would be ready to present it to me. With these assurances I yielded, and we adjourned to the throne room.

I then informed the people assembled that under the advice of my ministers, I had yielded, as they had promised that, on some future day I could give them a new constitution. I then asked them to return to their homes and keep the peace.

On Monday, January 16, 1893, the day before the overthrow, Liliʻuokalani and her Cabinet proclaimed in writing:

Her Majesty’s Ministers desire to express their appreciation for the quiet and order which has prevailed in this community since the events of Saturday, and are authorized to say that the position taken by Her Majesty in regard to the promulgation of a new Constitution, was under stress of Her native subjects.

Authority is given for the assurance that any changes desired in the fundamental law of the land will be sought only by methods provided in the [1887] Constitution itself.

Her majesty’s Ministers request all citizens to accept the assurance of Her Majesty in the same spirit in which it is given.

(Signed), LILIUOKALANISAMUEL PARKER, Minister of Foreign AffairsW. H. CORNWELL, Minister of FinanceJOHN F. COLBURN, Minister of the InteriorA. P. PETERSON, Attorney General

IOLANI PALACE, January 16th, 1893

THE MULTI-RACIAL GROUP OF HAWAIIANS, AMERICANS AND EUROPEANS THAT HAD SOVEREIGNTY OVER THE NATION OF HAWAIʻI WAS NOT CONTROLLED BY HAWAIIANS

Under the 1887 Constitution, the Legislature consisted of the Nobles (twenty-four), Representatives (twenty-four) and Cabinet members (four) sitting together. Nobles were to be elected, six from the Island of Hawaiʻi, six from the Islands of Maui, Molokaʻi and Lanaʻi, nine from the Island of Oʻahu, and three from the Islands of Kauaʻi and Niʻihau. The term of each Noble was six-years and one-third of each division were elected biannually. The only persons eligible to be Nobles were not less than twenty-five year old subjects of the Kingdom who 1) had resided in Hawaiʻi for not less than three years, and (2)(a) were the owners of taxable property in the Kingdom of the value of three-thousand dollars over and above all encumbrances, or (b) were
in receipt of an annual income of not less than six-hundred dollars. The only persons authorized to vote for Nobles were not less than twenty-year old male residents of the Hawaiian Islands who (1) were of Hawaiian, American or European birth or descent, (2) paid their taxes, (3) resided in the Kingdom not less than three years and in the district not less than three months immediately preceding the election, (4) owned and possessed, in their own right, taxable property in the Kingdom of the value of not less than three thousand dollars over and above all encumbrances, or actually received an income of not less than six hundred dollars during the year next preceding their registration for the election, (5) caused their names to be entered on the list of voters for Nobles for their Districts, (6) took an oath to support the Constitution and laws, and (7) provided, however, that the requirements of a three years residence and of ability to read and comprehend an ordinary newspaper, printed in the Hawaiian, English or some European language, shall not apply to persons residing in the Kingdom at the time of the promulgation of this Constitution, if they shall register and vote at the first election which shall be held under this Constitution.

Twenty-four Representatives were elected biennially. The only persons eligible to be Representatives were not less than twenty-one year old male subjects of the Kingdom, who (1) knew how to read and write either the Hawaiian, English or some European language, (2) understood accounts, (3) had been domiciled in the Kingdom for at least three years, the last of which was the year immediately preceding their election, and (4) owned real estate within the Kingdom of a clear value, over and above all encumbrances, of at least five hundred dollars, or had an annual income of at least two hundred and fifty dollars derived from any property or some lawful employment. The only persons authorized to vote for their district Representatives were not less than twenty-year old males domiciled in Hawaii for no less than one year preceding the election who (1) were “of Hawaiian, American, or European birth or descent”, (2) paid their taxes, (3) if born since the year 1840, knew how to read and write the Hawaiian, English or some European language, (4) caused their names to be entered on the list of his district, (5) took an oath to support the Constitution and laws, and (6) provided, however that the requirements of being domiciled in the Kingdom for one year immediately preceding the election, and of knowing how to read and write either the Hawaiian, English or some European language, shall not apply to persons residing in this Kingdom at the time of the promulgation of the Constitution, if they shall register and vote at the first election which shall be held under this Constitution.

At page 148 of his book “Who Owns The Crown Lands Of Hawaii?”, Professor Jon Van Dyke wrote:

... The 1890 census reported that 13,593 were registered to vote, and of these 8,777 were listed as “natives” and another 777 were “half-castes” - that is, part Hawaiians. Of the remainder, half (2,091) were Portuguese Laborers.

(Footnotes omitted.)
At page 149, Professor Van Dyke wrote that

about two-thirds of the voters for representatives were Hawaiians and . . . Hawaiians comprised more than a third of the voters for nobles. In the February 1890 election, the National Reform Party, led by Robert W. Wilcox, who voiced the dissatisfaction of the Native Hawaiians about the 1887 Constitution and rallied their political enthusiasm, particularly in Honolulu, won fourteen out of the twenty-four seats in the House of Representatives and took all nine of the seats for Nobles on O‘ahu (but lost the other fifteen seats on the neighbor islands). The National Reform Party was able to organize the Legislature (the Nobles and Representatives met together as one body), elect its President and control its committees, and force the members of the “reform” Cabinet, led by Lorrin Thurston, to resign.

The February 1892 election did not break down along racial lines. The elections of 1892 produced a strange assembly, in which no party had a majority. Wilcox and his group formed the Liberal Party, along with people like the Ashford Brothers, who had been active in promoting the [1887] Bayonet Constitution, and they were critical of Queen Lilu‘uokalani and called for a constitutional convention. Three conservative parties supported the Queen and stability, generally opposing a constitutional convention and supporting a new trade agreement with the United States.

The Liberal Party won only thirteen seats, with the other parties holding thirty-five. Native Hawaiians held twenty-five of the forty-eight seats in the . . . Legislature that met during 1892-93. These results certainly do not indicate that the Native Hawaiians had lost control of the Kingdom. Even with the limiting property and income restrictions governing the voting for the Nobles, Native Hawaiians continued to play the dominant role in decision making, and the election also confirmed that the Queen continued to have broad support.

. . .

. . . In the 1890 election, Native Hawaiians had effectively wrested control of the Kingdom from those who had foisted the [1887] Constitution on the Kingdom and efforts were underway during the years that followed to reassert a stronger role for the Monarchy. Those who now claim that the Native Hawaiians had lost control of the Kingdom prior to the 1893 overthrow are wrong.

(Footnotes omitted.)

The facts cited by Professor Van Dyke contradict his statements that “[t]hose who now claim that the Native Hawaiians had lost control of the Kingdom prior to the 1893 overthrow are wrong” and “Native Hawaiians continued to play the dominant role in decision making . . . .”

Professor Van Dyke’s facts are that (1) about one-third of the voters for Representatives were not Hawaiians and about two-thirds of the voters for Nobles were not Hawaiians, (2) in the February 1890 election, Hawaiians won fourteen out of the twenty-four Representative seats and nine out of the twenty-four Noble seats, a total of twenty-three of the forty-eight seats and non-Hawaiians won the other twenty-five seats, (3) the February 1892 election (A) did not break down along racial lines, (B) produced a strange assembly, in which no party had a majority, (C) elected twenty-five Hawaiian legislators and twenty-three non-Hawaiian legislators, and (D) elected thirty-five legislators from three conservative parties that supported the Queen and
stability, generally opposed a constitutional convention and supported a new trade agreement with the United States, (4) the Cabinet held seats ex-officio, in the Legislature, with the right to vote and a majority of the members of the Cabinet were not Hawaiians, and (5) Liliʻuokalani was “a nonentity, a figurehead” because she was required to do what no less than three of the four Cabinet members told her to do.

Hawaiians did not have enough votes in the Legislature to approve amendments to the 1887 Constitution. In 1893, pre-overthrow, it was not possible to amend the 1887 Constitution without the consent of a mix of Hawaiians, Americans and Europeans in the Legislature. In 1890, the legislature approved constitutional amendments endorsed by the National Reform Party to take effect if and when approved by the 1892 legislature:

1. to change the qualification requirement for voting from “residents” to “subjects of the kingdom”;
2. to reduce the value of property requirement to vote for Nobles from $3,000 to $1,000;
3. to require Nobles to be male; and
4. to authorize the legislature to limit and control the activities of immigrants who came to Hawaiʻi as agricultural workers.

The first three proposed amendments were not approved by the 1892 legislature.

The following statements by Liliʻuokalani in *Hawaii's Story By Hawaii's Queen* at pages 216, 218, further confirm the conclusion that in 1892 Hawaiians did not play the dominant role in decision making:

… The day arrived for the opening of the [1892] Legislature, and I felt that my troubles had commenced. With such a party of men as those who comprised the Reform party, and with such unscrupulous men as Thurston, W. O. Smith, Alex. Young, I. Marsden, W. C. Wilder, and Henry Baldwin, as leaders, I knew that my cabinet would find it a difficult matter to contend against such a party. . . .

In the month of August [1892] the Reform party began their policy of dismissing the ministry. They made promises to Mr. Cummins of the National Reform, and Bush, Wilcox, and Ashford, of the Liberal party, and P. P. Kanoa of seats in the cabinet if they joined their party, and they did so, besides taking Kamauoha, Iosepa, and another member with them, which made the Reform party very strong.

…

It was a practice among some of the native members 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.

In 1893, pre-overthrow, Americans and Europeans controlled Hawaiʻi’s economy. The
July 17, 1893, Report of U.S. Special Commissioner James H. Blount to U.S. Secretary of State Walter Q. Gresham Concerning the Hawaiian Kingdom Investigation states that

[the minister of finance informs me that the taxes paid by Americans and Europeans amount to $274,516.74; those by natives, $71,386.82; half castes, $26,868.68; Chinese, $87,266.10; Japanese, $67,326.07; other nationalities, $729.82.

He also informs me that the acreage on which taxes are paid by various nationalities is:

Europeans and Americans, 1,052,492 acres; natives, 257,457 acres; half castes, 531,545 acres; Chinese, 12,324 acres; Japanese, 200 acres; other nationalities, none.

The surveyor-general reports the Crown lands for 1893 as containing 915,288 acres. Of these he reports 94,116 acres available for lease. Of this latter number only 47,000 acres are reported to be good arable land. He likewise reports the Government land as containing 828,370 acres. He reports these estimated in 1890 to be worth $2,128,850. The annual income from them is $67,636. Of this income, $19,500 is from wharfage and $7,800 from rent of land with buildings thereon.

In 1893, before the overthrow, Americans and Europeans were Cabinet officers/ex officio legislators (appointed by the Queen subject to removal by 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), legislators (elected by qualified male voters), Supreme Court Justices (appointed by the King/Queen for life subject to impeachment), and other government officials.

In 1893, before the overthrow, Hawaiians did not vote as a unified group, did not have control of the Legislature, did not have the votes in the Legislature 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. The Cabinet controlled the Queen.

In 1893, before the overthrow, neither Hawaiians nor the Americans and the Europeans in Hawai‘i controlled Hawai‘i’s government. Together they had control. That is why

1. Lili‘uokalani sought to change the 1887 Constitution without the Legislature’s approval,

2. the Cabinet refused to authorize Lili‘uokalani’s attempt to change the 1887 Constitution;

3. Lili‘uokalani aborted her attempt to change the 1887 Constitution, and

4. a group of American and European voters initiated the overthrow.

CONCLUSION
Prior to 1893, Hawaiians relinquished sovereignty without retaining inherent sovereignty. In 1893, before the overthrow, Hawaiians had neither sovereignty nor inherent sovereignty. The Apology Resolution’s opinion that “the illegal overthrow of the Kingdom of Hawai on January 17, 1893, . . . resulted (1) in “the suppression of the inherent sovereignty of the Native Hawaiian people” and (2) in “the deprivation of the rights of Native Hawaiians to self-determination” is wrong.