WAR CRIMES REPORT: INTERNATIONAL ARMED CONFLICT AND THE COMMISSION OF WAR CRIMES IN THE HAWAIIAN ISLANDS

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David Keanu Sai, Ph.D.[*]

1. PRELIMINARY STATEMENT

1.1. This report is provided at the request of Dexter K. Ka'iama, *Esquire*, legal counsel for victims of war crimes committed in the Hawaiian Islands. This report along with its particulars is in support of a war crime complaint by Mr. Ka'iama submitted to the Consul General Yasushi Misawa of Japan in the Hawaiian Islands, for consideration regarding alleged war crimes committed in the Hawaiian Islands in international humanitarian law.

1.2. These matters arise out of the prolonged and illegal occupation of the entire territory of the Hawaiian Kingdom by the United States of America (United States) since the Spanish-American War on August 12, 1898, and the failure on the part of the United States to establish a direct system of administering the laws of the Hawaiian Kingdom in accordance with international humanitarian law. The United States disguised its occupation of the Hawaiian Kingdom as if a treaty of cession annexed the Hawaiian Islands. There is no treaty.

1.3. For the past 122 years, the United States has committed a serious international wrongful act and deliberately misled the international community that the Hawaiian Islands had been incorporated into the territory of the United States. It has unlawfully imposed its internal laws over Hawaiian territory, which includes its territorial seas, its exclusive economic zone, and its airspace, in violation of its treaties with the Hawaiian Kingdom and international humanitarian law, which is provided in the 1907 Hague Conventions (HC IV), the 1949 Geneva Conventions (GC IV) and its 1977 Additional Protocols. Hawaiian Kingdom law is binding over all persons and property within its territorial jurisdiction.

> "The laws are obligatory upon all persons, whether subjects of this kingdom, or citizens or subjects of any foreign State, while within the limits of this kingdom, except so far as exception is made by the laws of nations in respect to Ambassadors or others. The property of

[*] Dr. Sai has a Ph.D. in political science from the University of Hawai'i at Manoa. This report includes portions of a brief authored by Dr. Matthew Craven, July 12, 2002. Dr. Craven has a Ph.D. in law from the University of Nottingham. He is currently Professor of International Law, Dean of the Faculty of Law and Social Science, University of London, School of Oriental and African Studies. The author's curriculum vitae is attached herein as Appendix "I."

> all such persons, while such property is within the territorial jurisdiction of this kingdom, is also subject to the laws."[1]

1.4. On August 19, 1871, His Imperial Japanese Majesty and His Majesty the King of the Hawaiian Islands entered into a treaty of amity and commerce, which is attached as Appendix "II". The treaty, *inter alia*, provides reciprocal rights to the subjects of the Hawaiian Kingdom and to the subjects of His Imperial Majesty in his dominions. Article IV provides:

> "It is hereby stipulated that the Hawaiian Government and its subjects, upon like terms and conditions, will be allowed free and equal participation in all privileges, immunities and advantages that may have been or may hereafter be granted by His Majesty the Tenno of Japan, to the Government, citizens or subjects of any other nation."

The treaty continues to be binding on the contracting parties as there has been no notice of its termination in accordance with Article VI, which provides "It is hereby agreed that such revision of this Treaty, on giving six months previous notice to either of the high contracting parties, may be made by mutual agreement, as experience shall prove necessary."

1.5. The first allegations of war crimes, being unfair trial and unlawful confinement, were made the subject of an arbitral dispute in *Lance Larsen vs. the Hawaiian Kingdom*[2] at the Permanent Court of Arbitration (PCA), The Hague, Netherlands. Oral hearings were held at the Peace Palace, The Hague, on December 7, 8, and 11, 2000. The author of the report served as lead agent for the Hawaiian Kingdom in these arbitral proceedings.

> "At the center of the PCA proceedings was the argument that Hawaiians never directly relinquished to the United States their claim of inherent sovereignty either as a people or over their national lands, and accordingly that the Hawaiian Kingdom continues to exist and that the Hawaiian Council of Regency (representing the Hawaiian Kingdom) is legally responsible under international law for the protection of Hawaiian subjects, including the claimant. In other words, the Hawaiian Kingdom was legally obligated to protect Larsen from the United States' 'unlawful imposition [over him] of [its] municipals' through its political subdivision, the State of

[1] Hawaiian Kingdom Civil Code (Compiled Laws), §6. Civil Code *available at*: http://hawaiiankingdom.org/civilcode/index.shtml.

[2] *See Lance Larsen v. Hawaiian Kingdom*, 119 INT'L L. REP. 566 (2001), reprinted in 1 HAW. J. L. & POL. 299 (Summer 2004); see also Permanent Court of Arbitration website, Cases, *Larsen/Hawaiian Kingdom*, at http://www.pca-cpa.org/showpage.asp?pag_id=1159 (Permanent Ct. Arb. Trib. Feb. 5, 2001). The formation of the *acting* government of the Hawaiian Kingdom under the doctrine of necessity is a portion of a legal brief by the author, *The Continuity of the Hawaiian State and the Legitimacy of the acting Government of the Hawaiian Kingdom* (August 4, 2013), available at: http://hawaiiankingdom.org/pdf/Continuity_Brief.pdf.

> Hawai'i. As a result of this responsibility, Larsen submitted, the Hawaiian Council of Regency should be liable for any international law violations that the United States had committed against him."[3]

1.6. On July 5, 2001, the Hawaiian Council of Regency (*acting* Government) filed a Complaint with the United Nations Security Council in New York as a State not a member of the United Nations pursuant to Article 35(2) of the United Nations Charter as a non-member State of the United Nations.[4] The Complaint was accepted by China who served as President of the Security Council.[5]

1.7. On August 10, 2012, the *acting* Government submitted a Protest and Demand with the President of the United Nations General Assembly in New York as a State not a member of the United Nations pursuant to Article 35(2) of the United Nations Charter as a non-member State of the United Nations. Ms. Hanifa Mizoui, Ph.D., Special Coordinator, Third Committee and Civil Society, Office of the President of the Sixty-Sixth Session of the General Assembly, received and acknowledged the complaint.[6]

1.8. On November 28, 2012, the *acting* Government signed its Instrument of Accession to the Rome Statute of the International Criminal Court, and it was deposited with the United Nations' Secretary General at its headquarters in New York City, U.S.A, on December 10, 2012.[7] The International Criminal Court's jurisdiction commenced on March 4, 2013 in accordance with Article 126 of the Rome Statute. On the same day, the *acting* Government also signed its Instrument of Accession to the GC IV, and it was deposited with the General Secretariat of the Swiss Federal Department of Foreign Affairs in Berne, Switzerland, on January 14, 2013. The GC IV took immediate effect

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[3] David Bederman & Kurt Hilbert, *Arbitration—UNCITRAL Rules—justiciability and indispensible third parties—legal status of Hawaii*, 95 AM. J. INT'L L. 927, 928 (2001).

[4] See the Charter of the United Nations:

CHAPTER VI: PACIFIC SETTLEMENT OF DISPUTES

Article 35

Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

[5] Patrick Dumberry, *The Hawaiian Kingdom Arbitration Case and the Unsettled Question of the Hawaiian Kingdom's Claim to Continue as an Independent State under International Law*, 2(1) CHINESE J. INT'L L. 655, 671-672 (2002). The Hawaiian Complaint (July 5, 2001), available at: http://hawaiiankingdom.org/pdf/Hawaiian_UN_Complaint.pdf.

[6] Hawaiian Kingdom Protest and Demand *available at*: http://www.hawaiiankingdom.org/UN_Protest_pressrelease.shtml.

[7] Hawaiian Instrument of Accession filed with the United Nations Secretary General, December 10, 2012, *available at*: http://hawaiiankingdom.org/pdf/Inst_Accession.pdf.

on the aforementioned date of deposit in accordance with Article 157 of the said Convention.[8]

2. WAR CRIMES REPORT

2.1. Since war crimes can only arise if there is an armed conflict between States—the United States and the Hawaiian Kingdom, it follows that the continuity of the Hawaiian Kingdom as an independent State and subject of international law is *condicio sine qua non*. It is therefore necessary to examine first the question of the Hawaiian Kingdom and State continuity, which will include the United States of America's claim as its successor State, then followed by an examination of international humanitarian law and the jurisdictional basis for the prosecution of war crimes by Japanese authorities, which is based on the principle that certain crimes are so egregious that all nations have an interest in exercising jurisdiction to combat them.[9]

2.2. The report will answer three initial issues:

A. Whether the Hawaiian Kingdom existed as an independent State and a subject of international law.

B. Whether the Hawaiian Kingdom continues to exist as an independent State and a subject of International Law, despite the illegal overthrow of its government by the United States.

C. Whether war crimes have been committed in violation of international humanitarian law.

2.3. A fourth element of the report, which depends upon an affirmative answer to each of the above questions, is:

D. Whether the Japanese Government is capable of investigating and prosecuting war crimes that occur outside of its territory.

[8] Hawaiian Instrument of Accession filed with the Swiss Foreign Ministry, January 14, 2013, *available at*: http://www.hawaiiankingdom.org/pdf/GC_Accession.pdf.

[9] *See* L. HENKIN, INTERNATIONAL LAW CASES AND MATERIALS 823 (1987); Randall, *Universal Jurisdiction Under International Law*, 66 TEXAS L. REV. 785, 788 (1988). Piracy, slave trading, attacks on or hijacking of aircraft, genocide, war crimes and drug trafficking are all considered "universal" crimes. McCredie, *Contemporary Use of Force Against Terrorism: The United States Response to Achille Lauro—Questions of Jurisdiction and its Exercise*, 16 GA. J. INT'L & COM. L. 435, 439 (1986).

A. THE HAWAIIAN KINGDOM

3. *A SUBJECT OF INTERNATIONAL LAW*

3.1. When the United Kingdom and France formally recognized the Hawaiian Kingdom as an "independent state" at the Court of London on November 28, 1843,[10] and later formally recognized by the United States of America on July 6, 1844 by letter to the Hawaiian government from Secretary of State John C. Calhoun,[11] the Hawaiian State was admitted into the Family of Nations. Since its recognition, the Hawaiian Kingdom entered into extensive treaty relations with a variety of States establishing diplomatic relations and trade agreements.[12] To quote the *dictum* of the Permanent Court of Arbitration in 2001:

> "A perusal of the material discloses that in the nineteenth century the Hawaiian Kingdom existed as an independent State recognized as such by the United States of America, the United Kingdom and various other States, including by exchanges of diplomatic or consular representatives and the conclusion of treaties."[13]

Attached, as Appendix "III," is a registry of the Hawaiian Kingdom for the year 1893. The Hawaiian Kingdom became a full member of the Universal Postal Union on January 1, 1882.

3.2. As an independent State, the Hawaiian Kingdom, along with other independent States within the Family of Nations, obtained an "international personality." As such, all independent States "are regarded equal, and the rights of each not deemed to be dependent upon the possession of power to insure their enforcement."[14] According to Dickinson, the

> "principle of equality has an important legal significance in the modern law of nations. It is the expression of two important legal principles. The first of these may be called the equal protection of the

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[10] The Anglo-French Joint Declaration *available at*: http://hawaiiankingdom.org/pdf/Annex%202.pdf.
[11] U.S. Secretary of State Calhoun's letter *available at*: http://hawaiiankingdom.org/pdf/Annex%203.pdf.
[12] The Hawaiian Kingdom entered into treaties with Austria-Hungary, June 18, 1875; Belgium, October 4, 1862; Bremen (succeeded by Germany), March 27, 1854; Denmark, October 19, 1846; France, September 8, 1858; French Tahiti, November 24, 1853; Germany, March 25, 1879; New South Wales (now Australia), March 10, 1874; Hamburg (succeeded by Germany), January 8, 1848); Italy, July 22, 1863; Japan, August 19, 1871, January 28, 1886; Netherlands & Luxembourg, October 16, 1862 (Willliam III was also Grand Duke of Luxembourg); Portugal, May 5, 1882; Russia, June 19, 1869; Samoa, March 20, 1887; Spain, October 9, 1863; Sweden-Norway (now separate States), April 5, 1855; and Switzerland, July 20, 1864; the United Kingdom of Great Britain and Northern Ireland) March 26, 1846; and the United States of America, December 20, 1849, January 13, 1875, September 11, 1883, December 6, 1884. These treaties *available at*: http://hawaiiankingdom.org/UN_Protest_Annexes.shtml.
[13] *Larsen v. Hawaiian Kingdom*, 119 INT'L L. REP. 566, 581 (2001), *reprinted in* 1 HAW. J. L. & POL. 299 (Summer 2004).
[14] CHARLES CHENEY HYDE, INTERNATIONAL LAW: CHIEFLY AS INTERPRETED AND APPLIED BY THE UNTIED STATES 20 (Vol. I, 1922).

> law or equality before the law. …The second principle is usually described as equality of rights and obligations or more often as equality of rights."[15]

International personality is defined as "the capacity to be bearer of rights and duties under international law."[16] Crawford, however, distinguishes between "general" and "special" legal personality. The former "arises against the world (*erga omnes*)," and the latter "binds only consenting States."[17] As an independent State, the Hawaiian Kingdom, like the United States of America, has both "general" legal personality under international law as well as "special" legal personality under the 1893 executive agreements[18] that bind both the Hawaiian Kingdom and the United States to certain duties and obligations as hereinafter described.

3.3. The consequences of statehood at that time were several. States were deemed to be sovereign not only in a descriptive sense, but were also regarded as being "entitled" to sovereignty. This entailed, among other things, the rights to free choice of government, territorial inviolability, self-preservation, free development of natural resources, of acquisition and of absolute jurisdiction over all persons and things within the territory of the State.[19] It was, however, admitted that intervention by another State was permissible in certain prescribed circumstances such as for purposes of self-preservation, for purposes of fulfilling legal engagements, or of opposing wrongdoing. Although intervention was not absolutely prohibited in this regard, it was generally confined as regards the specified justifications. As Hall remarked, "The legality of an intervention must depend on the power of the intervening state to show that its action is sanctioned by some principle which can, and in the particular case does, take precedence of it."[20] A desire for simple aggrandizement of territory did not fall within these terms, and intervention for purposes of supporting one party in a civil war was often regarded as unlawful.[21] In any case, the right of independence was regarded as so fundamental that any action against it "must be looked upon with disfavor."[22]

4. *FIRST ARMED CONFLICT WITH UNITED STATES—JANUARY 16, 1893*

4.1. "Governmental authority," states Crawford, "is the basis for normal inter-State relations; what is an act of a State is defined primarily by reference to its

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[15] EDWIN DEWITT DICKINSON, THE EQUALITY OF STATES IN INTERNATIONAL LAW 335 (1920).
[16] SCHWARZENBERGER, A MANUAL OF INTERNATIONAL LAW 53 (6th ed., 1976).
[17] JAMES CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW 30 (2nd ed., 2006).
[18] David Keanu Sai, *A Slipperty Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its use and practice in Hawai'i today*, 10 J. L. & SOC. CHALLENGES 68, 119-121 (2008); *see* also *infra* para. 4.1–4.6.
[19] ROBERT PHILLIMORE, COMMENTARIES UPON INTERNATIONAL LAW, VOL. I, 216 (1879).
[20] WILLIAM EDWARD HALL, A TREATISE ON INTERNATIONAL LAW 298 (4th ed. 1895).
[21] THOMAS LAWRENCE, PRINCIPLES OF INTERNATIONAL LAW 134 (4th ed. 1913).
[22] *See* HALL, *supra* note 20, at 298.

organs of government, legislative, executive or judicial."[23] On January 17, 1893, Queen Lili'uokalani, who was constitutionally vested with the "executive power" under Article 31 of the Hawaiian constitution,[24] was unable to apprehend certain insurgents calling themselves the provisional government without armed conflict between United States troops, who were illegally landed by the United States Legation to protect the insurgents, and the Hawaiian police force headed by Marshal Charles Wilson. The Queen was forced to temporarily assign her police power to the President of the United States under threat of war calling for an investigation of its senior diplomat and military commanders who had intervened in the internal affairs of the Hawaiian Kingdom, and, thereafter, restore the government.[25] Upon receipt of the Queen's diplomatic protest, United States President Cleveland initiated an investigation by first withdrawing a treaty, which provided for the cession of Hawaiian territory, from the United States Senate. To conduct the investigation, President Cleveland appointed a Special Commissioner, James Blount, to travel to the Hawaiian Islands in order to provide reports to the United States Secretary of State Walter Gresham. Blount reported that, "in pursuance of a prearranged plan [between the insurgents, claiming to be a government, and the U.S. Legation], the Government thus established hastened off commissioners to Washington to make a treaty for the purpose of annexing the Hawaiian Islands to the United States."[26]

4.2. The investigation concluded that the United States Legation accredited to the Hawaiian Kingdom, together with United States Marines and Naval personnel, were directly responsible for the illegal overthrow of the Hawaiian government with the ultimate goal of transferring the Hawaiian Islands to the United States from an installed puppet government.[27] The President acknowledged that the

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[23] *See* CRAWFORD, *supra* note 17, at 56.

[24] Constitution of the Hawaiian Kingdom, 1864, art. 31: "The person of the King is inviolable and sacred. His Ministers are responsible. To the King belongs the executive power. All laws that have passed the Legislative Assembly, shall require His Majesty's signature in order to their validity," *available at*: http://hawaiiankingdom.org/pdf/Annex%204.pdf.

[25] The diplomatic protest stated, "I, Liliuokalani, by the grace of God and under the constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a provisional government of and for this Kingdom. That I yield to the superior force of the United States of America, whose minister plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the said provisional government. Now, to avoid any collision of armed forces and perhaps the loss of life, I do, under this protest, and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the constitutional sovereign of the Hawaiian Islands."

[26] United States House of Representatives, 53rd Congress, Executive Documents on Affairs in Hawai'i: 1894-95, (Government Printing Office 1895), 587, [hereafter Executive Documents]. Reprinted at 1 HAW. J. L. & POL. 136 (Summer 2004). The Executive Documents are available at the University of Hawai'i at Manoa Library website at: http://libweb.hawaii.edu/digicoll/annexation/blount.html.

[27] *Id*. at 567.

> "military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawai'i or for the *bona fide* purpose of protecting the imperiled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* government."[28]

> "When our Minister recognized the provisional government the only basis upon which it rested was the fact that the Committee of Safety had in a manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*."[29]

4.3. Under customary international law, the provisional government was an armed force and not a government. It was born out of intervention by the U.S. Minister. Military manuals define Armed Forces as "organized armed groups which are under a command responsible to that party for the conduct of its subordinates."[30] According to Henckaerts and Doswald-Beck, "this definition of armed forces covers all persons who fight on behalf of a party to a conflict and who subordinate themselves to its command,"[31] and that this "definition of armed forces builds upon earlier definitions contained in the Hague Regulations and the Third Geneva Convention which sought to determine who are combatants entitled to prisoner-of-war status."[32] Article 1 of the 1907 Hague Convention, IV, provides that

> "The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions: (1) To be commanded by a person responsible for his subordinates; (2) To have a fixed distinctive emblem recognizable at a distance; (3) To carry arms openly; and (4) To conduct their operations in accordance with the laws and customs of war."

4.4. The investigation also detailed the culpability of the United States government in violating international laws, as well as Hawaiian State territorial sovereignty and concluded it must provide *restitutio in integrum*—restoration to the original situation before the United States intervention occurred on January 16, 1893. According to Oppenheim, it "is obvious that there must be a pecuniary reparation for a material damage; and at least a formal apology on the part of the delinquent will in every case be necessary."[33] In the *Chorzow Factory* case, the Permanent Court of International Justice, stated:

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[28] *Id*., at 451.
[29] *Id*., at 453.
[30] JEAN-MARIE HENCKAERTS AND LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW, vol. I, 14 (2009).
[31] *Id*., at 15.
[32] *Id*.
[33] LASSA OPPENHEIM, INTERNATIONAL LAW, VOL. I—PEACE 318-319 (7th ed. 1948).

> "The essential principle contained in the actual notion of an illegal act—a principle which seems to be established by international practice and in particular by the decisions of arbitral decisions—is that reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear."[34]

4.5. Prior to his first of several meetings with the Queen at the United States Legation in Honolulu, the new United States Minister Plenipotentiary Albert Willis was instructed by Gresham to provide an apology on behalf of the President for the United States' illegal actions taken by its diplomat and troops. Gresham's instructions provided,

> "On your arrival at Honolulu you will take advantage of an early opportunity to inform the Queen of this determination, making known to her the President's sincere regret that the reprehensible conduct of the American minister and the unauthorized presence on land of a military force of the United States obliged her to surrender her sovereignty, for the time being, and rely on the justice of this Government to undo the flagrant wrong.
> You will, however, at the same time inform the Queen that, when reinstated, the President expects that she will pursue a magnanimous course by granting full amnesty to all who participated in the movement against her, including persons who are, or have been, officially or otherwise, connected with the Provisional Government, depriving them of no right or privilege which they enjoyed before the so-called revolution. All obligations created by the Provisional Government in due course of administration should be assumed."[35]

4.6. The first meeting with the Queen was held at the United States Legation on November 13, 1893, where Willis conveyed the apology and the condition of reinstatement as he was instructed.[36] The Queen, however, did not accept the President's condition of reinstatement.[37] Additional meetings were held on December 16th and 18th and through negotiations and *exchange of notes* between the Queen and Willis, settlement for the illegal overthrow of the Hawaiian government was finally achieved by executive agreement on December 18, 1893.[38] On the part of the United States, the President committed to restore the government as it stood before the landing of United States troops on January 16, 1893, and, thereafter, on the part of the Hawaiian Kingdom, the Queen committed to grant amnesty to the insurgents and assume all obligations of the self-proclaimed provisional government. Myers

[34] *The Factory at Chorzow* (Germany v. Poland), P.C.I.J. (series A) No. 17, at 47 (1927).
[35] *See* Executive Documents, *supra* note 26, at 464.
[36] *Id*., at 1242.
[37] *Id*., at 1243.
[38] *Id*., at 1269-1270.

explains, "*Exchange of notes* is the most flexible form of a treaty… The exchange consists of an offer and an acceptance… The offering instrument contains a text of the proposed agreement and the acceptance invariably repeats it verbatim, with assent."[39] According to Garner,

> "Agreements in the form of an *exchange of notes* between certain high officials acting on behalf of States, usually their Ministers of Foreign Affairs or diplomatic representatives are numerous… They are employed for a variety of purposes and, like instruments which are designated as 'treaties', they may deal with any matter which is a proper subject of international regulation. One of their most common objects is to record the understandings of the parties to a treaty which they have previously entered into; but they may record an entirely new agreement, sometimes one which has been reached as a result of negotiation. While the purpose of an agreement effected by any *exchange of notes* may not differ from that of instruments designated by other names, it is strikingly different in its form from a 'treaty' or a 'convention.' Unlike a treaty, the relations which it establishes or seeks to establish is recorded, not in a single highly formalized instrument, but in two or more letters usually called 'notes,' signed by Ministers or other officials."[40]

The first executive agreement, by *exchange of notes*, was the temporary and conditional assignment of executive power (police power) from the Queen to the President on January 17, 1893, and the acceptance of the assignment by the President on March 9, 1893 when he initiated the investigation. The second executive agreement, by *exchange of notes*, was the President's "offer" to restore the *de jure* government on condition that the Queen would commit to grant amnesty to the insurgents on November 13, 1893, and the "acceptance" by the Queen of this condition on December 18, 1893. The two executive agreements are referred to herein as the *Lili'uokalani assignment* and the *Agreement of restoration*, respectively.

4.7. By virtue of the *Lili'uokalani assignment*, police power[41] of the Hawaiian Kingdom is temporarily vested in the President of the United States to faithfully administer Hawaiian Kingdom law, until the Hawaiian Kingdom government is restored pursuant to the *Agreement of restoration*, whereby the police power is reassigned and thereafter the Monarch, or its successor, to grant amnesty. The failure of Congress to authorize the President to use force in carrying out these agreements did not diminish the validity of the *Lili'uokalani assignment* and the *Agreement of restoration*. Despite over a century of non-compliance, these executive agreements remain binding upon

[39] Denys P. Myers, *The Names and Scope of Treaties*, 51 AM. J. INT'L L. 590 (1957).
[40] 29 AM. J. INT'L L., Supplement, 698 (1935).
[41] Police power is the inherent power of government to exercise reasonable control over persons and property within its jurisdiction in the interest of the general security, health, safety, morals, and welfare except where legally prohibited.

the office of President of the United States to date. According to Wright, the President binds "himself and his successors in office by executive agreements."[42]

4.8. President Cleveland failed to follow through in his commitment to administer Hawaiian law and re-instate the *de jure* government as a result of partisan wrangling in the United States Congress. In a deliberate move to further isolate the Hawaiian Kingdom from any assistance by other States and treaty partners and to reinforce and protect the puppet regime installed by United States officials, the Senate and House of Representatives each passed similar resolutions in 1894 strongly warning other States "that any intervention in the political affairs of these islands by any other Government will be regarded as an act unfriendly to the United States."[43] Although the Hawaiian government was not restored and the country thrown into civil unrest as a result, the continuity of the Hawaiian State was nevertheless maintained.

4.9. Five years passed before Cleveland's presidential successor, William McKinley, entered into a second treaty of cession with the same individuals who participated in the illegal overthrow with the United States legation in 1893, and were now calling themselves the Republic of Hawai'i. This second treaty was signed on June 16, 1897 in Washington, D.C., but would "be taken up immediately upon the convening of Congress next December."[44]

4.10. Queen Lili'uokalani was in the United States at the time of the signing of the treaty and protested the second annexation attempt of the country. While in Washington, D.C., the Queen filed a diplomatic protest with the United States Department of State on June 17, 1897. The Queen stated, in part:

> "I, Lili'uokalani of Hawai'i, by the will of God named heir apparent on the tenth day of April, A.D. 1877, and by the grace of God Queen of the Hawaiian Islands on the seventeenth day of January, A.D. 1893, do hereby protest against the ratification of a certain treaty, which, so I am informed, has been signed at Washington by Messrs. Hatch, Thurston, and Kinney, purporting to cede those Islands to the territory and dominion of the United States. I declare such a treaty to be an act of wrong toward the native and part-native people of Hawaii, an invasion of the rights of the ruling chiefs, in violation of international rights both toward my people and toward friendly nations with whom they have made treaties, the perpetuation of the fraud whereby the constitutional government was overthrown, and, finally, an act of gross injustice to me."[45]

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[42] QUINCY WRIGHT, THE CONTROL OF FOREIGN RELATIONS, 235 (1922).
[43] 26 U.S. CONG. REC., 53rd Congress, 2nd Session, 5499.
[44] "Hawaiian Treaty to Wait—Senator Morgan Suggests that It Be Taken Up at This Session Without Result." *The New York Times*, 3 (July 25, 1897).
[45] LILI'UOKALANI, HAWAI'I'S STORY BY HAWAI'I'S QUEEN, 354 (1964); Protest *reprinted in* 1 HAW. J. L. & POL. 227 (Summer 2004).

Hawaiian political organizations in the Islands filed additional protests with the Department of State in Washington, D.C. These organizations were the Men and Women's Hawaiian Patriotic League (Hui Aloha 'Aina), and the Hawaiian Political Association (Hui Kalai'aina).[46] In addition, a petition of 21,269 signatures of Hawaiian subjects and resident aliens protesting annexation was filed with the Senate when it convened in December 1897.[47] As a result of these protests, the Senate was unable to garner enough votes to ratify the so-called treaty.

5. *SECOND ARMED CONFLICT WITH THE UNITED STATES—1898 SPANISH-AMERICAN WAR*

5.1. On April 25, 1898, Congress declared war on Spain. Battles were fought in the Spanish colonies of Puerto Rico and Cuba in the Atlantic, as well as the Spanish colonies of the Philippines and Guam in the Pacific. After Commodore Dewey defeated the Spanish Fleet in the Philippines on May 1, 1898, the United States administration made active preparations for an expansion of the war into a general war of aggression by invading and occupying the territory of the Hawaiian Kingdom.[48] In accordance with those plans, they caused United States troops to violate Hawai'i's neutrality and eventually occupy the Hawaiian Kingdom in order to facilitate the carrying out of their military operations against the Spanish in the Pacific. The invasion and occupation of Hawaiian territory had been specifically planned in advance, in violation of the executive agreements of 1893.

5.2. On May 4, 1898, U.S. Congressman Francis Newlands, submitted a joint resolution for the annexation of the Hawaiian Islands to the House Committee on Foreign Affairs. Six days later, hearings were held on the Newlands resolution, and in testimony submitted to the committee, U.S. military leaders called for the immediate occupation of the Hawaiian Islands due to military necessity for both during the war with Spain and for any future wars that the United States would enter. U.S. Naval Captain Alfred Mahan stated to the committee:

> "It is obvious that if we do not hold the islands ourselves we cannot expect the neutrals in the war to prevent the other belligerent from occupying them; nor can the inhabitants themselves prevent such occupation. The commercial value is not great enough to provoke neutral interposition. In short, in war we should need a larger Navy to defend the Pacific coast, because we should have not only to defend our own coast, but to prevent, by naval force, an enemy from occupying the islands; whereas, if we preoccupied them,

[46] These protests *available at*: http://hawaiiankingdom.org/pdf/Annex%2018.pdf.
[47] The signature petition *available at*: http://hawaiiankingdom.org/pdf/Annex%2019.pdf.
[48] The United States Attorney General concluded in 1855, "It is a settled principle of the law of nations that no belligerent can rightfully make use of the territory of a neutral state for belligerent purposes without the consent of the neutral government." Caleb Cushing, "Foreign Enlistments in the United States," 7 OPP. ATT. GEN. 367 (1855).

> fortifications could preserve them to us. In my opinion it is not practicable for any trans-Pacific country to invade our Pacific coast without occupying Hawaii as a base."[49]

5.3. While the debates ensued in both the U.S. House and Senate, the *U.S.S. Charleston*, a protected cruiser, was ordered to lead a convoy of 2,500 troops to reinforce U.S. troops in the Philippines and Guam. These troops were boarded on the transport ships of the *City of Peking*, the *City of Sidney* and the *Australia*. In a deliberate violation of Hawaiian neutrality during the war as well as of international law, the convoy, on May 21, set a course to the Hawaiian Islands for re-coaling purposes. The convoy arrived in Honolulu on June 1, and took on 1,943 tons of coal before it left the islands on June 4.[50]

5.4. As soon as it became apparent that the self-declared Republic of Hawai'i, a puppet regime of the United States since 1893, had welcomed the U.S. naval convoys and assisted in re-coaling their ships, H. Renjes, Spanish Vice-Consul in Honolulu, lodged a formal protest on June 1, 1898. Minister Harold Sewall, from the U.S. Legation in Honolulu, notified Secretary of State William R. Day of the Spanish protest in a dispatch dated June 8. Renjes declared, "In my capacity as Vice Consul for Spain, I have the honor today to enter a formal protest with the Hawaiian Government against the constant violations of Neutrality in this harbor, while actual war exists between Spain and the United States of America."[51] A second convoy of troops bound for the Philippines, on the transport ships the *China*, *Zelandia*, *Colon*, and the Senator, arrived in Honolulu on June 23, and took on 1,667 tons of coal.[52]

5.5. In a secret session of the U.S. Senate on May 31, 1898, Senator William Chandler warned of the consequences *Alabama claims* arbitration (Geneva award), whereby Great Britain was found guilty of violating its neutrality during the American Civil War and compensated the United States with 15.5 million dollars in gold.

> Senator Chandler cautioned the Senate. "What I said was that if we destroyed the neutrality of Hawai'i Spain would have a claim against Hawai'i which she could enforce according to the principles of the Geneva Award and make Hawai'i, if she were able to do it, pay for every dollar's worth of damage done to the ships of property of Spain by the fleet that may go out of Hawai'i."[53]

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[49] 31 U.S. CONG. REC., 55th Congress, 2nd Session, 5771.
[50] U.S. Minister to Hawai'i Harold Sewall to U.S. Secretary of State William R. Day, No. 167, (June 4, 1898), Hawai'i Archives.
[51] *Id*., No. 168 (June 8, 1898).
[52] *Id*., No. 175 (June 27, 1898).
[53] "Transcript of the Senate Secret Session on Seizure of the Hawaiian Islands, May 31, 1898," 1 HAW. J. L. & POL. 278 (Summer 2004).

> He later asked Senator Stephen White, "whether he is willing to have the Navy and Army of the U.S. violate the neutrality of Hawai'i?"[54]
>
> Senator White responded, "I am not, as everybody knows, a soldier, nor am I familiar with military affairs, but if I were conducting this Govt. and fighting Spain I would proceed so far as Spain was concerned just as I saw fit."[55]
>
> Senator Henry Cabot Lodge answered Senator White's question directly. "I should have argued then what has been argued ably since we came into secret legislative session, that at this moment the Administration was compelled to violate the neutrality of those islands, that protests from foreign representatives had already been received and complications with other powers were threatened, that the annexation or some action in regard to those islands had become a military necessity."[56]

5.6. The transcripts of the Senate's secret session were not made public until 1969, after the Senate passed a resolution authorizing the U.S. National Archives to open the records. The Associated Press in Washington, D.C., reported, that "the secrecy was clamped on during a debate over whether to seize the Hawaiian Islands—called the Sandwich Islands then—or merely developing leased areas of Pearl Harbor to reinforce the U.S. fleet at Manila Bay."[57] Concealed by the debating rhetoric of congressional authority to annex foreign territory, the true intent of the Senate, as divulged in these transcripts, was to have the joint resolution serve merely as consent, on the part of the Congress, for the President to utilize his war powers in the occupation and seizure of the Hawaiian Islands as a matter of military necessity.

5.7. Commenting on the United States flagrant violation of Hawaiian neutrality, T.A. Bailey stated,

> "The position of the United States was all the more reprehensible in that she was compelling a weak nation to violate the international law that had to a large degree been formulated by her own stand on the Alabama claims. Furthermore, in line with the precedent established by the Geneva award, Hawai'i would be liable for every cent of damage caused by her dereliction as a neutral, and for the United States to force her into this position was cowardly and ungrateful. At the end of the war, Spain or cooperating power would doubtless occupy Hawai'i, indefinitely if not permanently, to insure

[54] *Id*., at 279.
[55] *Id*.
[56] *Id*., at 280.
[57] Associated Press, "Secret Debate on U.S. Seizure of Hawaii Revealed," *Honolulu Star-Bulletin*, A1 (February 1, 1969).

> payment of damages, with the consequent jeopardizing of the defenses of the Pacific Coast."[58]

5.8. Unable to procure a treaty of cession acquiring the Hawaiian Islands as required by international law, Congress unilaterally enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War.[59] The territorial limitation of Congressional laws are indisputable, and to quote from the United States Supreme Court:

> "Neither the Constitution nor the laws passed in pursuance of it have any force in foreign territory unless in respect of our own citizens…, and operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. As a member of the family of nations, the right and power of the United States in that field are equal to the right and power of the other members of the international family. Otherwise, the United States is not completely sovereign."[60]

5.9. Many government officials and constitutional scholars were at a loss in explaining how a joint resolution could have extra-territorial force in annexing Hawai'i, a foreign and sovereign State, because during the 19th century, as Born states, "American courts, commentators, and other authorities understood international law as imposing strict territorial limits on national assertions of legislative jurisdiction."[61] During the debate in Congress, Representative Thomas H. Ball (D-Texas) characterized the annexation of the Hawaiian State by joint resolution as "a deliberate attempt to do unlawfully that which can not be lawfully done."[62] Westel Willoughby, a U.S. constitutional scholar at the time, explained the quandary.

> "The constitutionality of the annexation of Hawai'i, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act...Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force—confined in its operation to the territory of the State by whose legislature it is enacted."[63]

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[58] T.A. Bailey, *The United States and Hawaii During the Spanish-American War,* 36(3) AM. HIST. REV. 557 (April 1931).
[59] 30 U.S. Stat. 750.
[60] *United States v. Curtiss Wright Export Corp.*, 299 U.S. 304, 318 (1936).
[61] GARY BORN, INTERNATIONAL CIVIL LITIGATION IN UNITED STATES COURTS 493 (3rd ed. 1996).
[62] 31 U.S. CONG. REC. 5975 (1898).
[63] WESTEL WILLOUGHBY, THE CONSTITUTIONAL LAW OF THE UNITED STATES Westel Willoughby, (2nd ed. 1929), 427.

5.10. The citizenry and residents of the Hawaiian Kingdom also understood the illegality of the joint resolution. On October 20, 1900, the following editorial was published in the Maui News newspaper making reference to statements made by Thomas Clark who was formerly British, but acquired Hawaiian citizenship through naturalization in 1867. Clark was also a signatory to the 21,269 signature petition against the treaty of annexation that was before the United States Senate.

> "Thomas Clark, a candidate for Territorial senator from Maui, holds that it was an unconstitutional proceeding on the part of the United States to annex the Islands without a treaty, and that as a matter of fact, the Island[s] are not annexed, and cannot be, and that if the democrats come in to power they will show the thing up in its true light and demonstrate that…the Islands are de facto independent at the present time."[64]

5.11. In 1988, the U.S. Department of Justice concurred with Willoughby in a legal opinion. "It is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution. Accordingly, it is doubtful that the acquisition of Hawai'i can serve as an appropriate precedent for a congressional assertion of sovereignty over an extended territorial sea."[65]

5.12. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War, and the occupation was justified as a military necessity in order to reinforce and supply the troops that had been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. One month prior to the occupation of the Hawaiian Kingdom on July 18, 1898, the United States War Department issued *General Orders No. 101* "to instruct the military commanders of the United States as to the conduct which he is to observe during the military occupation"[66] of territory during the Spanish-American War and reflected customary international law at the time. *General Orders No. 101* provided:

> "Though the powers of the military occupant are absolute and supreme and immediately operate upon the political condition of the inhabitants, the municipal laws of the conquered territory, such as affect private rights of person and property and provide for the punishment of crime, are considered as continuing in force, so far as they are compatible with the new order of things, until they are suspended or superseded by the occupying belligerent and in practice they are not usually abrogated, but are allowed to remain in force and to be administered by the ordinary tribunals, substantially as they

[64] The Maui News article *available at*: http://hawaiiankingdom.org/blog/?p=189.
[65] Douglas Kmiec, Department of Justice, *Legal Issues Raised by Proposed Presidential Proclamation To Extend the Territorial Sea*, *in* 12 OP. OFF. OF LEGAL COUNSEL 238, 252 (1988).
[66] *Ochoa v. Hernandez*, 230 U.S. 139, 155-157 (1913), General Orders No. 1 reprinted in its entirety.

were before the occupation. This enlightened practice is, so far as possible, to be adhered to on the present occasion."[67]

…

"The real property of the state he may hold and administer, at the same time enjoying the revenues thereof, but he is not to destroy it save in the case of military necessity."[68]

…

"All churches and buildings devoted to religious worship and to the arts and sciences, all school houses, are, so far as possible, to be protected, and all destruction or intentional defacement of such places, of historical monuments or archives, or of works of science or art, is prohibited, save when required by urgent military necessity."[69]

…

"Private property, whether belonging to individuals or corporations, is to be respected, and can be confiscated only for cause."[70]

…

"As the result of military occupation the taxes and duties payable by the inhabitants to the former government become payable to the military occupant, unless he sees fit to substitute for them other rates or modes of contribution to the expense of government. The moneys so collected are to be used for the purpose of paying the expenses of government under the military occupation, such as the salaries of the judges and the police, and for the payment of the expenses of the Army."[71]

…

"All ports and places…which may be in the actual possession of our land and naval forces will be opened to the commerce of all neutral nations, as well as our own, in articles not contraband of war upon payment of the prescribed rates of duty which may be in force at the time of the importation."[72]

Despite the fact that General Orders No. 101 was not complied with by the Commander of United States troops in the Hawaiian Islands, it is customary

[67] *Id*., at 155.
[68] *Id*., at 156.
[69] *Id*.
[70] *Id*., at 157.
[71] *Id*.
[72] *Id*.

international law and continues to be binding on the commander of all United States troops while the Hawaiian Islands remain under occupation.

5.13. Following the close of the Spanish-American War by the Treaty of Paris,[73] United States troops remained in the Hawaiian Islands and continued its occupation to date in violation of international law and the 1893 *Lili'uokalani assignment* and the *Agreement of restoration*. The United States Supreme Court has also confirmed that military occupation, which is deemed provisional, does not transfer sovereignty of the occupied State to the occupant State even when the *de jure* sovereign is deprived of power to exercise its right within the occupied territory.[74] Hyde states, in "consequence of belligerent occupation, the inhabitants of the district find themselves subjected to a new and peculiar relationship to an alien ruler to whom obedience is due."[75]

5.14. In 1900, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i*,[76] which succeeded the Republic of Hawai'i as an armed force. Further usurping Hawaiian sovereignty in 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union*, hereinafter "Statehood Act," which succeeded the Territory of Hawai'i as an armed force and not a government.[77] These laws, which have no extraterritorial effect, stand in direct violation of the *Lili'uokalani assignment* and *Agreement restoration*, being international compacts, the HC IV, and the GC IV. Therefore, these entities, as armed forces, cannot be construed to be public in nature, but rather are private entities.

5.15. In 1946, prior to the passage of the Statehood Act, the United States further misrepresented its relationship with Hawai'i when its permanent representative to the United Nations identified Hawai'i as a non-self-governing territory under the administration of the United States since 1898. In accordance with Article 73(e) of the U.N. Charter, the United States permanent representative erroneously reported Hawai'i as a non-self-

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[73] 30 U.S. Stat. 1754.

[74] *Thirty Hogsheads of Sugar v. Boyle*, 13 U.S. 191 (1815); *United States v. Rice*, 17 U.S. 246 (1819); *Flemming v. Page*, 50 U.S. 603 (1850); *see* also United States Army Field Manual 27-10,

> *Section 358—Occupation Does Not Transfer Sovereignty*. Being an incident of war, military occupation confers upon the invading force the means of exercising control for the period of occupation. It does not transfer the sovereignty to the occupant, but simply the authority or power to exercise some of the rights of sovereignty. The exercise of these rights results from the established power of the occupant and from the necessity of maintaining law and order, indispensible both to the inhabitants and to the occupying force. It is therefore unlawful for a belligerent occupant to annex occupied territory or to create a new State therein while hostilities are still in progress.

[75] CHARLES CHENEY HYDE, INTERNATIONAL LAW CHIEFLY AS INTERPRETED AND APPLIED BY THE UNITED STATES 363 (Vol. II, 1922).

[76] 31 U.S. Stat. 141.

[77] 73 U.S. Stat. 4.

governing territory that was acknowledged in a resolution by United Nations General Assembly.[78] On June 4, 1952, the Secretary General of the United Nations reported information submitted to him by the permanent representative of the United States regarding American Samoa, Hawai'i, Puerto Rico and the Virgin Islands. [79] In this report, the United States made no mention that the Hawaiian Islands were an independent State since 1843 and that its government was illegally overthrown by U.S. forces, which was later settled by an executive agreement through *exchange of notes*. The representative also fails to disclose diplomatic protests that succeeded in preventing the second attempt to annex the Islands by a treaty of cession in 1897. Instead, the representative provides a picture of Hawai'i as a non-State nation, by stating:

> "The Hawaiian Islands were discovered by James Cook in 1778. At that time divided into several petty chieftainships, they were soon afterwards united into one kingdom. The Islands became an important port and recruiting point for the early fur and sandalwood traders in the North Pacific, and the principal field base for the extensive whaling trade. When whaling declined after 1860, sugar became the foundation of the economy, and was stimulated by a reciprocity treaty with the United States (1876).
>
> American missionaries went to Hawaii in 1820; they reduced the Hawaiian language to written form, established a school system, and gained great influence among the ruling chiefs. In contact with foreigners and western culture, the aboriginal population steadily declined. To replace this loss and to furnish labourers for the expanding sugar plantations, large-scale immigration was established.
>
> When later Hawaiian monarchs showed a tendency to revert to absolutism, political discords and economic stresses produced a revolutionary movement headed by men of foreign birth and ancestry. The Native monarch was overthrown in 1893, and a republic government established. Annexation to the United States was one aim of the revolutionists. After a delay of five years, annexation was accomplished.
>
> …The Hawaiian Islands, by virtue of the Joint Resolution of Annexation and the Hawaiian Organic Act, became an integral part of the United States and were given a territorial form of government which, in the United States political system, precedes statehood."[80]

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[78] *Transmission of Information under Article 73e of the Charter*, December 14, 1946, United Nations General Assembly Resolution 66(I).

[79] *Information from Non-self-governing Territories: Summary and Analysis of Information Transmitted Under Article 73 e of the Charter. Report of the Secretary General: Summary of Information transmitted by the Government of the United States of America*, 4 June 1952, United Nations, Document A/2135.

[80] *Id*., at 16-17.

5.16. In 1959, the Secretary General received a communication from the United States permanent representative that they will no longer transmit information regarding Hawai'i because it supposedly "became one of the United States under a new constitution taking affect on [August 21, 1959]."[81] This resulted in a General Assembly resolution stating it "Considers it appropriate that the transmission of information in respect of Alaska and Hawaii under Article 73e of the Charter should cease."[82] Evidence that the United Nations was not aware of Hawaiian independence since 1843 can be gleaned from the following statement by the United Nations.

> "Though the General Assembly considered that the manner in which Territories could become fully self-governing was primarily through the attainment of independence, it was observed in the Fourth Committee that the General Assembly had recognized in resolution 748 (VIII) that self-government could also be achieved by association with another State or group of States if the association was freely chosen and was on a basis of absolute equality. There was unanimous agreement that Alaska and Hawaii had attained a full measure of self-government and equal to that enjoyed by all other self-governing constituent states of the United States. Moreover, the people of Alaska and Hawaii had fully exercised their right to choose their own form of government."[83]

5.17. Although the United Nations passed two resolutions acknowledging Hawai'i to be a non-self-governing territory that has been under the administration of the United States of America since 1898 and was granted self-governance in 1959, it did not affect the continuity of the Hawaiian State because, foremost, United Nations resolutions are not binding on member States of the United Nations,[84] let alone a non-member State—the Hawaiian Kingdom. Crawford explains, "Of course, the General Assembly is not a legislature. Mostly its resolutions are only recommendations, and it has no capacity to impose new legal obligations on States."[85] Secondly, the information provided to the General Assembly by the United States was distorted and flawed. In *East Timor*, Portugal argued that resolutions of both the General Assembly and the Security Council acknowledged the status of East Timor as a non-self-governing territory and Portugal as the administering power and should be treated as "givens."[86] The International Court of Justice, however, did not agree and found

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[81] *Cessation of the transmission of information under Article 73e of the Charter: communication from the Government of the United States of America*, United Nations, Document no. A/4226, at 99.
[82] *Cessation of the transmission of information under Article 73 e of the Charter in respect of Alaska and Hawaii*, December 12, 1959, United Nations General Assembly Resolution 1469 (XIV).
[83] *Repertory of Practice of United Nations Organs, Extracts relating to Article 73 of the Charter of the United Nations,* Supplement No. 1 (1955-1959), volume 3, at 200, para. 101.
[84] IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 14 (4th ed. 1990).
[85] *See* CRAWFORD, *supra* note 18, at 113.
[86] In *East Timor* (Portugal v. Australia) [1995] ICJ Rep. 90, at 103, para. 30.

> "that it cannot be inferred from the sole fact that the above-mentioned resolutions of the General Assembly and the Security Council refer to Portugal as the administrating Power of East Timor that they intended to establish an obligation on third States."[87]

Even more problematic is when the decisions embodied in the resolutions as "givens" are wrong. Acknowledging this possibility, Bowett states, "where a decision affects a State's legal rights or responsibilities, and can be shown to be unsupported by the facts, or based upon a quite erroneous view of the facts, or a clear error of law, the decision ought in principle to be set aside."[88] Öberg also concurs and acknowledges that resolutions "may have been made on the basis of partial information, where not all interested parties were heard, and/or too urgently for the facts to be objectively established."[89] As an example, Öberg cited Security Council Resolution 1530, March 11, 2004, that "misidentified the perpetrator of the bomb attacks carried out in Madrid, Spain, on the same day."[90]

6. *MILITARIZATION OF THE HAWAIIAN KINGDOM*

6.1. For the past century, the Hawaiian Kingdom has served as a base of military operations for United States troops during World War I and World War II. In 1947, the United States Pacific Command (USPACOM), being a unified combatant command, was established as an outgrowth of the World War II command structure, with its headquarters on the Island of O'ahu. Since then, USPACOM has served as a base of military operations during the Korean War, the Vietnam War, the Gulf War, the Afghan War, the Iraq War, and the current war on terrorism. There are currently 118 U.S. military sites throughout the Hawaiian Kingdom that comprise 230,929 acres, which is 17% of Hawaiian territory.[91] The island of O'ahu has the majority of military sites at 94,250 acres, which is 25% of the island.

6.2. The United States Navy's Pacific Fleet headquartered at Pearl Harbor hosts the Rim of the Pacific Exercise (RIMPAC) every other even numbered year, which is the largest international maritime warfare exercise. RIMPAC is a

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[87] *Id*., at 104, para. 32.
[88] Derek Bowett, *The Impact of Security Council Decisions on Dispute Settlement Procedures*, 5 EUR. J. INT'L L. 89, 97 (1994).
[89] Marko Divac Öberg, *The Legal Effects of Resolutions of the UN Security Council and General Assembly in the Jurisprudence of the ICJ*, 16(5) EUR. J. INT'L L. 879, 892 (2005).
[90] *Id*., at n. 82.
[91] U.S. military training locations on the Island of Kaua'i: Pacific Missile Range Facility, Barking Sands Tactical Underwater Range, and Barking Sands Underwater Range Expansion; the entire Islands of Ni'ihau and Ka'ula; on the Island of O'ahu: Pearl Harbor, Lima Landing, Pu'uloa Underwater Range—Pearl Harbor, Barbers Point Underwater Range, Coast Guard AS Barbers Point/Kalaeloa Airport, Marine Corps Base Hawai'i, Marine Corps Training Area Bellows, Hickam Air Force Base, Kahuku Training Area, Makua Military Reservation, Dillingham Military Reservation, Wheeler Army Airfield, and Schofield Barracks on the Island of O'ahu; and on the Island of Hawai'i: Bradshaw Army Airfield and Pohakuloa Training Area.

multinational, sea control and power projection exercise that collectively consists of activity by the U.S. Army, Air Force, Marine Corps, and Naval forces, as well as military forces from other foreign States. During the month long exercise, RIMPAC training events and live fire exercises occur in open-ocean and at the military training locations throughout the Hawaiian Islands. In 2014, Australia, Brunei, Canada, Chile, Colombia, France, India, Indonesia, Japan, Malaysia, Mexico, Netherlands, New Zealand, Norway, People's Republic of China, Peru, Republic of Korea, Republic of the Philippines, Singapore, Tonga, and the United Kingdom participated in the RIMPAC exercises.

6.3. Since the belligerent occupation by the United States began on August 12, 1898 during the Spanish-American War, the Hawaiian Kingdom, as a neutral State, has been in a state of war for over a century. Although it is not a state of war in the technical sense that was produced by a declaration of war, it is, however, a war in the material sense that Dinstein says, is "generated by actual use of armed force, which must be comprehensive on the part of at least one party to the conflict."[92] The military action by the United States on August 12, 1898 against the Hawaiian Kingdom triggered the change from a state of peace into a state of war—*jus in bello*, where the laws of war would apply.

6.4. When neutral territory is occupied, however, the laws of war are not applied in its entirety. According to Sakuye Takahashi, Japan limited its application of the Hague Convention to its occupation of Manchuria, being a province of a neutral China, in its war against Russia, to Article 42—on the elements and sphere of military occupation, Article 43—on the duty of the occupant to respect the laws in force in the country, Article 46—concerning family honour and rights, the lives of individuals and their private property as well as their religious conviction and the right of public worship, Article 47—on prohibiting pillage, Article 49—on collecting the taxes, Article 50—on collective penalty, pecuniary or otherwise, Article 51—on collecting contributions, Article 53—concerning properties belonging to the state or private individuals, which may be useful in military operations, Article 54—on material coming from neutral states, and Article 56—on the protection of establishments consecrated to religious, warship, charity, etc.[93]

6.5. Hawai'i's situation was anomalous and without precedent. The closest similarity to the Hawaiian situation would not take place until sixteen years later when Germany occupied the neutral States of Belgium and Luxembourg in its war against France from 1914-1919. The Allies considered Germany's actions against these neutral States to be acts of aggression. According to Garner, the "immunity of a neutral State from occupation by a belligerent is

[92] YORAM DINSTEIN, WAR, AGGRESSION AND SELF-DEFENSE, 16 (2nd ed. 1994).
[93] SAKUYE TAKAHASHI, INTERNATIONAL LAW APPLIED TO THE RUSSO-JAPANESE WAR 251 (1908).

not dependent upon special treaties, but is guaranteed by the Hague convention as well as the customary law of nations."[94]

B. THE CONTINUITY OF THE HAWAIIAN KINGDOM

7. *GENERAL CONSIDERATIONS*

7.1. The issue of State continuity usually arises in cases in which some element of the State has undergone some significant transformation, such as changes in its territory or in its form of government. A claim as to State continuity is essentially a claim as to the continued independent existence of a State for purposes of international law in spite of such changes. It is predicated, in that regard, upon an insistence that the State's legal identity has remained intact. If the State concerned retains its identity it can be considered to "continue" and *vice versa*. Discontinuity, by contrast, supposes that the identity of the State has been lost or fundamentally altered in such a way that it has ceased to exist as an independent State and, as a consequence, rights of sovereignty in relation to territory and population have been assumed by another "successor" State to the extent provided by the rules of succession. At its heart, therefore, the issue of State continuity is concerned with the parameters of a State's existence and demise, or extinction, in international law.

7.2. The claim of State continuity on the part of the Hawaiian Kingdom has to be opposed as against a claim by the United States as to its succession. It is apparent, however, that this opposition is not a strict one. Principles of succession may operate even in cases where continuity is not called into question, such as with the cession of a portion of territory from one State to another, or occasionally in case of unification. Continuity and succession are, in other words, not always mutually exclusive but might operate in tandem. It is evident, furthermore, that the principles of continuity and succession may not actually differ a great deal in terms of their effect.

7.3. Even if it is relatively clear as to when States may be said to come into being for purposes of international law, the converse is far from being the case. Beyond the theoretical circumstance in which a body politic has dissolved, *e.g.* by submergence of the territory or the dispersal of the population, it is apparent that all cases of putative extinction will arise in cases where certain changes of a material nature have occurred—such as a change in government and change in the territorial configuration of the State. The difficulty, however, is in determining when such changes are merely incidental, leaving intact the identity of the State, and when they are to be regarded as fundamental going to the heart of that identity. It is evident, moreover, that States are complex political communities possessing various attributes of an abstract nature which vary in space as well as time, and, as such, determining

[94] JAMES WILFORD GARNER, INTERNATIONAL LAW AND THE WORLD WAR, 251 (Vol. II 1920).

the point at which changes in those attributes are such as to affect the State's identity will inevitably call for very fine distinctions.

7.4. It is generally held, nevertheless, that there exist several uncontroversial principles that have some bearing upon the issue of continuity. These are essentially threefold, all of which assume an essentially negative form. First, that the continuity of the State is not affected by changes in government even if of a revolutionary nature. Secondly, that continuity is not affected by territorial acquisition or loss, and finally that it is not affected by military occupation. Crawford points out that,

> "There is a strong presumption that the State continues to exist, with its rights and obligations, despite revolutionary changes in government, or despite a period in which there is no, or no effective, government. Belligerent occupation does not affect the continuity of the State, even where there exists no government claiming to represent the occupied State."[95]

Furthermore, the dictum of the Permanent Court of Arbitration in *Larsen v. Hawaiian Kingdom* acknowledging the Hawaiian Kingdom to be an independent State in the nineteenth century is also *presumptive evidence*, "which must be received and treated as true and sufficient until and unless rebutted by other evidence,"[96] *i.e.* evidence of the Hawaiian State and its continuity shall be the presumption unless rebutted.

7.5. Each of these principles reflects upon one of the key incidents of statehood—territory, government (legal order) and independence—making clear that the issue of continuity is essentially one concerned with the existence of States: unless one or more of the key constituents of Statehood are entirely and permanently lost, State identity will be retained. Their negative formulation, furthermore, implies that there exists a general presumption of continuity. As Hall was to express the point, a State retains its identity

> "so long as the corporate person undergoes no change which essentially modifies it from the point of view of its international relations, and with reference to them it is evident that no change is essential which leaves untouched the capacity of the state to give effect to its general legal obligations or to carry out its special contracts."[97]

The only exception to this general principle is to be found in case of multiple changes of a less than total nature, such as where a revolutionary change in

[95] *See* CRAWFORD, *supra* note 18, at 34.
[96] BLACK'S LAW DICTIONARY 1186 (6th ed. 1990).
[97] *See* HALL, *supra* note 21, at 22.

government is accompanied by a broad change in the territorial delimitation of the State.[98]

7.6. If one were to speak about a presumption of continuity, one would suppose that an obligation would lie upon the party opposing that continuity to establish the facts substantiating its rebuttal. The continuity of the Hawaiian Kingdom, in other words, may be refuted only by reference to a valid demonstration of legal title, or sovereignty, on the part of the United States, absent of which the presumption remains. It might be objected that formally speaking, the survival or otherwise of a State should be regarded as independent of the legitimacy of any claims to its territory on the part of other States. It is commonly recognized that a State does not cease to be such merely in virtue of the existence of legitimate claims over part or parts of its territory. Nevertheless, where those claims comprise the entirety of the territory of the State, as they do in case of Hawai'i, and when they are accompanied by effective governance to the exclusion of the Hawaiian Kingdom, it is difficult, if not impossible, to separate the two questions. The survival of the Hawaiian Kingdom is, it seems, premised upon the "legal" basis of present or past United States claims to sovereignty over the Islands.

7.7. In light of such considerations, any claim to State continuity will be dependent upon the establishment of two legal facts: *first*, that the State in question existed as a recognized entity for purposes of international law at some relevant point in history; and, *secondly,* that intervening events have not been such as to deprive it of that status. It should be made very clear, however, that the issue is not simply one of "observable" or "tangible facts," but more specifically of "legally relevant facts." It is not a case, in other words, simply of observing how power or control has been exercised in relation to persons or territory, but of determining the scope of "authority," which is understood as "a legal entitlement to exercise power and control." Authority differs from mere control by not only being essentially rule-governed, but also in virtue of the fact that it is not always entirely dependent upon the exercise of that control. As Arbitrator Huber noted in the *Island of Palmas Case*:

> "Manifestations of sovereignty assume… different forms according to conditions of time and place. Although continuous in principle, sovereignty cannot be exercised in fact at every moment on every point of a territory. The intermittence and discontinuity compatible with the maintenance of the right necessarily differ according as inhabited or uninhabited regions are involved, or regions enclosed within territories in which sovereignty is incontestably displayed or again regions accessible from, for instance, the high seas."[99]

[98] *See* generally, KRYSTYNA MAREK, IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW (2nd ed. 1968).
[99] *Island of Palmas Case (Netherlands v. United States)* 2 R.I.A.A. 829.

7.8. Thus, while "the continuous and peaceful display of territorial sovereignty" remains an important measure for determining entitlements in cases where title is disputed, or where "no conventional line of sufficient topographical precision exists," it is not always an indispensable prerequisite for legal title. This has become all the more apparent since the prohibition on the annexation of territory became firmly implanted in international law, and with it the acceptance that certain factual situations will not be accorded legal recognition, *ex inuria ius non oritur*.

7.9. In light of the evident existence of Hawai'i as a sovereign State for some period of time prior to 1898, it would seem that the issue of continuity turns upon the question whether Hawai'i can be said to have subsequently ceased to exist according to the terms of international law. Current international law recognizes that a State may cease to exist in one of two scenarios: *first*, by means of that State's integration with another State in some form of union; or, *second*, by its dismemberment, such as in the case of the Socialist Federal Republic of Yugoslavia or Czechoslovakia. As will be seen, events in Hawai'i in 1898 are capable of being construed in several ways, but it is evident that the most obvious characterization was one of cession by joint resolution of the Congress.

7.10. Turning then to the law as it existed at the critical date of 1898, it was generally held that a State might cease to exist in one of three scenarios:

(a) By the destruction of its territory or by the extinction, dispersal or emigration of its population, which is a theoretical disposition.
(b) By the dissolution of the corpus of the State.[100]
(c) By the State's incorporation, union, or submission to another.[101]

7.11. Neither (a) nor (b) is applicable in the current scenario. In case of (c) commentators have often distinguished between two processes—one of which involved a voluntary act, *i.e*. union or incorporation, the other of which came about by non-consensual means, *i.e*. conquest and submission followed by annexation.[102] It is evident that annexation or "conquest" was regarded as a legitimate mode of acquiring title to territory,[103] and it would seem to follow that in case of total annexation—annexation of the entirety of the territory of a State, the defeated State would cease to exist.

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[100] Cases include the dissolution of the German Empire in 1805-6; the partition of the Pays-Bas in 1831 or of the Canton of Bale in 1833

[101] Cases include the incorporation of Cracow into Austria in 1846; the annexation of Nice and Savoy by France in 1860; the annexation of Hannover, Hesse, Nassau and Schleswig-Holstein and Frankfurt into Prussia in 1886.

[102] *See* J. Westlake, *The Nature and Extent of the Title by Conquest*, 17 L. Q. REV. 392 (1901).

[103] LASSA OPPENHEIM, INTERNATIONAL LAW, VOL. I, 288 (9th ed. 1996), Oppenheim remarks that "[a]s long as a Law of Nations has been in existence, the states as well as the vast majority of writers have recognized subjugation as a mode of acquiring territory."

7.12. Although annexation was regarded as a legitimate means of acquiring territory, it was recognized as taking a variety of forms.[104] It was apparent that a distinction was typically drawn between those cases in which the annexation was implemented by a Treaty of Peace, and those which resulted from an essentially unilateral public declaration on the part of the annexing power after the defeat of the opposing State, which the former was at war with. The former would be governed by the particular terms of the treaty in question, and give rise to a distinct type of title.[105] Since treaties were regarded as binding irrespective of the circumstances surrounding their conclusion and irrespective of the presence or absence of coercion,[106] title acquired in virtue of a peace treaty was considered to be essentially derivative, *i.e*. being transferred from one State to another. There was little, in other words, to distinguish title acquired by means of a treaty of peace backed by force, and a voluntary purchase of territory: in each case the extent of rights enjoyed by the successor were determined by the agreement itself. In case of conquest absent an agreed settlement, by contrast, title was thought to derive simply from the fact of military subjugation and was complete "from the time [the conqueror] proves his ability to maintain his sovereignty over his conquest, and manifests, by some authoritative act… his intention to retain it as part of his own territory."[107] What was required, in other words, was that the conflict be complete—acquisition of sovereignty *durante bello* being clearly excluded, and that the conqueror declare an intention to annex.[108]

7.13. What remained a matter of some dispute, however, was whether annexation by way of subjugation should be regarded as an original or derivative title to territory and, as such, whether it gave rise to rights in virtue of mere occupation, or rather more extensive rights in virtue of succession—a point of particular importance for possessions held in foreign territory.[109] Rivier, for example, took the view that conquest involved a three stage process: a) the extinction of the State in virtue of *debellatio* which b) rendered the territory *terra nullius* leading to c) the acquisition of title by means of occupation.[110] Title, in other words, was original, and rights of the occupants were limited to those which they possessed perhaps under the doctrine *uti possidetis de facto*. Others, by contrast, seemed to assume some form of "transfer of title" as taking place, *i.e*. that conquest gave rise to a derivative title,[111] and concluded

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[104] HENRY HALLECK, INTERNATIONAL LAW, 811 (1861); HENRY WHEATON, ELEMENTS OF INTERNATIONAL LAW II, c. iv, s. 165. (8th ed. 1866).

[105] See LAWRENCE, *supra* note 22, at 165-6 ("Title by conquest arises only when no formal international document transfers the territory to its new possessor.")

[106] Vienna Convention on the Law of Treaties, art. 52 (1969).

[107] HENRY HALLECK, INTERNATIONAL LAW, 468 (3rd ed. 1893).

[108] This point was of considerable importance following the Allied occupation of Germany in 1945.

[109] For an early version of this idea see EMERICH DE VATTEL, THE LAW OF NATIONS OR THE PRINCIPLES OF NATURAL LAW, BK. III, SEC. 193-201 (1758, trans. C. Fenwick, 1916). C. BYNKERSHOEK, QUAESTIONUM JURIS PUBLICI LIBRI DUO, BK. I, 32-46 (1737, trans. Frank T., 1930).

[110] RIVIER, PRINCIPES DU DROIT DES GENS, VOL. I, 182 (1896).

[111] *See* PHILLIMORE, *supra* note 20, I, at 328.

in consequence that the conqueror "becomes, as it were, the heir or universal successor of the defunct or extinguished State."[112] Much depended, in such circumstances, as to how the successor came to acquire title.

7.14. It should be pointed out, however, that even if annexation/conquest was generally regarded as a mode of acquiring territory, United States policy during this period was far more skeptical of such practice. As early as 1823 the United States had explicitly opposed, in the form of the Monroe Doctrine, the practice of European colonization[113] and in the First Pan-American Conference of 1889 and 1890 it had proposed a resolution to the effect that "the principle of conquest shall not…be recognized as admissible under American public law."[114] It had, furthermore, later taken the lead in adopting a policy of non-recognition of "any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928"[115] which was confirmed as a legal obligation in a resolution of the Assembly of the League of Nations in 1932. Even if such a policy was not to amount to a legally binding commitment on the part of the United States not to acquire territory by use or threat of force during the latter stages of the 19th century, there is the doctrine of estoppel that would operate to prevent the United States subsequently relying upon forcible annexation as a basis for claiming title to the Hawaiian Islands. Furthermore, annexation by conquest clearly would not apply to the case at hand because the Hawaiian Kingdom was never at war with the United States thereby preventing *debellatio* from arising as a mode of acquisition.

8. *THE FUNCTION OF ESTOPPEL*

8.1. The principle that a State cannot benefit from its own wrongful act is a general principle of international law referred to as estoppel.[116] The rationale for this rule derives from the *maxim pacta sunt servanda*—every treaty in force is binding upon the parties and must be performed by them in good faith,[117] and "operates so as to preclude a party from denying the truth of a statement of fact made previously by that party to another whereby that other has acted to his detriment."[118] According to MacGibbon, underlying "most formulations of the doctrine of estoppel in international law is the requirement that a State

[112] *See* HALLECK, *supra* note 101, at 495.
[113] "The American continents, by the free and independent conditions which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European Powers." James Monroe, Message to Congress, December 2, 1823.
[114] JOHN BASSET MOORE, A DIGEST OF INTERNATIONAL LAW, VOL. 1, 292 (1906).
[115] J.W. WHEELER-BENNETT (ED.), DOCUMENTS ON INTERNATIONAL AFFAIRS 1932 23 (1933). See also David Turns, *The Stimson Doctrine of Non-Recognition: Its Historical Genesis and Influence on Contemporary International Law*, 2 CHINESE J. INT'L L. 105-143 (2003).
[116] WILLIAM EDWARD HALL, A TREATISE ON INTERNATIONAL LAW 383 (8th ed. 1924).
[117] *See* Vienna Convention, *supra* note 103, art. 26.
[118] D.W. Bowett, *Estoppel Before International Tribunals and its Relation to Acquiescence*, 33 BRIT. Y. B. INT'L L. 201 (1957).

ought to be consistent in its attitude to a given factual or legal situation."[119] In municipal jurisdictions there are three forms of estoppel—estoppel by judgment as in matters of court decisions; estoppel by deed as in matters of written agreement or contract; and estoppel by conduct as in matters of statements and actions. Bowett states that these forms of estoppel, whether treated as a rule of evidence or as substantive law, are as much part of international law as they are in municipal law, and due to the diplomatic nature of States relations, he expands the second form of estoppel to include estoppel by "Treaty, Compromise, Exchange of Notes, or other Undertaking in Writing."[120] Brownlie states that because estoppel in international law rests on principles of good faith and consistency, it is "shorn of the technical features to be found in municipal law."[121] Bowett enumerates the three essentials establishing estoppel in international law:

> 1. The statement of fact must be clear and unambiguous.
> 2. The statement of fact must be made voluntarily, unconditionally, and must be authorized.
> 3. There must be reliance in good faith upon the statement either to the detriment of the party so relying on the statement or to the advantage of the party making the statement.[122]

8.2. To ensure consistency in State behavior, the Permanent Court of International Justice, in a number of cases, affirmed the principle "that a State cannot invoke its municipal law as a reason for failure to fulfill its international obligation."[123] This principle was later codified under Article 27 of the 1969 Vienna Convention on the Law of Treaties, whereby "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."[124] It is self-evident that the 1893 *Lili'uokalani assignment* and the *Agreement of restoration* meets the requirements of the first two essentials establishing estoppel, and, as for the third, reliance in good faith was clearly displayed and evidence in a memorial to President Cleveland by the Hawaiian Patriotic League on December 27, 1893. As stated in the memorial:

> "And while waiting for the result of [the investigation], with full confidence in the American honor, the Queen requested all her loyal subjects to remain absolutely quiet and passive, and to submit with patience to all the insults that have been since heaped upon both the Queen and the people by the usurping Government. The necessity of this attitude of absolute inactivity on the part of the Hawaiian people was further indorsed and emphasized by Commissioner Blount, so that, if the Hawaiians have held their peace in a manner that will

[119] I.C. MacGibbon, *Estoppel in International Law*, 7 INT'L. & COMP. L. Q. 468 (1958).
[120] *See* Bowett, *supra* note 115, at 181.
[121] *See* BROWNLIE, *supra* note 81, at 641.
[122] See Bowett, *supra* note 115, at 202.
[123] Series A/B, No. 44 (1932) (*Polish Nationals in Danzig*), at 24; Series A, No. 24 1930), at 12, and Series A/B, No. 46 (1932), at 167 (*Free Zones*); Series B, No. 17 (1930) (*Greco-Bulgarian Communities*), at 32.
[124] *See* Vienna Convention, *supra* note 103, art. 27.

> vindicate their character as law-abiding citizens, yet it can not and must not be construed as evidence that they are apathetic or indifferent, or ready to acquiesce in the wrong and bow to the usurpers."[125]

8.3. Continued reliance was also displayed by the formal protests of the Queen and Hawaiian political organizations regarding the aforementioned second treaty of cession signed in Washington, D.C., on June 16, 1897. These protests were received and filed in the office of Secretary of State John Sherman and continue to remain a record of both dissent and evidence of reliance upon the conclusion of the investigation by President Cleveland and his obligation and commitment to *restitutio in integrum*—restoration of the *de jure* Hawaiian government. A memorial of the Hawaiian Patriotic League that was filed with the United States Hawaiian Commission for the creation of the territorial government appears to be the last "public" act of reliance made by a large majority of the Hawaiian citizenry.[126] The Commission was established on July 8, 1898 after President McKinley signed the joint resolution of annexation on July 7, 1898, and held meetings in Honolulu from August through September of 1898. The memorial, which was also printed in two Honolulu newspapers, one in the Hawaiian language[127] and the other in English,[128] stated, in part:

> "WHEREAS: By memorial the people of Hawaii have protested against the consummation of an invasion of their political rights, and have fervently appealed to the President, the Congress and the People of the United States, to refrain from further participation in the wrongful annexation of Hawaii; and
>
> WHEREAS: The Declaration of American Independence expresses that Governments derive their just powers from the consent of the governed:
>
> THEREFORE, BE IT RESOLVED: That the representatives of a large and influential body of native Hawaiians, we solemnly pray that the constitutional government of the 16th day of January, A.D. 1893, be restored, under the protection of the United States of America."

This memorial clearly speaks to the people's understanding and reliance of the 1893 *Agreement of restoration* and the duties and obligations incurred by the United States even after the Islands were purportedly annexed.

8.4. There is no dispute between the United States and the Hawaiian Kingdom regarding the illegal overthrow of the *de jure* Hawaiian government, and the

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[125] *See* Executive Documents, *supra* note 27, at 1295, reprinted in 1 HAW. J. L. & POL. 217 (Summer 2004).
[126] Munroe Smith, Record of Political Events, 13(4) POL. SCI. Q. 745, 752 (Dec. 1898).
[127] *Memoriala A Ka Lahui* (Memorial of the Citizenry), KE ALOHA AINA, Sept. 17, 1898, at 3.
[128] *What Monarchists Want*, THE HAWAIIAN STAR, Sept. 15, 1898, at 3.

1893 executive agreements—the *Lili'uokalani assignment* and the *Agreement of restoration*, constitutes evidence of final settlement. As such, the United States cannot benefit from its deliberate non-performance of its obligation of administering Hawaiian law and restoring the *de jure* government under the 1893 executive agreements over the reliance held by the Hawaiian Kingdom and its citizenry in good faith and to their detriment. Therefore, the United States is estopped from asserting any of the following claims:

1. Recognition of any pretended government other than the Hawaiian Kingdom as both the *de facto* and the *de jure* government of the Hawaiian Islands;
2. Annexation of the Hawaiian Islands by joint resolution in 1898;
3. Establishment of a territorial government in 1900;
4. Administration of the Hawaiian Islands as a non-self-governing territory since 1898 pursuant to Article 73(e) of the U.N. Charter; and
5. Establishment of a State government in 1959.

8.5. The failure of the United States to restore the *de jure* government is a "breach of an international obligation," and, therefore, an international wrongful act. The severity of this breach has led to the unlawful seizure of Hawaiian independence, imposition of a foreign nationality upon the citizenry of an occupied State, mass migrations and settlement of foreign citizens, and the economic and military exploitation of Hawaiian territory—all stemming from the United States government's violation of international law and treaties. In a 1999 report for the United Nations Centennial of the First International Peace Conference, Greenwood states:

> "Accommodation of change in the case of prolonged occupation must be within the framework of the core principles laid down in the Regulations on the Laws and Customs of War on Land and the Fourth Convention, in particular, the principle underlying much of the Regulations on the Laws and Customs of War on Land, namely that the occupying power may not exploit the occupied territories for the benefit of its own population."[129]

Despite the egregious violations of Hawaiian State sovereignty by the United States since January 16, 1893, the principle of estoppel not only serves as a shield that bars the United States from asserting any legal claim of sovereignty over the Hawaiian Islands, but also a shield that protects the continued existence of the Hawaiian Kingdom, the nationality of its citizenry, and its territorial integrity as they existed in 1893. Additionally, the principle of *ex injuria jus non oritur*—unjust acts cannot create law, equally applies.

[129] CHRISTOPHER GREENWOOD, INTERNATIONAL HUMANITARIAN LAW (LAWS OF WAR): REVISED REPORT PREPARED FOR THE CENTENNIAL OF THE FIRST INTERNATIONAL PEACE CONFERENCE, PURSUANT TO UNITED NATIONS GENERAL ASSEMBLY RESOLUTIONS A/RES/52/154 AND A/RES/53/99, 47 (1999).

9. *ACQUISITIVE PRESCRIPTION*

9.1. As pointed out above, the continuity of the Hawaiian State may be refuted only by reference to a valid demonstration of legal title, or sovereignty, on the part of the United States, which is not strictly limited to annexation. The United States, in other words, would be entitled to maintain its claim over the Hawaiian Islands so long as it could show some basis for asserting that claim other than merely its original claim of annexation in 1898. The strongest type of claim in this respect is the "continuous and peaceful display of territorial sovereignty." The emphasis given to the "continuous and peaceful display of territorial sovereignty" in international law derives in its origin from the doctrine of occupation, which allowed states to acquire title to territory that was effectively *terra nullius*. Occupation, in this form, is distinct from military occupation of another State's territory. It is apparent, however, and in line with the approach of the International Court of Justice in the *Western Sahara Case*,[130] that the Hawaiian Islands cannot be regarded as *terra nullius* for purpose of acquiring title by mere occupation. According to some, nevertheless, effective occupation may give rise to title by way of what is known as "acquisitive prescription." [131] As Hall maintained, title or sovereignty "by prescription arises out of a long continued possession, where no original source of proprietary right can be shown to exist, or where possession in the first instance being wrongful, the legitimate proprietor has neglected to assert his right, or has been unable to do so."[132] Johnson explains in more detail:

> "Acquisitive Prescription is the means by which, under international law, legal recognition is given to the right of a state to exercise sovereignty over land or sea territory in cases where that state has, in fact, exercised its authority in a continuous, uninterrupted, and peaceful manner over the area concerned for a sufficient period of time, provided that all other interested and affected states (in the case of land territory the previous possessor, in the case of sea territory neighboring states and other states whose maritime interests are affected) have acquiesced in this exercise of authority. Such acquiescence is implied in cases where the interested and affected states have failed within a reasonable time to refer the matter to the appropriate international organization or international tribunal or—exceptionally in cases where no such action was possible—have failed to manifest their opposition in a sufficiently positive manner through the instrumentality of diplomatic protests."[133]

Although no case before an international court or tribunal has unequivocally affirmed the existence of acquisitive prescription as a mode of acquiring title

[130] I.C.J. Rep. 1975.
[131] For a discussion of the various approaches to this issue see OPPENHEIM, *supra* note 100, at 705-6.
[132] *See* HALL, *supra* note 113, at 143.
[133] D.H.N. Johnson, *Acquisitive Prescription in International Law*, 27 BRIT. Y. B. INT'L L. 332, 353 (1950).

to territory,[134] and although Judge Moreno Quintana in his dissenting opinion in the *Rights of Passage* case[135] found no place for the concept in international law, there is considerable evidence that points in that direction. For example, the continuous and peaceful display of sovereignty, or some variant thereof, was emphasized as the basis for title in the *Minquiers and Ecrehos Case* (France v. United Kingdom),[136] the *Anglo-Norwegian Fisheries Case* (United Kingdom v. Norway)[137] and in the *Island of Palmas Arbitration* (United States v. Netherlands).[138]

9.2. If a claim to acquisitive prescription is to be maintained in relation to the Hawaiian Islands, various *indica* have to be considered including, for example, the length of time of effective and peaceful occupation, the extent of opposition to or acquiescence in that occupation, and, perhaps, the degree of recognition provided by third States. However, "no general rule [can] be laid down as regards the length of time and other circumstances which are necessary to create such a title by prescription. Everything [depends] upon the merits of the individual case."[139] As regards the temporal element, the United States could claim to have peacefully and continuously exercised governmental authority in relation to Hawai'i for over a century. This is somewhat more than was required for purposes of prescription in the *British Guiana-Venezuela Boundary Arbitration,* for example,[140] but it is clear that time alone is certainly not determinative. Similarly, in terms of the attitude of third States, it is evident that apart from the initial protest of the Japanese Government in 1897, none has opposed the extension of United States jurisdiction to the Hawaiian Islands. Indeed the majority of States may be said to have acquiesced in its claim to sovereignty in virtue of acceding to its exercise of sovereign prerogatives in respect of the Islands, but this acquiescence by other States was based on misleading and false information that was presented to the United Nations by the United States as before mentioned. It could be surmised, as well, that the United States misled other States regarding Hawai'i even prior to the establishment of the United Nations in 1945. It is important, however, not to attach too much emphasis to third party recognition. As Jennings points out, in case of adverse possession "[r]ecognition or acquiescence on the part of third States… must strictly be irrelevant."[141]

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[134] Prescription may be said to have been recognized in the *Chamizal Arbitration*, 5 AM. J. INT'L L. 782 (1911) 785; the *Grisbadana Arbitration* P.C.I.J. 1909; and the *Island of Palmas Arbitration*, *supra* note 92.
[135] I.C.J. Rep. 1960, at 6.
[136] I.C.J. Rep. 1953, at 47
[137] I.C.J. Rep. 1951, at 116.
[138] *See Palmas case*, *supra* note 96.
[139] *See* OPPENHEIM, *supra* note 100, at 706.
[140] The arbitrators were instructed by their treaty terms of reference to allow title if based upon "adverse holding or prescription during a period of fifty years." 28 R.I.A.A (1899) 335.
[141] *See* OPPENHEIM, *supra* note 100, at 39.

9.3. More difficult, in this regard, is the issue of acquiescence or protest as between the Hawaiian Kingdom and the United States. In the *Chamizal* Arbitration it was held that the United States could not maintain a claim to the Chamizal tract by way of prescription in part because of the protests of the Mexican government.[142] The Mexican government, in the view of the Commission, had done "all that could be reasonably required of it by way of protest against the illegal encroachment."[143] Although it had not attempted to retrieve the land by force, the Commission pointed out that:

> "however much the Mexicans may have desired to take physical possession of the district, the result of any attempt to do so would have provoked scenes of violence and the Republic of Mexico can not be blamed for resorting to the milder forms of protest contained in its diplomatic correspondence."[144]

In other words, protesting in any way that might be "reasonably required" should effectively defeat a claim of acquisitive prescription.

9.4. Ultimately, a "claim" to prescription is not equal to a "title" by prescription, especially in light of the presumption of title being vested in the State the claim is made against. Johnson acknowledges this distinction when he states that the "length of time required for the establishment of a prescriptive title on the one hand, and the extent of the action required to prevent the establishment of a prescriptive title on the other hand, are invariably matters of fact to be decided by the international tribunal before which the matter is eventually brought for adjudication."[145] The United States has made no claim to acquisitive prescription before any international body, but, instead, has reported to the United Nations in 1952 the fraudulent claim that the "Hawaiian Islands, by virtue of the Joint Resolution of Annexation and the Hawaiian Organic Act, became an integral part of the United States and were given a territorial form of government which, in the United States political system, precedes statehood."[146]

9.5. When President Cleveland accepted, by *exchange of notes*, the police power from the Queen under threat of war, and by virtue of that assignment initiated a presidential investigation that concluded the Queen, as Head of State and Head of Government, was both the *de facto* and *de jure* government of the Hawaiian Islands, and subsequently entered into a second executive agreement to restore the government on condition that the Queen or her successor in office would grant amnesty to the insurgents, the United States admitted that title or sovereignty over the Hawaiian Islands remained vested

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[142] *The Chamizal Arbitration Between the United States and Mexico*, 5 AM. J. INT'L L. 782 (1911).
[143] *Id*., at 807.
[144] *Id*.
[145] *See* Johnson, *supra* note 130, at 354.
[146] *See Communication from the United States of America*, *supra* note 78.

in the Hawaiian Kingdom and no other. Thus, it is impossible for the United States to claim to have acquired title to the Hawaiian Islands in 1898 from the government of the so-called Republic of Hawai'i, because the Republic of Hawai'i, by the United States' own admission, was "self-declared."[147] Furthermore, by the terms of the 1893 executive agreements—the *Lili'uokalani assignment* and the *Agreement of restoration*, the United States recognized the continuing sovereignty of the Hawaiian Kingdom over the Hawaiian Islands despite its government having yet to be restored under the agreement. Therefore, the presumption may also be based on the general principle of international law, *pacta sunt servanda*, whereby an agreement in force is binding upon the parties and must be performed by them in good faith.

C. War Crimes

10. *International Armed Conflict*

10.1. Before war crimes can be alleged to have been committed there must be a state of war *sensu stricto*—an international armed conflict between States. Clapham, director of the Geneva Academy of International Humanitarian Law and Human Rights and professor in international law at the Graduate Institute, however, states, "The classification of an armed conflict under international law is an objective legal test and not a decision left to national governments or any international body, not even the UN Security Council."[148] As an international armed conflict is a question of fact, these facts must be objectively tested by the principles of international humanitarian law as provided in the 1907 Hague Conventions, the 1949 Geneva Conventions and its 1977 Additional Protocols.

10.2. Since the 1949 Geneva Conventions, the expression "armed conflict" substituted the term "war" in order for the Conventions to apply "to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance (Common Article 2)." According to the International Committee of the Red Cross (ICRC) Commentary of the GC IV, this wording of Article 2 "was based on the experience of the Second World War, which saw territories occupied without hostilities, the Government of the occupied country considering that armed resistance was useless. In such cases the interests of protected persons are, of course, just as deserving of protection as when the occupation is carried out by

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[147] *Joint Resolution To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawai'i* (Apology Resolution), 103d Cong., 107 U.S. Stat. 1510 (1993), *reprinted in* 1 Haw. J. L. & Pol. 290 (Summer 2004). The resolution stated, in part, "*Whereas*, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States."

[148] Ellen Wallace, *"War Report": global report calls for caution with armed conflict label*, Ellen's Swiss News World (Dec. 10, 2013) at http://genevalunch.com/2013/12/10/war-report-global-report-calls-caution-armed-conflict-label/.

force."[149] According to Casey-Maslen, an international armed conflict exists "whenever one state uses any form of armed force against another, irrespective of whether the latter state fights back," which "includes the situation in which one state invades another and occupies it, even if there is no armed resistance."[150] The ICRC Commentary further clarifies that "Any difference arising between two States and leading to the intervention of members of the armed forces is an armed conflict within the meaning of Article 2, even if one of the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place. The respect due to the human person as such is not measured by the number of victims."[151]

10.3. Although the Conventions apply to Contracting State Parties, it is universally understood that the Conventions reflect customary international law that bind all States. On this subject, the Commentary clarifies that "any Contracting Power in conflict with a non-Contracting Power will begin by complying with the provisions of the Convention pending the adverse Party's declaration."[152] Even if a State should denounce the Fourth Convention according to Article 158, the denouncing State "would nevertheless remain bound by the principles contained in [the Convention] in so far as they are the expression of the imprescriptible and universal rules of customary international law."[153]

10.4. "According to the Rules of Land Warfare of the United States Army," Hyde explains, "belligerent or so-called military occupation is a question of fact. It presupposes a hostile invasion as a result of which the invader has rendered the invaded Government incapable of publicly exercising its authority, and that the invader is in a position to substitute and has substituted his own authority for that of the legitimate government of the territory invaded."[154] The armed conflict arose out of the United States' belligerent occupation of Hawaiian territory in order to wage war against the Spanish in the Pacific without the consent from the lawful authorities of the Hawaiian Kingdom. Since the end of the Spanish-American War by the 1898 Treaty of Paris, the Hawaiian Kingdom has remained belligerently occupied and its territory was used as a base of military operations during World War I and II, the Korean War, the Vietnam War, the Gulf War, the Iraqi War, the United States war on terrorism, and currently the state of war declared by the Democratic People's Republic of Korea (DPRK) against the United States and the Republic of Korea on March 30, 2013.[155]

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[149] JEAN S. PICTET, COMMENTARY ON THE IV GENEVA CONVENTION, RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR, 21 (1958).
[150] STUART CASEY-MASLEN, WAR REPORT 2012 (2013), at 7.
[151] *See* PICTET, *supra* note 146, at 20.
[152] *Id.*, at 24.
[153] *Id.*, at 625.
[154] CHARLES CHENEY HYDE, LAND WARFARE, 8 (1918).
[155] *See* "North-South Relations Have Been Put at State of War: Special Statement of DPRK," *Korean Central News Agency of DPRK*, posted on March 30, 2013, http://www.kcna.co.jp/index-e.htm.

10.5. According to Oppenheim, a "declaration of war is a communication by one State to another that the condition of peace between them has come to an end, and a condition of war has taken its place;"[156] and war is "considered to have commenced from the date of its declaration, although actual hostilities may not have been commenced until much later."[157] While customary international law does not require a formal declaration of war to be made before international law recognizes a state of war, it does, however, provide notice to not only the opposing State of the intent of the declarant State, but also to all neutral States that a state of war has been established.

10.6. The Hawaiian Kingdom has again been drawn into another state of war as evidenced in DPRK's March 30, 2013 declaration of war, which stated, "It is self-evident that any military conflict on the Korean Peninsula is bound to lead to an all-out war, a nuclear war now that even U.S. nuclear strategic bombers in its military bases in the Pacific including Hawaii and Guam and in its mainland are flying into the sky above south Korea to participate in the madcap DPRK-targeted nuclear war moves." The day before the declaration of war, DPRK's Korean Central News Agency reported, Supreme Commander of the Korean People's Army Marshal Kim Jong Un "signed the plan on technical preparations of strategic rockets of the KPA, ordering them to be standby for fire so that they may strike any time the U.S. mainland, its military bases in the operational theaters in the Pacific, including Hawaii and Guam, and those in south Korea."[158] In response to the declaration of war, the BBC reported, "The US Department of Defense said on Wednesday it would deploy the ballistic Terminal High Altitude Area Defense System (Thaad) to Guam in the coming weeks."[159]

10.7. In light of the DPRK's declaration of war, the Hawaiian Kingdom is situated in a region of war that places its civilian population, to include Swiss nationals, in perilous danger similar to Japan's attack of U.S. military forces situated in the Hawaiian Islands of December 7, 1941. According to Oppenheim, "The region of war is that part of the surface of the earth in which the belligerents may prepare and execute hostilities against each other."[160] While neutral States do not fall within the region of war, there are exceptional cases, such as when a belligerent invades a neutral State, *i.e.* Luxembourg by Germany during World War I. The United States invasion of the Hawaiian Kingdom occurred during the Spanish-American War and has since been prolonged.

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[156] LASSA OPPENHEIM, INTERNATIONAL LAW, VOL. II, 293 (7th ed. 1952).
[157] *Id.*, 295.
[158] *See* "Kim Jong Un Convenes Operation Meeting, Finally Examines and Ratifies Plan for Firepower Strike," *Korean Central News Agency of DPRK*, posted on March 29, 2013, http://www.kcna.co.jp/index-e.htm.
[159] See "North Korea threats: US to move missile defenses to Guam," *BBC News Asia*, posted on April 4, 2013, http://www.bbc.com/news/world-us-canada-22021832.
[160] *See* OPPENHEIM, VOL. II, *supra* note 153, at 237.

10.8. Furthermore, should the DPRK invade and occupy a portion or the entire territory of the Hawaiian Kingdom during the state of war it would nevertheless be bound by the GC IV as is the United States. The DPRK, United States and the Hawaiian Kingdom, are High Contracting Parties to the GC IV. The DPRK ratified the Convention on August 27, 1957; the United States ratified the Convention on August 2, 1955; and the Hawaiian Kingdom acceded to the Convention on November 28, 2012, which was acknowledged and received by Ambassador Benno Bättig, General Secretariat of the Swiss Federal Department of Foreign Affairs, on January 14, 2013, at the city of Bern, Switzerland.[161]

11. *WAR CRIMES COMMITTED IN AN OCCUPIED NEUTRAL STATE*

11.1. Under United States federal law, a *war crime* is a felony and defined as any conduct "defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949," and conduct "prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907."[162] United States Army Field Manual 27-10 expands the definition of a war crime, which is applied in armed conflicts that involve United States troops, to be "the technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime."[163]

12. *WAR CRIMES: 1907 HAGUE CONVENTION, IV*

Article 43—The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

12.1. When the United States began the occupation at 12 noon on August 12, 1898, it deliberately failed to administer the laws of the Hawaiian Kingdom as it stood prior to the unlawful overthrow of the Hawaiian Kingdom government by the United States on January 17, 1893. Instead, the United States unlawfully maintained the continued presence and administration of law of the self-declared Republic of Hawai'i that was a puppet regime established through United States intervention on January 17, 1893. The puppet regime was originally called the provisional government, which was later changed to the Republic of Hawai'i on July 4, 1894. The provisional government was

[161] The instrument of accession and acknowledgment of receipt can be accessed online at: http://hawaiiankingdom.org/pdf/GC_Accession.pdf. The *acting* government represented the Hawaiian Kingdom in arbitral proceedings, *Larsen v. Hawaiian Kingdom*, before the Permanent Court of Arbitration, The Hague, Netherlands, 119 INT'L L. REP. 566, 581 (2001), *reprinted in* 1 HAW. J. L. & POL. 299 (Summer 2004).
[162] Title 18 U.S.C. §2441.
[163] U.S. Army Field Manual 27-10, section 499 (July 1956).

neither a government *de facto* nor *de jure*, but self-proclaimed as concluded by President Cleveland in his message to the Congress on December 18, 1893, and the Republic of Hawai'i was acknowledged as *self-declared* by the Congress in a joint resolution apologizing on the one hundredth anniversary of the illegal overthrow of the Hawaiian Kingdom government on November 23, 1993. Both the provisional government and the Republic of Hawai'i were Armed Forces of the United Stated born out of intervention. They were not governments either *de jure* or *de facto*.

12.2. Since April 30, 1900, the United States imposed its national laws over the territory of the Hawaiian Kingdom in violation of international law and the laws of occupation. By virtue of congressional legislation, the so-called Republic of Hawai'i was subsumed. Through *An Act to provide a government for the Territory of Hawai'i*, "the phrase 'laws of Hawaii,' as used in this Act without qualifying words, shall mean the constitution and laws of the Republic of Hawaii in force on the twelfth day of August, eighteen hundred and ninety-eight."[164] When the Territory of Hawai'i was succeeded by the State of Hawai'i on March 18, 1959 through United States legislation, the Congressional Act provided that all "laws in force in the Territory of Hawaii at the time of admission into the Union shall continue in force in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawaii."[165] Furthermore:

> "the term 'Territorial law' includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, and the term 'laws of the United States' includes all laws or parts thereof enacted by the Congress that (1) apply to or within Hawaii at the time of its admission into the Union, (2) are not 'Territorial laws' as defined in this paragraph, and (3) are not in conflict with any other provision of this Act."[166]

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[164] 31 U.S. Stat. 141 (1896-1901).
[165] 73 U.S. Stat. 11 (1959).
[166] *Id*.
[167] 73 U.S. Stat. 11 (1959).

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12.4. The laws and customs of war during occupation applies only to territories that come under the authority of either the occupier's military or an occupier's armed force, such as the State of Hawai'i, and that the "occupation extends only to the territory where such authority has been established and can be exercised."[169] According to Ferraro, "occupation—as a species of international armed conflict—must be determined solely on the basis of the prevailing facts."[170] Although unlawful, it is a fact that the United States created the State of Hawai'i through congressional action and signed into law by its President, Dwight D. Eisenhower, in 1959. It is also a fact that the United States approved the constitution of the State of Hawai'i that provides for its organizational structure.

12.5. As an armed force, the State of Hawai'i established its authority over 137 islands, [171] "together with their appurtenant reefs and territorial and archipelagic waters."[172] These islands include the major islands of Hawai'i, Maui, O'ahu, Kaua'i, Molokai, Lana'i, Ni'ihau, and Kaho'olawe. It is the effectiveness of the control exercised by the State of Hawai'i over this territory, as an armed force for the United States, which triggers the application of occupation law.

> *Allegiance to the United* States—The State of Hawai'i, as an armed force, bears its allegiance to the United States where its public officers, to include its Governor, take the following oath of office: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as […] to best of my ability."[173]

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[168] *Id*.
[169] 1907 Hague Convention, IV, Article 42.
[170] TRISTAN FERRARO, *Determining the beginning and end of an occupation under international humanitarian law*, 94 (no. 885) INT'L REV RED CROSS 133, 134 (Spring 2012).
[171] "Hawai'i Facts and Figures" (December 2014), State of Hawai'i Department of Business, Economic Development & Tourism.
[172] State of Hawai'i Constitution, Article XV, section 1, *available at* http://lrbhawaii.org/con/.
[173] *Id*., Article XVI, sec. 4.

Commanded by a Person Responsible for His Subordinates—A Governor who is elected by U.S. citizens in Hawai'i is head of the State of Hawai'i. The Governor is responsible for the execution of its laws from its legislature and to carry out the decisions by its courts. The Governor is also the "commander in chief of the armed forces of the State and may call out such forces to execute the laws, suppress or prevent insurrection or lawless violence or repel invasion."[174] The Governor's subordinates include all "executive and administrative offices, departments and instrumentalities of the state government."[175]

Fixed Distinctive Emblem Recognizable at a Distance—According to its constitution, "The Hawaiian flag shall be the flag of the State."[176]

Carry Arms Openly—Law enforcement officers of the State of Hawai'i, to include the Sheriff's Division, Department of Land and Natural Resources, and the police of the State's four Counties, all openly carry arms. Also included are the State of Hawai'i's Army National Guard and Air National Guard who openly carry arms while in tactical training.

Conduct Operations in Accordance with the Laws and Customs of War—As the Governor is the commander in chief of the State's armed forces, and is responsible for the suppression or prevention of insurrection or lawless violence, as well as repelling an invasion, the State of Hawai'i is capable of conducting operations in accordance with the laws and customs of war during occupation. The State of Hawai'i's Army and Air National Guard are trained in the laws and customs of war.

12.6. Article 43 does not transfer sovereignty to the occupying power.[177] Section 358, United States Army Field Manual 27-10, declares, "Being an incident of war, military occupation confers upon the invading force the means of exercising control for the period of occupation. It does not transfer the sovereignty to the occupant, but simply the authority or power to exercise some of the rights of sovereignty." Sassòli further elaborates, "The occupant may therefore not extend its own legislation over the occupied territory nor act as a sovereign legislator. It must, as a matter of principle, respect the laws in force in the occupied territory at the beginning of the occupation."[178]

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[174] *Id*., Article V, sec. 5.
[175] *Id*., sec. 6.
[176] *Id*., Article XV, sec. 3.
[177] See EYAL BENVENISTI, THE INTERNATIONAL LAW OF OCCUPATION 8 (1993); GERHARD VON GLAHN, THE OCCUPATION OF ENEMY TERRITORY—A COMMENTARY ON THE LAW AND PRACTICE OF BELLIGERENT OCCUPATION 95 (1957); Michael Bothe, *Occupation, Belligerent*, in Rudolf Bernhardt (dir.), ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW, vol. 3, 765 (1997).
[178] Marco Sassòli, *Article 43 of the Hague Regulations and Peace Operations in the Twenty-first Century*, INTERNATIONAL HUMANITARIAN LAW RESEARCH INITIATIVE 5 (2004), available at: http://www.hpcrresearch.org/sites/default/files/publications/sassoli.pdf.

12.7. The United States' failure to comply with the 1893 executive agreements to reinstate the Queen and her cabinet, and its failure to comply with the law of occupation to administer Hawaiian Kingdom law as it stood prior to the unlawful overthrow of the Hawaiian government on January 17, 1893, when it occupied the Hawaiian Islands during the 1898 Spanish-American War, renders all administrative and legislative acts of the provisional government, the Republic of Hawai'i, the Territory of Hawai'i and currently the State of Hawai'i are all illegal and void because these acts stem from governments that are neither *de facto* nor *de jure*, but self-declared. As the United States is a government that is both *de facto* and *de jure*, its legislation, however, has no extraterritorial effect except under the principles of active and passive personality jurisdiction. In particular, this has rendered all conveyances of real property and mortgages to be defective since January 17, 1893, because of the absence of a competent notary public under Hawaiian Kingdom law. Since January 17, 1893, all notaries public stem from a self-declared government.

Article 45—It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the [Occupying] Power.

12.8. When the provisional government was established through the support and protection of U.S. troops on January 17, 1893, it proclaimed that it would provisionally "exist until terms of union with the United States of America have been negotiated and agreed upon." The provisional government was not a new government, but rather a small group of insurgents that usurped and seized the executive office of the Hawaiian Kingdom. With the backing of U.S. troops it further proclaimed, "All officers under the existing Government are hereby requested to continue to exercise their functions and perform the duties of their respective offices, with the exception of the following named persons: Queen Liliuokalani, Charles B. Wilson, Marshal, Samuel Parker, Minister of Foreign Affairs, W.H. Cornwell, Minister of Finance, John F. Colburn, Minister of the Interior, Arthur P. Peterson, Attorney-General, who are hereby removed from office." All government officials were coerced and forced to sign oaths of allegiance, "I…do solemnly swear in the presence of Almighty God, that I will support the Provisional Government of the Hawaiian Islands, promulgated and proclaimed on the 17th day of January, 1893. Not hereby renouncing, but expressly reserving all allegiance to any foreign country now owing by me."

12.9. The compelling of inhabitants serving in the Hawaiian Kingdom government to swear allegiance to the occupying power, through its puppet regime, the provisional government, began on January 17, 1893 with oversight by United States troops until April 1, 1893, when they were ordered to depart Hawaiian territory by U.S. Special Commissioner, James Blount, who began the presidential investigation into the overthrow. When Special Commissioner Blount arrived in the Hawaiian Kingdom on March 29, 1893, he reported to U.S. Secretary of State Walter Gresham, "The troops from the *Boston* were

doing military duty for the Provisional Government. The American flag was floating over the government building. Within it the Provisional Government conducted its business under an American protectorate, to be continued, according to the avowed purpose of the American minister, during negotiations with the United States for annexation."

12.10. Due to the deliberate failure of the United States to carry out the 1893 *executive agreements* to reinstate the Queen and her cabinet of officers, the insurgents were allowed to maintain their unlawful control as an armed force with the employment of American mercenaries. The provisional government was renamed the Republic of Hawai'i on July 4, 1894. The United States has directly compelled the inhabitants of the Hawaiian Kingdom to swear allegiance to the United States when serving in the so-called Territory of Hawai'i and State of Hawai'i armed forces in direct violation of Article 45 of the HC IV. Section 19 of the Territorial Act provides, "That every member of the legislature, and all officers of the government of the Territory of Hawaii, shall take the following oath: I do solemnly swear (or affirm), in the presence of Almighty God, that I will faithfully support the Constitution and laws of the United States, and conscientiously and impartially discharge my duties as a member of the legislature, or as an officer of the government of the Territory of Hawaii."[179] Section 4, Article XVI of the State of Hawai'i constitution provides, "All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: 'I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as … to best of my ability.'"

Article 46—Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.

12.11. Beginning on 20 July 1899, President McKinley began to set aside portions of lands by executive orders for "installation of shore batteries and the construction of forts and barracks."[180] The first executive order set aside 15,000 acres for two Army military posts on the Island of O'ahu called Schofield Barracks and Fort Shafter. This soon followed the securing of lands for Pearl Harbor naval base in 1901 when the U.S. Congress appropriated funds for condemnation of seven hundred nineteen (719) acres of private lands surrounding Pearl River, which later came to be known as Pearl Harbor.[181] By 2012, the U.S. military has one hundred eighteen (118) military

[179] 31 U.S. Stat. 145 (1896-1901).
[180] *See* Robert H. Horwitz, Judith B. Finn, Louis A. Vargha, and James W. Ceaser, *Public Land Policy in Hawai'i: An Historical Analysis*, 20 (State of Hawai'i Legislative Reference Bureau Report No. 5, 1969).
[181] *See* John D. VanBrackle, "Pearl Harbor from the First Mention of 'Pearl Lochs' to Its Present Day Usage," 21-26 (undated manuscript on file in Hawaiian-Pacific Collection, Hamilton Library, University of Hawai'i at Manoa).

sites that span 230,929 acres of the Hawaiian Islands, which is 20% of the total acreage of Hawaiian territory.[182]

Article 47—Pillage is formally forbidden.

12.12. Since January 17, 1893, there has been no lawful government exercising its authority in the Hawaiian Islands, *e.g.* provisional government (1893-1894), Republic of Hawai'i (1894-1900), Territory of Hawai'i (1900-1959) and the State of Hawai'i (1959-present). As these entities were neither governments *de facto* nor *de jure*, but self-proclaimed, and their collection of tax revenues and non-tax revenues, *e.g.* rent and purchases derived from real estate, were not for the benefit of a *bona fide* government in the exercise of its police power, it can only be considered as benefitting private individuals who are employed by the State of Hawai'i.

12.13. Pillage or plunder is "the forcible taking of private property by an invading or conquering army,"[183] which, according to the Elements of Crimes of the International Criminal Court, must be seized "for private or personal use."[184] As such, the prohibition of pillaging or plundering is a specific application of the general principle of law prohibiting theft.[185] The residents of the Hawaiians Islands have been the subject of pillaging and plundering since the establishment of the provisional government by the United States on January 17, 1893 and continues to date by its successor, the State of Hawai'i.

Article 48—If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do so, as far as is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

12.14. Unlike the State of Hawai'i that claims to be a public entity, but in reality is private, the United States government is a public entity and not private, but its exercising of authority in the Hawaiian Islands in violation of international laws is unlawful. Therefore, the United States cannot be construed to have committed the act of pillaging since it is public, but has appropriated private property through unlawful contributions, *e.g.* federal taxation, which is regulated by Article 48. And Article 49 provides, "If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the

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[182] *See* U.S. Department of Defense's Base Structure Report (2012), available at: http://www.acq.osd.mil/ie/download/bsr/BSR2012Baseline.pdf.
[183] *See* BLACK'S LAW, *supra* note 93, at 1148.
[184] Elements of Crimes, International Criminal Court, Pillage as a war crime (ICC Statute, Article 8(2)(b)(xvi) and (e)(v)).
[185] JEAN-MARIE HENCKAERTS AND LOUISE DOSWALD-BECK, INTERNATIONAL COMMITTEE OF THE RED CROSS—CUSTOMARY INTERNATIONAL HUMANITARIAN LAW, VOL. 1, RULES 185 (2009).

administration of the territory in question." The United States collection of federal taxes from the residents of the Hawaiian Islands is an unlawful contribution that is exacted for the sole purpose of supporting the United States federal government and not for "the needs of the army or of the administration of the territory." See also paragraphs 13.1 – 13.4 below.

Article 55—The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied territory. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct.

12.15. With the backing of United States troops, the provisional government unlawfully seized control of all government property, both real and personal. In 1894, the provisional government's successor, the so-called Republic of Hawai'i, seized the private property of Her Majesty Queen Lili'uokalani, which was called Crown lands, and called it public lands. According to Hawaiian Kingdom law, the Crown lands were distinct from the public lands of the Hawaiian government since 1848, which comprised roughly 1 million acres, and the government lands comprised roughly 1.5 million acres. The total acreage of the Hawaiian Islands comprised 4 million acres.

12.16. In a case before the Hawaiian Kingdom Supreme Court in 1864 that centered on Crown lands, the court stated:

> "In our opinion, while it was clearly the intention of Kamehameha III to protect the lands which he reserved to himself out of the domain which had been acquired by his family through the prowess and skill of his father, the conqueror, from the danger of being treated as public domain or Government property, it was also his intention to provide that those lands should descend to his heirs and successors, the future wearers of the crown which the conqueror had won; and we understand the act of 7th June, 1848, as having secured both those objects. Under that act the lands descend in fee, the inheritance being limited however to the successors to the throne, and each successive possessor may regulate and dispose of the same according to his will and pleasure, as private property, in like manner as was done by Kamehameha III."[186]

12.17. In 1898, the United States seized control of all these lands and other property of the Hawaiian Kingdom government as evidenced by the joint resolution of annexation. The resolution stated, that the United States has acquired "the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the

[186] *See Estate of His Majesty Kamehameha IV*, 3 Haw. 715, 725 (1864).

Hawaiian Islands, together with every right and appurtenance thereunto appertaining."[187]

Article 56—The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

12.18. In 1900, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i*,[188] and shortly thereafter, intentionally sought to "Americanize" the inhabitants of the Hawaiian Kingdom politically, culturally, socially, and economically. To accomplish this, a plan was instituted in 1906 by the Territorial government, titled "Programme for Patriotic Exercises in the Public Schools, Adopted by the Department of Public Instruction," which I'm attaching as Appendix "IV." *Harper's Weekly*, attached as Appendix "V," reported:

> "At the suggestion of Mr. Babbitt, the principal, Mrs. Fraser, gave an order, and within ten seconds all of the 614 pupils of the school began to march out upon the great green lawn which surrounds the building. …Out upon the lawn marched the children, two by two, just as precise and orderly as you find them at home. With the ease that comes of long practice the classes marched and counter-marched until all were drawn up in a compact array facing a large American flag that was dancing in the northeast trade-wind forty feet about their heads. …'Attention!' Mrs. Fraser commanded. The little regiment stood fast, arms at side, shoulders back, chests out, heads up, and every eye fixed upon the red, white and blue emblem that waived protectingly over them. 'Salute!' was the principal's next command. Every right hand was raised, forefinger extended, and the six hundred and fourteen fresh, childish voices chanted as one voice: 'We give our heads and our hearts to God and our Country! One Country! One Language! One Flag!'

12.19. The policy was to denationalize the children of the Hawaiian Islands on a massive scale, which included forbidding the children from speaking the Hawaiian national language, only English. Its intent was to obliterate any memory of the national character of the Hawaiian Kingdom that the children may have had and replace it, through inculcation, with American patriotism. "Usurpation of sovereignty during military occupation" and "attempts to denationalize the inhabitants of occupied territory" was recognized as international crimes since 1919.[189]

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[187] 30 U.S. Stat. 750 (1896-1898).
[188] 31 U.S. Stat. 141 (1896-1901).
[189] *See* Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties, *Report Presented to the Preliminary Peace Conference, March 29, 1919*, 14 AM. J. INT'L L. 95 (1920).

12.20. At the close of the Second World War, the United Nations War Commission's Committee III was asked to provide a report on war crime charges against four Italians accused of denationalization in the occupied State of Yugoslavia. The charge stated that, "the Italians started a policy, on a vast scale, of denationalization. As a part of such policy, they started a system of 're-education' of Yugoslav children. This re-education consisted of forbidding children to use the Serbo-Croat language, to sing Yugoslav songs and forcing them to salute in a fascist way."[190] The question before Committee III was whether or not "denationalization" constituted a war crime that called for prosecution or merely a violation of international law. In concluding that denationalization is a war crime, the Committee reported:

> "It is the duty of belligerent occupants to respect, unless absolutely prevented, the laws in force in the country (Art. 43 of the Hague Regulations). Inter alia, family honour and rights and individual life must be respected (Art. 46). The right of a child to be educated in his own native language falls certainly within the rights protected by Article 46 ('individual life'). Under Art. 56, the property of institutions dedicated to education is privileged. If the Hague Regulations afford particular protection to school buildings, it is certainly not too much to say that they thereby also imply protection for what is going to be done within those protected buildings. It would certainly be a mistaken interpretation of the Hague Regulations to suppose that while the use of Yugoslav school buildings for Yugoslav children is safe-guarded, it should be left to the unfettered discretion of the occupant to replace Yugoslav education by Italian education."[191]

12.21. Denationalization through Germanization also took place during the Second World War. According to Nicholas,

> "Within weeks of the fall of France, Alsace-Lorraine was annexed and thousands of citizens deemed too loyal to France, not to mention all its 'alien-race' Jews and North African residents, were unceremoniously deported to Vichy France, the southeastern section of the country still under French control. This was done in the now all too familiar manner: the deportees were given half an hour to pack and were deprived of most of their assets. By the end of July 1940, Alsace and Lorraine had become Reich provinces. The French administration was replaced and the French language totally prohibited in the schools. By 1941, the wearing of berets had been forbidden, children had to sing 'Deutschland über Alles' instead of

[190] E. Schwelb, *Note on the Criminality of "Attempts to Denationalize the Inhabitants of Occupied Territory" (Appendix to Doc, C, 1. No. XII) – Question Referred to Committee III by Committee I*, United Nations War Crime Commission, Doc. III/15 (September 10, 1945), at 1, available at: http://hawaiiankingdom.org/pdf/Committee_III_Report_on_Denationalization.pdf.
[191] *Id.*, at 6.

> 'La Marseillaise' at school, and racial screening was in full swing."[192]

12.22. Under the heading "Germanization of Occupied Territories," Count III(j) of the Nuremburg Indictment, it provides:

> "In certain occupied territories purportedly annexed to Germany the defendants methodically and pursuant to plan endeavored to assimilate those territories politically, culturally, socially, and economically into the German Reich. The defendants endeavored to obliterate the former national character of these territories. In pursuance of these plans and endeavors, the defendants forcibly deported inhabitants who were predominantly non-German and introduced thousands of German colonists. This plan included economic domination, physical conquest, installation of puppet governments, purported *de jure* annexation and enforced conscription into the German Armed Forces. This was carried out in most of the occupied countries including: Norway, France…Luxembourg, the Soviet Union, Denmark, Belgium, and Holland."[193]

13. *WAR CRIMES: 1949 GENEVA CONVENTION, IV*

Article 147—Extensive…appropriation of property, not justified by military necessity and carried out unlawfully and wantonly

13.1. In 2013, the United States Internal Revenue Service, hereinafter "IRS," illegally appropriated $7.1 million dollars from the residents of the Hawaiian Islands.[194] During this same year, the government of the State of Hawai'i additionally appropriated $6.5 billion dollars illegally.[195] The IRS is an agency of the United States and cannot appropriate money from the inhabitants of an occupied state without violating international law. The State of Hawai'i is an armed force of the United States established by an Act of Congress in 1959 and being an entity without any extraterritorial effect, it couldn't appropriate money from the inhabitants of an occupied state without violating the international laws of occupation.

13.2. According to the laws of the Hawaiian Kingdom, taxes upon the inhabitants of the Hawaiian Islands include: an annual poll tax of $1 dollar to be paid by every male inhabitant between the ages of seventeen and sixty years; an

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[192] LYNN H. NICHOLAS, CRUEL WORLD: THE CHILDREN OF EUROPE IN THE NAZI WEB 277 (2005).
[193] *See* Trial of the Major War Criminals before the International Military Tribunal, *Indictment*, vol. 1, at 27, 63 (Nuremberg, Germany, 1947).
[194] *See* IRS, *Gross Collections, by Type of Tax and State and Fiscal Year, 1998-2012*, available at: http://www.irs.gov/uac/SOI-Tax-Stats-Gross-Collections,-by-Type-of-Tax-and-State,-Fiscal-Year-IRS-Data-Book-Table-5.
[195] *See* State of Hawai'i Department of Taxation Annual Reports, available at: http://files.hawaii.gov/tax/stats/stats/annual/13annrpt.pdf.

annual tax of $2 dollars for the support of public schools to be paid by every male inhabitant between the ages of twenty and sixty years; an annual tax of $1 dollar for every dog owned; an annual road tax of $2 dollars to be paid by every male inhabitant between the ages of seventeen and fifty; and an annual tax of ¾ of 1% upon the value of both real and personal property.[196]

13.3. The *Merchant Marine Act,* June 5, 1920 (41 U.S. Stat. 988), hereinafter referred to as the *Jones Act,* is a restraint of trade and commerce in violation of international law and treaties between the Hawaiian Kingdom and other foreign States. According to the *Jones Act*, all goods, which includes tourists on cruise ships, whether originating from Hawai'i or being shipped to Hawai'i must be shipped on vessels built in the United States that are wholly owned and crewed by United States citizens. And should a foreign flag ship attempt to unload foreign goods and merchandise in the Hawaiian Islands it will have to forfeit its cargo to the U.S. Government, or an amount equal to the value of the merchandise or cost of transportation from the person transporting the merchandise.

13.4. As a result of the *Jones Act,* there is no free trade in the Hawaiian Islands. 90% of Hawai'i's food is imported from the United States, which has created a dependency on outside food. The three major American ship carriers for the Hawaiian Islands are Matson, Horizon Lines, and Pasha Hawai'i Transport Services, as well as several low cost barge alternatives. Under the *Jones Act*, these American carriers travel 2,400 miles to ports on the west coast of the United States in order to reload goods and merchandise delivered from Pacific countries on foreign carriers, which would have otherwise come directly to Hawai'i ports. The cost of fuel and the lack of competition drive up the cost of shipping and contribute to Hawai'i's high cost of living, and according to the USDA Food Cost, Hawai'i residents in January 2012 pay an extra $417 per month for food on a thrifty plan than families who are on a thrifty plan in the United States.[197] Therefore, appropriating monies directly through taxation and appropriating monies indirectly as a result of the *Jones Act* to benefit American ship carriers and businesses are war crimes.

Article 147—Compelling a…protected person to serve in the forces of an [Occupying] Power

13.5. The United States Selective Service System is an agency of the United States government that maintains information on those potentially subject to military conscription. Under the *Military Selective Service Act*, "it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any

[196] See Civil Code of the Hawaiian Islands, *To Consolidate and Amend the Law Relating to Internal Taxes* (Act of 1882), at 117-120, available at: http://www.hawaiiankingdom.org/civilcode/pdf/CL_Title_2.pdf.
[197] *See* United States Department of Agriculture Center for Nutrition Policy and Promotion, *Cost of Food at Home*, available at: http://www.cnpp.usda.gov/USDAFoodCost-Home.htm#AK%20and%20HI.

subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder."[198] Conscription of the inhabitants of the Hawaiian Kingdom unlawfully inducted into the United States Armed Forces through the Selective Service System occurred during World War I (September 1917-November 1918), World War II (November 1940-October 1946), Korean War (June 1950-June 1953), and the Vietnam War (August 1964-February 1973). Andrew L. Pepper, Esq., heads the Selective Service System in the Hawaiian Islands headquartered on the Island of O'ahu.

13.6. Although induction into the United States Armed Forces has not taken place since February 1973, the requirements to have residents of the Hawaiian Island who reach the age of 18 to register with the Selective Service System for possible induction is a war crime.

Article 147—Willfully depriving a…protected person of the rights of fair and regular trial

13.7. Since 18 December 1893, there have been no lawfully constituted courts in the Hawaiian Islands whether Hawaiian Kingdom courts or military commissions established by order of the Commander of PACOM in conformity with the HC IV, GC IV, and the international laws of occupation. All Federal and State of Hawai'i Courts in the Hawaiian Islands derive their authority from the United States Constitution and the laws enacted in pursuance thereof. As such these Courts cannot claim to have any authority in the territory of a foreign State and therefore are not properly constituted to give defendant(s) a fair and regular trial.

Article 147—Unlawful deportation or transfer or unlawful confinement

13.8. According to the United States Department of Justice, the prison population in the Hawaiian Islands in 2009 was at 5,891.[199] Of this population there were 286 aliens.[200] Two paramount issues arise—first, prisoners were sentenced by courts that were not properly constituted under Hawaiian Kingdom law and/or the international laws of occupation and therefore were unlawfully confined, which is a war crime under this court's jurisdiction; second, the alien prisoners were not advised of their rights in an occupied State by their State of nationality in accordance with the 1963 *Vienna Convention on Consular*

[198] *See* Title 50 U.S.C. App. 453, The Military Selective Service Act.
[199] *See* United States Department of Justice's Bureau of Justice Statistics, *Prisoners in 2011*, available at: http://www.bjs.gov/content/pub/pdf/p11.pdf.
[200] *See* United States Government Accountability Office, *Criminal Alien Statistics: Information on Incarcerations, Arrests, and Costs* (March 2011), available at: http://www.gao.gov/new.items/d11187.pdf.

Relations.[201] Compounding the violation of alien prisoners rights under the *Vienna Convention*, Consulates located in the Hawaiian Islands were granted exequaturs by the government of the United States by virtue of United States treaties and not treaties between the Hawaiian Kingdom and these foreign States.

13.9. In 2003, the State of Hawai'i Legislature allocated funding to transfer up to 1,500 prisoners to private corrections institutions in the United States.[202] By June of 2004, there were 1,579 Hawai'i inmates in these facilities. Although the transfer was justified as a result of overcrowding, the government of the State of Hawai'i did not possess authority to transfer, let alone to prosecute in the first place. Therefore, the unlawful confinement and transfer of inmates are war crimes.

Article 147—The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory

13.10. Once a State is occupied, international law preserves the *status quo* of the occupied State as it was before the occupation began. To preserve the nationality of the occupied State from being manipulated by the occupying State to its advantage, international law only allows individuals born within the territory of the occupied State to acquire the nationality of their parents—*jus sanguinis*. To preserve the *status quo*, Article 49 of the GC IV mandates that the "Occupying Power shall not…transfer parts of its own civilian population into the territory it occupies." For individuals, who were born within Hawaiian territory, to be a Hawaiian subject, they must be a direct descendant of a person or persons who were Hawaiian subjects prior to the American occupation that began on 12 August 1898. All other individuals born after 12 August 1898 to the present are aliens who can only acquire the nationality of their parents.

13.11. According to the 1890 government census, Hawaiian subjects numbered 48,107, with the aboriginal Hawaiian, both pure and part, numbering 40,622, being 84% of the national population, and the non-aboriginal Hawaiians numbering 7,485, being 16%. Despite the massive and illegal migrations of foreigners to the Hawaiian Islands since 1898, which, according to the State of Hawai'i numbers 1,302,939 in 2009,[203] the *status quo* of the national

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[201] *See* LaGrand (*Germany v. United States of America*), Judgment, I.C.J. Reports 2001, 466.

[202] See State of Hawai'i, Department of Public Safety, *Response to Act 200, Part III, Section 58, Session Laws of Hawai'i 2003 As Amended by Act 41, Part II, Section 35, Session Laws of Hawai'i 2004*, (January 2005), available at: http://lrbhawaii.info/reports/legrpts/psd/2005/act200_58_slh03_05.pdf.

[203] *See* State of Hawai'i. Department of Health, Hawai'i Health Survey (2009), available at: http://www.ohadatabook.com/F01-05-11u.pdf; *see* also David Keanu Sai, *American Occupation of the Hawaiian State: A Century Gone Unchecked*, 1 HAW. J. L. & POL. 63-65 (Summer 2004).

population of the Hawaiian Kingdom is maintained. Therefore, under the international laws of occupation, the aboriginal Hawaiian population of 322,812 in 2009 would continue to be 84% of the Hawaiian national population, and the non-aboriginal Hawaiian population of 61,488 would continue to be 16%. The balance of the population in 2009, being 918,639, are aliens who were illegally transferred, either directly or indirectly, by the United States as the occupying Power, and therefore are war crimes.

Article 147—Destroying or seizing the [Occupied State's] property unless such destruction or seizure be imperatively demanded by the necessities of war

13.12. On 12 August 1898, the United States seized approximately 1.8 million acres of land that belonged to the government of the Hawaiian Kingdom and to the office of the Monarch. These lands were called Government lands and Crown lands, respectively, whereby the former being public lands and the latter private lands.[204] These combined lands constituted nearly half of the entire territory of the Hawaiian Kingdom.

13.13. Military training locations include Pacific Missile Range Facility, Barking Sands Tactical Underwater Range, and Barking Sands Underwater Range Expansion on the Island of Kaua'i; the entire Islands of Ni'ihau and Ka'ula; Pearl Harbor, Lima Landing, Pu'uloa Underwater Range—Pearl Harbor, Barbers Point Underwater Range, Coast Guard AS Barbers Point/Kalaeloa Airport, Marine Corps Base Hawai'i, Marine Corps Training Area Bellows, Hickam Air Force Base, Kahuku Training Area, Makua Military Reservation, Dillingham Military Reservation, Wheeler Army Airfield, and Schofield Barracks on the Island of O'ahu; and Bradshaw Army Airfield and Pohakuloa Training Area on the Island of Hawai'i.

13.14. The United States Navy's Pacific Fleet headquartered at Pearl Harbor hosts the Rim of the Pacific Exercise (RIMPAC) every other even numbered year, which is the largest international maritime warfare exercise. RIMPAC is a multinational, sea control and power projection exercise that collectively consists of activity by the U.S. Army, Air Force, Marine Corps, and Naval forces, as well as military forces from other foreign States. During the month long exercise, RIMPAC training events and live fire exercises occur in open-ocean and at the military training locations throughout the Hawaiian Islands.

[204] Public lands were under the supervision of the Minister of the Interior under Article I, Chapter VII, Title 2—*Of The Administration of Government*, Civil Code, at §39-§48 (1884), and Crown lands were under the supervision of the Commissioners of Crown Lands under *An Act to Relieve the Royal Domain from Encumbrances and to Render the Same Inalienable*, Civil Code, Appendix, at 523-525 (1884). Crown lands are private lands that "descend in fee, the inheritance being limited however to the successors to the throne, and each successive possessor may regulate and dispose of the same according to his will and pleasure, as private property," *In the Matter of the Estate of His Majesty Kamehameha IV., late deceased*, 2 Haw.715, 725 (1864), subject to *An Act to Relieve the Royal Domain from Encumbrances and to Render the Same Inalienable*.

13.15. In 2006, the United States Army disclosed to the public that depleted uranium (DU) was found on the firing ranges at Schofield Barracks on the Island of O'ahu.[205] It subsequently confirmed DU was also found at Pohakuloa Training Area on the Island of Hawai'i and suspect that DU is also at Makua Military Reservation on the Island of O'ahu.[206] The ranges have yet to be cleared of DU and the ranges are still used for live fire. This brings the inhabitants who live down wind from these ranges into harms way because when the DU ignites or explodes from the live fire, it creates tiny particles of aerosolized DU oxide that can travel by wind. And if the DU gets into the drinking water or oceans it would have a devastating effect across the islands.

> The Hawaiian Kingdom has never consented to the establishment of military installations throughout its territory and these installations and war-gaming exercises stand in direct violation of Articles 1, 2, 3 and 4, 1907 Hague Convention, V, *Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land*, HC IV, and GC IV, and therefore are war crimes.

14. *WAR CRIMES: ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT*

> *Article 6(2)—For the purpose of this Statute, "war crimes" means:*
> *(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention.*
> *(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law.*

D. PROSECUTION OF WAR CRIMES BY JAPANESE AUTHORITIES

15. *WAR CRIMES COMMITTED OUTSIDE OF JAPAN*

15.1. Japan deposited its instrument of accession to the Rome Statute on July 17, 2007, thereby committing Japan as a State party to the jurisdiction of the International Criminal Court. The Rome Statute entrusts national jurisdictions of State parties with primary responsibility for the prosecution and punishment of war crimes under the principle of complementarity. Article 1 of the Rome Statute provides, the International Criminal Court "shall be complementary to national criminal jurisdictions."[207] In other words, the jurisdiction of the International Criminal Court is secondary to the exercise of

[205] *See* U.S. Army Garrison-Hawai'i, Depleted Uranium on Hawai'i's Army Ranges, available at: http://www.garrison.hawaii.army.mil/du/.
[206] *Id*.
[207] *See* Rome Statute, International Criminal Court, at para. 10, preamble: "…the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions."

national jurisdiction by State parties to the Rome Statute because of resources and manpower, which includes the Japanese authorities.

15.2. Japan law provides for the prosecution of war crimes committed in the Hawaiian Islands, which is outside of Japan.[208] The exercise of Japanese jurisdiction over these crimes, which is inherently linked to State sovereignty, can occur under *active personality* if the perpetrator is a Japanese national; *passive personality* if the victim is a Japanese national; or *universal jurisdiction* if the perpetrator and/or victim are non-Japanese nationals.

15.3. According to the International Criminal Court's elements of crimes, there "is no requirement for a legal evaluation by the perpetrator," but "only a requirement of awareness."[209] Is there a particular time or event that could serve as a definitive point of knowledge for the purpose of *awareness*? In other words, where can there be "awareness that a circumstance exists or a consequence will occur in the ordinary course of events" stemming from the illegality of the overthrow of the Hawaiian Kingdom government on January 17, 1893? For the United States government that definitive point would be December 18, 1893, when President Cleveland notified the Congress of the illegality of the overthrow of the Hawaiian Kingdom government and called the landing of U.S. troops an act of war. Through executive mediation and *exchange of notes*, an executive agreement was entered into with Queen Lili'uokalani to reinstate the Hawaiian government on that very same day the President notified the Congress, but it wasn't dispatched from Honolulu to Washington, D.C. until December 20. The United States Supreme Court considers these types of executive agreements by the President as sole-executive agreements, which do not rely on Senate ratification or approval of the Congress, and have the force and effect of a treaty.[210] The United States Supreme Court explained:

> "In addition to congressional acquiescence in the President's power to settle claims, prior cases of this Court have also recognized that the President does have some measure of power to enter into executive agreements without obtaining the advice and consent of the Senate. In *United States v. Pink,* 315 U. S. 203 (1942), for example, the Court upheld the validity of the Litvinov Assignment, which was part of an Executive Agreement whereby the Soviet Union assigned to the United States amounts owed to it by American

[208] *See* Article 4-2 (Crimes Committed outside of Japan Governed by a Treaty), *Penal Code* (Act no. 45 of 1907); see also Article 2 (Transitional Measures), *Law Concerning the Punishment of Grave Breaches on International Humanitarian Law* (Law No. 115, 2004).
[209] *See* ICC Elements of Crimes, *supra* note 168, Article 8—Introduction.
[210] See *Dames & Moore v. Regan*, 453 U. S. 654, 679, 682-683 (1981); *United States v. Pink*, 315 U. S. 203, 223, 230 (1942); *United States v. Belmont*, 301 U. S. 324, 330-331 (1937); *see* also L. Henkin, *Foreign Affairs and the United States Constitution* 219, 496, n. 163 (2d ed. 1996) ("Presidents from Washington to Clinton have made many thousands of agreements ... on matters running the gamut of U. S. foreign relations").

> nationals so that outstanding claims of other American nationals could be paid."[211]

15.4. For the private sector, however, it is the opinion of the author of this report that the United States' 1993 apology for the illegal overthrow of the Hawaiian Kingdom government would serve as that definitive point of knowledge for those who are not in the service of government. In the form of a Congressional joint resolution enacted into United States law, the law specifically states that the Congress "on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawai'i on January 17, 1893 acknowledges the historical significance."[212] Additionally, the Congress also urged "the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawai'i."[213] Despite the mistake of facts and law riddled throughout the apology resolution, whether by design or not, it nevertheless serves as a specific point of knowledge and the ramifications that stem from that knowledge. Evidence that the United States knew of the ramifications was clearly displayed in the apology law's disclaimer, "Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the United States."[214] It is a presumption that everyone knows the law, which stems from the legal principle *ignorantia legis neminem excusat*—ignorance of the law excuses no one. Unlike the United States government, being a public body, the State of Hawai'i government cannot claim to be a government at all, and therefore is merely a private organization. Awareness and knowledge for members of the State of Hawai'i would have begun with the enactment of the Apology resolution in 1993.

15.5. In *State of Hawai'i v. Lorenzo* (1994),[215] the State of Hawai'i Intermediate Court of Appeals (ICA) considered an appeal by a defendant that argued the courts in the State of Hawai'i have no jurisdiction as a direct result of the illegal overthrow of the government of the Hawaiian Kingdom. The ICA stated, "The United States Government recently recognized the illegality of the overthrow of the Kingdom and the role of the United States in that event," and that the "illegal overthrow leaves open the question whether the present governance system should be recognized." The basis of the appeal stemmed from the lower court's ruling, "Although the Court respects Defendant's freedom of thought and expression to believe that jurisdiction over the Defendant for the criminal offenses in the instant case should be with a sovereign…like the Kingdom of Hawaii, such an entity does not preempt nor preclude jurisdiction of this court over the above-entitled matter."[216] After acknowledging that the "United States Government recently recognized the

[211] See *Dames & Moore v. Regan*, 453 U.S. 654, 682 (1981).
[212] *See* Apology Resolution, *supra* note 138.
[213] *Id.*
[214] *Id.*, at 1514.
[215] *State of Hawai'i v. Lorenzo*, 77 Haw. 219 (1994).
[216] *Id.*, at 220.

illegality of the overthrow of the Kingdom and the role of the United States in that event," the appellate court affirmed the lower court's decision. The appellate court reasoned, the "essence of the lower court's decision is that even if, as Lorenzo contends, the 1893 overthrow of the Kingdom was illegal, that would not affect the court's jurisdiction in this case." However, the appellate court did admit its "rationale is open to question in light of international law."[217] This is clearly awareness, on the part of the appellate court, that its decision was subject to international law.

15.6. In light of both the lower and appellate courts' ignorance of international law and the presumption of continuity of an established State despite the illegal overthrow of its government, it clearly presents a case of applying the wrong law. The *Lorenzo case* has become the precedent case under *stare decisis* used to quash all claims by defendants that the courts in the State of Hawai'i are illegal as a direct result of the illegal overthrow. There can be no doubt that the decisions made by each of the judges confronted with this defense has ruled against the defendants with full awareness since the Apology resolution in 1993 and the *Lorenzo case* in 1994.

16. *CONCLUSION*

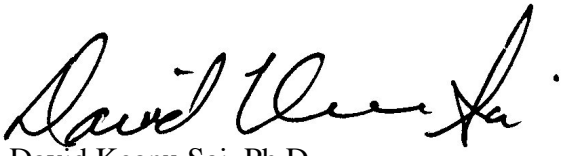
16.1. Having answered in the affirmative the four aforementioned questions conclusively, the Japanese authorities are authorized to investigate war crimes committed in the Hawaiian Islands. The prolonged occupation of the Hawaiian Kingdom is such an egregious act that it could only have gone unnoticed by the international community because of the manipulation of the facts by the United States since the turn of the twentieth century. Through a very effective program of denationalization—*Americanization*, memory of the Hawaiian Kingdom was nearly obliterated from the minds of the people of the Hawaiian Islands in a span of three generations, which underline the severity of the Hawaiian situation and the quest toward justice and redress under international humanitarian law.

16.2. The United States has deliberately violated and continues to violate the neutrality of the Hawaiian Kingdom, guaranteed by customary international law, the 1862 Hawaiian-Spanish Treaty, the 1871 Treaty of Washington and the 1907 Hague Convention, V, Rights and Duties of Neutral States, which constitutes an act of aggression, and has not complied with the HC IV, and the GC IV, in its prolonged and illegal occupation of the Hawaiian Kingdom. As such, war crimes have and continue to take place in the Hawaiian Islands with impunity.

16.3. The gravity of the Hawaiian situation has been heightened by the DPRK's declaration of war against the United States and South Korea on March 30,

[217] *Id*., at 220-221.

2013 and its specific mention of targeting Hawai‘i, cannot be taken lightly.[218] On December 7, 1941, Japan attacked the military installations of the United States on the island of O‘ahu. What is rarely mentioned are civilian casualties, that numbered 55 to 68 deaths and approximately 35 wounded. According to Kelly, “It is not 100 percent clear, but it seems likely that most, if not all, of the casualties in civilian areas were inflicted by ‘friendly fire,’ our own anti-aircraft shells falling back to earth and exploding after missing attacking planes.”[219] The advancement of modern weaponry, which includes cyber warfare,[220] far surpasses the conventional weapons used during the Japanese attack, and the Japanese authorities should also be concerned for the safety of their expatriates that currently reside within the territory of the Hawaiian Kingdom and who are afforded protection under the 1871 Hawaiian-Japanese Treaty.



David Keanu Sai, Ph.D.

[218] Legally speaking, the armistice agreement of July 27, 1953 did not bring the state of war to an end between North Korea and South Korea because a peace treaty is still pending. The significance of the DPRK’s declaration of war of March 30, 2013, however, has specifically drawn the Hawaiian Islands into the region of war because it has been targeted as a result of the United States prolonged occupation.
[219] Dr. Richard Kelly, *Pearl Harbor Attack Killed a Lot of Civilians Too* (Dec. 11, 2010), *available at*: http://saturdaybriefing.outrigger.com/featured-post/pearl-harbor-attack-killed-a-lot-of-civilians-too/.
[220] North Korea has been suspected of cyber warfare against South Korea, *available* at: http://www.theguardian.com/world/2013/mar/20/south-korea-under-cyber-attack; see also U.S. sanctions for North Korea’s cyber attack of Sony corporation, *available* at: http://www.bbc.com/news/world-us-canada-30661973.

Appendix “I”

Curriculum Vitae

DAVID KEANU SAI

EXPERTISE:

International relations, state sovereignty, international laws of occupation, United States constitutional law, Hawaiian constitutional law, and Hawaiian land titles.

ACADEMIC QUALIFICATIONS:

Dec. 2008: Ph.D. in Political Science specializing in international law, state sovereignty, international laws of occupation, United States constitutional law, and Hawaiian constitutional law, University of Hawai`i, Manoa, H.I.

- Doctoral dissertation titled, "American Occupation of the Hawaiian Kingdom: Beginning the Transition from Occupied to Restored State."

May 2004: M.A. in Political Science specializing in International Relations, University of Hawai'i, Manoa, H.I.

May 1987: B.A. in Sociology, University of Hawai'i, Manoa, H.I.

May 1984: A.A. in Pre-Business, New Mexico Military Institute, Roswell, N.M., U.S.

May 1982: Diploma, Kamehameha Schools, Honolulu, H.I.

PANELS AND PRESENTATIONS:

- *Sovereignty and Imperialism: Non-European Powers in the Age of Empire,* invited presenter at an academic conference, University of Cambridge, UK, September 10-12, 2015.

47-605 Puapo`o Place
Kane`ohe, HI 96744
Tel: (808) 383-6100
anu@hawaii.edu

- *The Aftermath of the U.S. Department of Interior Proposals Regarding Federal Recognition: Clarification,* American Constitution Society's William S. Richardson School of Law Student Chapter and ʻAhahui o Hawaiʻi, University of Hawaiʻi at Manoa, Presenter-Panelist with Professor Williamson Chang and Dr. Willy Kauai, September 2, 2014.

- *Alternative Visions of Sovereignty*, American Constitution Society's William S. Richardson School of Law Student Chapter, University of Hawaiʻi at Manoa, Presenter-Panelist with Professor Williamson Chang and former Governor John Waiheʻe, III, April 17, 2014.

- *The Hawaiʻi-Connecticut Missionary Connection: Rumors and Realities,* Hartford Seminary, Panellist-Discussant with Aolani Kailihou, Dr. Stephen Blackburn, and Dr. Clifford Putney, April 10, 2014.

- *Hawaiʻi: An American State or a State under American Occupation,* Central Connecticut State University, April 10, 2014.

- *Hawaiʻi: An American State or a State under American Occupation,* University of Massachusetts Boston, April 8, 2014.

- *Hawaiʻi: An American State or a State under American Occupation,* Harvard University, April 8, 2014.

- *Hawaiʻi: An American State or a State under American Occupation,* New York University, April 7, 2014.

- *Hawaiʻi: An American State or a State under American Occupation,* Swiss Diplomats—Zurich Network and Foraus, University of Zurich, Switzerland, November 11, 2013.

- *Puana Ka `Ike Lecture Series (Imparting Knowledge)*, Kamehameha Investment Corporation, Keahou Hotel, Kona, Hawai`i. A presentation entitled "1893 Executive Agreements and their Impact Today," March 15, 2013.

- *Why the Birthers Are Right For All The Wrong Reasons,* Harvard University, Massachusetts, October 12, 2012.

- *Why the Birthers Are Right For All The Wrong Reasons,* University of Massachusetts, Boston, October 12, 2012.

- *Puana Ka `Ike Lecture Series (Imparting Knowledge)*, Kamehameha Investment Corporation, Keahou Hotel, Kona, Hawai`i. A presentation entitled "1893 Executive Agreements and their Impact Today," March 16, 2012.

- "The American Occupation of the Hawaiian Kingdom: Beginning the Transition from Occupied to Restored State." *Sustainability for Biological Engineers Lecture Series*, University of Hawai`i at Manoa, Agricultural Science Bldg. 219, December 7, 2010.

- "1893 Cleveland-Lilu`uokalani Executive Agreements and their Impact Today." Presentation at the *Annual Convention of Hawaiian Civic Clubs*, Sheraton Keauhou Bay Resort & Spa, Island of Hawai`i, November 9, 2010.

- "The History of the Hawaiian Kingdom." Presentation at the annual convention of the *Victorian Society of Scholars*, Kana`ina Bldg., Honolulu, October 28, 2010.

- "Pu`a Foundation: E pu pa`akai kakou." Joint presentation with Pu`a Foundation of an educational package and curriculum I authored for teaching Hawaiian history, *Healing Our Spirit World, The Sixth Gathering*, Hawai`i Convention Center, September 7, 2010.

- "Evolution of Hawaiian land Titles and the Impact of the 1893 Executive Agreements." Sponsored by the County of Maui, Real Property Tax Division, HGEA Bldg, Kahului, June 28, 2010.

- "Evolution of Hawaiian land Titles and the Impact of the 1893 Executive Agreements." Sponsored by the City & County of Honolulu, Real Property Assessment Division, Mission Memorial Auditorium, June 9, 2010.

- "Hawai`i's Legal and Political History." Sponsored by *Kokua A Puni Hawaiian Student Services*, UH Manoa, Center for Hawaiian Studies, UHM, May 26, 2010.

- "Ua Mau Ke Ea: Sovereignty Endured." Joint presentation with Pu`a Foundation of an educational package and curriculum I authored for teaching Hawaiian history, *Native Hawaiian Education Association Conference*, Windward Community College, March 19, 2010.

- *Puana Ka `Ike Lecture Series (Imparting Knowledge)*, Kamehameha Investment Corporation, Keahou Hotel, Kona, Hawai`i. A presentation entitled "Evolution of Hawaiian Land Titles and its Impact Today," March 12, 2010.

- "1893 Cleveland-Lili`uokalani Agreement of Restoration (Executive Agreement)." Sponsored by the Haloa Research Center, Baldwin High School Auditorium, February 20, 2010.

- "1893 Cleveland-Lili`uokalani Agreement of Restoration (Executive Agreement)." Sponsored by Kamehameha Schools' Kula Hawai`i Teachers Professional Development, Kapalama Campus, Konia, January 4, 2010.

- "The Legal and Political History of Hawai`i." Sponsored by House Representative Karen Awana, National Conference of Native American State Legislators, State of Hawai`i Capital Bldg, November 16, 2009.

- "The Myth of Ceded Lands: A Legal Analysis." Sponsored by Hawaiian Studies, Ho`a and Ho`okahua (STEM), Maui Community College, Noi`i 12-A, November 2, 2009.
- "The Legal and Political History of Hawai`i." Presentation to the *Hui Aloha `Aina Tuahine*, Center for Hawaiian Studies, University of Hawai`i at Manoa, October 30, 2009.

- "The Legal and Political History of Hawai`i." Presentation to *Kahuewai Ola*, Queen Lili`uokalani Center for Student Services, University of Hawai`i at Manoa, October 23, 2009.

- "The Myth of Ceded Lands: A Legal Analysis." Sponsored by Kamehameha Schools Ka`iwakiloumoku Hawaiian Cultural Events Series, Ke`eliokalani Performing Arts Center, Kamehameha Schools Kapalama campus, October 21, 2009.

- "The Myth of Ceded Lands: A Legal Analysis." Sponsored by ASUH and Hawaiian Studies, Paliku Theatre, Windward Community College, September 10, 2009.

- *Puana Ka `Ike Lecture Series (Imparting Knowledge)*, Kohana Center/Kamehameha Investment Corporation, Keauhou II Convention Center, Kona, Hawai`i. A presentation entitled "The Myth of Ceded Lands: A Legal Analysis," March 13, 2009.

- "American Occupation of the Hawaiian Kingdom: Beginning the Transition from Occupied to Restored State." Briefing for Colonel James Herring, Army Staff Judge Advocate, 8th Theater Sustainment Command, and his staff officers, Wheeler AAF Courthouse, U.S. Army Pacific, Wahiawa, Hawai`i, February 25, 2009.

- *Ka Nalu: Towards a Hawaiian National Conciousness*, Symposium of the Hawaiian Society of Law and Politics, University of Hawai`i at Manoa, Imin Conference Bldg (East West Center). Presented a portion of my doctoral dissertation entitled "The Myth of Ceded Lands: A Legal Analysis," February 28, 2009.

- *Manifold Destiny: Disparate and Converging Forms of Political Analysis on Hawai`i Past and Present*, International Studies Association Annual Conference, San Francisco, California, March 26, 2008. Presented a paper entitled "A Slippery Path Towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian Nationality and Hawaiian Indigeneity and its Use and Practice in Hawai`i today," March 26, 2008.

- *Mana Kupuna Lecture Series*, University of Waikato, New Zealand. A presentation entitled "Legal and Political History of the Hawaiian Kingdom," March 5, 2008.

- *Indigenous Politics Colloquium* speaker series, Department of Political Science, University of Hawai`i at Manoa. Presented an analysis and comparison between Hawaiian State sovereignty and Hawaiian indigeneity and its use and practice in Hawai`i today," January 30, 2007.

- Conference at Northeastern Illinois University entitled *Dialogue Under Occupation: The Discourse of Enactment, Transaction, Reaction and Resolution*. Presented a paper on a panel entitled "Prolonged Occupation of the Hawaiian Kingdom," Chicago, Illinois, November 10, 2006.

- The 14th Biennial Asian/Pacific American Midwest Student Conference, "Refocusing Our Lens: Confronting Contemporary Issues of Globalization and Transnationalism." Presented article "American Occupation of the Hawaiian State: A Century Unchecked" on Militarization Panel, Oberlin College, Ohio, February 18, 2006.

- 2005 American Studies Association Annual Conference. Panelist on a roundtable discussion entitled, "The Case for Hawai`i's Independence from the United States - A Scholarly and Activist Roundtable Discussion," with Keala Kelly and Professor Kehaulani Kauanui. Renaissance Hotel, Washington, D.C., November 4, 2005.

- Kamehameha Schools 2005 Research Conference on Hawaiian Well-being, sponsored by the Kamehameha Schools *Policy Analysis & Systems Evaluation* (PACE). Presented article "Employing Appropriate Theory when Researching Hawaiian Kingdom Governance" with two other presenters, Malcolm Naea Chun and Dr. Noelani Goodyear-Kaopua. Radisson Prince Kuhio Hotel, Waikiki, October 22, 2005.

- 1st Annual Symposium of the *Hawaiian Society of Law & Politics* showcasing the first edition of the *Hawaiian Journal of Law & Politics (summer 2004)*. Presented article "American Occupation of the Hawaiian State: A Century Gone Unchecked," with response panellists Professor John Wilson, Political Science, and Kanale Sadowski, 3rd year law student, Richardson School of Law. Imin International Conference Center, University of Hawai`i at Manoa, April 16, 2005.

- "A Symposium on Practical Pluralism." Sponsored by the *Office of the Dean*, William S. Richardson School of Law. Panelist with Professor Williamson Chang and Dr. Kekuni Blaisdell, University of Hawai`i at Manoa, Honolulu, April 16-17, 2004.

- "Mohala A`e: Blooming Forth," *Native Hawaiian Education Association's 5th Annual Conference.* Presented a workshop entitled "Hawaiian Epistemology." Windward Community College, Kane'ohe, March 23, 2004.

- "First Annual 'Ahahui o Hawai`i Kukakuka: Perspectives on Federal Recognition." Guest Speaker at a symposium concerning the Akaka Bill. Sponsored by the *'Ahahui o Hawai'i* (organization of native Hawaiian law students), University of Hawai`i at Manoa Richardson School of Law, Honolulu, March 12, 2004.

- "The Status of the Kingdom of Hawai`i." A debate with Professor Didrick Castberg, University of Hawai`i at Hilo (Political Science), and moderator Professor Todd Belt University of Hawai`i at Hilo (Political Science). Sponsored by the *Political Science Club*, University of Hawai`i at Hilo, Campus Center, March 11, 2004.

- "The Political History of the Hawaiian Kingdom: Past and Present." A presentation to the *Hawai`i Island Association of Hawaiian Organizations*, Queen Lili`uokalani Children's Center, Hilo, February 13, 2004.
- "Globalization and the Asia-Pacific Region." Panel with Dr. Noenoe Silva (Political Science). *East-West Center Spring 2004 Core Course*, Honolulu, February 4, 2004.

- Televised symposium entitled, "Ceded Lands." Other panelists included Professor Jon Van Dyke (Richardson School of Law) and Professor Lilikala Kame`eleihiwa (Center for Hawaiian Studies). Sponsored by the *Office of Hawaiian Affairs*, Wai'anae, August 2003.

- "Hawai`i's Road to International Recovery, II." Sponsored by *Kipuka*, University of Hawai`i at Hilo, September 25, 2003.

- "An Analysis of Tenancy, Title, and Landholding in Old Hawai'i." Sponsored by *Kipuka*, University of Hawai`i at Hilo, September 26, 2002.

- "The Hawaiian Kingdom in Arbitration Proceedings at the Permanent Court of Arbitration, The Hague, Nethelrands." A presentation at the 6th World Indigenous Peoples Conference on Education, Stoney Park, Morley, Alberta, Canada, August 6, 2002.

- "The Hawaiian Kingdom and the United States of America: A State to State Relationship." *Reclaiming the Legacy*, U.S. National Archives and Records Administration, University of San Francisco, May 4, 2002

- "Hawai`i's Road to International Recovery." Sponsored by *Kipuka*, University of Hawai`i at Hilo, April 11, 2002.

- "Hawai`i's Road to International Recovery," a presentation to the Officers Corps of the 25th Infantry Division, U.S. Army, Officer's Club, Schofield Barracks, Wahiawa, February 2001.

- "Lance Larsen vs. the Hawaiian Kingdom," presentation to the *Native Hawaiian Bar Association*, quarterly meeting, Kana`ina Building, Honolulu, 2001.

- "Hawaiian Political History," *Hawai`i Community College*, Hilo, March 5, 2001.

- "The History of the Hawaiian Kingdom," A guest speaker at the *Aloha March* rally in Washington, D.C., August 12, 1998.

- Symposium entitled, "Human Rights and the Hawaiian Kingdom on the occasion of the 50th anniversary of the Universal Declaration of Human Rights." Other panelist included Francis Boyle (Professor of International Law, University of Illinois), Mililani Trask (Trustee, Office of Hawaiian Affairs), Richard Grass (Lakota Sioux Nation), and Ron Barnes (Tununak Traditional Elders Council, Alaska). University of Hawai`i at Hilo, April 16, 1998.

- Symposium entitled*, "*Perfect Title Company: Scam or Restoration." Sponsored by the *Hawai`i Developers Council*, Hawai`i Prince Hotel, Honolulu, August 1997.

PUBLICATIONS:

Book, "Ua Mau Ke Ea-Sovereignty Endures: An Overview of the Political and Legal History of the Hawaiian Islands." (Pu`a Foundation, Honolulu, 2011).

Article, "1893 Cleveland-Lili`uokalani Executive Agreements." November 28, 2009, unpublished, online at http://www2.hawaii.edu/~anu/publications.html.

Article, "Establishing an Acting Regency: A Countermeasure Necessitated to Preserve the Hawaiian State." November 28, 2009, unpublished, online at http://www2.hawaii.edu/~anu/publications.html.

Book, "Land Titles in the Hawaiian Islands: From Origins to the Present (forthcoming)." Contract signed with University of Hawai`i Press, May 7, 2009.

Article, "The Myth of Ceded Lands and the State's Claim to Perfect Title." *Ka Wai Ola o OHA Newspaper*, Office of Hawaiian Affairs, April 2009.

Dissertation, "American Occupation of the Hawaiian Kingdom: Beginning the Transition from Occupied to Restored State," University of Hawai`i at Manoa, Political Science, December 2008, online at http://www2.hawaii.edu/~anu/publications.html.

Article, "A Slippery Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its Use and Practice in Hawai`i Today," *Journal of Law and Social Challenges* (San Francisco School of Law), Vol. 10 (Fall 2008), online at http://www2.hawaii.edu/~anu/publications.html.

Book Review for "Kahana: How the Land was Lost," *The Contemporary Pacific: A Journal of Island Affairs*, Vol. 15, No. 1 (2005), online at http://www2.hawaii.edu/~anu/publications.html.

Article, "Experts Validate Legitimacy of International Law Case." *Ka Wai Ola o OHA Newspaper*, Office of Hawaiian Affairs, August 2004.

"American Occupation of the Hawaiian State: A Century Unchecked," *Hawaiian Journal of Law and Politics*, vol. 1 (Summer 2004), online journal at: http://www2.hawaii.edu/~hslp/journal.html.

Article, "The Indian Commerce Clause sheds Light on Question of Federal Authority over Hawaiians," *Ka Wai Ola o OHA Newspaper*, Office of Hawaiian Affairs, September 2003.

Article, "Before Annexation: Sleight of Hand—Illusion of the Century." *Ka Wai Ola o OHA Newspaper*, Office of Hawaiian Affairs, July 1998.

"Unpublished Short Essays" on line at http://hawaiiankingdom.org/info-nationals.shtml

- "The Hawaiian Kingdom: A Constitutional Monarchy"
- "The Relationship between the Hawaiian Kingdom and the United States"
- "Revisiting the Fake Revolution of January 17, 1893"
- "What does TWA Flight 800 and the Hawaiian Kingdom have in Common"
- "American Migration to the Hawaiian Kingdom and the Push for State into the American Union"
- "Hawaiian Nationality: Who Comprises the Hawaiian Citizenry?"
- "The Vision of the *acting* Council of Regency"

VIDEO/RADIO:

Video: "Ka‘apuni Honua, KS Song Contest Preshow," *Kamehameha Schools Song Contest,* KGMB television, March 21, 2014.

Video: "Hawai`i and the Law of Occupation." *Lecture Series of the Kaleimaileali`i Hawaiian Civic Club*, `Olelo Community Television, March 11, 2009.

Video: "Title Insurance and Land Ownership in Hawai`i." *Lecture Series of the Kaleimaileali`i Hawaiian Civic Club*, `Olelo Community Television, February 4, 2009.

Video: "What are Ceded Lands?" *Lecture Series of the Kaleimaileali`i Hawaiian Civic Club*, `Olelo Community Television, December 22, 2009.

Video: "Hawaiian Kingdom Law and Succession." *Lecture Series of the Kaleimaileali`i Hawaiian Civic Club*, `Olelo Community Television, November 16, 2008.

Video: "Kamehameha I: From Chiefly to British Governance." *Lecture Series of the Kaleimaileali`i Hawaiian Civic Club*, `Olelo Community Television, July 23, 2008.

Internet Radio: "The Gary Baumgarten Report News Talk Online: Hawai`i 'Kingdom' Proponent Makes Case For An Independent Hawai`i." Guest on a daily talk internet radio show, http://garybaumgarten.blogspot.com/2008/04/hawaii-kingdom-proponent-makes-case-for.html, April 11, 2008.

Radio: "Talk Story with Uncle Charlie." Guest on a weekly talk radio show. *KNUI AM 900*, Kahului, January 23, 2004.

Radio: "Perspective." Co-host with Keaumiki Akui for a weekly talk radio show concerning Hawaiian political history. *KCCN AM 1420*, Honolulu, 1999-2001.

Video: "Hawaiian Kingdom Law a Presentation." *Na Maka o ka Aina*, 1999.

Video: Segments of *Aloha Quest* (six-hour broadcast), KFVE television, Honolulu, December 19, 1999.

- "The Hawaiian Kingdom"

- "What is a Hawaiian subject"
- "Attempted Overthrow of 1893"
- "The Annexation that Never Was"
- "Internal Laws of the United States"
- "Supreme Courts and International Courts"
- "U.S. Senate debate: Apology resolution, Oct. 1993"

MILITARY:

Aug. 1994:	Honourably Discharged
Dec. 1990:	Diploma, *U.S. Army Field Artillery Officer Advanced Course*, Fort Sill, OK
May 1990:	Promoted to Captain (O-3)
Apr. 1990:	Diploma, *U.S. Air Force Air Ground Operations School*, Hurlbert Field, FL
May 1987:	Promoted to 1st Lieutenant (O-2)
Sep. 1987:	Diploma, *U.S. Army Field Artillery Officer Basic Course*, Fort Sill, OK
Sep. 1984:	Assigned to *1st Battalion, 487th Field Artillery*, Hawai`i Army National Guard, Honolulu, H.I.
May 1984:	Army Reserve Commission, 2nd Lieutenant (O-1), Early Commissioning Program (ECP) from the New Mexico Military Institute, Roswell, NM

GENERAL DATA:

Nationality:	Hawaiian
Born:	July 13, 1964, Honolulu, H.I.

Appendix “II”

JAPAN
Signed at Yedo, August 19th 1871

WHEREAS, a Treaty of Amity and Commerce between His Majesty the King, and His Imperial Majest the Tenno of Japan, was concluded at Yedo, on the 19th day of August, 1871, which has been ratified by His Majesty the King and His Imperial Majesty, the Tenno of Japan, and the ratifications duly exchanged—which Treaty is, word for word as follows:

His Majesty the King of the Hawaiian Islands, and His Imperial Japanese Majesty, the Tenno, being equally animated by the desire to establish relations of friendship between the two countries, have resolved to conclude a Treaty, reciprocally advantageous, and for that purpose have named their Plenipotentiaries, that is to say, His Majesty the King of the Hawaiian Islands, His Excellency C. E. De Long, appointed and commissioned by His Majesty, Envoy Extraordinary and Minister Plenipotentiary of the Kingdom of Hawaii, near the Government of His Majesty, the Tenno of Japan, and His Imperial Japanese Majesty, the Tenno, His Excellency Sawa Iusanme Kiyowara Noluyoshe, Minister of Foreign Affairs, and His Excellency Terachima Jusee Fugiwara Munemori, First Assistant Minister for Foreign Affairs, who having communicated to each other their respective powers, which are found in good order, and in proper form, have agreed upon the following Articles:

ARTICLE I. There shall be perpetual peace and friendship between His Majesty the King of the Hawaiian Islands, and His Imperial Japanese Majesty, the Tenno, their heirs and successors, and between their respective subjects.

ARTICLE II. The subjects of each of the two high contracting parties, respectively, shall have the liberty freely and securely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, where trade with other nations is permitted; they may remain and reside in any such ports, and places respectively, and hire and occupy houses and warehouses, and may trade in all kinds of produce, manufactures and merchandise of lawful commerce, enjoying at all times the same privileges as may have been, or may hereafter be granted to the citizens or subjects of any other nation, paying at all times such duties and taxes as may be exacted from the citizens or subjects of other nations doing business or residing within the territories of each of the high contracting parties.

ARTICLE III. Each of the high contracting parties shall have the right to appoint, if it shall seem good to them, a Diplomatic Agent, who shall reside at the seat of Government of the respective countries, and Consuls and Consular Agents, who shall reside in the ports or places within the territories of the other where trade with other is permitted. The Diplomatic Agents and Consuls of each of the high contracting parties shall exercise all the authority and jurisdiction, and shall enjoy within the territories of the other all the rights and privileges, exemptions and immunities which now appertain, or may hereafter appertain to Agents of the same rank of the most favored nations.

ARTICLE IV. It is hereby stipulated that the Hawaiian Government and its subjects, upon like terms and conditions, will be allowed free and equal participation in all privileges, immunities and advantages that may have been or may hereafter be granted by His Majesty the Tenno of Japan, to the Government, citizens or subjects of any other nation.

ARTICLE V. The Japanese Government will place no restrictions whatever upon the employment by Hawaiian subjects of Japanese in any lawful capacity.

Japanese in the employ of foreigners may obtain Government passports to go abroad, on application to the Governor of any open port.

ARTICLE VI. It is hereby agreed that such revision of this Treaty, on giving six months previous notice to either of the high contracting parties, may be made by mutual agreement, as experience shall prove necessary.

ARTICLE VII. The present Treaty shall be ratified by His Majesty the King of the Hawaiian Islands, and by His Imperial Majesty the Tenno, and the ratifications exchanged at Yedo, the same day as the date of this Treaty, and shall go into effect immediately after the date of such exchange of ratifications.

In token whereof, the respective Plenipotentiaries have signed this Treaty.

Done at the City of Yedo, this 19th day of August, A.D. One Thousand Eight Hundred and Seventy-one, corresponding in Japanese date to the fourth day of the 7th month of the 4th year of Meiji.

[L.S.] C. E. DE LONG.

[L.S.] SAWA IUSNME KIYOWARA NOLUYOSHE.

[L.S.] TERACHIMA JUSEE FUGIWARRA MUNEMORI

Now, all persons are hereby notified, that the said Treaty is a part of the Law of this Kingdom, and is to be regarded as such.

[L.S.] CHAS. C. HARRIS
Minister of Foreign Affairs

Foreign Office, September 27th, 1871

Appendix “III”

HAWAIIAN REGISTER AND DIRECTORY FOR 1893.

The Court.

HER MAJESTY, LILIUOKALANI, *b.* September 2, 1838; succeeded to the Throne January 29, 1891, on the death of her brother, King Kalakaua; *m.* to his late Royal Highness Jno. Owen Dominis, Prince Consort, who was *b.* March 10, 1832, and *d.* August 27, 1891. Daughter of Kapaakea and Keohokalole.

Her Majesty the Dowager Queen KAPIOLANI, *b.* December 31, 1835.

Her Royal Highness the Princess VICTORIA-KAWEKIU-KAIULANI-LUNALILO-KALANINUI-AHILAPALAPA, *b.* October 16, 1875, daughter of Her late R. H. Princess Likelike and His Ex A.S.Cleghorn, K.G.C., Member of the Privy Council of State. Proclaimed Heir Apparent, to the Throne, March 9, 1891.

His Excellency ARCHIBALD SCOTT CLEGHORN, K.G.C., Governor of Oahu and member of Privy Council of State. Father of the Heir Apparent.

Her Royal Highness VIRGINIA KAPOOLOKU POOMAIKELANI, *b.* April 7, 1839. Sister to the Queen Dowager.

His Royal Highness Prince DAVID KAWANANAKOA, son of H. R. H. Princess Kekaulike, *b.* February 19, 1868.

His Royal Highness Prince JONAH KUHIO KALANIANAOLE, son of H. R. H. Princess Kekaulike, *b.* March 28, 1870.

Her Majesty's Chamberlain, MAJOR JAS. W. ROBERTSON.

Her Majesty's Staff.

Cols C. P. Iaukea, J H Boyd, R Hoapili Baker W. H. Cornwell, J D Holt, Jr, H F Bertelmann J. T. Baker and E K Lilikalani.

The Cabinet.

Her Majesty, THE QUEEN.

Minister of Foreign Affairs, His Ex M P Robinson; Minister of the Interior, His Ex G N Wilcox; Minister of Finance, His Ex P C Jones; Attorney-General, His Ex C Brown.

Governors.

His Ex A S Cleghorn, Governor of Oahu.
His Ex T W Everett, Governor of Maui.
His Ex J T Baker, Governor of Hawaii.
His Ex W H Rice, Governor of Kauai.

Governor of Oahu's Staff.

Majors J W Robertson, Sam'l Nowlein.

Privy Council of State.

Her Majesty, THE QUEEN.

Hons. C R Bishop, A S Cleghorn, A F Judd, H A Widemann, H M Whitney, J A Cummins, G Rhodes, J M Smith, J S Walker, W J Smith, W F Allen, D Kahanu, J E Bush, C P Iaukea, G W Macfarlane, P P Kanoa, W D Alexander, E K Lilikalani, P Neumann, S Parker, J T Baker, R H Baker, S M Damon, J K Kaunamano, A N Tripp, J G Hoapili, F H Hayselden, W G Irwin, D H Nahinu, A Rosa, J B Atherton, J T Waterhouse, Jr, J Ena., W H Cornwell, R F Bickerton, C B Wilson, F S Pratt, J O Carter, H R H. D Kawananakoa, S B Dole, G C Beckley, A Fernandez, P. Isenberg, Jr, Jno Richardson, J W Robertson. C P Iaukea, Secretary.

Legislative Assemblage, Session of 1892.

OFFICERS.

President.....Hon J S Walker
Vice-President.....Hon J Kauhane
Secretary.....C J McCarthy
Interpreter.....W L Wilcox
Sergeant-at-Arms.....F J Testa
Chaplain.....Rev J Waiamau

The Cabinet Ministers hold seats in the House ex-officio.

HOUSE OF NOBLES.

OAHU:
Hons D W Pua, A P Peterson, C L Hopkins. Term expires Feb 1894.
Hons. J S Walker, C O Berger, Jno Ena. Term expires Feb 1896.
Hons. J A Cummins, J N S Williams, C B Maile. Term expires Feb 1898.

MAUI:
Hons R D Walbridge, W H Cornwell. Term expires Feb 1894.
Hons. H P Baldwin, W Y Horner. Term expires Feb 1896.
Hons. Jas Anderson, L A Thurston. Term expires Feb 1898.

HAWAII:
Hons. R R Hind, J G Hoapili. Term expires Feb 1894.
Hons. J Kauhane, J M Horner. Term expires Feb 1896.
Hons. Alex Young, Jos Mardsen. Term expires Feb 1898.

KAUAI:
Hon. P P Kanoa. Term expires Feb 1894.
Hon. Alex McBryde. Term expires Feb 1896.
Hon. A Dreier. Term expires Feb 1898.

REPRESENTATIVES.

OAHU:
Honolulu:—Hons. W C Wilder, J W Bipikane, C W Ashford, S K Aki, S K Pua.
Ewa:—Hon A Kauhi. Waialua:—Hon R W Wilcox. Koolau, J E Bush.

MAUI:
Lahaina:—Hon Wm White. Wailuku:—Hons W P Kanealii, W Edmonds. Makawao: Hon J Kaluna. Hana:—Hon J K Iosepa. Molokai:—Hon T S Nahinu.

HAWAII:
Hilo:—Hons J Nawahi, K M Koahou, A Horner. Hamakua:—Hon J K Kaunamano. Kohala—Hon G P Kamauoha. Kona—Hon J H Waipuilani. Kau—Hon J N Kapahu.

KAUAI:
Koloa:—Hon W O Smith. Waimea:—Hon J A Akina. Hanalei—Hon A S Wilcox.

Department of Judiciary.

SUPREME COURT.

Chief Justice.....Hon A F Judd
First Associate Justice.....Hon R F
Second Associate Justice.....Hon

Clerk Judiciary Department.....F

Circuit Judges.

First Judge 1st Circuit, Oahu.....
Second Judge 1st Circuit, Oahu.....
Second Circuit, Maui..... Hon A N Kepoikai
3rd and 4th Circuits, Hawaii....Hon S L Austin
Fifth Circuit, Kauai.....Hon J Hardy

CLERKS OF SUPREME AND CIRCUIT COURTS:

H Smith.....ex officio
1st clerk 1st Circuit, Oahu.....F. Wundenberg
2nd clerk 1st Circuit, Oahu..... Geo Lucas
Second Circuit, Maui.....Goodale Armstrong
3rd and 4th Circuits, Hawaii.....Daniel Porter
Fifth Circuit, Kauai ..... R W T Purvis

INTERPRETERS, ETC.

Hawaiian..... W Luther Wilcox
Chinese.....Li Cheung
Portuguese.....J M Vivas
Stenographer.....J W Jones

District Magistrates.

OAHU.

Wm F. ster,.....Honolulu
-- ——— .....Ewa
J K Kupau.....Waianae
J Kaluhi.....Koolauloa
S H Kalamakee .....Waialua
F Pahia.....Koolaupoko

MAUI.

W H Daniels.....Wailuku
D Kahaulelio,.....Lahaina
Chas Copp, ...Makawao
J H S Kaleo.....Hana
J K Piimanu.....Kipahulu, Hana
M Kealoha .....Honuaula
D Kalauokalani.....Molokai
S Kahoohalahala.....Lanai

KAUAI.

S R Hapuku,.....Lihue
J W Kala.....Koloa
R Puuki.....Hanalei
J K Kapuniai.....Waimea
J W Lota.....Kawaihau

HAWAII.

G W A Hapai .....1st District, Hilo
Jos P Nisson.....2nd District, Hilo
R H Atkins.....North Kohala
S H Mahuka.....South Kohala
E W Barnard..... North Hilo
Edwin Thomas .....Hamakua
Jas M Kauwila.....Puna
J H S Martin..... West Kau
Kekani Pa.....East Kau
S B Kaalawamaka.....North Kona
S M Kekoa.....South Kona

Department of Foreign Affairs.

Minister of Foreign Affairs. His Ex M P Robinson
Secretary of Department.....F P Hastings
Clerks of Department, W H Wright, Ed Stiles, H R H D Kawananakoa.

Diplomatic Representatives Accredited to the Court of Hawaii.

United States—His Ex John L Stevens, Envoy Extraordinary and Minister Plenipotentiary; residence, Nuuanu Avenue.
Portugal—Senhor A de Souza Canavarro, Charge d'Affaires and Consul-General; residence, Beretania street.
Great Britain—His Ex J H Wodehouse, Minister Resident; residence, Emma street.
France—Mons G M G Bosseront d'Anglade, Consul Commissioner; residence, Beretania street. Chancellor, Mons A Vizzavona.
Japan—Mons S Fugii, Diplomatic Agent and Consul General. Secretary, G Narita.

Foreign Consuls, Etc.

United States—Consul-General, H W Severance: Vice and Deputy Consul-General, W Porter Boyd.
Italy—F A Schaefer, (Dean of the Consular Corps)
Chili.....F A Schaefer
German Empire.....H F Glade
Sweden and Norway ..... H W Schmidt
Denmark.....H R Macfarlane
Peru .....Bruce Cartwright
Belgium.....J F Hackfeld
Netherlands.....J H Paty
Spain—Vice-Consul ..... H Renjes
Austro-Hungary .....H F Glade
Russia, Acting Vice-Consul.....J F Hackfeld
Great Britain, Vice-Consul .....T R Walker
Mexico .....H Renjes
(Attaches to Consulate: F Tanno, G Narita, H Ito.)
China—Commercial Agent, Goo Kim; Assistant Commercial Agent, Wong Kwai.
United States Cons'l'r Ag't, Hilo....C Furneaux
U S Consular Agent, Kahului.....A F Hopke
U S Consular Agent, Mahukona.....C L Wight

Diplomatic and Consular Representatives of Hawaii Abroad.

In the United States.

United States—J Mott Smith, Envoy Extraordinary and Minister Plenipotentiary, Washington, D C.
New York—E H Allen, Consul-General.
San Francisco—F S Pratt, Consul-General for the Pacific States: California, Oregon and Nevada and Washington. J B Maholm, Vice Consul General.
Philadelphia.....Robert H Davis, Consul
San Diego, Cala.....Jas W Girvin, Consul
Boston..... Lawrence Bond, Consul
Portland, Or.....J McCraken, Consul
Port Townsend, Wash....James G Swan, Consul
Seattle.....G R Carter, Consul

Mexico, Central and South America.

U S of Mexico, Mexico—Col W J De Gress, Consul. R H Baker, Vice-Consul.
Manzanillo .....Robert James Barney, Consul
Guatemala.....Henry Tolke, Consul
Peru, Lima—R H Beddy, Charge d'Affaires and Consul-General.
Callao, Peru.....S Crosby, Consul
Chile—Valparaiso, D Thomas, Charge d'Affaires and Consul-General.
Monte Video, Uruguay: Conrad Hughes, Consul
Philippine Islands, Iloilo—George Shelmerdine, Consul.
Manila .....Jasper M Wood, Consul

Great Britain.

London,.....A Hoffnung, Charge d'Affaires Secretary of Legation, S B Francis Hoffnung, Manley Hopkins. Consul.
Liverpool,.....Harold Janion, Consul
Bristol,.....Mark Whitwell, Consul
Hull.....W Moran, Consul
Newcastle on Tyne.....E Biesterfeld, Consul

Falmouth.....C R Broad, Consul
Dover (and the Cinque Ports), Francis William Prescot, Consul.
Cardiff and Swansea.....H Goldberg, Consul
Edinburgh and Leith....E G Buchanan, Consul
Glasgow.....Jas Dunn, Consul
Dundee.....J G Zoller, Consul
Dublin.....R Jas Murphy, Vice-Consul
Queenstown.....Geo B Dawson, Consul
Belfast.....W A Ross, Consul

Cebu.....George E A Cadell, Consul

British Colonies.

Toronto, Ontario, J E Thompson, Consul-General
Geo A Shaw, Vice-Consul.
Montreal.....Dickson Anderson, Consul
Belleville, Ontario..Alex Robertson, Vice-Consul
Kingston, Ontario..Geo Richardson, Vice-Consul
Rimouski, Quebec, J N Pouliot Q C, Vice-Consul
St John's, N B.....Allan O Crookshank, Consul
Yarmouth, N S, ...Ed F Clements, Vice-Consul
Victoria, B C.....R P Rithet, Consul
Vancouver, B. C.....G A Fraser, Consul
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Brisbane, Queensland..Alex B Webster, Consul
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Newcastle, N S W.....W H Moulton, Consul
Auckland, N Z .....D B Cruikshank, Consul
Dunedin, N Z.....Henry Driver, Consul
Hongkong, China..... Consul-General.
Shanghai, China.....Hon J Johnstone Keswick.

France and Colonies.

Paris.....Alfred Houle, Charge d'Affaires and Consul-General; A N H Teyssier, Vice-Consul.
Marseilles.....G du Cayla, Consul
Bordeaux .....Ernest de Boissac, Consul
Dijon H.....Vielhounne, Consul
Libourne.....Charles Schoessier, Consul
Tahiti, Papeete.....A F Bonet, Consul

Germany.

Bremen ..... John F Mullet, Consul
Hamburg.....Edward F Weber, Consul
Frankfort-on-Maine.....Joseph Kopp, Consul
Dresden .....Augustus P russ, Consul
Karlsruhe.....H Muller, Consul

Austria.

Vienna.....V von Schonberger, Consul

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Barcelona.....Enrique Minguez, Consul-General
Cadiz..... James Shaw, Consul
Valencia.....Vicente Chust, Consul
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Cartegena.....J Paris, Consul
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Arecife de Lanzarotte—E Morales y Rodriguez, Vice-Consul.

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Lisbon.....A Ferreira de Serpa, Consul-General
Oporto.....Narciso T M Ferro, Consul
Madeira ..... F Rodrigues, Consul
St Michaels .....A de S Moreira, Consul
St Vincent, Cape de Verde Islands—C Martins Vice-Consul.

Italy.

Rome....James Clinton Hooker, Consul-General
Genoa.....Raphael de Luchi, Consul
Palermo.....Angelo Tagliavia, Consul

Netherlands.

Amsterdam ..... D H Schmull, Consul-General
Dordrecht.....P J Bowman Consul.

Belgium

Antwerp.....Victor Forge, Consul-General
Ghent.....E Coppieters, Consul
Liege.....Jules Blanpain, Consul
Bruges.....Emile Van den Brande, Consul

Sweden and Norway.

Stockholm...C A Engalls, Acting Consul-General
Christiania .....L Samson, Consul
Lyskil.....H Bergstrom, Vice-Consul
Gothemburg..... ...Gustav Kraak, Vice-Consul

Denmark.

Copenhagen..... ...———, Consul-General

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Tokio, His Excellency R Walker Irwin, Minister Resident.
Hiogo and Osaka.....Samuel Endicott, Consul

Interior Department.

Minister of Interior..... His Ex G N Wilcox
Chief Clerk of Department.....J A Hassinger
Clerks—J H Boyd, M K Keohokalole, J L Aholo, S Mahaulu, Geo Ross, Edwd S Boyd.
Electoral Registrar.....Wray Taylor
Registrar of Conveyances.....Thos G Thrum
Deputy Registrar.....Malcolm Brown
Supt Public Works and C E..... W E Rowell
Superintendent Water Works.....J C White
Clerk of Water Works.....A Lucas
Supt Electric Lights.....Jno Cassidy
Road Supervisor, Honolulu.....W H Cummins
Commissioner of Patents.....C T Gulick
Physician Insane Asylum.....Dr A McWayne

Government Surveying Corps.

W D Alexander.....Surveyor-General
J F Brown.....Assistant in charge of gov't lands
C J Lyons .....Assistant in charge of office
F S Dodge.....Assistant

Board of Immigration.

His Ex Hon G N Wilcox.....President
Members—His Ex A S Cleghorn, Hon M P Robinson, Hon Joseph B Atherton, Jas B Castle, Esq, Jas G Spencer, Esq.
Wray Taylor.....Secretary
G O Nacayama..Inspector-in-Chief of Japanese Immigrants.

Board of Health.

President.....D Dayton
Members: Hon S Parker, J O Carter, J T Waterhouse, J F Colburn.
Secretary.....Chas Wilcox
Agents.....C B Reynolds, G W C Jones, S Ku

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OAHU—Honolulu, Dr H G McGrew; Waialua, Dr L F Alvarez; Waianae, Dr N Russel.
KAUAI—Waimea, Dr D Campbell; Hanalei, ———, Puna, Dr St D G Walters; Koloa, Dr Jared K Smith.

MAUI—Makawao, Dr C L Stow; Hana, Dr T Allen; Wailuku, Dr Geo Herbert; Lahaina, Dr C Davison.

HAWAII—Hamakua, Dr C B Greenfield; Hilo, Dr R B Williams; N Hilo, Dr L S Thompson; Kau, Dr C B Cooper; Kohala, Dr B D Bond; Kona, Dr H A Lindley.

ISLAND OF MOLOKAI, Dr A Mouritz. LEPER SETTLEMENT, Dr R Oliver.

Road Boards.

HAWAII.

Hilo.....J T Baker, J T Unea, W G Kaihenui.
North Hilo..A C Palfrey, L S Thompson, W S Walker.
Puna.....
Kau.....W K Moi, J Ikaika, K Kimokea
Hamakua.....A Lidgate, J H Kaumelelau, C Williams.
N Kohala....E P Low, D H Kailau, D W Pue
S Kohala.W Hookuanui, W K Davis, J Maguire
N Kona..J Kaelemakule, J K Nahale, S B Kaalawamaka.
S Kona..D H Nahinu, K M M Hu, W Punikaia

MAUI.

Lahaina..R H Makekau, G Kauhi, S Kaluakini
Wailuku.....A Barnes, H Center, E B Friel
Hana.....D Center, J P Sylva, M H Reuter
Makawao.....J Kalama, L A Andrews
Molokai.S K Kupihea, S Kekahuna, J H Mahoe

OAHU.

Honolulu ...C B Dwight, A Fernandez, S M Kaaukai.
Koolaupoko... F Pahia, J H Kealo, E P Aikue.
Koolauloa.....L J Aylett, S Kapu, L K Naone.
Waialua.....E S Timoteo, S H Kalamakee, B Naukana.
Ewa and Waianae..L P Halualani, Poe, J Pinao

KAUAI.

Koloa..... .....J K Smith, A Cropp. .....
Lihue.....S W Wilcox, S G D Walters, J H K Kaiwi.
Kawaihau..S N Hundley, D Lovell, J W Lota
Hanalei..... S Kanewanui, G W Mahikoa, E Kuapuhi.
Waimea..J K Kapuniai, T Brandt, J Kamalinui
Niihau.M W Keale, J B Kaomea, A W Kawaiula

Commissioners of Crown Lands.

His Ex M P Robinson, His Ex C Brown, Col C P Iaukea.
Col C P Iaukea.....Agent

Commissioners of Boundaries.

Hawaii.....F S Lyman
Maui, Molokai and Lanai.... S F Chillingworth
Oahu.....Wm Foster
Kauai.....J Hardy

Commissioners of Fences.

HAWAII.

Hilo.....B Brown.
Hamakua.....
North Kona.....G McDougall, E Kahulanui, J K Nahale.
South Kona.....M Barrett, J W Smith S Kekumano.
North Kohala..... H L Holstein, R Hind, Jr.
South Kohala.....S H Mahuka
Kau..D W Kaaemoku, C Meinecke, N C Haley

MAUI.

Lahaina ....K Nahaolelua, E S Kaiue, ———
Waluku ....W A McKay, N Kepoikai, W B Keanu.
Makawao.....R von Tempsky, E Helekunihi.
Hana.....O Unna, J Nakila, P K Kaumakaole
Molokai.....D Kailua, J Kaoo, J H Mahoe

OAHU.

Kona..... D Kahanu, P Jones, W S Wond
Ewa and Waianae..S Andrews, J Kekahuna, H Kapu.
Waialua.. H Wharton, J Amara, J F Anderson.
Koolauloa.....J Kaluhi, J L Naili, W C Lane
Koolaupoko.....G Barenabe, M Rose

KAUAI.

Kawaihau .....J P Kaumualii, Napalehua, J M Kealoha.
Koloa and Lihue ...S Kaiu, E Kopke, J Gandall

Agents to Grant Marriage Licences.

Hawaii—
Hilo..J Kanaeholo, B Naaikauna, L Severance, D H Hitchcock, L Kaapa, W Nailima E W Barnard, J M Kauhi, S K Pookalani.
Hamakua.....J N Haena, S B Kaleo, M Beniamina, W A Mio, J Kanakaoluna.
North Kohala....Jno Nalii, E de Harne, D S Kahockano, J S Smithies, K Kaai.
South Kohala .....James Bright
North Kona .....J Kaelemakule
South Kona..Jos Kaeo, J W Maele, S W Kino, W J Wright, Jno Nahinu.
Puna.....D Kapela
Kau..... T C Wills, C Meinecke

Maui—
Wailuku. Chas Wilcox, J Haole, A N Kepoikai, P Pakualani, J Kealoalii.
Lahaina.....D Kahaulelio
Makawao..H P Keliikipi, H Kawainaka, Jas Anderson, M Naaieono.
Hana..P Momoa, S W Kaai, D Napihao, J Nakila, Jr, C Andrews, P H Kauimakaole, Kaanapali .....S M Sylva
Molokai..R W Meyer, D Kalua, K Kainuwai. J H Babcock.

Lanai.....
Oahu—
Kona..W J Smith, C T Gulick, J H Boyd, P Jones, J H Thompson.
Koolaupoko..... .....E P Aikue
Koolauloa..W C Lane, J L Naili, L B Nainoa
Ewa and Waianae.....J Kahalualani, D Malo
Waialua ..... J F Anderson

Kauai—
Koloa.....A W Maioho, J Kala
Lihue.....J H K Kaiwi
Kawaihau.....W H Williams
Hanalei..Naohenui, J Kakina, Kaumeheiwa, J H Barenaba, E Kuapuhi.
Waimea.....S E Kaula, E L Kauai, D Kua.
Niihau .....F Sinclair, G S Gay

Commissioners of Private Ways and Water Rights.

HAWAII.

Hilo.....J T Brown
Hamakua.....
North Kohala.....E C Bond
South Kohala..... Z Pakiki
Kau.....J H S Martin
Puna.....A W Maioho

MAUI.

Lahaina.....M Makalua
Wailuku.....S E Kaiue
Makawao.....E Helekunihi
Hana.....S W Kaai
Kaanapali.....J A Kaukau
Molokai.....D Kailua

OAHU.

Kona.....Mrs E M Nakuina
Koolaupoko.....G Barenaba
Koolauloa.....J Kaluhi
Waialua.....J Amara
Ewa and Waianae.....J Kekahuna

KAUAI.

Koloa and Lihue.....S R Hapuku
Waimea.....E L Kauai
Hanalei and Kawaihau.....S U Kaneole

Agents to Take Acknowledgments to Instruments.

ISLAND OF OAHU.

Honolulu..M Brown, F M Hatch, W A Whiting, A S Hartwell, V V Ashford, F W Macfarlane, J M Vivas, P Jones, W L Wilcox, W L Holokahiki, J M Kaneakua, S M Kaaukai, D Dayton, W C Parke, H Holmes.
Ewa.....L K Halualani
Waianae.....J K Kekahuna
Waialua.....S N Emerson, S K Mahoe
Koolauloa..W C Lane, H Kauaihilo, E P Aikue
Koolaupoko.....A Ku

ISLAND OF MAUI.

Lahaina.....H Dickenson.
Kaanapali.....D M Kalama
Honuaula.....S P Halama
Wailuku..T W Everett, W S Maule, G P Wilder, A N Kepoikai.
Makawao.....S F Chillingworth, J Kalama, J Kamakele.
Hana.....J Grunwald, J Gardner, S W Kaai
Kaupo.....J Kawaiaea
Koolau.....Jas Saunders
Kipahulu.....J Nakila, Jr

MOLOKAI AND LANAI.

Molokai—Kalae, R W Meyer, Pukoo, S P Kupihea; Hulawa, M Kane; Kalaupapa, Ambrose Hutchinson, D H Pierce.
Lanai.....

ISLAND OF HAWAII.

N Kohala..D S Kahookano, J W Moanauli, C H Pulaa.
S Kohala.....F Spencer, Geo Bell, Miss E W Lyons.
Hamakua—J W Leonhart, T P Kaaeae, Chas Williams.
Hilo..W C Borden, G W A Hapai, A B Loebenstein, S W Pa, D I Wailani, J T Unea, Jas Mattoon.
Puna.....J Kauwila
Kau.....C Meinecke, W Kaaemoku, G S Patten
S Kona.....J W Maele
N Kona.....D Alawa, J W H I Kihe

ISLAND OF KAUAI.

Koloa.....E Strehz
Waimea.....L H Stolz, E L Kauai
Lihue.....S W Wilcox, J B Hanaike
Hanalei....J C Long, J B Alexander, J Radway
Kawaihau.....L K Kaumualii, J M Kealoha
Niihau.....J B Kaomea

Inspectors of Animals.

Oahu.....W T Monsarratt, V S, P Isenberg Jr.
Hawaii..W H Shipman, A Wall, C E Richardson
Maui.....W Marshall, S F Chillingworth,
Kauai.....S Hundley. L Kahlbaum

Notaries Public.

Hawaii..D Porter, E W Barnard, A E Hitchcock, Thos Aiu, J Kaeo, W Kaaemoku, W J Wright S H Haaheo, J S Smithies, W L Eaton, S Haanio, Jr, Jas Bright, I K Kekaula, I H Sherwood, F E Richards, G P Tulloch, W P Fennel, C Williams, D H Nahinu, Z Paakiki, J K Naeole, S W Kekuewa.
Maui.....J P Silva, C H Dickey, W F Mossman, M Makalua, E Helekunihi, E Lililehua, J Richardson, P K Kauimakaole, W P Haia, S E Kaiue, E B Friel, P M Kaluna, F W Hardy, J H Babcock.
Oahu..J H Paty, C T Gulick, S B Dole, Jas M Monsarrat, M Brown, T W Hobron, V V Ashford, W Foster, C L Carter, J L Kaulukou, N M Lowrey, J A Magoon, G K Wilder, W C Achi, J M Camara Jr, S K Ka-ne, C W Ashford, E Johnson, F J Testa, J A Hassinger, C F Peterson, D Lamb, C E Vida, H Lose, A Rosa, J H Thompson. J H Kahookano, N Fernandez, J H Paele, H Holmes, W L Peterson, J W Luning, J H Nakookoo, A M Brown, J K Kaupu, A Perry.
Kauai..L H Stolz, J C Long, J A Akina, J H Kawelo, Jno M Kealoha.

Agents to Acknowledge Contracts for Labor.

Oahu—Honolulu, C T Gulick, J A Hassinger, J W Robertson, Samuel Kuula, Chas Phillips, Moses Keliiaa, John Lucas, W S Wond, W H Tell, F S Lyman Jr, J E Brown, T N Starkey, F Godfrey J H Thompson.
Waialua—C H Kalama, S N Emerson, S K Mahoe, H N Kahulu.
Koolauloa—M Makuuau, W C Lane, M Kaanuu.
Koolaupoko.....G Barenaba, P E Aikue
Ewa and Waianae..J D Holt, J K Kaanaana, J Kekahuna, J Kahoa.
Hawaii..Hilo, L Severance, L E Swain, A B Loebenstein, D B Wahine.
N Kona.....J G Hoapili, J W Smith
S Kona.....J Nahinu, W J Wright
Hamakua...J P Leiahi, Kimo, J Waiohinu, C Williams, J L Kanakaoluna.
N Kohala..H Rickard, D S Kahookano, J W Moanauli, W L Eaton, G P Tulloch, C J Falk, G H Kaailau.
S Kohala.....Geo Bell, Jas Bright, J Jones
Kau...W Kaaemoku, R Zeigler, J C Searle, C Thompson, T P Harris.
Puna.....J N Kamoku
Maui—Lahaina..K Nahaolelua, S L Kalaikini, J Kulailua, M Makalua, G Kaluakini, T C Forsyth.
Wailuku..J Richardson, P S Kalama, W S Maule, S E Kaiue, C L Kookoo, S E Kaleikau, J Haole, E R Biven.
Makawao..J K Smyth, Keliikipi, P Keaupuni
Hana..F Wittrock, P Kaiumakaole, Kahele, Jr, B K Kaiwiaea, J Murdock, J Hakila, J P Sylva.
Molokai.....Geo Kekipi, S K Piiapoo

Kauai—Koloa, E Strehz, H C Norton, E Kaaloa
Lihue..J B Hanaike, C H Wills, H K Kahale
Hanalei..J W Loka, J Kakina, J Kukuia, J H Mahoe, J B Alexander.
Waimea.....J H Kapukui, S E Kaula, I H Kaapuwai.
Kawaihau ....E Kaiu, J M Kealoha
Niihau.....J B Kaomea

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Minister of Finance ..... His Ex P C Jones
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Auditor General.....Geo J Ross
Collector General of Customs.....A S Cleghorn
Clerk of Registrar ....C A Widemann
Tax Assr and Collr, Oahu..... C N Spencer
" " Maui..... C H Dickey
" " Hawaii ..... H C Austin
" " Kauai... ... ...J K Farley
Collector Port of Hilo... .....J Stupplebeen
Collector Port of Kahului.....E Hoffmann
Collector Port of Lahaina (ex-officio) F H Hayselden.
Collector Port of Mahukona .....J S Smithies
Collector Port of Kealakekua.....———
Collector Port of Kawaihae.....———
Collector Port of Koloa.....E Strehz
Port Surveyor, Kahului.....W S Maule
Port Surveyor, Hilo.....G Nakapuahi

Customs Department, Honolulu.

Collector .....A S Cleghorn
Deputy Collector..... .....G E Boardman
Bookkeeper.....O Stillman
Statistical Clerks..Wm Chamberlain, C K Stillman, C E Coville, J B Gibson.
Store Keeper.....F B McStocker
Assistant Store Keeper.....E Langley
Harbor Master.....Capt A Fuller
Pilots—Captains A McIntyre, P P Shepherd, J C Lorenzen
Port Surveyor.....C L Crabb
Guards—J Crowder, G Parminter, E Devauchelle R W Holt, W H Aldrich, C H Clark.

Post Office Department.

Walter Hill.....Postmaster-General
J G Rothwell.....Book-keeper and Cashier
E Wodehouse.....Savings Bank Department
F B Oat .....Money Order Department
G E Thrum ..... General Delivery Department

Department of Attorney-General.

Attorney-General..... ....His Ex C Brown
Deputy Attorney-General.....G K Wilder
Marshal of the Hawaiian Islands.. ..C B Wilson
Deputy Marshals.....J A Mehrtens
Clerk to Marshal.....H M Dow
Sheriff of Hawaii.....E G Hitchcock
Sheriff of Maui.....F H Hayselden
Sheriff of Kauai.....S W Wilcox
Jailor of Oahu Prison.....A N Tripp

Oahu—Deputy Sheriffs, Ewa, W S Wond; Waianae, S K Hui; Waialua, J Amara; Koolauloa, H Kauaihilo; Koolaupoko, E P Aikue.

Kauai—Sheriff, S W Wilcox; Deputy Sheriffs: Lihue, C H Willis; Koloa, E Kaaloa; Waimea, L H Stolz; Hanalei, W E H Deverill, Kawaihau, S Kaiu.
Molokai—Deputy Sheriff, Pukoo, E Lililehua.

Maui-Sheriff. F H Hayselden; Deputy Sheriffs, Lahaina, R P Hose; Wailuku, S F Chillingworth; Makawao, Lorrin Andrews; Hana, M H Reuter.

Hawaii—Sheriff, E G Hitchcock; Deputy Sheriffs, North Hilo, L E Swain; Hamakua, J W Moanauli; South Kohala, W Hookuanui; North Kohala, Chas Pulaa, North Kona, J K Nahale; South Kona, Lakalc; Kau, W J Yates; Puna, J E Eldarts.

Board of Prison Inspectors.

Jas G Spencer, J F Colburn, W A Whiting.

Board of Education.

President .....Chas R Bishop
Members—W D Alexander, W W Hall, S M Damon, W Hill.
Inspector General of Schools.....A T Atkinson
Secretary.....W J Smith
Assistant .....G C Potter

School Agents in Commission.

HAWAII.

Hilo.....L Severance
Puna.....J E Eldarts
Kau.....C Meinecke
North and South Kona.....J D Paris, Jr
South Kohala.....Miss E W Lyons
North Kohala.....Dr B D Bond
Hamakua .....C Williams

MAUI.

Lahaina and Lanai.....H Dickenson
Wailuku.....A Barnes
Hana .....F Wittrock
Makawao .....C H Dickey
Molokai.....R W Meyer

OAHU.

Honolulu.....W J Smith
Ewa and Waianae.....W J Smith
Waialua.....J F Anderson
Koolauloa.....W C Lane
Koolaupoko.....(acting) W J Smith

KAUAI.

Waimea and Niihau.....T H Gibson
Koloa, Lihue.....J K Burkett
Hanalei..... W E H Deverill
Kawaihau.....G H Fairchild

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President.....C R Bishop
Vice-President.....F A Schaefer
Secretary and Treasurer.....J B Atherton

Board of Underwriters—Agencies.

Boston.....C Brewer & Co
Philadelphia.....C Brewer & Co
New York..... .....A J Cartwright
Liverpool.....T H Davies & Co
Lloyds, London.....T H Davies & Co
San Francisco.....H Hackfeld & Co
Bremen, Dresden, Vienna.....F A Schaefer

Honolulu Board of Underwriters.

F A Schaefer.....President
J H Paty.....Vice-President
C O Berger.....Secretary and Treasurer

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Boston Packets.....C Brewer & Co
Planters' Line, San Francisco....C Brewer & Co
Pioneer, Liverpool.....T H Davies & Co
Merchants' Line, San Francisco..Castle & Cooke
New York Line.....Castle & Cooke
Oceanic S S Co's Line.....W G Irwin & Co
Pacific Mail S S Company....H Hackfeld & Co
Oriental and Oceanic S S Co..H Hackfeld & Co
Bremen Packets.....H Hackfeld & Co
Hawaiian Packet Line S F....H Hackfeld & Co
Glasgow and Honolulu.....F A Schaefer & Co

Honolulu Fire Department.

Organized 1851. Biennial Election of Engineers First Monday in December.

Officers for 1890-92:

Chief Engineer.....Julius Asch
First Assistant Engineer.....Jas H Hunt
Second Assistant Engineer.....D L Kalawaia
Secretary and Treasurer.....Henry Smith
Fire Marshal and Survey Engineer.....Jno Neil

Honolulu Engine Company No 1 (steam) formed 1850, organized July 18, 1855. Annual election of officers, first Wednesday in July.

Mechanic Engine Company No 2, (steam) organized December, 1850, admitted February 3, 1850. Annual election of officers, first Wednesday in February.

Hawaii Engine Co No 4, (steam) organized February, 1861. Annual election of officers, first Tuesday in February.

China Engine Company No 5 (steam), organized February, 1879.

Protection Hook and Ladder Company No 1, re-organized September, 1857. Annual election of officers, first Monday in September.

Fire Police, Captain T E Krouse.

Fire Wards of Honolulu.

No. 1—Bounded by School, Likelike, Judd and Punchbowl streets.

No. 2—Bounded by Beretania, Liliha, School and Fort streets.

No. 3—Bounded by King, Beretania and Fort streets.

No. 4—Bounded by Water Front, King and Fort streets

No. 5—Bounded by Water Front, Fort, King and Richard streets.

No. 6—Bounded by King, Fort, Beretania and Richard streets.

No. 7—Bounded by Beretania, Fort, School and Punchbowl streets.

No. 8—Bounded by Water Front, Richards, Beretania and Punchbowl streets.

No. 9—Bounded by Water Front Punchbowl and Victoria streets.

No. 10—Bounded by King, Victoria and Piikoi streets.

No. 11—Bounded by Piikoi, Wilder avenue and Punahou streets.

No. 12—Beyond Punahou street.

No. 13—The Harbor.

Queen's Hospital.

ERECTED IN 1860.

President.....Her Majesty
Vice-President.....C R Bishop
Sec'y.....F A Schaefer | Treas.....J H Paty
Auditor.....J S Walker
Physicians.....G P Andrews, C B Wood
Executive Committee—C R Bishop, J H Paty, F A Schaefer, A S Cleghorn.

Hawaiian Historical Society.

Organized Jan., 11, 1892.

President.....Hon C R Bishop
Vice-President.....J S Emerson
Recordiug Secretary.....Rev C M Hyde, D.D.
Corresponding Secretary... Prof W D Alexander
Treasurer.....G P Castle
Librarian.....Rev R R Hoes, U.S.N.

American Relief Fund.

Organized 1864. Meets annually February 22
President.....
Secretary and Treasurer.....C R Bishop

British Club.

Organized 1852. Premises on Alakea Street, two doors below Beretania.

President.....A S Cleghorn
Sec'y.....F M Swanzy | Treas.....J G Spencer
Managers—A S Cleghorn, W A Whiting, F M Swanzy, J G Spencer, A Jaeger, Dr Robt McKibbin, H Focke.

British Benevolent Society.

Organized 1860. Meets annually April 23.

President.....J H Wodehouse
Vice-President.....Rev A Mackintosh
Sec'y....F M Swanzy | Treas.....

German Benevolent Society.

Organized August 22, 1856.

President.....J F Hackfeld
Secretary.....John F Eckart
Treasurer.....F Klamp

Portuguese Ladies' Benevolent Society.

Organized December, 1886.

President.....Mrs Cannavaro, Mrs W G Irwin, Mrs C M Hyde
Vice-Presidents.....
Secretary.....Mrs Wm Foster
Treasurer.....E Hutchinson

The St. Antonio Benevolent Society.

Organized 1876: Incorporated 1890.

President.....J M Camara, Jr
Vice-President.....J B Vieira
Secretary.....J S Ramos
Treasurer.....C L Brito

Portuguese Mutual Benefit Society of Hawaii.

Organized Jan. 1882: Incorporated 1887.

President.....J M Vivas
Vice-President.....J G Silva
Secretary.....M Gomao Silva
Treasurer.....A G Silva, Jr

Stranger's Friend Society.

Organized 1852. Annual Meeting in June.

President.....Mrs W F Allen
Vice-Presidents..Mrs A Mackintosh, Mrs T H Hobron.
Secretary.....Mrs S M Damon
Treasurer.....Mrs E W Jordan
Directress.....Mrs S H Dowsett

Mission Children's Society.

Organized 1851. Annual Meeting in June.

President ..... W R Castle
Vice-President ..... Mrs S B Dole
Recording Secretary ..... W J Forbes
Cor Secretary ..... Mrs L B Coan
Elective Members .. Mrs A S Hartwell, Dr N B Emerson.
Treasurer ..... W F Frear

Board of Hawaiian Evangelical Association.

Originally organized 1823.

Constitution revised 1863. Annual meeting June
President ..... Hon A F Judd
Vice-President ..... H Waterhouse
Corresponding Secretary ..... Rev O P Emerson
Recording Secretary ..... Rev C M Hyde, D D
Treasurer, W W Hall | Auditor, J B Atherton

Woman's Board of Missions.

Organized 1871.

President ..... Mrs C M Hyde
Recording Secretary ..... Mrs S E Bishop
Home Cor Sec'y ..... Mrs G P Castle
Foreign Cor Sec'y ..... Mrs E H McCully
Treasurer ..... Mrs B F Dillingham
Auditor ..... W W Hall

Sailors' Home Society.

Organized 1853. Meets annually in December.

President ..... C R Bishop
Secretary, F A Schaefer | Treasurer, J H Paty
Ex Com, S M Damon, J B Atherton, C M Cooke

Missionary Gleaners—Branch of Woman's Board.

President ..... Mrs E Jones
Vice-President ..... Miss C Gilman
Rec Secretary ..... Miss E R Hopper
Cor Secretary ..... Mrs E C Damon
Treasurer ..... Mrs T W Hobron
Directress ..... Miss H S Judd

Woman's Christian Temperance Union.

Organized Dec., 1884.

President ..... Mrs J M Whitney
Vice-Presidents ..... Mrs C M Hyde, Mrs E G Beckwith, Mrs E W Jordan.
Recording Secretary ..... Mrs R Jay Greene
Corresponding Secretary ..... Mrs E W Jordan
Treasurer ..... Mrs L B Coan
Auditor ..... W A Bowen

Young Men's Christian Association.

Organized 1869. Annual meeting in April.

President ..... Hon J B Atherton
Vice-President ..... C B Ripley
Secretary ..... W L Howard
Treasurer ..... H F Wichman
General Secretary ..... H W Peck

Library and Reading Room Association.

Organized March, Incorporated June 24, 1879.

President ..... A J Cartwright
Vice-President ..... M M Scott
Secretary ..... H A Parmelee
Treasurer ..... Miss M A Burbank

Hawaiian Rifle Association.

Organized December, 1885.

President ..... J H Soper
Vice-President ..... Hon S B Dole
Secretary and Treasurer ..... Walter E Wall

Honolulu Cemetery Association.

President ..... Hon J I Dowsett
Vice-President ..... Hon J T Waterhouse, Jr
Secretary ..... J H Paty
Treasurer ..... B Cartwright

Oahu College.

Located at Punahou, two miles east of Honolulu.

F A Hosmer, A M ..... President
Mental and Moral Sciences.
A B Lyons, M D, F C S, Chemistry and Natural Sciences.
Miss L F Dale, Vocal and Instrumental Music and French.
A W Crockett, A B., Latin and English Literature.
Miss M R Wing ..... Greek, Rhetoric, etc
J Q Wood, A B .. Mathematics, History and English.
P H Dodge ..... Drawing and Painting

Punahou Preparatory.

Miss Margaret Brewer, Principal: First and Second Grades.
Miss Helen M Sorenson. Third and Fourth Grades.
Miss Ella B Snow ..... Fifth and Sixth Grades
Miss Carrie A Gilman .. Seventh and Eighth Grades.
Miss M Birch Fanning ..... Kindergarten

Kamehameha Schools.

Located at Kalihi, west of Honolulu.

Rev W B Oleson ..... Principal
U Thompson, Asst ... Instructor in Carpentry
G H Babb Asst ..... Instructor in Wood-turning
R B Anderson ..... Supt. Manual Labor
L C Lyman ..... Drawing, Supt. Machine Shop
Mr Ruetsky, Assist ..... Instructor in Printing
Miss C Pope, Asst ..... Instructor in Sewing
Mrs W B Oleson ..... Assistant

Kamehameha Preparatory.

Miss Malone ..... Principal
Misses E Halstead, A E Knapp, R Hoppin Assistants.

Publications.

The *Hawaiian Gazette*, issued weekly by the Hawaiian Gazette Co. on Tuesdays. H M Whitney, Manager.

The *Daily Pacific Commercial Advertiser*, issued by the Hawaiian Gazette Co. every morning (except Sundays). H N Castle, Editor; H M Whitney, Manager.

The *Daily Bulletin*, issued every evening (except Sundays), by the Daily Bulletin Co. D Logan, Editor. Weekly issue on Tuesdays.

The *Friend*, issued on the first of each month. Rev. S. E. Bishop, Editor.

The *Anglican Church Chronicle*, issued on the first Saturday of every month. Rev. A. Mackintosh, Editor.

The *Paradise of the Pacific*. issued monthly. F Godfrey, Editor, J J Williams, Manager.

The *Planters' Monthly*, issued on the 15th of each month. H. M. Whitney, Editor.

The Honolulu Diocesan Magazine, issued quarterly. Rt Rev Bishop Willis, Editor.

The *Kuokoa* (native), issued every Saturday morning, by the Hawaiian Gazette Co. J U Kawainui, Editor.

A Uniao Lusitana-Hawaiiana, amalgamation of the *Luso* and *Aurora*, (Portuguese) issued every Saturday, C Pereirra, Editor.

The *Hawaiian-Chinese News*, issued weekly, Ho Fon, Editor.

Hawaii Holomua (native), issued daily and weekly. J G M Sheldon, Editor.

The *Ka Oiaio* (native), issued every Friday, J E Bush Editor. Issues also a daily, *Ka Leo o ka Lahui* for native, and *The Voice of the Nation* for English readers.

Chinese Times, issued weekly, Chang Tin Sang, Editor.

The *Japanese Weekly News*, issued Mondays in the Japanese language. B Onoma, Editor.

The Liberal, issued semi-weekly, part English and part Hawaiian. Hon R W Wilcox, Editor

Handicraft, issued monthly during the school year at the Kamehameha School. Rev W B Oleson, Editor.

A Sentinella (Portuguese), issued weekly on Saturday. J M Vivas, Editor.

HAWAIIAN ALMANAC AND ANNUAL, issued the latter part of December for the following year. Thos G Thrum, Editor and Publisher.

Lodges.

LODGE LE PROGRES DE L'OCEANIE, No 124, A F & A M; meets on King St., on the last Monday in each month.

HAWAIIAN, No 21, F & A M; meets in its hall corner Queen and Fort Streets, on the first Monday in each month.

HONOLULU CHAPTER, No 1, R A M; meets in the hall of Le Progres de l'Oceanie on the third Thursday of each month.

HONOLULU COMMANDERY No 1 KNIGHTS TEMPLAR meets at the Lodge Room of Le Progres de l'Oceanie second Thursday of each month.

KAMEHAMEHA LODGE OF PERFECTION. No. 1. A & A S R; meets in the hall of Le Progres de l'Oceanie on the fourth Thursday of each month.

NUUANU CHAPTER OF ROSE CROIX, No 1, A & A S R; meets at the hall of Le Progres de l'Oceanie, first Thursday in the month.

ALEXANDER LIHOLIHO COUNCIL No 1, OF KADOSH; meets on the third Monday of alternate months from February.

EXCELSIOR LODGE, No 1, I O O F; meets at the hall in Odd Fellows' Building, on Fort St, every Tuesday evening.

HARMONY LODGE, No 2, I O O F; meets each Monday evening in Harmony Hall.

POLYNESIA ENCAMPMENT, No 1, I O O F; meets in Odd Fellows' Building, Fort street, first and third Fridays of each month.

PACIFIC DEGREE LODGE, No 1, DAUGHTERS OF REBEKAH; meets at Excelsior Hall, Fort street, second and fourth Fridays of each month.

OAHU LODGE No 1, K of P; meets every Wednesday at hall on Fort Street.

MYSTIC LODGE, No 2, K of P; meets every Thursday evening, at Harmony Hall.

SECTION No 225—ENDOWMENT RANK, K of P; meets on the second Saturday of January, July and December in the hall of Oahu Lodge.

MAILE LODGE, No. 4, KNIGHTS OF PYTHIAS; meets every Saturday night in Lyceum Building, Honokaa, Hawaii. Visiting brothers always welcome.

HAWAIIAN COUNCIL No 689, AMERICAN LEGION OF HONOR; meets on second and fourth Friday evenings of each month in Harmony hall.

OCEANIC COUNCIL, No 777, AMERICAN LEGION OF HONOR; meets on the first and third Thursdays of each month, at the K of P hall.

HAWAIIAN TRIBE, No 1, IMP. O R M; meets at the hall of Oahu Lodge, K of P, every Friday evening.

COURT LUNALILO, No 6600; A O of FORESTERS meets at hall of Oahu Lodge, K of P, on second and fourth Tuesdays of each month.

GEO. W DE LONG POST, No 45, G A R; meets the second Tuesday of each month at Harmony hall.

CAPT. COOK LODGE No. 353, ORDER SONS OF ST. GEORGE; meets at the K of P Hall, Fort st., every Saturday evening.

Places of Worship.

CENTRAL UNION CHURCH (Congregational), corner of Beretania and Richards sts, Rev E G Beckwith, D.D., Pastor. Services every Sunday at 11 A M and 7:30 P M. Sunday School meets one hour before morning service. Prayer meeting Wednesday evenings at 7:30.

ROMAN CATHOLIC CHURCH, Fort Street, near Beretania; Rt Rev Gulstan F Ropert, Bishop of Panopolis; Revs Leonor and Clement, assisting. Services every Sunday at 10 A M, and at 4:30 P M. Low Mass every day at 6 and 7 A M. High Mass Sundays and Saints' days at 10 AM.

ST. ANDREW'S CATHEDRAL, Emma Square. First Congregation. Clergy: Rt Rev Bishop Willis, and Rev V H Kitcat. Services on Sunday: Holy Communion at 6.30 A M. Morning prayer, with sermon at 11 A M. Hawaiian Evensong 3:30 P M. Evening Prayer with sermon 7:30 P M. Holy Communion at 11 A M the last Sunday in each month. Sunday School 10 A M. Daily prayer at 7 A M.

Second Congregation, Rev A Mackintosh, Pastor. Services on Sunday: Morning prayer with sermon, 9:45 A M; Evening prayer with sermon 6:30 P M. Holy Communion first Sunday in month, 9.45 A M. Sunday School 10 A M. Evening prayer, with address, every Friday, at 7:30 P M.

Chinese Congregation. Services on Sunday at 11 A M and 7:30 P M. Evening prayer every Wednesday, at 7:30 P M.

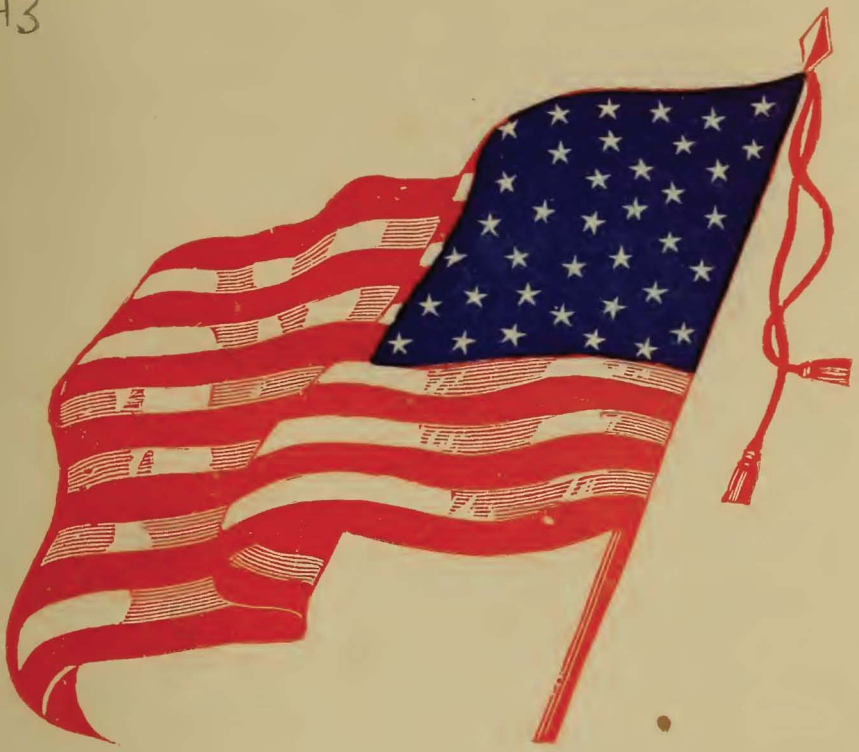
CHRISTIAN CHINESE CHURCH, Fort Street, F W Damon, acting Pastor. Services every Sunday at 10:30 A M and 7:30 P M. Prayer Meeting Wednesdays at 7:30 P M.

NATIVE CHURCHES.

KAWAIAHAO CHURCH (Congregational), corner of King and Punchbowl Streets, Rev H H Parker, Pastor. Services in Hawaiian every Sunday at 11 A M, and at 7:30 on Sunday evenings alternating with Kaumakapili. Sunday School at 10 A M. Prayer Meeting, Wednesday at 7:30 P M.

KAUMAKAPILI CHURCH (Congregational), Beretania street near Maunakea. Rev J Waiamau, Pastor. Services in Hawaiian every Sunday at 11 A M, and at 7:30 P M on Sunday evenings alternating with Kawaiahao. Sunday School at 10 A M. Prayer Meeting every Wednesday at 7:30 P M.

Appendix “IV”



PROGRAMME

for

Patriotic Exercises in the Public Schools

Territory of Hawaii,

Adopted by the Department of Public Instruction.

1906

PROGRAMME FOR PATRIOTIC EXERCISES

I.

Formation and Salute to Flag.

(a) At three minutes to nine o'clock the children assemble in front of the school, the classes forming a circle (or circles) about the flag pole or facing the building over which the stars and stripes are to float. The principal gives the order, "Attention!" or "Face!" The boys remove hats and the teachers, and pupils watch the flag hoisted by two of the older boys. When it reaches the top of the flag-pole, the principal gives the order, "Salute!" or three cheers may be given for the flag as it is being raised.

At nine o'clock the pupils march to their class rooms to the beating of a drum or to some march played by the pianist or school band.

On reaching their class rooms, the children may stand by their seats and repeat in concert the following salutation:

"We give our heads and our hearts to God and our Country! *One Country! One Language! One Flag!*"

(NOTE: The flag is dipped while the children raise the right hand, forefinger extended, and repeat the pledge. When they salute, the flag is raised to an upright position.)

(b) All the children to be drawn up in line before the school building.

A boy and a girl each holding a medium-sized American flag, stand one on the right and one on the left of the school steps. Boy on the right and girl on the left. The flags should be held military style.

The children at a given signal by the principal or teacher in charge, file past the flags, saluting in correct military manner. The boys to the right and the girls to the left, entering and taking their positions in the school. The flag bearers enter last, and take their positions right and left of the principal, remaining in that position during the salutation, "We give our heads and our hearts to God and our Country! *One Country! One Language! One Flag!*"

The flag bearers place the flags in position at the head of the school. The boy and girl who carry the flags should be chosen from among the pupils for good conduct during the hours of school.

(c) Pupils attention! at chord on piano or organ, or stroke of drum or bell.

The teacher will call one of the pupils to come forward and stand at one side of desk while the teacher stands at the other. The pupil shall hold an American flag in military style.

At second signal all children shall rise, stand erect and salute the flag, concluding with the salutation, "We give our heads and our hearts to God and our Country! *One Country! One Language! One Flag!*"

II.

Morning Prayer (in unison).

(a) THE LORD'S PRAYER;

Or

(b) Dear Lord we thank thee for the night
That brought us peaceful rest,
We thank thee for the pleasant light
With which our day is blessed;
We thank thee for our native land,
The dearest in the world;
We thank thee for our starry flag
For freedom's sake unfurled.

O, make us worthy, God, to be
The children of this land,
Give us the truth and purity
For which our colors stand,
May there be in us greater love
That by our lives we'll show
We're children true of God above
And our country here below.

Or

(c) "Hawaii's land is fair,
Rich are the gifts we share.
This is our earnest prayer
O Lord of Light,
That as a noble band
We may join heart and hand
Till all Hawaii's land
Stands for the right."

P. H. DODGE.

III.

Patriotic Song.

Any one of following:

AMERICA;

STAR SPANGLED BANNER;

THE RED, WHITE AND BLUE;

BATTLE HYMN OF THE REPUBLIC;

RALLY ROUND THE FLAG;

YANKEE DOODLE;

HAIL COLUMBIA;

HOME, SWEET HOME;

COLUMBIA, THE GEM OF THE OCEAN;

GLORY—GLORY—HALLELUJAH;

MY OWN UNITED STATES;

JOHN BROWN'S BODY.

IV.

Patriotic Topics for Day.

(a) FORMAL TALK BY THE TEACHERS ON—

1.—Presidents and Famous Men;
2.—Great Events in History and Science;
3.—Current Events in United States;
4.—Vivid descriptions (illustrated whenever possible) of Great Industries, Cities, Famous Localities, Physical and Climatic Conditions.

(b) QUOTATIONS OR RECITATIONS.

It is the idea that on each Monday morning a new text be introduced in a brief talk by the teacher, written on the board, and during the week repeated by the pupils each day.

QUOTATIONS.

Our parents are dear to us; our children, our kinsmen, our friends are dear to us, but our country comprehends alone all the endearments of all.—*Cicero.*

"I was summoned by my country, whose voice I never hear but with veneration and love."—*George Washington.*

The union of hearts, the union of hands,
And the flag of our Union forever.
—*G. P. Morris.*

And never shall the sons of Columbia be slaves,
While the earth bears a plant, or the sea rolls its waves.
—*Joseph Thrumbull.*

One flag, one land, one heart, one hand,
One nation ever more! —*Holmes.*

Our fathers brought forth upon this continent a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.—*Abraham Lincoln.*

Liberty and Union, now and forever, one and inseparable.—*Daniel Webster.*

Let our object be our country, our whole country, and nothing but our country.—*Daniel Webster.*

Our Country—to be cherished in all our hearts, to be defended by all our hands.—*Robt. C. Winthrop.* (Given as a toast in Faneuil Hall.)

Lose then the sense of your private sorrows and lay hold of the common good.—*Demosthenes.*

In peace there's nothing so becomes a man as modest stillness and humility; But when the blast of war blows in our ears, then imitate the action of the tiger.—*Shakespeare.*

You cannot, my lords, you *cannot* conquer America.—*Wm. Pit,* Earl of Chatham.

If I were an American as I am an Englishman, while a foreign troop was landed in my country, I would never lay down my arms—never, never, never.—*Wm. Pitt,* Earl of Chatham.

What is the individual man, with all the good or evil that may betide him, in comparison with the good or evil which may befall a great country?—*Daniel Webster.*

I advise you not to believe in the destruction of the American nation. (Time of Civil War.)—*John Bright.*

I believe there is no permanent greatness to a nation except it be based on morality.—*John Bright.*

Our business is like men to fight. And hero-like to die.—*Wm. Motherwell.*

A star for every state and a state for every star.—*Robt. C. Winthrop.*

I call upon yonder stars which shine above us to bear witness—that liberty can never die.—*Victor Hugo.*

Four years ago, O Illinois, we took from your midst an untried man, and from among the people. We return him to you a mighty conqueror; not thine any more, but the nation's; not ours, but the world's.—*Henry Ward Beecher.* (On Lincoln).

If it be the pleasure of Heaven that my country shall require the poor offering of my life, the victim shall be ready at the appointed hour of sacrifice, come when that hour may.—By *Daniel Webster.*

There's freedom at thy gates, and rest
For earth's downtrodden and opprest,
And shelter for the hunted head;
For the starved laborer, toil and bread.
(America). By *Wm. Cullen Bryant.*

We mutually pledge to each other our lives, our fortunes, and our sacred honor. (Declaration of Independence.)'—*Thomas Jefferson.*

Let us have peace.—*U. S. Grant.*

Fondly do we hope, fervently do we pray, that this mighty scourge of war may soon pass away.—*Abraham Lincoln.*

I was born an American; I live an American; I shall die an American; and I intend to perform the duties incumbent upon me in that character to the end of my career.—*Daniel Webster.*

Seek the forests where shone the sword of Washington. What do you find? A place of tombs? No, A World. Washington has left the United States as a trophy on his battlefield.—*Chateaubriand.*

The man who loves home best and loves it most unselfishly, loves his country best.—*J. G. Holland.*

I know not what course others may take; but, as for me, give me liberty or give me death.—*Patrick Henry.*

Breathes there a man with soul so dead
Who never to himself hath said,
"This is my own, my native land!"
Whose heart hath ne'er within him burned
As home his footsteps he hath turned,
When wandering on a foreign strand?—*Sir Walter Scott.*

Ye people, behold, a martyr whose blood—pleads for fidelity, for law, and for liberty.—*Henry Ward Beecher.* (On Lincoln.)

Stand by the flag, all doubt and treason scorning,
Believe with courage firm and faith sublime,
That it will float until the eternal morning
Pales in its glories all the lights of time.
John Nicholas Wilder.

There is the national flag. He must be cold indeed who can look upon its folds rippling in the breeze without pride of country.—*Charles Sumner.*

We cannot honor our country with too deep a reverence; we cannot love her with an affection too fervent; we cannot serve her with faithfulness of zeal too steadfast and ardent.—*Thos. Smith Grimke.*

My angel—his name is Freedom,
Choose him to be your king;
He shall cut pathways east and west
And fend you with his wing.

Let us animate and encourage each other, and show the whole world that a freeman contending for liberty on his own ground is superior to any slavish mercenary on earth.—*George Washington.* (In a speech to his troops before the battle of Long Island.)

——— that the nation shall, under God, have a new birth of freedom, and that government of the people, by the people, and for the people shall not perish from the earth.—*Abraham Lincoln.*

Proclaim liberty throughout the land to all the inhabitants thereof.—Inscription on Liberty Bell.

A man's country is not a certain area of land, but a principle, and patriotism is loyalty to that principle.—*Geo. Wm. Curtis.*

Through all history a noble army of martyrs has fought fiercely and fallen bravely for that unseen mistress, their country.—*Geo. Wm. Curtis.*

With malice towards none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in: to bind up the nation's wound; to care for him who shall have borne the battle, and for his widow and orphans; to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.—*Abraham Lincoln.*

The ends I aim at shall be my country's, my God's and truth's.—*Daniel Webster.*

I love my country's good, with a respect more tender, more holy and profound, than my whole life.—*Shakespeare.*

Be just, and fear not; let the ends thou aim'st at, be thy country's, thy God's and truth's.—*Shakespeare.*

"Then conquer we must, for our cause it is just,
And this be out motto,
In God is our trust."

RECITATIONS.

"The Eagle flew; the flag unfurled."

"Speed on our Republic."

"Landing of the Pilgrims."

"Our Chieftain, Washington."

"The Ballot Box."

"Old Liberty Bell."

"Paul Revere's Ride."

"Barbara Fritche."

"Liberty Hall."

"The Union," by Daniel Webster.

Liberty of the Press, by Col. E. D. Baker.

Bunker Hill Monument, by Webster.

Fourth of July, by Daniel Webster.

"Washington's Birthday."

In Favor Liberty, by Patrick Henry.

The Constitution and the Union, by Webster.

"God Wants the Boys and Girls."

"The Boy for Me."

"The Man with the Musket."

"Native Land."

Declaration of Independence.

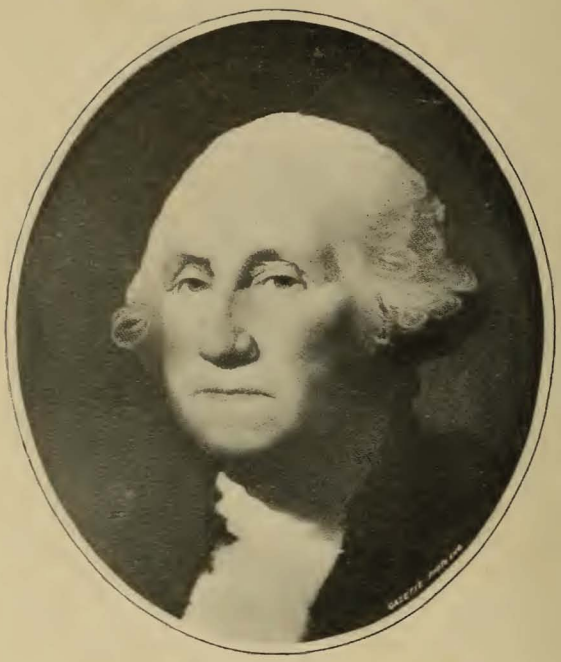
Preamble of the Constitution.

(c) SPECIAL ANNIVERSARY DATE.

Following are suggestive dates. Have picture hung up before the pupils or sketched on the blackboard and as much said of his life and deeds as the time will allow.

DATES. SUBJECT.	REMARKS.
Jan. 18—Daniel Webster	Born Jan. 18, 1782. Recite Bunker Hill Monument.
Jan. 29—McKinley	Born Jan. 29, 1843. Sing "Lead Kindly Light."
Feb. 1—Slavery abolished	Feb. 1, 1865. Sing "Battle Hymn of the Republic." Recite "Battle of Gettysburg."
Feb. 12—Lincoln	Born Feb. 12, 1809. Tell anecdotes and recite "Battle of Gettysburg."
Feb. 21—American Flag made from American Bunting	Tell about our great industries. Sing "Star Spangled Banner." Recite "Speed on the Ship."
Feb. 22—Washington	Born Feb. 22, 1732. Tell stories. Recite "Our Chieftain, Washington."
March 4—Presidents	Inauguration Day. Show pictures of the Presidents or sketch them on blackboards.
March 9—Monitor and Merrimac	Battle March 9, 1862, when the men of the Monitor sang in the midst of the fight, "Yankee Doodle Dandy."
May 9—John Brown	Born May 9, 1800. Sing "John Brown's Body." Tell the story of his life.

DATES.	SUBJECT.	REMARKS.
April 10	"Home, Sweet Home"	The author, John Howard Payne, was born April 10, 1792. Sing the song. Tell stories of his life.
May 20 to 25	The Flag	Joseph R. Drake wrote "America's Flag." Sing this song.
May 30	Memorial Day	Sing "The Battle Hymn of the Republic." Recite "Gettysburg."
June 14	Flag Day	Flag adopted June 14, 1777. Sing "Red, White and Blue" and "Star Spangled Banner."
July 4	Declaration of Independence	Read part of the Declaration of Independence.
Sept. 14	"Star Spangled Banner"	Written by Francis Scott Key, Sept. 14, 1818. Sing this song. Recite "Barbara Fritche."
Sept. 27	Samuel Adams	Born Sept. 27, 1722. Read part of Declaration of Independence, as Adams was the chief man in securing the D. of I.
Oct. 12	Discovery of America	Sing "O Columbia." Recite "Native Land."
Oct. 21	"America"	Dr. Smith, the author, was born Oct. 21, 1808. Sing "America."
Dec. 22	Pilgrim Land	Recite "Landing of the Pilgrims," Dec. 22, 1620.



Appendix “V”

HARPER'S WEEKLY
JOURNAL OF CIVILIZATION

VOL. LI. New York, Saturday, February 16, 1907 NO. 2617

"THEY'LL DO"

HAWAII'S LESSON TO HEADSTRONG CALIFORNIA

HOW THE ISLAND TERRITORY HAS SOLVED THE PROBLEM OF DEALING WITH ITS FOUR THOUSAND JAPANESE PUBLIC-SCHOOL CHILDREN

By WILLIAM INGLIS

SPECIAL CORRESPONDENT FOR "HARPER'S WEEKLY"

HONOLULU, TERRITORY OF HAWAII, *January 15, 1907.*

THE American government in Hawaii has no trouble whatever in dealing with the Japanese pupils in the public schools. Nothing can be more startling to the observer who comes from the bubbling volcano of San Francisco school-politics than the ease with which the annoying race question is handled by intelligent Americans in this garden-spot of the Pacific. There are more than 4000 Japanese pupils here, as against a meagre ninety-three in San Francisco, yet there is no vexation.

There would be nothing to wonder at in the situation if most of the Japanese residents of Hawaii were people of culture and wealth, not competing with American labor. It is the status of the Mikado's subjects in these islands that forces one to admire the diplomacy with which an awkward problem has been handled. For the Japanese in Hawaii are nearly all of the coolie type. They are cheap workers, whether as laborers in the cane-fields or mechanics or artisans of any class. There is bitter strife between them and American labor. Strenuous efforts have been made to exclude Japanese laborers, to prevent Japs from working as mechanics, cabmen, or farriers; to prohibit them from owning drinking-saloons. The Palama, as the Japanese quarter in Honolulu is called, contains six times as many Asiatics as the Chinese quarter of New York, and the Japanese is very fond of driving dull care away with a glass; yet a most determined effort has been made to oust the little brown men from the profitable business of liquor-selling. An attempt was made, too, to compel the Japanese doctors who attend their countrymen here to take medical examinations in the English language, under penalty of not being allowed to practise in this Territory.

All of these anti-Japanese campaigns failed of success because the Territorial courts held that their basis was illegal, inasmuch as it was an invasion of treaty rights. I mention them merely to show how bitter and uncompromising has been the economic warfare upon the Japanese in these islands.

The great difference between the situation here and in California is that the Hawaiian-Americans have fought the Japanese bitterly but according to law and the treaty rights of the foreigners, while the San-Franciscans, with far less provocation, have airily disregarded both law and treaty in order to inflict upon Japan a gratuitous affront.

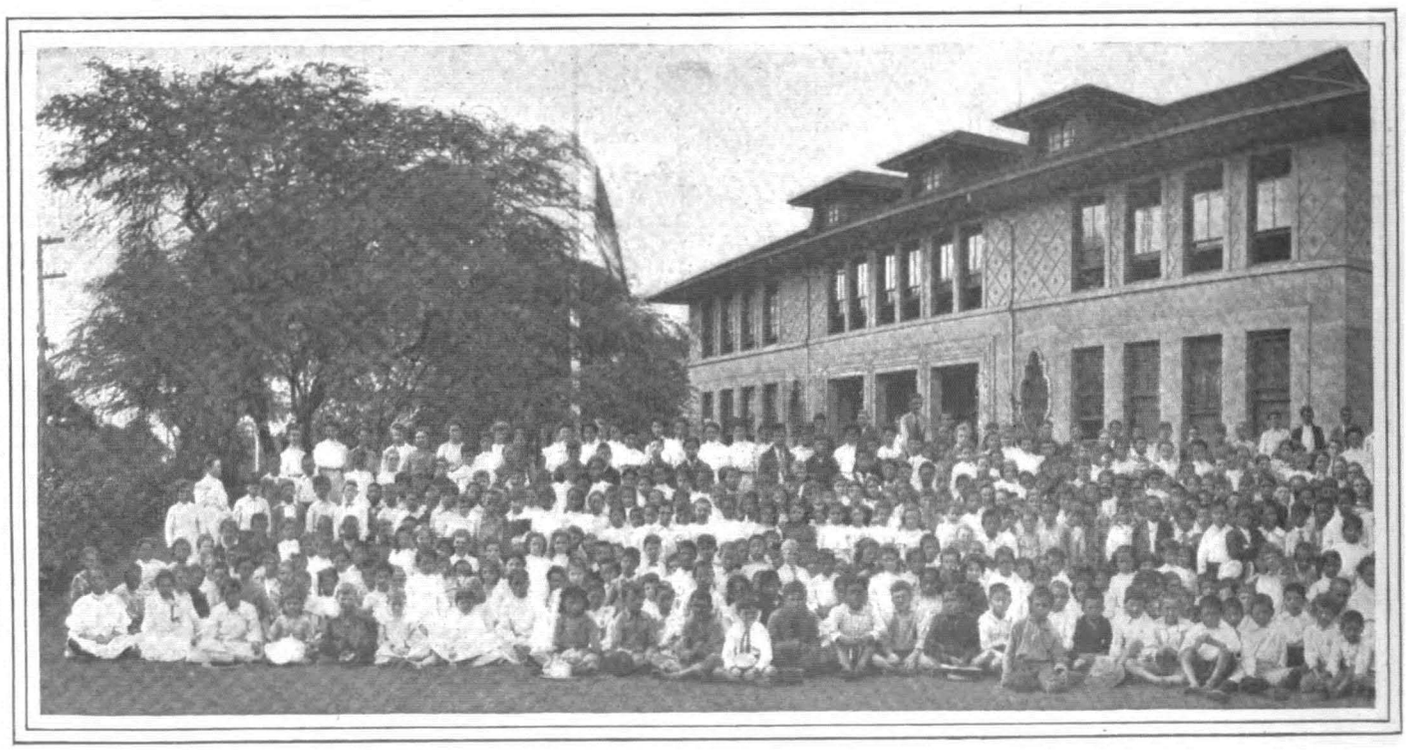
There are more than sixty thousand Japanese in the Hawaiian Islands. Nearly all of them are laborers on the sugar-plantations. Many of them are married, and on every plantation you will find a quaint reproduction of a Japanese village, the houses very like those of the Orient, Japanese women in kimonos going about their daily tasks, and chubby-cheeked, brown-eyed little boys and girls very gravely beginning the solemn business of life.

Whether in town or country, these little folks work with an energy that amazes an American. Their parents want them to learn as much as possible about the history and literature of the land of their fathers; so all the Japanese boys and girls go to a Japanese school from seven o'clock until nine in the morning. Then they attend an American public school from nine o'clock until two in the afternoon. The moment they are free they hurry back to Japanese school and work there until five or six o'clock in the evening. Imagine a school day that lasts from seven in the morning until dark! Yet these brown children thrive on that system. It has been going on for ten years now, and it is impossible to find any record of shattered health or injured eyes as a result of this tremendous industry.

Down in old Mulberry Bend, New-Yorkers have a public school of which they are very proud, because in it the teachers receive young Italians, Greeks, Syrians, Arabs, Japanese, Chinese, Scandinavians, Turks, etc., as raw material and turn them out as a finished product of excellent American citizens. The school is unique in its mixture of races, and for that reason attracts a great deal of attention. In Honolulu that school would pass unnoticed, for in every school you will find little folk of a dozen races working amicably side by side. Such a thing as race prejudice is unknown.

Observe the remarkable mixture shown by the latest census of the schools of Hawaii, taken at the end of last June:

	Public.	Private.	Totals.
Hawaiian	4,045	800	4,845
Part Hawaiian	2,382	1,040	3,422
American	457	502	959
British	142	81	223
German	144	119	263
Portuguese	3,239	1,233	4,472
Scandinavian	63	38	101
Japanese	3,578	719	4,297
Chinese	1,489	603	2,092
Porto-Rican	338	....	338
Other Foreigners	242	104	346
Totals	16,119	5,239	21,358



The Pupils of the Kaahumanu Elementary Grades Public School at Honolulu

THIS PHOTOGRAPH, THE CONTINUATION OF WHICH WILL BE FOUND ON THE OPPOSITE PAGE, GIVES A COMPREHENSIVE IDEA OF THE MANY NATIONALITIES HAWAII HAS PEACEFULLY ACCOMMODATED IN THE CLASS-ROOMS OF HER SCHOOLS, AND HOW SHE HAS SET A LESSON FOR CALIFORNIA'S SCHOOL BOARD

Was there ever such a heterogeneous company since Babel? Yet they are all fused in the great retort of our American schools, and they are coming out good American citizens. Incidentally it may be remarked that the people of Hawaii are prouder of their schools than of anything else in their marvellously rich and beautiful islands. There are 154 public schools, with 435 teachers, and 58 private schools, with 261 teachers. The high schools send pupils to the leading colleges in the United States, and of these many have achieved distinction in letters and science.

In the Kaahumanu and Kaiualani public schools one finds the jumble of races hard at work. There is every hue of skin known to the human species except the black of the negro, which is conspicuously absent. At the same desk in the Kaiualani school a dainty little girl with pink cheeks, blue eyes, and hair of spun gold—the only native American in the school—was sitting beside a girl whose father was a white man and whose mother was Hawaiian. The half-caste child was dark as an Indian and her hair was long, straight, black and coarse as an Indian's. At the desk before these two sat two Japanese girls, about ten years old. They were demure little things in American clothes, very solemn and full of dignity. Their sparkling black eyes shone with keen speculation. A few feet away sat a Portuguese girl beside a Chinese girl who wore the loose silk jacket and flowing trousers of her native land.

The boys were a sturdy lot, and, in spite of the wide divergence of race types, one saw a great resemblance among them, the resemblance that comes of working at the same tasks, thinking the same thoughts, having the same duties, aims, ambitions, and rewards. This resemblance was much more marked among the boys than among the girls. The costumes were as various as the leaves in the forest, and very few of the children wore shoes. Every boy and every girl was scrupulously clean. Order in the schoolroom was perfect. There was no giggling or whispering nor any evidence of self-consciousness. The children regarded the visitor with a curiosity that was frank but well bred.

At the suggestion of Mr. Babbitt, the principal, Mrs. Fraser, gave an order, and within ten seconds all of the 614 pupils of the school began to march out upon the great green lawn which surrounds the building. Hawaii differs from all our other tropical neighbors in the fact that grass will grow here. To see beautiful, velvety turf amid groves of palms and banana-trees and banks of gorgeous scarlet flowers gives a feeling of sumptuousness one cannot find elsewhere.

A Group at the Honolulu High School

THREE PER CENT. OF THE PUPILS HERE ARE JAPANESE, THE IMPERATIVE REQUISITE FOR ADMISSION BEING A THOROUGH WORKING KNOWLEDGE OF ENGLISH

Out upon the lawn marched the children, two by two, just as precise and orderly as you can find them at home. With the ease that comes of long practice the classes marched and countermarched until all were drawn up in a compact array facing a large American flag that was dancing in the northeast trade-wind forty feet above their heads. Surely this was the most curious, most diverse regiment ever drawn up under that banner—tiny Hawaiians, Americans, Britons, Germans, Portuguese, Scandinavians, Japanese, Chinese, Porto-Ricans, and Heaven knows what else.

"Attention!" Mrs. Fraser commanded.

The little regiment stood fast, arms at sides, shoulders back, chests out, heads up, and every eye fixed upon the red, white, and blue emblem that waved protectingly over them.

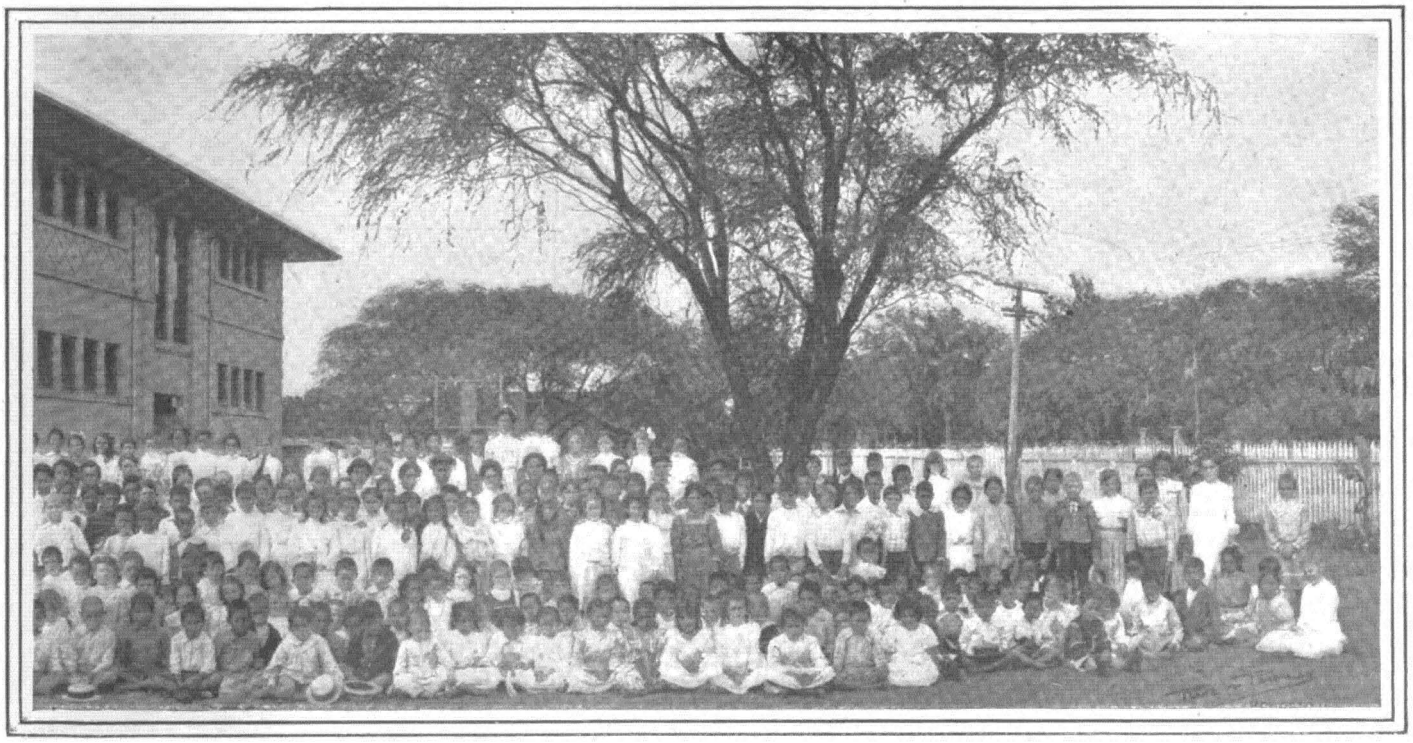
"Salute!" was the principal's next command.

Every right hand was raised, forefinger extended, and the six hundred and fourteen fresh, childish voices chanted as one voice:

"We give our heads and our hearts to God and our Country! One Country! One Language! One Flag!"

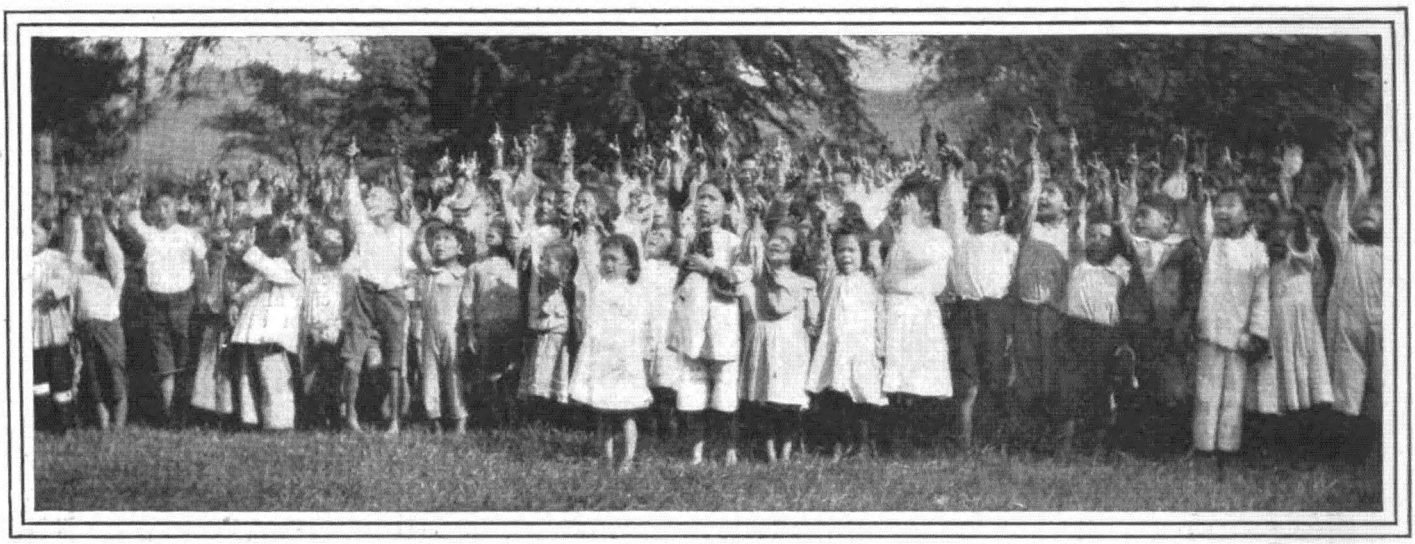
The last six words were shot out with a force that was explosive. The tone, the gesture, the gaze fixed reverently upon the flag, told their story of loyal fervor. And it was apparent that the salute was given as spontaneously and enthusiastically by the Japanese as by any of the other children. There were hundreds of them in the throng, and their voices rang out as clearly as any others, their hands were raised in unison. The coldest clod of a man who sees the children perform this act of reverence must feel a tightening at the throat, and it is even more affecting to see these young atoms from all the world actually being fused in the crucible from which they shall issue presently as good American citizens.

So much for the Japanese in the lower-grade schools. Everybody agrees that no children can be more polite and agreeable than they are. The principal burden of the complaint in San Francisco



In this Group may be found Representatives of at least Ten Nationalities

THE NUMEROUS JAPANESE CHILDREN IN THIS SCHOOL ATTEND IT FROM NINE O'CLOCK UNTIL TWO, AFTER HAVING BEEN IN THEIR NATIVE SCHOOL FROM SEVEN UNTIL NINE. AFTERWARD, FROM TWO O'CLOCK UNTIL FIVE OR SIX, THEY RETURN FOR INSTRUCTION IN THEIR OWN JAPANESE SCHOOL



"We give our heads and our hearts to God and our country! One country, one language, one flag!"

THIS SCENE SHOWS THE SALUTE TO THE AMERICAN FLAG WHICH FLIES IN THE GROUNDS OF THE KAIUALANI PUBLIC SCHOOL WHICH HAS MANY JAPANESE PUPILS. THE DRILL IS CONSTANTLY HELD AS A MEANS OF INCULCATING PATRIOTISM IN THE HEARTS OF THE CHILDREN

is that parents cannot endure to have their girls exposed to contamination by adult Asiatics, whose moral code is far different from our own. Whether or not there is reason for this complaint is not the question here. That there is such a feeling of apprehension among parents is readily found by any one who inquires, and it exists in Hawaii no less than in California. The Hawaiian school authorities long ago took steps to prevent the mingling of grown Japanese boys in classes with American girls.

In the Honolulu high school there are 143 pupils, including a few more boys than girls. Most of them are above fifteen years of age. There is now, as there has been for the last six years, only five per cent. of Asiatics among these pupils—three per cent. Japanese, and two per cent. Chinese. The boys are well behaved.

Professor M. M. Scott, the principal of the high school, was kind enough to call all the pupils, who were not taking examinations, out on the front steps of the building, where the visitor could inspect them in the sunshine. The change in the color scheme from that of the schools below was astounding. Below were all the hues of the human spectrum, with brown and yellow predominating; here the tone was clearly white.

What had made the change? Practically the Asiatics had been eliminated. But how? By building separate schools and brusquely ordering the Japanese to attend them in company with Chinese and Koreans, whom they despise? Not at all. The Hawaiian Commissioners of Public Instruction long ago made a regulation that no pupil may attend a school of the higher grade unless he has a thorough working knowledge of the English language.

"That rule," said Commissioner Wallace Farrington, "rids us of all individuals whose presence could possibly be objectionable. We have not now, and we never have had, any trouble over the presence of Japanese or any other Asiatics in our public schools. I do not think the question will ever cause us any annoyance.

"The rule under which the exclusion is accomplished is based on simple common sense, and no one can object to it. The speed of any fleet is the speed of the slowest ship in the fleet. It would be most unjust for us to delay the progress of our advanced pupils by putting in their classes foreigners who do not clearly understand English; for their presence would make it necessary to waste time in long explanations. The fairness of that rule is so evident that we have never had any complaint from Japanese nor anybody else. It is—perhaps—a mere coincidence that the operation of the rule rids the classes of certain individuals whose presence may not be desired. We make no comparison with any other way of handling the problem; but we know that in Hawaii the Americans, the Japanese, and all the others, are satisfied with the plan on which we are working."

Mr. Miki Saito, His Imperial Japanese Majesty's Consul-General at Hawaii, has just returned from a three weeks' tour of inspection of the public schools throughout the islands, begun soon after the San Francisco incident was made public. He is, of course, devoted to the welfare of all the Mikado's subjects, and during his three weeks' tour he questioned children and parents everywhere.

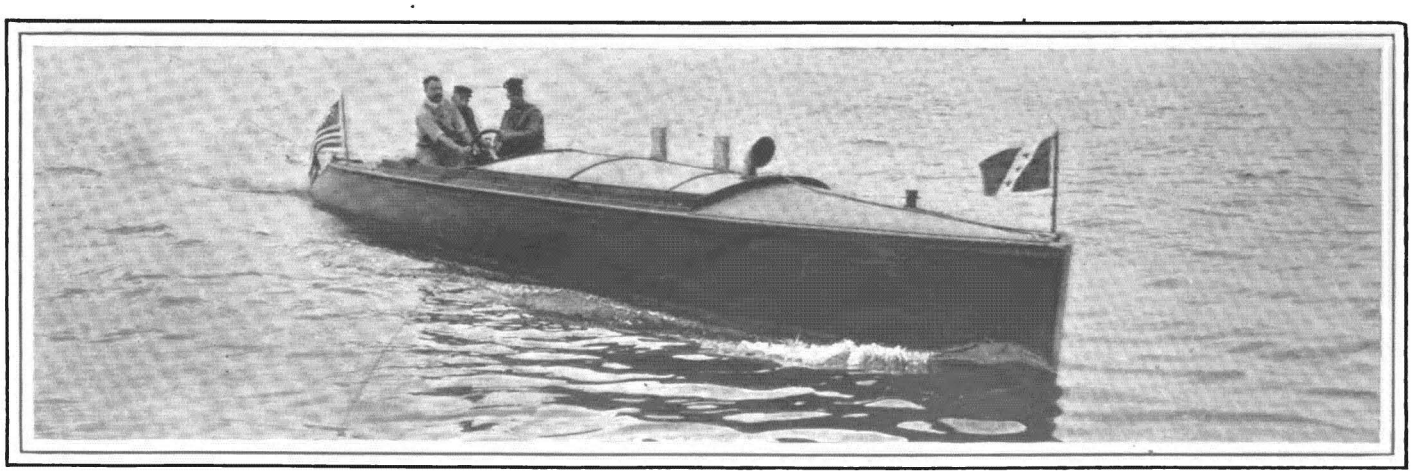
"You will be glad to know," said Mr. Miki to me, "that the Japanese people here are entirely satisfied with the treatment of their children in the public schools. I have not heard one word of complaint anywhere; but on the other hand I have heard our people express satisfaction at the kindness and cooperation of the Americans.

In the public schools our children have the same opportunities as the rest. On the plantations American employers have kindly put up buildings in which the Japanese teachers can hold school in our native tongue. I can find in the Hawaiian schools nothing to criticise and much to praise."

It is difficult for the unprejudiced observer to understand why the impetuous San-Franciscans did not adopt the Hawaiian plan of dealing with the Japanese in the schools. Surely they must have known of the easy success of the scheme, for in community of interests Honolulu is as near to San Francisco as Philadelphia is to New York.

The more one studies the subject, the harder it is to understand why the Californians took so much pains to affront the Japanese. The warlike spirit in a nation fresh from great victories may well be compared to a sleeping dog on the porch of a home he has just defended. The hasty Californians seem to have acted on the principle laid down by an American philosopher whose thoughts outstripped his words, so that he airily exclaimed, "Oh, let sleeping dogs bark!"

A MOTOR-BOAT WHICH HAS RUN A MILE IN 2:21 1-5



IN THE MOTOR-BOAT RACES AT PALM BEACH, FLORIDA, THE "DIXIE" RECENTLY MADE A NEW MILE RECORD AGAINST THE TIDE OF 2:21 1-5, WINNING BY THIS FEAT THE DEWAR TROPHY. RUNNING WITH THE TIDE HER TIME WAS ONE AND A FIFTH SECONDS LESS