

STATUTE LAWS of HIS MAJESTY KAMEHAMEHA III.  
KING OF THE HAWAIIAN ISLANDS;

PASSED BY THE HOUSES OF NOBLES AND  
REPRESENTATIVES,  
DURING THE TWENTY-FIRST YEAR OF HIS REIGN, AND THE  
THIRD AND FOURTH YEARS OF HIS PUBLIC RECOGNITION,

A. D. 1845 and 1846:

TO WHICH ARE APPENDED THE ACTS OF PUBLIC  
RECOGNITION, AND THE TREATIES WITH OTHER NATIONS.  
VOL. I.

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AN ACT TO ORGANIZE THE EXECUTIVE DEPARTMENTS.  
CHAPTER II. OF THE EXECUTIVE EXTRA JUDICIAL OFFICERS.  
ARTICLE III.—OF THE NOTARIAL DUTIES.

Section I. The attorney general shall be ex officio, the principal notary public for the Hawaiian Islands. He shall as such have power, with the approbation of His Majesty, in privy council, to appoint, upon his own responsibility, subject to his control and removal, notaries public, to be resident at Lahaina in the island of Maui, at Hilo in the island of Hawaii, and at Hanalei in the island of Kauai, whom it shall be his duty to instruct regarding any of the acts required by law to be performed by a notary public, which are by law applicable to them. He shall instruct them upon the manner in which to discharge their respective duties. Said notaries shall not be personally accountable for duties by them performed pursuant to such instructions. They shall as often as occasion will permit give notice to the said principal notary of all their acts and transactions, and in all cases of doubt apply to him by letter for instructions.

Section II. The attorney general shall keep in his office a notarial record of each of the duties hereinafter imposed upon him as such notary, and he shall direct those holding notarial powers under him what records to preserve in their respective offices.

Section III. The duty of said principal notary shall be, to note the protest of any person in this kingdom protesting for any cause

against injustice of any kind, public or private; and to give due notice thereof to the party protested against : to the end that such injurious act or proceeding may have authoritative remonstrance; or to the end that the party protesting may not be held to have silently permitted the injurious act or proceeding; or to the end that the party protesting may not be estopped in law from asserting his or her rights; or to the end that the party protesting may not be deemed in law to have waived his or her rights in the premises; and to the end that the party protested against may have authoritative notice of the dissent or objection of the protestor against such act or proceeding; and to the end that the party protested against may be legally held liable for his or her injurious act or proceeding to the protestor.

Section IV. All such general notarial acts of protestation, disconnected from the protest of commercial paper hereinafter provided for, shall be solely made at the notarial office in Honolulu. They shall contain circumstantially the facts of the case calling for such protest as narrated by the protesting party, and shall conclude generally with the object had in view by the protestor.

Section V. The original or certified copies of such protests shall be *prima facie* proof in any court of the allegations therein set forth, to be afterwards established or rebutted by evidence; and the courts of this kingdom shall take notice thereof as such.

Section VI. Protests noted before the consuls, and other agents resident in this kingdom, shall not be received by any of the said courts with the faith and credit given to the said notarial protests, and shall be of no other valid force than is necessary to the proper comity of nations.

Section VII. The said principal notary and the respective notaries by him commissioned, as in the first section of this article allowed, shall have power legally to hold the endorsers and guarantors of mercantile paper for non-payment, and the drawers for non-acceptance pursuant to the inferences of the law merchant regarding promissory notes, bills of exchange and drafts for the payment or money, or the delivery of specific articles.

Section VIII. Three days of grace or latitude from the day of the maturity of mercantile paper, shall be accorded to the makers of any promissory note payable in this kingdom, for its fulfilment by such makers. At three o'clock of the afternoon of the third day of grace so accorded, if upon presentation of said promissory note to the makers, or any one of them, by the said principal notary or by either of the notaries appointed by him, the said maker or makers shall fail to pay said note, the notary so presenting the same shall protest it for non-payment, and by such protest hold liable to the payee or his assigns, the endorsers thereof jointly and severally. Three days of grace or latitude from the day of sight of any bill of exchange or draft inland or foreign, if no day of payment after sight be set forth in such bill or draft, shall be allowed to the drawee for acceptance, on the third day of which, at the hour of 3. P. M., the said bill or draft shall be accepted or refused; and if a day after sight be specified in such bill or draft, then on the day so set forth in the said bill or draft at three o'clock, P. M., the said bill or draft shall be accepted or refused.

In either case, on the day and hour and at the place of payment, the said principal notary, or any of the notaries so appointed by him, shall have power, at the request of any party interested in the acceptance and payment of said bill or draft, to present the same for acceptance, which, if then and there refused, he shall have power to protest for

non-acceptance, and thereby hold responsible the drawer and endorsers of said bill or draft to the payee or transferee thereof, in accordance with the general law merchant in such cases.

Section IX. The notary so presenting and protesting for non-payment any promissory note, and so presenting and protesting for non-payment or non-acceptance any bill of exchange or draft drawn payable in this kingdom, shall immediately give notice of such presentation and protest to the endorsers of every protested note, and to the drawer and endorsers of every such bill or draft by personal delivery of such notice in writing, or by transmission thereof through some reasonably safe conveyance, or through the inland mails, or by ship, as occasion may chance. The forwarding of such notice in either of the ways aforesaid shall be deemed sufficient constructive notice in law to hold the said endorsers and drawers, without proof, that such notice was actually received; and the notarial certificate of protest impressed with the notarial seal of said notary shall be conclusive evidence that the said note, bill or draft was duly presented, demanded and protested at the day, hour and place required by the law merchant and by the provisions of this article, to give legal recourse to the secondary promissors and guarantors of such note, bill or draft, by the party entitled to be paid the sum imported as its consideration.

Section X. The endorsers and guarantors of any promissory note payable in this kingdom, and the drawers and endorsers of any bill of exchange or draft drawn to be accepted and paid in this kingdom, which have not been duly presented for payment or acceptance as in this article required, shall be held in law to have been released from obligation after the expiration of the time in this article prescribed.

Section XI. The said notaries public shall each keep a record of all such original protests, and of the dates at which they respectively gave any notice of protest as required by this article, which record and certified copies thereof under their seals of office, shall be valid evidence in any court of this kingdom.

Section XII. It shall be incumbent on all adopters of children, pursuant to the fourth part of this act within thirty days after such adoption to transmit the written act and terms of such adoption attested by some judicial officer of this kingdom, to the said principal notary public, at Honolulu, to be by him enregistered at the expense of the adopter; in default of which, such act of adoption shall be void and of no effect.

Section XIII. The said attorney general, as principal notary for the kingdom, shall keep in his office a record of such adoptions in which he shall, being paid the fees of registration, enter at length every such act of adoption, and its terms and conditions, after the same has been legalized by some judicial officer as above required.

He shall certify to the party in interest upon the instrument so recorded, the time of its registry, and the book and page containing its record; which certificate shall be valid evidence of the facts so certified.

Section XIV. The notaries appointed by the said principal notary shall have power to take and to certify in the respective islands for which they are appointed, the acknowledgment of the execution of conveyances, deeds, mortgages and releases of dower in lands, and the execution of bills of sale of chattel property, contracts and agreements, articles of marriage settlement, letters of copartnership,

powers of attorney, and any other instrument required to be recorded by the registrar of conveyances; and their certificates of such acknowledgment under seal shall be as valid evidence of the facts so certified as if taken and made by the registrar of conveyances in person. It shall be equally incumbent on said registrar upon the receipt of the same and payment of the registration fees to record them in the archives of his office.

Section XV. The said principal notary and the respective notaries appointed by him shall for all the purposes given them in charge by this act, be in this kingdom officers of the law of nations, competent to discharge the various acts capable of performance by notaries public under the laws of other nations; and their certificates under notarial seal shall have the same binding force in all respects.

Section XVI. The seal of the department of law shall be the notarial seal of the attorney general as principal notary public for this kingdom; and for the other notaries herein contemplated, His Majesty shall adopt a notarial seal of the device and diameter to be recommended to him in privy council by the attorney general; of which, when so adopted, due notice shall be given in the Polynesian newspaper.

Done and finally passed at the Council House at Honolulu this 27th day of April, A. D., 1846.  
(Signed,) KAMEHAMEHA.  
Attest, John Young, Premier.