

## The Constitutions of 1840, 1852 and 1864

### The Constitution of 1840

Kamehameha III granted his people laws which, for the first time, explained in writing how the government would be run. These special laws became the Constitution of 1840, the first written constitution ever granted to the people of Hawai'i.

A constitution is a document in which the basic laws and principles of a government are written down. The Constitution of 1840 defined the powers and duties of government officials who were charged with keeping its laws. The Declaration of Rights of 1839 was made the preamble, or introduction, to this constitution. This Declaration gave all the people certain rights such as “life, limb, liberty, the labor of his hands, and productions of his mind....”

By signing the constitution Kamehameha III agreed to not only share more of his powers, but also to limit them. For the first time Hawaiian men from the *maka 'āinana* (working class) would take part in government. Foreigners who became citizens of the kingdom could also participate.

The Constitution of 1840 granted the *maka 'āinana* the right to vote, be elected or appointed to office, and help make the laws of the kingdom. Hawai'i would be governed by the king along with the *kuhina nui*, the chiefs and the *maka 'āinana*.

### The Constitution of 1852

By 1852 Kamehameha III realized that the Constitution of 1840 was out of date. The responsibilities of the government had greatly increased so a new constitution was written to meet those responsibilities.

The Constitution of 1852 was more liberal, or generous, than the Constitution of 1840. **It gave greater power to the people in running the government.**

By his actions, Kamehameha III gave up much of the monarch's power. Never again would a Hawaiian ruler have the power his father, Kamehameha I, once had. The Constitutions of 1840 and 1852 changed the structure of Hawaiian government forever.



### Changing the Constitution of 1852

Kamehameha V wrote the Constitution of 1864.

Kamehameha V ascended the throne in 1863. He was a firm believer that the king should be the person firmly in control of Hawaii's government, as it had been done in Hawaii for hundreds of years before the passage of the 1840 and 1852 constitutions. Kamehameha V (as well as his

predecessor, Kamehameha IV) was often irritated by the controls on his power by the 1852 constitution.

Thus, when Kamehameha V ascended the throne, he refused to take an oath to the 1852 constitution. Instead, he called for a constitutional convention.

## **The Constitution of 1864**

### **Abolish the Office of *Kuhina Nui***

Kamehameha V wanted to take personal control of the government. He believed it was right that he rule alone. Having a co-ruler lessened his power. Therefore the office of *kuhina nui* would have to be abolished, or ended. After all, hadn't his grandfather been the sole ruler of the kingdom?

### **Limit the Power of the Privy Council**

The king wanted to limit the power of the Privy Council. The council was made up of thirty-five members who approved or disapproved decisions made by the king. Kamehameha V did not want the council to be able to change policies or programs he felt were necessary and best for his people.

### **Voters Must Be Literate and Own Property**

The Constitution of 1852 granted the right to vote to all Hawaiian men twenty years of age or older. Kamehameha V disagreed with this. He felt that voters should also own property and know how to read and write.

"How could they rule themselves without the basic knowledge and skills to do so?" he reasoned. "How could they vote on issues intelligently if they could not even read and write?"

The delegates could not agree about voter qualifications. The king then stepped in and said,

"In my estimation this article is the most crucial of them all. If it is not accepted, my government ceases to be a monarchy and instead becomes a republic. I, therefore, declare the Constitution of 1852 abrogated. I shall grant a new one to take its place."

With these few words, the king wiped out the power of the delegates and began writing a new constitution himself.

Naturally the delegates were shocked by the king's bold action. But it was clear to both the Hawaiians and the foreigners that, like his grandfather, Kamehameha V was a firm and decisive ruler.

## The Constitution of 1864

The Constitution of 1864 was signed on August 20, 1864. It contained the changes Kamehameha V wanted.

Constitution of 1852	Constitution of 1864
<ul style="list-style-type: none"> <li>• Restricted the monarch's power</li> <li>• Preserved the office of <i>kuhina nui</i>, or co-ruler</li> <li>• Separated the House of Representatives and the House of Nobles into two bodies</li> <li>• Required approval of Privy Council for official acts of the monarch</li> <li>• Allowed males twenty years old or older to vote without being literate or owning property</li> </ul>	<ul style="list-style-type: none"> <li>• Increased the monarch's Power</li> <li>• Abolished the office of <i>kuhina nui</i>, or co-ruler</li> <li>• Combined the House of Representatives and the House of Nobles into one body</li> <li>• Abolished requirement of Privy Council approval for official acts of the monarch</li> <li>• Required voters to be males twenty years old or older and to be literate and own property</li> </ul>

At last Kamehameha V had a constitution that gave him the power he wanted. This constitution was a victory for the king. He felt satisfied with it. Now he could rule independently, as his grandfather and the chiefs of old had ruled.

Some government and business leaders had opposed the new constitution. These men criticized the king for his boldness and for the way he pushed his laws on them.

Soon two political parties developed. One party favored the Constitution of 1864 and the increase of royal power. It was largely made up of Hawaiians and those foreigners who supported the king. The other party favored a more liberal government and wanted to bring back the Constitution of 1852. This party was largely made up of Americans who opposed the king and his cabinet.