Thus all lands forfeited for nonpayment of taxes reverted to him. His consent was necessary for any transfer of real estate in the Kingdom, and for real mortgages also, and for the seizure of land for debt. (Old laws, p. 173.)

When the labor tax first began to be regulated by law every tenant was required to work one day in every week (Tuesday) for the King and one day (Friday) for his landlord. But this was afterwards reduced to thirty-six days in the year for the King and an equal number for the landlord. (Old laws, p. 27.)

The idea of a government as distinct from the person of the King first began to be clearly recognized in the constitution of 1840.

From that time it was seen more and more clearly that the King held a two-fold character—first, as an individual chief, and, secondly, in his official capacity as head of the Government.

It was in virtue of both titles that the land commission decided that one-third of the lands in the Kingdom belonged to the King. It is hardly necessary for our present purpose to give the history of the land commission and of the great division of 1848. Suffice it to say, that in 1848 a committee was appointed to effect the division between the King as feudal suzerain and the chiefs, his feudatories, which completed its work in forty days. Partition deeds were signed and sealed by the King on one side and the several chiefs on the other side, who were then entitled to receive awards from the land commission for the lands thus partitioned off to them.

At the close of this division the King held in his possession about half of all the lands in the Kingdom.

But it was evident, to quote from the decision of the Supreme Court (in the matter of the estate of His Majesty Kamehameha IV) in 1864, that the lands held by the King at the close of the Mahele were not regarded as his private property, strictly speaking. Even before his division with the landlords a second division between himself and the Government was clearly contemplated, and he appears to have admitted that the lands he then held might have been subjected to a commutation in favor of the Government, in like manner with the lands of the chiefs. Accordingly, on the very day after the Mahele, or division with his chiefs, was closed, viz., the 8th day of March, 1848, he proceeded “to set apart for the use of the Government the greater part of his royal domain, reserving to himself what he deemed a reasonable amount of land as his own estate.”

This latter class of lands “he reserved for himself and his heirs forever” as his own private estate, and they are now known as Crown Lands.

On the 7th day of the following June, 1848, the legislative council passed the “act relating to the land of His Majesty the King and of the Government,” which confirmed and ratified the division which had already been made by the King, thus making it an act of the nation through its representatives. In this act the said lands are designated by name, and declared “to be the private lands of His Majesty Kamehameha III, to have and to hold to himself, his heirs, and successors forever, and said lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants.”

It is well known that both Kamehameha III, and his immediate successor, Kamehameha IV, dealt with these lands as their private property, selling, leasing, or mortgaging them at pleasure. These royal deeds of sale constitute titles equally valid with Royal Patents.

At the death of Kamehameha IV, it was decided by the Supreme Court, in April, 1864, that the lands reserved to the Sovereign by the act of June 7, 1848, “decend in fee, the inheritance being limited, however, to the successors to the throne, and that each successive possessor may regulate and dispose of the same according to his will and pleasure as private property, in like manner as was done by Kamehameha III.”

At the same time the Court decided that Queen Emma was lawfully entitled to dower in the said lands, there being nothing in said act, taking away her right to dower in the lands therein named.

Afterwards an act was passed January 3, 1865, “to relieve the royal domain from encumbrances and to render the same inalienable.” This act provided for the redemption of the mortgages on the estate by the issue of exchequer bonds not to exceed $50,000, and enacted that so many of the lands reserved by the act of June 7, 1848, as remained at that time unalienated, should be thenceforth “inalienable, and descend to the heirs and successors of the Hawaiian Crown forever;” and that “it shall not be lawful hereafter to execute any lease or leases of said lands for any term of years to exceed thirty.” A board of commissioners of crown lands was then created, “to consist of three persons, to be appointed by the King, two of whom should be appointed from among the members of his cabinet council, and serve without any remuneration, while the other should act as land agent, and be paid out of the revenues of said lands such sum as may be agreed to by His Majesty the King.”

The foregoing acts were approved and signed by Kamehameha V, who was the heir to the estate as well as successor to the throne.