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The
Fundamental Law
of Hawaii

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PREFACE TO THE FUNDAMENTAL LAW OF HAWAII.

Congress has expressly enacted a law organizing Hawaii into a Territory, and extended the provisions of the United States Constitution to the Territory.

In a restricted sense, therefore, the United States Constitution and the Organic Act constitute Hawaii's fundamental law; but the Organic Act specifically re-enacts the great body of pre-existing Hawaiian statute law, which was based upon the several Hawaiian Constitutions and organic laws. A large proportion of the law governing real estate, property and personal rights, in Hawaii, being based upon these early constitutions and laws; and precedents, decisions and court practice having grown out of them, it is necessary to consult them in order to have a comprehensive understanding of existing Hawaiian law. They are nearly all published, however, in books now out of print and in scattered volumes, inaccessible to many, and inconveniently located for all. In fact, not even practicing lawyers in Hawaii can, except at considerable loss of time, place their hands on the laws and constitutions necessary for the study and decision of practical questions continually being presented to them.

Under these circumstances it is believed that the public interest requires the re-publication, in convenient reference form, of what may be called the fundamental law of Hawaii.

To meet this requirement, the following constitutions, laws and documents have been compiled under the common title of the "Fundamental Law of Hawaii," viz:

1. The first Constitution of Kamehameha III (1840), including the previously issued Bill of Rights.

2. The first laws of Hawaii, enacted under Kamehameha III (1833-1842), published together in 1842.

3. The law creating, and principles guiding, the Land Commission.

4. The second Constitution of Kamehameha III, 1852.

5. The Constitution of Kamehameha V, 1864.

6. The Constitution of Kalakaua, 1887.

7. The proclamation and orders, incident to the establishment of the Provisional Government, 1893.

8. The Constitution of the Republic of Hawaii, 1894.

9. The Treaty annexing Hawaii to the United States, 1897.

10. The Resolution of the Hawaiian Senate ratifying the annexation treaty, 1897.

11. The joint resolution of Congress annexing Hawaii, 1898.

12. The documents and procedure incident to the transfer of the sovereignty and possession of Hawaii to the United States, 1898; and the executive orders of President McKinley, relating to the government of Hawaii, issued during the transition period between the date of annexation and the passage of the Organic Act, 1898-1900.

13. The Act of Congress organizing Hawaii into a Territory, 1900.

The laws of 1842 are not "fundamental" in the sense that the constitutions and other laws and documents are; but they have been included herein for the reason that they were not only the first written laws of Hawaii, but embodied many of the pre-existing laws and customs of the country and therefore throw a strong light upon the origin and development of much of the present law.

Only a few of the laws, constitutions and documents republished, have ever been indexed. A full index of all of them is included herein. Instead of one general index, each is indexed separately. The reason for such treatment is that

reference will usually be desired to a given subject in some one law or constitution. The subject sought will be much easier found in the short index of the particular law, than it would have been in a necessarily long index of the whole.

The table of contents gives the page of each constitution and law and of its index.

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Honolulu, June 30, 1904.