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The Hawaiian Kingdom: A Constitutional Monarchy

by David Keanu Sai

The Hawaiian Kingdom is a constitutional monarchy with an elected body of Representatives in the Legislative Assembly that serves as the cornerstone of Hawai'i's democracy. The constitutional basis of the Hawaiian government bears a striking resemblance to the present day governments of Canada and Australia, which are also constitutional monarchies.

On October 4, 1840, King Kamehameha III transformed the government by granting the country's first constitution. On this note, Hawai'i Supreme Court Chief Justice Elisha Allen, in *Rex v. Joseph Booth (1863)*, stated: "Neither the chiefs or people have ever compelled the Kamehamehas by the sword to grant them a constitution. It was a free will offering on the part of the King. It was regarded by him as a measure of wisdom to give strength to his Kingdom, symmetry to its laws and prosperity to his people."

The original constitution was amended in 1852, 1864 and the latest amendments were made by the Legislative Assembly in 1874.

There are eight key institutions that form the basis of Hawaiian government; the Legislative Assembly, the Monarch, the Nobles, the Representatives, the Cabinet, the Privy Council of State and the President of the Legislative Assembly and the Supreme Court. Each institution has a fundamental role in providing for good government and a balance of authority.

The Legislative Assembly

The Legislative Department of the Kingdom is composed of the Monarch, the Nobles, and the Representatives, each of whom has a negative on the other, and in whom is vested full power to make all manner of wholesome laws. They judge for the welfare of the nation, and for the necessary support and defense of good government, provided it is not repugnant or contrary to the Constitution.

The Legislative Body assembles biennially, in the month of April, and at other times the Monarch may judge necessary for the purpose of seeking the welfare of the nation.

The Monarch

The executive authority is vested in the office of the Monarch, who is advised by a Cabinet of Ministers and a Privy Council of State. The Monarch

is the Hawaiian Kingdom's Head of State and is represented by an appointed Governor on each of the main islands of Hawai'i, Maui, O'ahu, and Kaua'i.

The Monarch opens each new session of the Legislature by reading a Speech from the Throne. The speech sets out the vision of the government for the country and the policies and actions it plans to undertake.

No law can be enacted without the signature of the Monarch and countersigned by one of the Ministers of the Cabinet.

The Nobles

The Nobles sit together with the elected Representatives of the people and cannot exceed thirty (30) in number. Nobles also have the sole power to try impeachments made by the Representatives.

Nobles are appointed by the Monarch for a life term and serve without pay. A person eligible to be a Noble must be a Hawaiian subject or denizen, resided in the Kingdom for at least five years, and attained the age of twenty-one (21) years. Nobles can introduce bills and serve on standing or special Committees established by the Legislative Assembly. Each Noble is entitled to one vote in the Legislative Assembly.

The Representatives

The Representatives sit together with the appointed Nobles and cannot exceed forty (40) in number. Each Representative is entitled to one vote in the Legislative Assembly. Representatives have the sole power to impeach any Cabinet Minister, officer in government or Judge, but the Nobles reserve the power to try and convict an impeached officer.

A person eligible to be a Representative of the people must be a Hawaiian subject or denizen, at least twenty-five years, must know how to read and write, understand accounts, and have resided in the Kingdom for at least one year immediately preceding his election. No person who is insane, or an idiot, or who shall at any time have been convicted of theft, bribery, perjury, forgery, embezzlement, polygamy, or other high crime or misdemeanor, can ever hold a seat as Representative of the people.

The people elect representatives from twenty-five

(25) districts in the Kingdom. Elections occur biennially on even numbered years, and each elected Representative has a two (2) year term. Unlike the Nobles, Representatives are compensated for their term in office.

The Cabinet

The Cabinet consists of the Minister of Foreign Affairs, the Minister of the Interior, the Minister of Finance, and the Attorney General of the Kingdom. The Cabinet is the Monarch's Special Advisers in the Executive affairs of the Kingdom.

The Ministers are *ex officio* members of the Privy Council of State. The Ministers are appointed and commissioned by the Monarch, and hold office during the Monarch's pleasure, subject to impeachment. No act of the Monarch has any effect unless countersigned by a Minister, who by that signature makes himself responsible.

Each member of the Cabinet keeps an office at the seat of Government, and is accountable for the conduct of his/her deputies and clerks. The Ministers also hold seats *ex officio*, as Nobles, in the Legislative Assembly.

On the first day of the opening of the Legislative Assembly, the Minister of Finance presents the Financial Budget in the Hawaiian and English languages.

The Privy Council of State

The Monarch, by Royal Letters Patent, can appoint any of his subjects, who have attained the age of majority, a member of the Privy Council of State.

Every member of the Privy Council of State, before entering upon the discharge of his/her duties as such, takes an oath to support the Constitution, to advise the Monarch honestly, and to observe strict secrecy in regard to matters coming to his/her knowledge as a Privy Counselor.

The duty of every Privy Counselor;

1. To advise the Monarch according to the best of his knowledge and discretion.
2. To advise for the Monarch's honor and the good of the public, without partiality through friendship, love, reward, fear or favor.
3. Finally, to avoid corruption – and to observe, keep, and do all that a good and true counselor ought to observe, keep, and do to his Sovereign.

The President of the Legislative Assembly

The President is the Chair for conducting business in the House of the Legislative Assembly. He is elected by the members of the Legislative Assembly at the opening of the Session and appoints members

to each of the select or standing committees.

The President preserves order and decorum, speaks to points of order in preference to other members, and decides all questions of order subject to an appeal to the House by any two members.

The Supreme Court

The judicial power of the Kingdom is vested in one Supreme Court and in such inferior courts as the Legislature may, from time to time, establish. The Supreme Court is the highest court in the land. It is the final court of appeal at the top of the Hawaiian Kingdom's judicial system.

The Supreme Court considers civil, criminal and constitutional cases, but normally only after the cases have been heard in appropriate lower circuit, district or police courts.

The Supreme Court consists of a Chief Justice and four (4) Associate Justices. All judges are appointed by the Monarch upon advise of the Privy Council of State.

Any Hawaiian subject can have their case heard by the Supreme Court, but first, permission or leave must be obtained from the court.

The Supreme Court sits for four terms a year on the first Mondays in the months of January, April, July and October. The Court may however hold special terms at other times, whenever it shall deem it essential to the promotion of justice. Decisions by the Court are decided by majority.

Impartial courts depend on an independent judiciary. The independence of the judiciary means that Judges are free from outside influence, and notably from influence from the Head of State. Initially, the first constitution of the country provided that the Head of State serve as Chief Justice of the Supreme Court, but this provision was ultimately removed by amendment in 1852 in order to provide separation between the executive and judicial branches. Article 65 of the Constitution of the country now provides that only the Legislative Assembly, although appointed by the Monarch, can remove Judges by impeachment.

David Keanu Sai is presently serving as acting Minister of the Interior and Chairman of the Council of Regency. He served as lead Agent for the acting government of the Hawaiian Kingdom in arbitration proceedings before the Permanent Court of Arbitration at The Hague, Netherlands, from November 1999-February 2001. He is also serving as Agent in a Complaint against the United States of America concerning the prolonged occupation of the Hawaiian Kingdom, which was filed with the United Nations Security Council on July 5, 2001. For more information and updates visit our website at:

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