

NO CONSENT FOR 130 YEARS

Congressional Actions That Extinguished the Sovereignty of the Hawaiian Kingdom (July 4 1894 – July 6 1898 – June 14, 1900)

Executive Summary: Between 1894 and 1900 the United States shifted Hawai'i from an internationally-recognized constitutional monarchy to a U.S.-administered territory.

Three milestone dates mark the legal pathway:

- **4 July 1894** Constitution of the self-declared Republic of Hawai'i Replaced the Hawaiian Kingdom with a U.S.-oriented regime and pre-committed the islands to eventual annexation.
- **6 July 1898** Newlands Joint Resolution (30 Stat. 750) Unilaterally “annexed” a foreign nation by statute, sidestepping the treaty process required by Art. II §2 of the U.S. Constitution.
- **14 June 1900** Territorial (Organic) Act (31 Stat. 141) Brought all laws, lands, and citizens of the former Kingdom under U.S. federal jurisdiction and created the Territory of Hawai'i.

Together these measures a constitution drafted by insurgents, a joint resolution of Congress, and an Organic Act, systematically displaced the Kingdom's sovereignty without the bilateral treaty of cession that international law then required.

Pre-1894: Overthrow and U.S. Complicity

- U.S. Marines landed on 16 January 1893 and assisted a group of non-Hawaiian businessmen in deposing Queen Lili'uokalani; President Grover Cleveland later conceded to Congress that this was an “unlawful invasion” (Message of 18 Dec 1893).
- A treaty of annexation signed by President Harrison in February 1893 was withdrawn by Cleveland and never reached a Senate vote.
- Unable to obtain the 2/3 Senate majority required for a treaty, annexation advocates looked for another method.

July 4 1894 – Constitution of the Republic of Hawai'i

Key Facts Sources: Convention called by Provisional Government; objective was to secure “political union between Hawai'i and the United States.”

Constitution signed 3 July and promulgated 4 July 1894, formally establishing the Republic of Hawai'i.

U.S. minister Albert S. Willis promptly extended diplomatic recognition, giving the new regime international legitimacy despite widespread Native Hawaiian opposition.

Impact on Sovereignty: The Republic severed the 1840 and 1887 constitutions of the Hawaiian Kingdom, abolished the monarchy, assumed control of Crown and Government lands, and declared itself successor to all treaty rights and obligations. In effect, domestic sovereignty was wrested away from the monarchy, while external sovereignty was left in limbo until the United States could consummate annexation.

July 6 1898 – Newlands Joint Resolution

House Joint Resolution 259, 55th Cong., 2d Sess. passed both chambers by simple majorities and was signed by President McKinley on 7 July 1898 (the decisive congressional vote occurred on 6 July).

The resolution asserted (rather than negotiated) a cession of “absolute sovereignty” and 1.8 million acres of national lands from the Republic to the United States.

Senators such as William V. Allen protested that a joint resolution “has no power to reach across its boundaries into the dominion of another government.”

Constitutional Controversy: Article II §2 vests treaty-making in the President and a two-thirds vote of the Senate. Legal scholars note that Congress possesses no enumerated power to annex a foreign nation by ordinary statute.

International-Law Defect: Under the Law of Nations (19th-century customary international law), a valid cession of territory required a treaty between sovereigns and, where monarchies were involved, the consent of the reigning monarch. Neither condition was met.

June 14 1900 – Hawaiian Organic Act

Provision Effect: §2: Islands “shall be known as the Territory of Hawai‘i.” Extinguished the Republic (hence the Kingdom) and substituted U.S. territorial status. §4: All citizens of the Republic declared U.S. citizens. Imposed U.S. nationality en masse, overriding Hawaiian nationality laws. Act took effect 14 June 1900, providing time to organize the first territorial elections.

Structural Consequences: Territorial courts supplanted Kingdom/Republic courts; appeals lay to the U.S. Ninth Circuit and Supreme Court. Congress reserved the right to void any territorial statute, consolidating plenary power over Hawai‘i. Federal public-land policy (Homestead, military reservations, sugar leases)

was extended to Hawaiian Crown and Government lands without compensation to the Hawaiian nation.

Cumulative Effect on Hawaiian Sovereignty

Criterion (Derived from 19th-century international law) **Status After 1900:** Continuity of the Monarch or Successor Government Ended 4 July 1894; monarchical authority replaced by Republic backed by U.S. recognition. Consent-by-Treaty to Cede Territory Never obtained; the Senate failed to ratify two separate treaties (1893, 1897). Popular Consent 21,269 Native Hawaiians—over 50 % of the population—signed the 1897 Kū‘ē petitions opposing annexation. Territorial Title Perfected in International Law Dubious; annexation rested on a unilateral act of Congress, not a bilateral treaty. Exercise of Full Legislative, Judicial, Executive Power by the United States Perfected by the Organic Act; Hawai‘i became a standard U.S. incorporated territory.

Continuing Legal Debates

1. Domestic Constitutionality – Whether a joint resolution can lawfully annex foreign territory remains unresolved by the U.S. Supreme Court; dissenting scholars argue it violates the Treaty Clause and exceeds Article I powers.
2. International Standing – Some jurists contend the Hawaiian Kingdom persists as a subject of international law under a prolonged (and illicit) occupation.
3. Congressional Acknowledgment of Wrongful Acts – The U.S. cited its own role in the overthrow in President Cleveland’s 1893 message and later issued the 1993 “Apology Resolution.”

Conclusion: The 1894 Constitution, the 1898 Newlands Resolution, and the 1900 Organic Act formed a sequential legal mechanism that extinguished the de facto sovereignty of the Hawaiian Kingdom without a treaty of cession. While these measures gave the United States undisputed control in domestic law, substantial constitutional and international-law critiques persist, pointing to fundamental defects in the way Congress extinguished Hawaiian sovereignty.

Bibliographic Note (selected primary sources)

Constitution of the Republic of Hawai‘i (4 July 1894) – Hawai‘i State Archives.

Joint Resolution to Annex Hawai‘i (6 July 1898) – U.S. Statutes at Large 30:750.

Organic Act (31 Stat. 141) (effective 14 June 1900) – U.S. Statutes at Large 31:141.

President Cleveland’s Message to Congress (18 Dec 1893) – Congressional Record, 53d Cong., 2d Sess.