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The Vision of the acting Council of Regency

by David Keanu Sai

In the absence of a Monarch, Article 33 of the Constitution provides for the Cabinet Council to provisionally administer the government in order for the legislative Assembly to be assembled so that a Regent can be elected. Until a Regent is elected, the Cabinet Council serves as a temporary Council of Regency, which is comprised of the offices of the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Finance and the Attorney General.

Given the international law doctrine of legal continuity of the Hawaiian Kingdom State, while under an illegal occupation, and the supremacy of its legal order, a general partnership was deliberately organized on December 15, 1995 to “*serve in the capacity of acting for and on behalf the Hawaiian Kingdom government.*” This approach had a two-fold effect. Firstly, the partnership serves as *prima facie* evidence of the partners’ adherence to Hawaiian statutory laws, being a part of the Hawaiian legal order; and secondly, the receptacle for registering general partnerships in the Kingdom, being the Bureau of Conveyances, continues to function today.

The name of the partnership was the Hawaiian Kingdom Trust Company. Under the 1880 *Act to Provide for the Registration of Co-partnership Firms*, individuals in co-partnership are mandated to register with the office of the Minister of the Interior, by and through the Bureau of Conveyances. Under this statute, the registered partnership would assume the role of the absentee Minister of the Interior under the *principle of ascension and locum tenens*.

On March 1, 1996, the Trust Company appointed myself as *acting* Regent to serve in the trust company’s capacity as an *acting* government and assume the *de facto* role of the Council of Regency so that the legal order of the Hawaiian State can be represented both domestically and internationally. Thereafter, the Hawaiian Kingdom Trust Company resumed its role as a general partnership within the meaning of the 1880 Co-partnership Act, and no longer served as a company acting for and on behalf of the Hawaiian Government. The trust company was dissolved on June 30, 1996.

In September of 1999 the vacancies in the Cabinet Council were filled. I had commissioned Mr. Peter Umialiloa Sai as *acting* Minister of Foreign Affairs,

Ms. Kau’i P. Goodhue as *acting* Minister of Finance, and Mr. Gary V. Dubin, Esquire, as *acting* Attorney General. Mr. Dubin is a practicing attorney and has taught criminal law at Harvard Law School.

On September 10, 1999, it was determined by resolution of the Privy Council that I should resume the office of *acting* Minister of the Interior, and the entire Cabinet Council serve as an *acting* Council of Regency within the meaning of Article 33 of the 1864 Constitution. It was also agreed upon in Privy Council that I serve as Chairman of the *acting* Council.

The *acting* Council has since appointed Mr. Alvin Ka’ohu Nishimura as *acting* Chief Justice of the Hawaiian Kingdom Supreme Court and Mr. Allen Kale’iolani Hoe as *acting* 1st Associate Justice. Both men are practicing attorneys and the latter has served as a district court judge for the State of Hawai’i. Mr. Arthur Hoke, Mr. Colin Malani, and Mr. Leland Pa are presently serving as *acting* Marshal, *acting* deputy Marshal and *acting* Sheriff for the Island of Hawai’i, respectively. Mr. Hoke is a retired captain from the Hawai’i County Police Department, Mr. Malani is also a Sergeant in the State of Hawai’i’s Sheriff’s Department, and Mr. Pa is also a patrolman with the Hawai’i County Police Department. Also appointed was Mr. W.D. Mahealani Pai as *acting* Governor for the Island of Hawai’i. Other appointments have been made in addition to those that are pending.

The *acting* Council serves as the *de facto* organ of the Hawaiian Kingdom State. It does not represent any particular group of individuals organized by ethnic origin or by common ideology. The *acting* Council is limited and operates within the framework of Hawaiian domestic law, which is defined by the 1864 constitution and the statutes lawfully enacted by the Legislative Assembly previous to the illegal constitution in 1887 and subsequent occupation of the country by the United States.

The *acting* Council conforms itself to the laws of the Hawaiian Kingdom and the Council’s maintenance of these laws, both internationally and domestically, provides the only basis of its *de facto* legitimacy. It has no effectiveness and has no direct link to the national population, pending the reconvening of the Legislative Assembly. It is fundamentally tied

to the doctrine of legal continuity of the Hawaiian Kingdom State and the supremacy of its legal order as defined by its constitution and statutes.

Article 33 of the 1864 Constitution sets the limits and duties of the *acting* Council of Regency. It provides that in the absence of a Monarch, the Council has the sole authority to reconvene the Legislative Assembly, which is comprised of Nobles who are appointed by the Monarch and Representatives elected by the People.

At present there are no Nobles, due to the absence of a Monarch, to sit together with the Representatives of the People. Therefore, the Legislative Assembly will be initially comprised of Representatives only, until this body can elect a Regent, which will then be capable of appointing Nobles in accordance with section 771 of the Hawaiian Civil Code. Article XXXII of the Code provides the procedure for the election of Representatives from the twenty-five (25) districts of the Kingdom.

A Regent serves in the temporary absence of a Monarch. The *acting* Council is of the firm belief that an election of a Monarch as provided under Article 22 of the 1864 Constitution is premature at this time. The election of a Monarch, whether a King or Queen, will be the most important step the Legislative Assembly will undertake. The Monarch is the epitome of Hawaiian sovereignty and must be properly schooled in Hawaiian culture, the arts, language, history and a high degree of political finesse. The Monarch must be above all reproach. Therefore, the Legislative Assembly will have to take up this very important and fundamental issue, and in the mean time, a Regency is perfectly adept to administering the government until a Monarch is elected.

Until a census can be done for reapportionment of the Representatives due to dramatic increases in the population, Hawaiian statute presently provides for the following apportionment.

For the Island of Hawai'i, eight (8): One (1) for the district of North Kona, beginning at and including Keahualono, and extending to and including Pu'uohao; One (1) for the district of South Kona, beginning at Pu'uohao and extending to and including Kaheawai; One (1) for the district of Ka'u; One (1) for the district of Puna; Two (2) for the district of Hilo; One (1) for the district of Hamakua; One (1) for the district of Kohala.

For the Island of Maui, seven (7): Two (2) for the district composed of Lahaina, Olowalu, Ukumehame, and Kaho'olawe; One (1) for the district beginning with and including Waihe'e, and extending to and including Honua'ula; One (1) for the district beginning with and including Kahikinui, and extending to and including Ko'olau; One (1) for the district beginning with and including Hamakualoa, and extending to and including Kula;

Two (2) for the districts comprising the Islands of Moloka'i and Lana'i.

For the Island of O'ahu, eight (8): Four (4) for the district of Honolulu, beginning with and including Maunaloa, and extending to and including Moanalua; One (1) for the district composed of Ewa and Wai'anae; One (1) for the district of Waialua; One (1) for the district of Ko'olauloa; One (1) for the district of Ko'olaupoko.

For the Island of Kaua'i, three (3): One (1) for the district of Waimea, beginning with and including Nualolo, and extending to and including Hanapepe, and also including the Island of Ni'ihau; One (1) for the district of Puna, beginning with and including Wahiawa, and extending to and including Wailua; One (1) for the district of Hanalei, beginning with and including Kapa'a, and extending to and including Awa-awa-puhi.

Preliminary issues to be faced by the *acting* Council before reconvening the Legislative Assembly are:

- Determination of Citizenry while under prolonged occupation;
- The populace lacks the necessary knowledge of Hawaiian laws and Civic duties;
- Registration of Voters and their qualifications;
- Location to convene the Legislative Assembly.

The *acting* Council will not reactivate the entire government, but only those officers in the executive and judicial branches necessary to reconvene the Legislative Assembly. Hawaiian statute provides the guidelines for this process.. An *elected* Regent will possess the requisite duty and authority to reactivate the entire executive and judicial branches of government according to statute. Since February 1998 the *acting* Council has initiated the registration of voters.

Concomitant to this mandate, the *acting* Council, as the *de facto* organ of the Hawaiian State, must also address the century long occupation of the country by the United States of America. The *acting* Council recognizes the supremacy of the fundamental principles of international law regarding established States and has directed its attention to the United Nations and other appropriate international forums in order to resolve the prolonged occupation of the country.

The *acting* Council has participated in legal proceedings at the Permanent Court of Arbitration in The Hague, Netherlands, from November 1999 to February 2001, and has filed a Complaint with the United Nations Security Council against the United States of America concerning the prolonged occupation of the country on July 5, 2001. The Complaint requests the Security Council "*to investigate the Hawaiian Kingdom question...and to recommend appropriate procedures or methods of adjustment.*"

In March 2002, the *acting* Council retained Dr. Matthew Craven, Reader in International Law, from the Matrix Chambers in London.