

A photograph of a lush green field with mountains in the background. The field is filled with various green plants and flowers, including a prominent white flower with a yellow center and a pink flower. The mountains in the background are dark and hazy. The sky is a pale, overcast grey.

# Evolution of Land Ownership In Hawaii

**Feudal Tenure System to Fee Simple Title**

# Course Objectives

*This course will give the Licensee an overview of the evolution of Hawaii's land rights, beginning from Kamehameha I and a feudal tenure system to the freehold ownership rights of today. Upon completion, the Licensee will gain knowledge about the intricacies of Hawaii's land system including:*

- (1) the foundation of Hawaii fee simple land rights*
- (2) the origins of the legal descriptions found in title reports*
- (3) the land rights that attach to certain types of properties, such as kuleanas*
- (4) the geneses of the residential lease.*

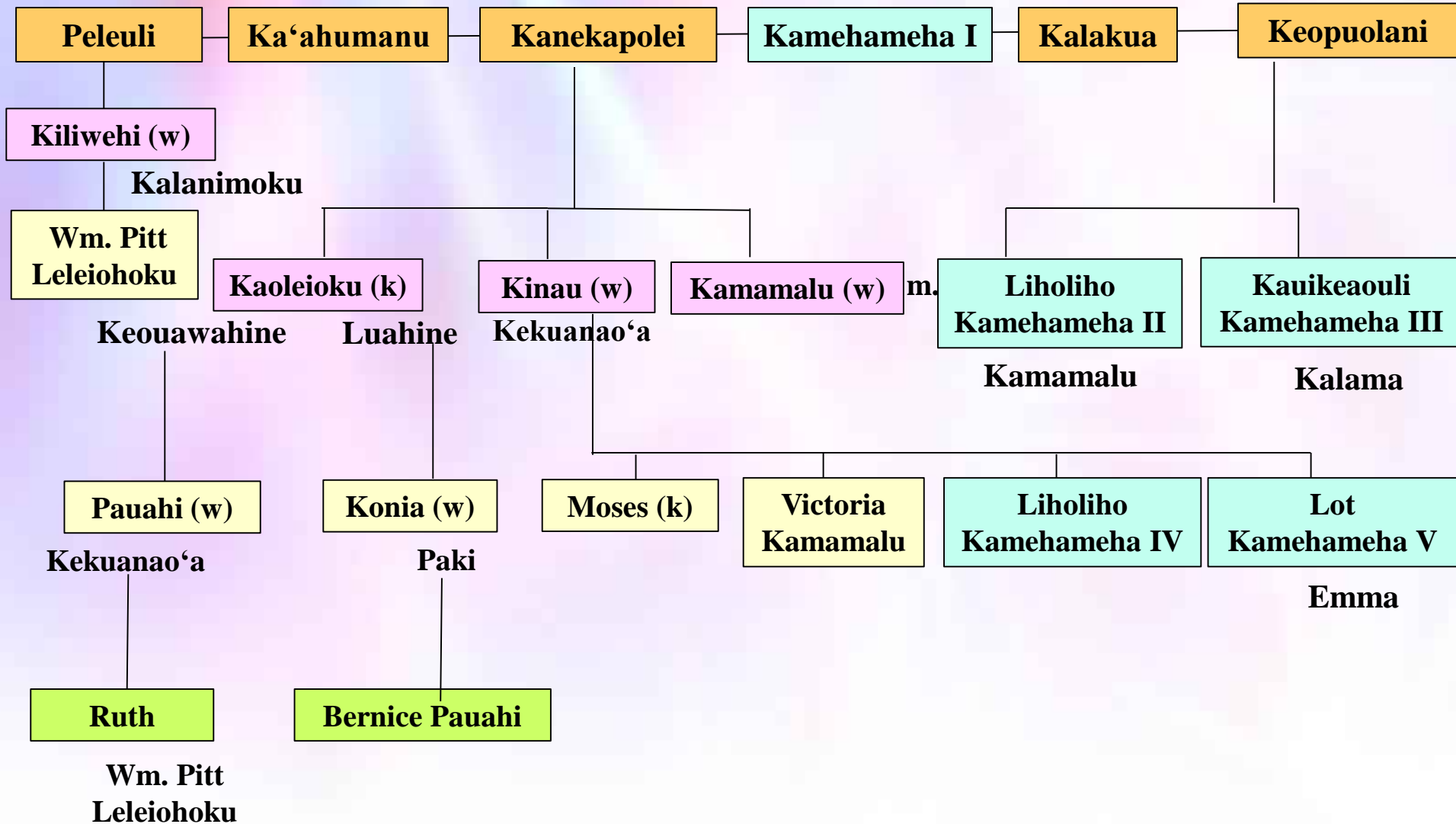
# **Course Content**

- **The Kamehameha kings' tenant tenure system**
- **Key foreigners and their influence on Hawaii's land system**
- **Events leading up to the Great Mahele**
- **The Great Mahele and the origins of Hawaii's freehold ownership**
  - **Chiefs lands**
  - **King/Crown lands**
  - **Government lands**
- **Tenant kuleana rights - then and now**
- **Hawaiian Home Lands**
- **Origins and the demise of the residential lease**



# Kamehameha I Heirs

- Partial List -





# Kamehameha I Land System

Disposed as he saw fit, retaining what he wanted

**Revocable Tenure**

Reign 1782-1819

- Feudal dues
  - Service
  - Portion of production



**Possession included certain rights:**

- Right to fish
- Right to water
- Right to forest products

# **Kamehameha II Land System**

**Liholiho**

**Reign 1819-1824**

## **Principle Chiefs**

**Obtained hereditary rights to landholdings**

**Sub-chiefs / Konohiki**

**Tenants**



# **Kamehameha II Land System**

**Liholiho**

**Reign 1819-1824**

**Principle Chiefs obtained hereditary rights to landholdings**

# **Kamehameha III Land System**

**Kauikeaouli**

**Reign 1825-1854**

- **Aristocracy strengthened position of heredity landholding**
- **Foreigners more secure in possession of personal property and houses**



# **1839 Declaration of Rights**

**“Protection is hereby secured to the persons of all the people, together with their lands, their building lots and all their property, and nothing whatever shall be taken from any individual, except by express provision of the laws.”**

# **Constitution of 1840**

- **Creation of a “representative body”**
- **Creation of a supreme court**
- **Provided a statement of the plan of government**
- **Defined the powers and duties of various officials.**

# Motivation for Change

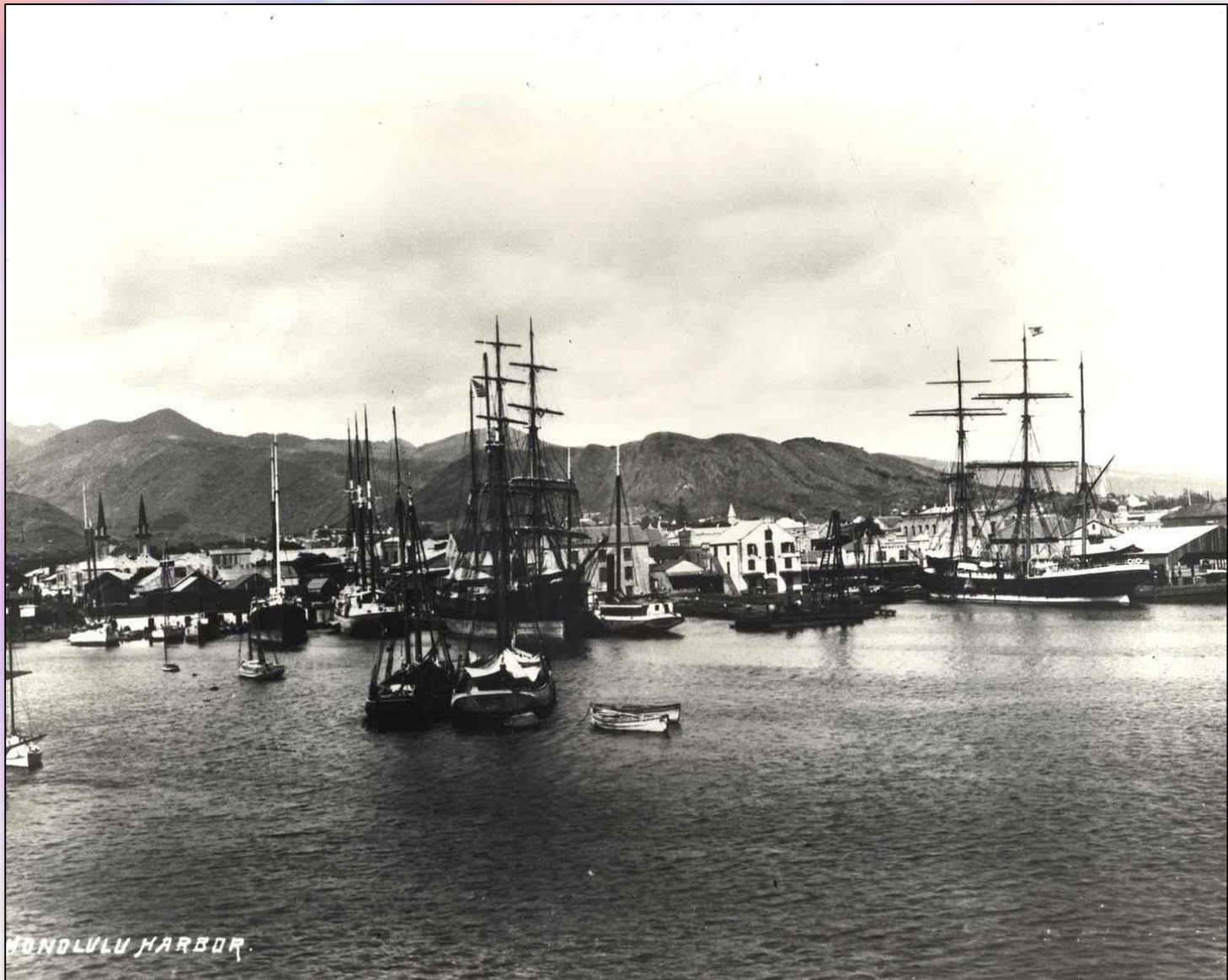
- **Foreigners wanted permanent titles**
  - Eager to develop agricultural resources
- **Missionaries pushed for fee simple land ownership for tenants**
  - “...his home, his house, his cattle, the products of his own industry to love, to defend. He becomes then attached to the soil.” – editorial in the *Polynesian*
- **Foreign enterprise would provide employment for natives and produce goods for export.**



# **Chiefs' Fears for Change**

- **Reluctance to surrender hold on tenants secured by feudal tenures and the labor system**
- **Loss of sovereignty over the land**
- **Foreign domination would result in increase in numbers and wealth of the foreigners**

# Foreigners' Influence



# Foreigners' Land Rights

- **No rights**
  - **Foreigners disposed at will**
    - **Allowed to retain personal property**
  - **King/chiefs - “We simply claim the soil itself”**



# Sandalwood Tree



# Early Commerce

- **Sandalwood**

- **1790 – 1819**

- **Controlled by Kamehameha I**

- **King exchanged it for guns, ships, and goods**

- **1819 – 1829**

- **Controlled by chiefs**

- **Signed promissory notes for “picul” of sandalwood in exchange for goods**

- » **Picul = 133 1/3 pounds @ \$10**

- **Debt to foreigners - \$200,000+**



# **Early Commerce**

- **Whaling industry – 1824-1861**
  - **Development of mercantile community**
  - **Meeting point between transporting ships and whaling ships**
  - **Promoted agricultural development**
    - **Beef, potatoes (sweet and Irish), fruit**



# **Early Commerce**

- **Sugar – 1836**
  - **Koloa, Kaua‘i**
    - **Ladd and Company**
- **Sugar - 1846**
  - **Kaua‘i – 2 plantations**
  - **Maui – 6 plantations**
  - **Hawai‘i – 3 plantations**
- **Sugar production**
  - **1836 – 8,000 pounds**
  - **1861 – 2,567,498 pounds**

# **Key Foreigners**

- **George Vancouver**
  - **British Captain**
- **John Palmer Parker**
  - **Massachusetts sailor**
- **John Young**
  - **British subject, boatswain on American ship**
- **Isaac Davis**
  - **Welshman, seaman on American ship**

# **Key Foreigners**

- **William Little Lee**
  - **American lawyer**
  - **Helped draft 1852 constitution**
  - **Chief Justice of Hawaiian Supreme Court**
  - **One of the presidents of the Land Commission**
  - **Wrote the Act for the Government Masters and Servants in 1850**
  - **Helped draft Kuleana Act of 1850**
  - **First president of Royal Hawaiian Agricultural Society**

# **Key Foreigners**

- **Richard Charlton**
  - **British Counsel**
- **Sir Alexander Simpson**
  - **Acting British Counsel**
- **Lord George Paulet**
  - **British Captain**
- **Rear Admiral Richard Thomas**
  - **British Captain**

# **Paulet's Demands**

- **Removal of attachment on Charlton's property**
- **Acknowledgement of Simpson as acting counsel**
- **No British subject could be subjected to any crime unless the laws of England considered it a felony**
- **In all adjudicated disputes against British subjects, half of the jury must include British subjects approved by the counsel**
- **Direct communication between Kamehameha and acting counsel regarding complaints against British subjects.**

# **Surrender Speech**

- **“Hear ye! I make known to you that I am in perplexity by reason of difficulties into which I have been brought without cause, therefore I have given away the life of our land. Hear ye! But my rule over you, my people, and your privileges will continue, for I have hope that the life of the land will be restored when my conduct is justified.”**

**Kamehameha III February 25, 1843**

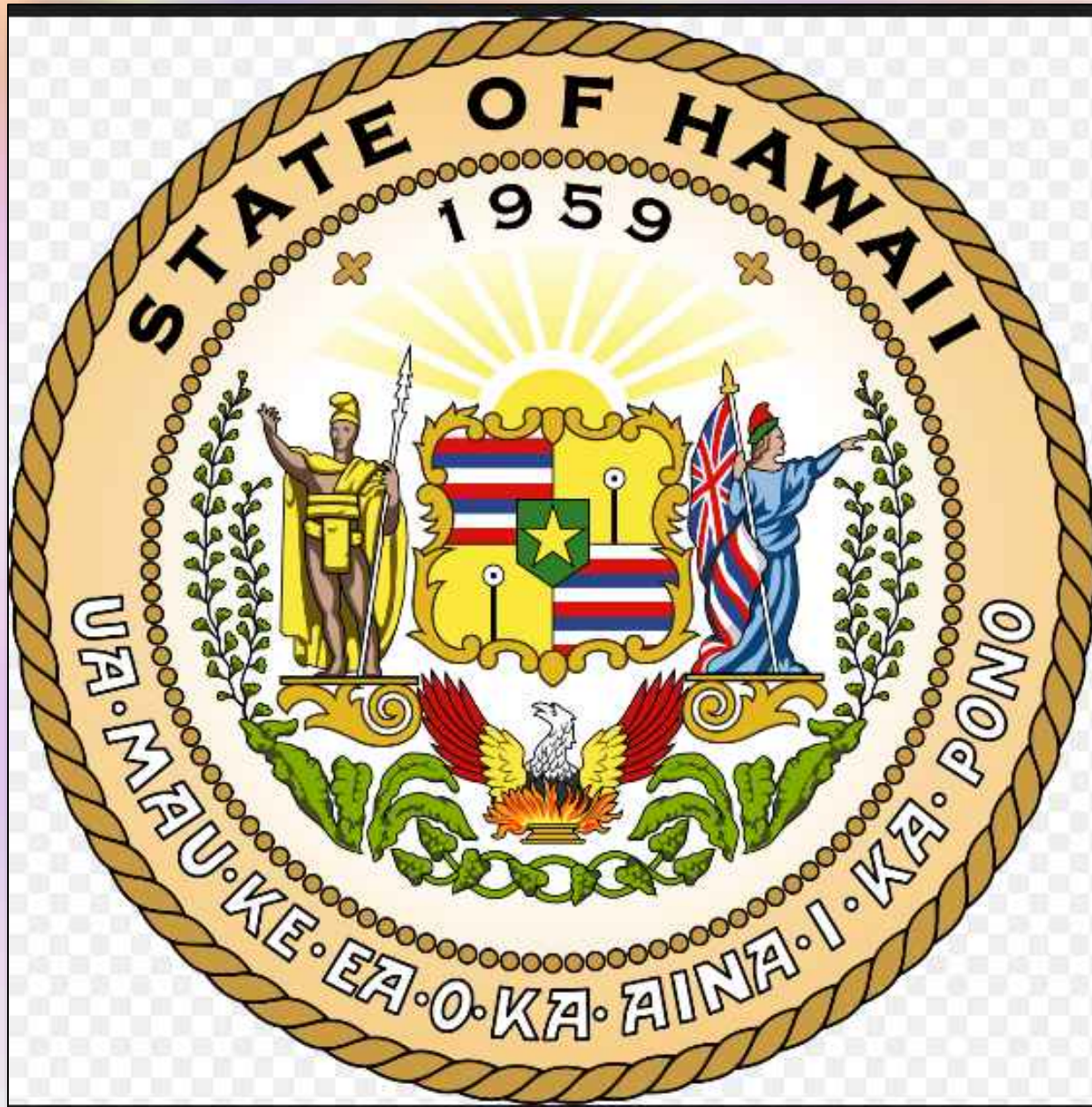


# Sovereignty Restored

- Real Admiral Richard Thomas (Paulet's commanding officer)
- Apologized to Kamehameha
- Sovereignty restored July 31, 1843
- Kamehameha declared...



*“Ua Mau Ke Ea O Ka Aina I Ka Pono”*  
The life of the land is perpetuated  
in righteousness



# **Land Laws of 1845-1846**

## **Statute Laws I, 95-110**

- **Land could be sold in fee simple to Hawaiian subjects**
- **District of Makawao, Maui**
  - **Approx. 900 acres sold**
    - **5-10 acres each, \$1 per acre**
- **Manoa valley, Oahu**
  - **Approx. 30 parcels**
    - **1-10 acres each, \$1 per acre**

# **Land Laws of 1845-1846**

## **Statute Laws I, 95-110**

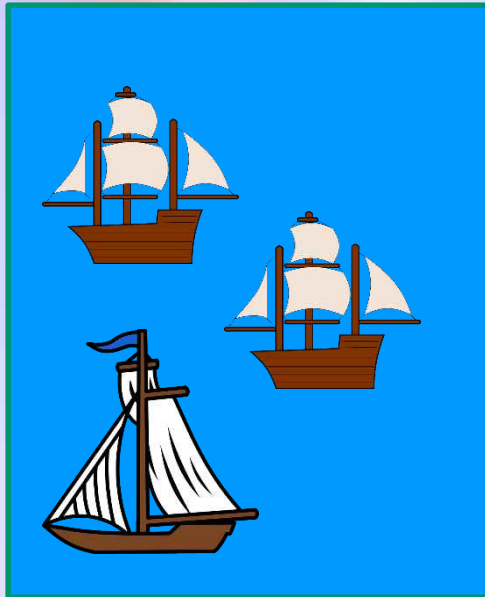
- **Lands could be sold to foreigners, IF the right to the land had been acquired previously**
  - **Undisturbed possession 5 years or longer**
- **Lands can be leased to Hawaiian subjects or foreigners**
  - **Leases to aliens cannot exceed 50 years**
- **Board created to investigate claims to property obtained prior to the new law**
  - **Hawaiians or foreigners**



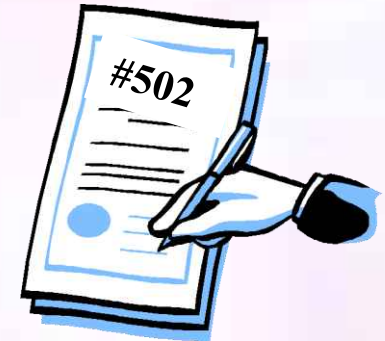
# **Commission to Quiet Titles**

- **Investigate and either assert or reject claims to land**
  - **Two year term**
- **Awards provided to affirmed claims**
  - **Land Commission Awards – L.C.Aw.**
  - **Gave complete title**
    - **Subject to government's interest – commutation**
      - **1/3 unimproved value of land**
- **Once commutation paid, patent issued**
- **Mostly claims of foreigners, and a few Hawaiians**

# R. P. 460, L. C. Aw. 502 issued to Smith



Smith's Mercantile



**All that certain parcel of land located in Honolulu, Island of Oahu, Kingdom of Hawaii, being Royal Patent 460, Land Commission Award 502 issued to Smith.**



# Land Ownership by Foreigners

- Land laws of 1845-1846
  - Foreigners allowed to purchase land IF right acquired prior to the laws
- Law of 1847
  - Foreigners allowed to purchase land *in their possession*
  - Limitation - could later be sold only to Hawaiian subjects
- Resident Alien Act of 1850
  - Right of foreigners to purchase land and to dispose of at will

# **Claim No. 4 of George Pelly**

- **1823 – William Pitt Leleiohoku to James Robinson**
- **1830 – Robinson to Richard Ridley**
- **1835 – Ridley to George Pelly**

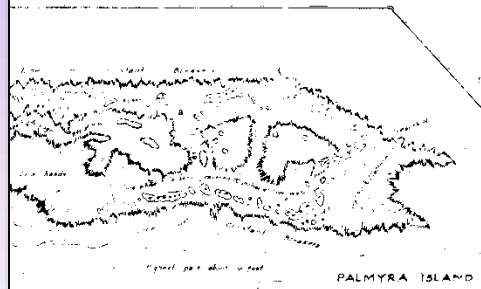
# **Awards to Foreigners - O'ahu**

- **L.C. Aw. 16 - Eli Jones - Honolulu**
- **L.C. Aw. 17 - Eli Jones – Beretania St.**
- **L.C. Aw. 23 – Oliver Smith – Queen St.**
- **L.C. Aw. 26 – Jules Dudoit – Beretania St.**
- **L.C. Aw. 32 – E.R. Butler – Honolulu**
- **L.C. Aw. 33 – Thomas Cummins - Fort St.**

# OAHU

Area 667.7 Sq. Mi.

## Land Units



MAR 16 1994

Owner's, lessee's & vendor's names recorded on this tax map may not be current. Please refer to ownership history sheets and deed books for current owners.

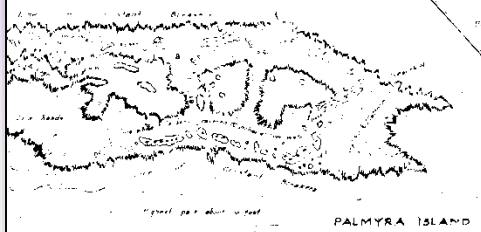
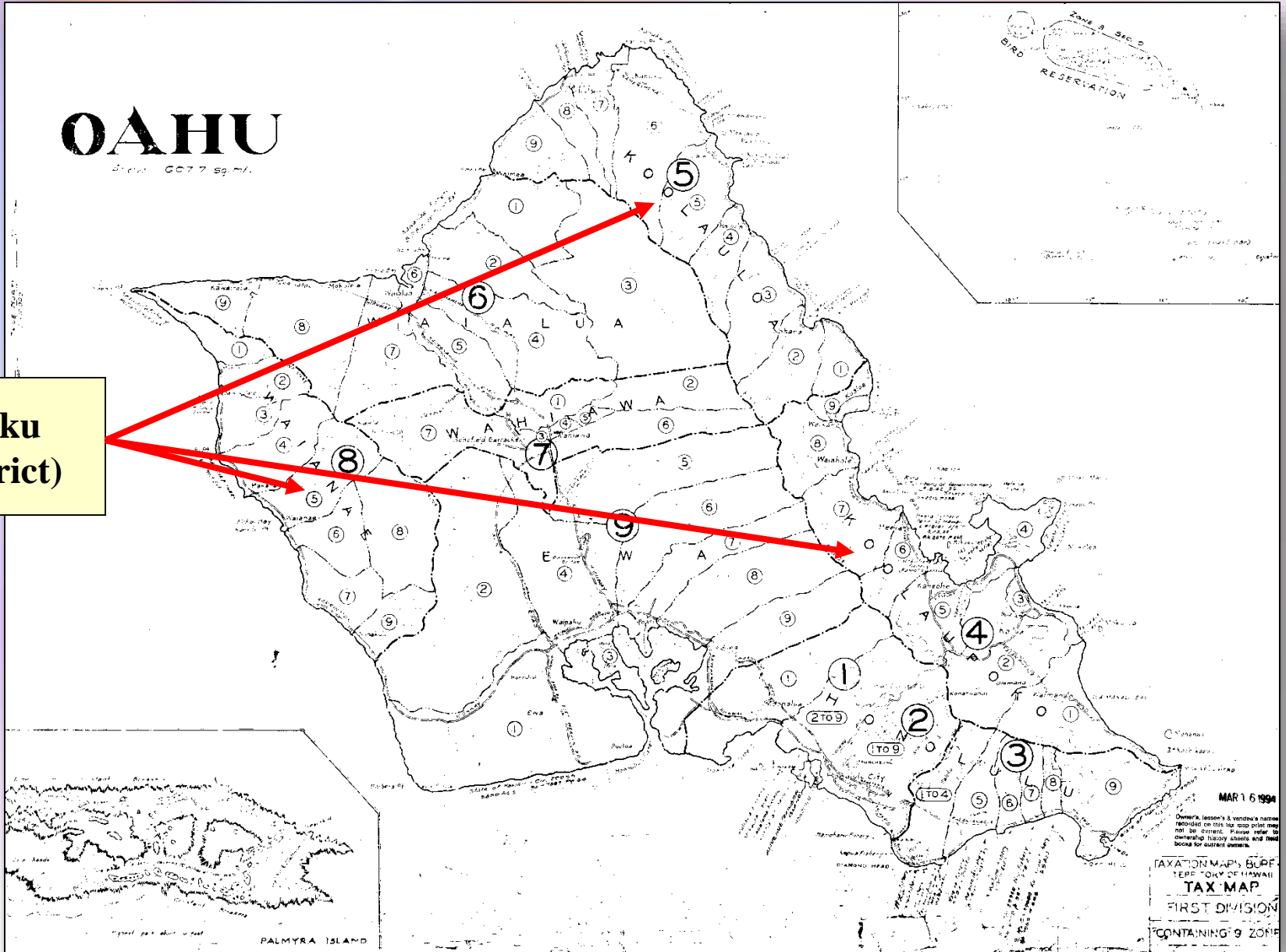
TAXATION MAPS BUREAU  
STATE OF HAWAII  
TAX MAP  
FIRST DIVISION  
CONTAINING 9 ZONE

# Moku (District)

**OAHU**  
Area 6677 Sq. Mi.

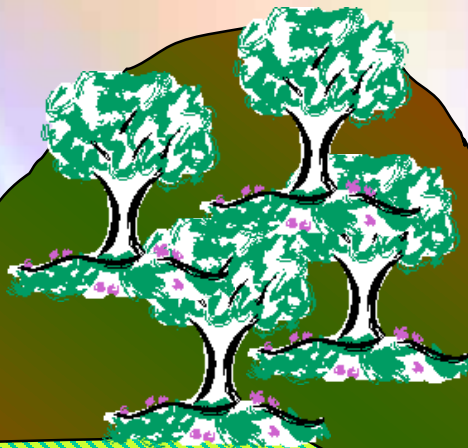
Zone 9 SEC 2  
BIRD RESERVATION

**Moku  
(district)**

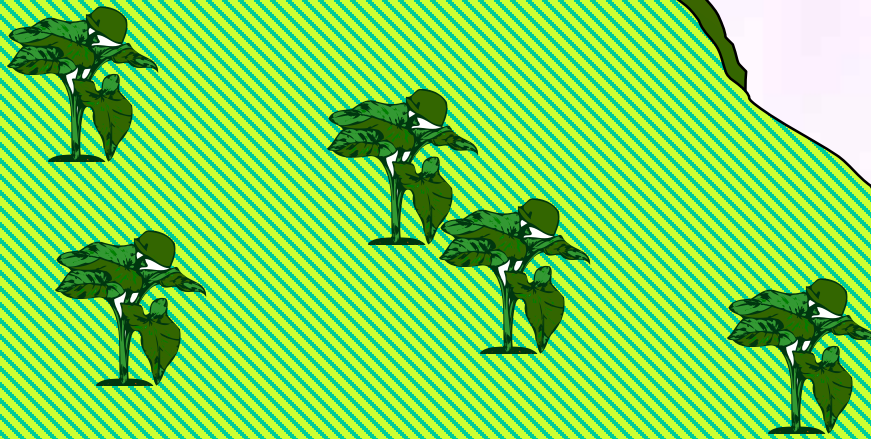


# ahupua'a

Forests



Middle  
Lands



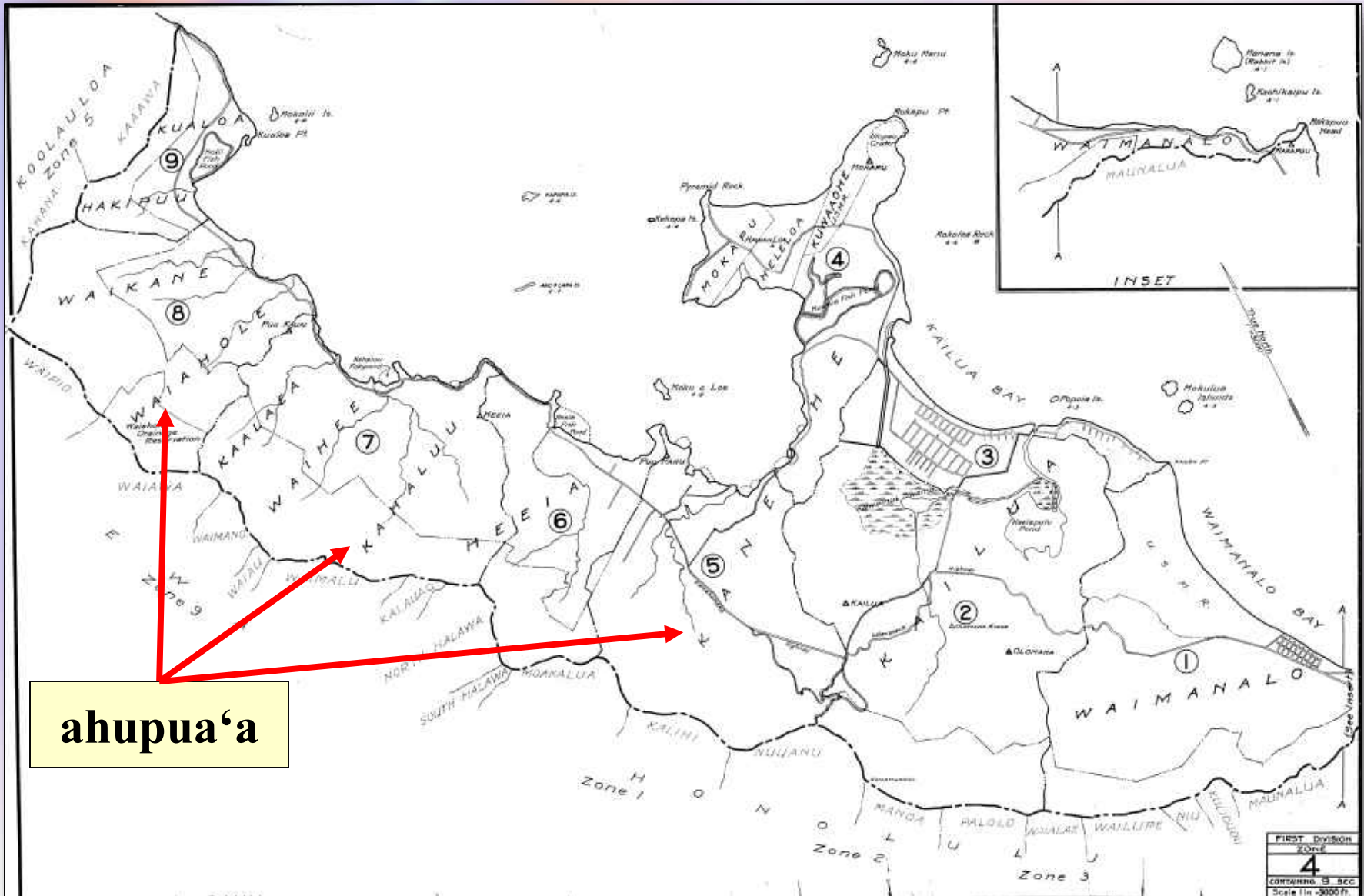
Sea

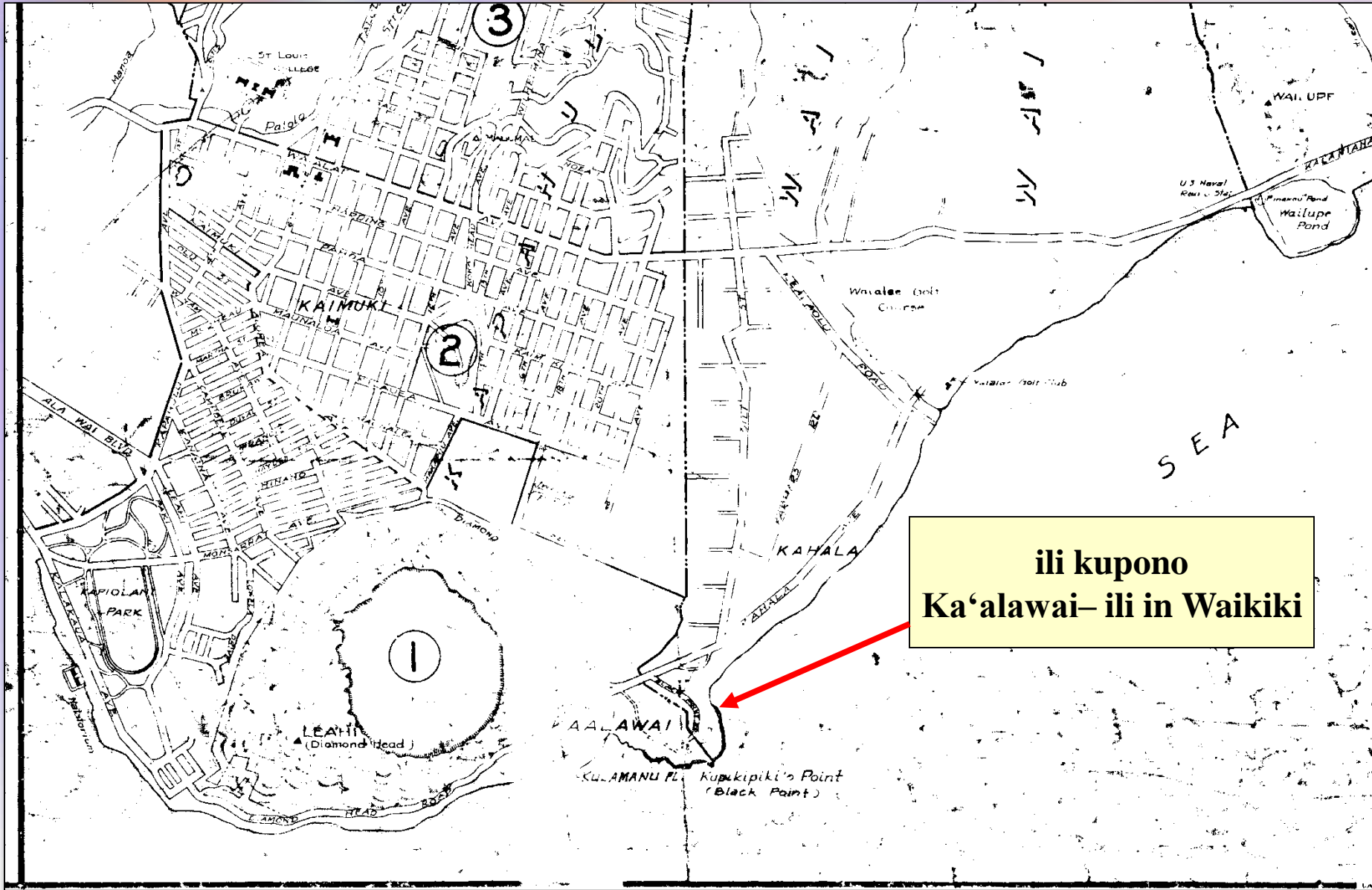
Fisheries





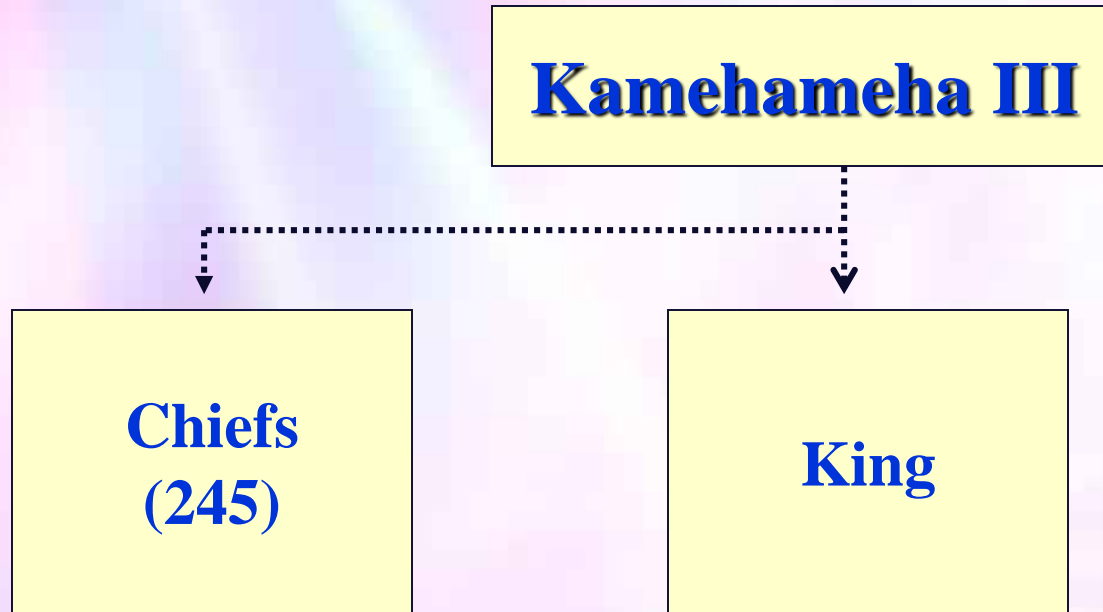
# ahupua'a

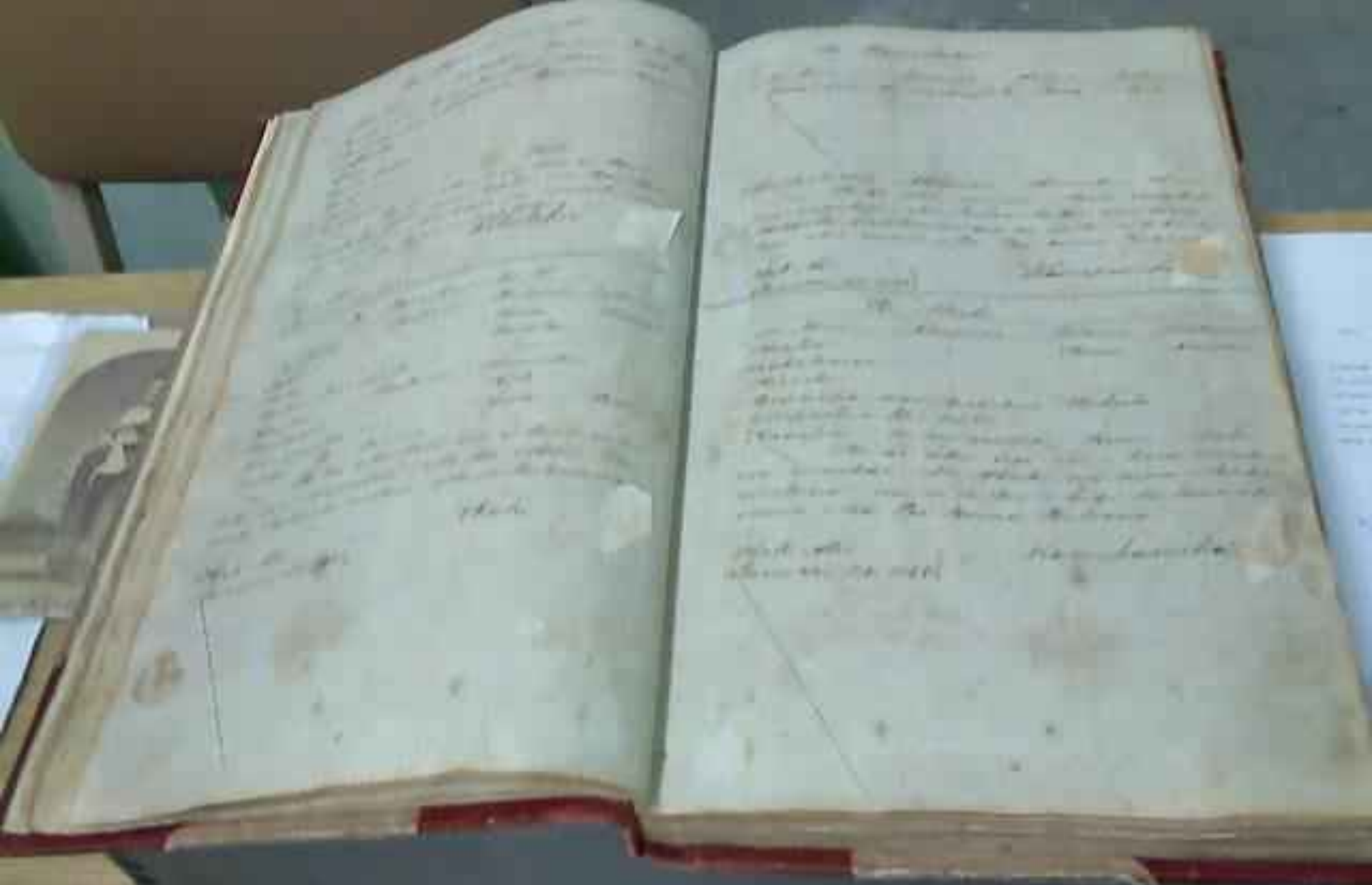




**ili kupono  
Ka'alawai— ili in Waikiki**

# **Ka Mahele of 1848**





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# Chief's Page

## He Hamahamaka III.

Ke aia      ahupuaa      Kahuna      Pohopuni  
o Pukui      Li no Kameha      Koolau      Pole Oahu  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Ke aia

Hah Alii  
 14 Feb. 1848

## He Hamahamaka III.

Ke aia      ahupuaa      Kahuna      Pohopuni  
Luna      Li no Kameha      Koolau      Pole Oahu  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Ke aia

Hah Alii  
 14 Feb. 1848

## He Hamahamaka III.

Ke aia      ahupuaa      Kahuna      Pohopuni  
o Lauka      Kawaka      Hawaii  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Ke aia

Hah Alii  
 14 Feb. 1848

## He Hamahamaka III.

Ke aia      ahupuaa      Kahuna      Pohopuni  
Hopouka      Li      Kalawa      Kohala      Hawaii  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Kalawaka

Hah Alii  
 14 Feb. 1848

# King's Page

## Ke Koo Lee.

Ke aia      ahupuaa      Kahuna      Pohopuni  
o Pukui      Li no Kameha      Koolau      Pole Oahu  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Hamahamaka

Hah Alii  
 14 Feb. 1848

## Ke Kahoohanohano.

Ke aia      ahupuaa      Kahuna      Pohopuni  
o Pukui      Li no Kameha      Koolau      Pole Oahu  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Hamahamaka

Hah Alii  
 14 Feb. 1848

## Ke Koo Lee.

Ke aia      ahupuaa      Kahuna      Pohopuni  
o Pukui      Li no Kameha      Koolau      Pole Oahu  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Hamahamaka

Hah Alii  
 14 Feb. 1848

## Ke Kalaiomoku.

Ke aia      ahupuaa      Kahuna      Pohopuni  
Alamui      Li      Kalawa      Kohala      Hawaii  
 He ae aku mai au i kaia mahe,  
 ua maikai. He ka mo'i kaia i ka  
 kahuna mahe. aha oia kahuna mahe.

Hamahamaka

Hah Alii  
 14 Feb. 1848

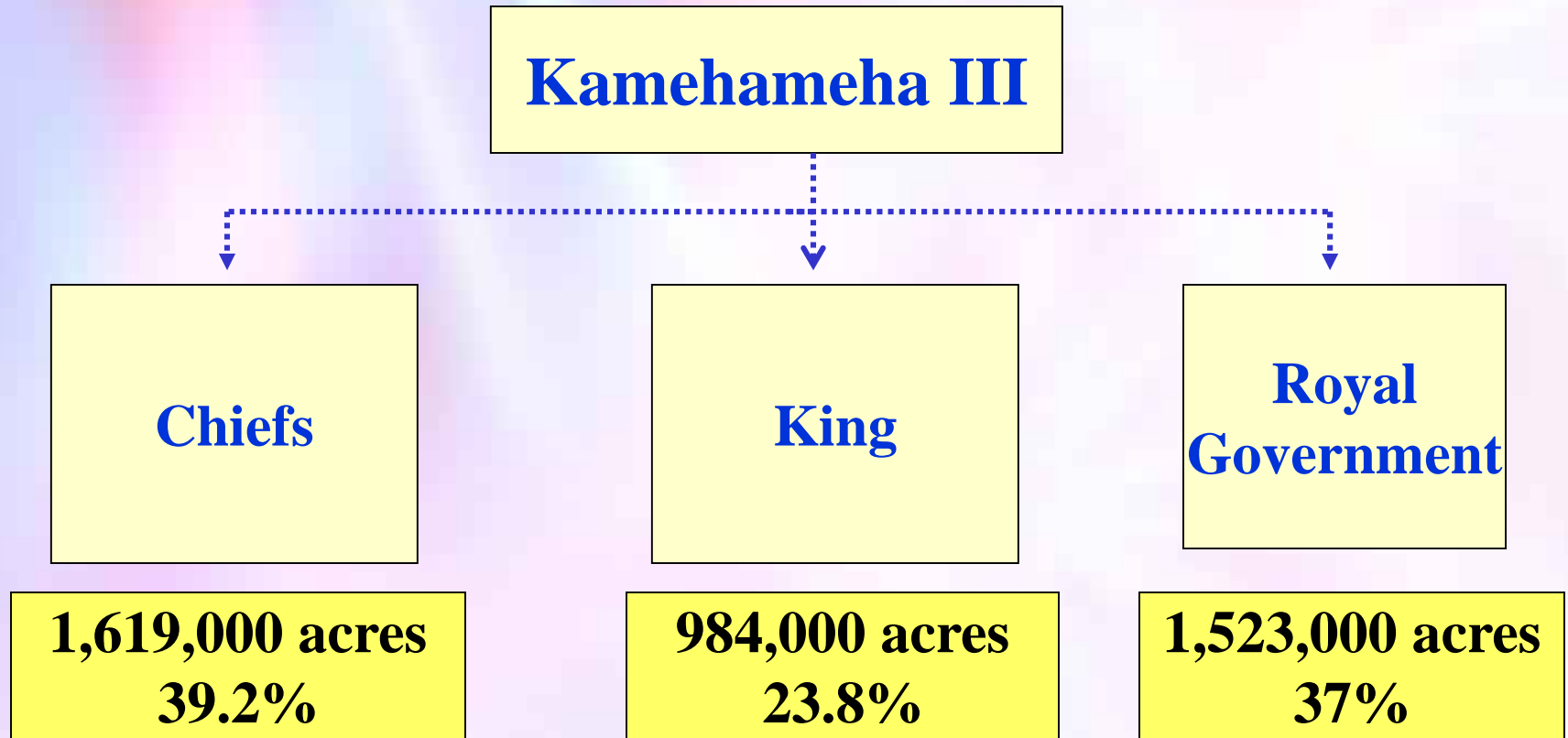


# Mahele Book

**“I hereby agree that this division is good. The lands above written are for the King. I have no more rights therein.”**

**“I hereby agree that this division is good. The lands above written are for *[name of chief]*: consent is given to take it before the Board of Commissioners to Quiet Land Titles.”**

# Ka Mahele of 1848



“By our Sovereign Lord the King, we do hereby declare those lands to be set apart as the lands of the Hawaiian Government, subject always to the rights of the tenants...and the Minister of the Interior... shall have the power to dispose of the government lands to Hawaiian subjects.

# **Ali'i Mahele Lands**

- **Ili and ahupua'a awards**
  - **Kekau'onohi – 77 (West Waimalu)**
  - **Lunalilo – 65 (Kapahulu, King St., Queen St.)**
  - **Keohokalole – 50 (Kahana)**
  - **Victoria Kamamalu – 48 (Maunalua, Wailua)**
  - **Leleiohoku – 36 (Punaluu)**
  - **Lot – 17 (Kaakaukukui)**
  - **Ruth 12 (Manana)**
  - **Konia – 11 (kaonohi)**
  - **Kekuaiwa – 9 (Kapalama)**

# **Confirmation & Limitations**

## **- Ali'i & Chiefs -**

- **Mahele only confirmed right of possession, did not vest title**
- **Had to present claim to Land Commission to secure title**
  - **Failure to secure title left legal title with the government**
  - **Some Awards by name – not surveyed**
  - **Royal Patents not issued until commutation paid AND survey completed (“piece-meal”)**
- **Claims filed after 1855 to Minister of Interior**

# **Chief's Lands**

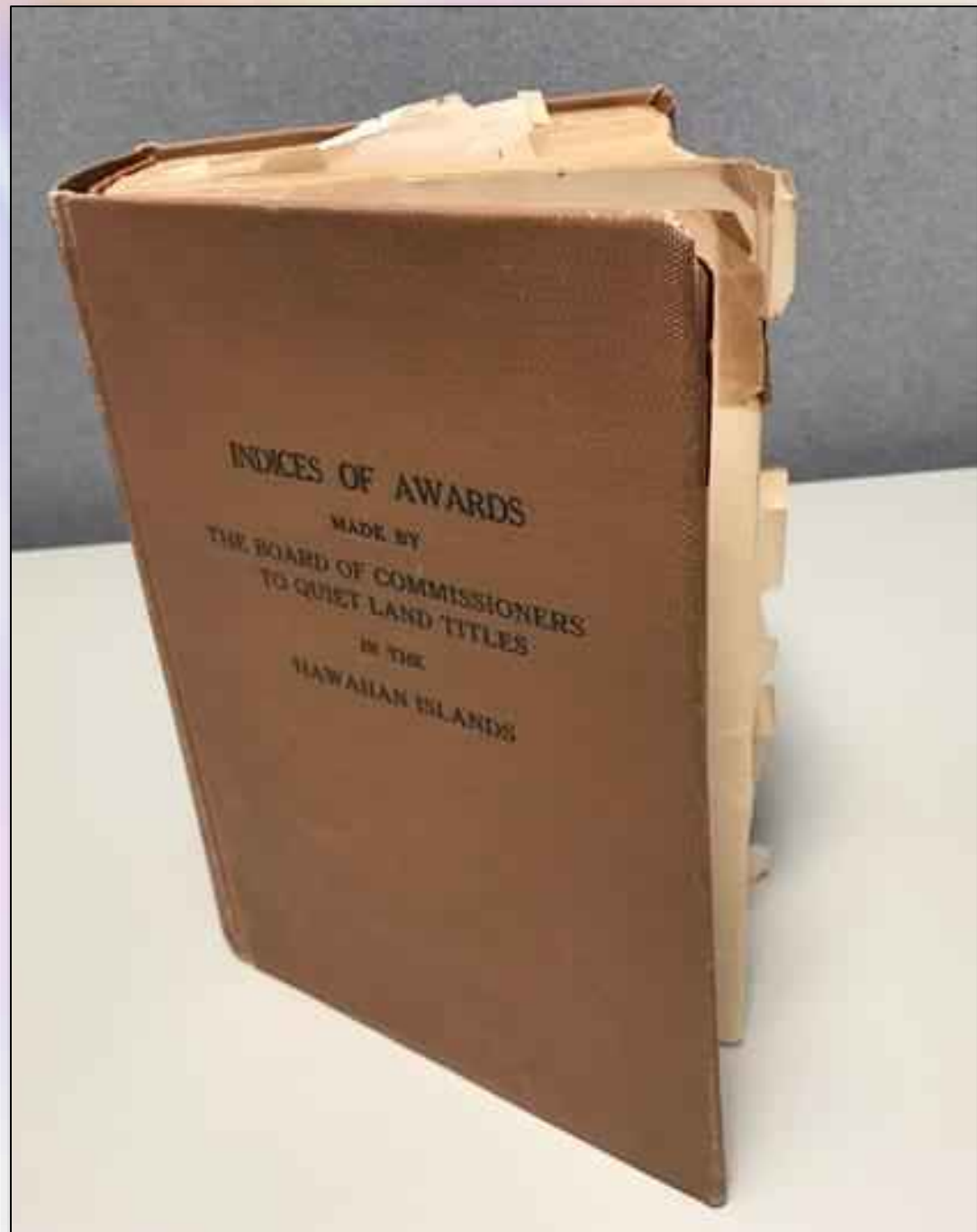
## **Class of Conveyance**

- **Land Commission Award – L.C. Aw.**
  - 1848 to 1855
  - **Royal Patent (during monarchy) issued upon payment of commutation**
  - **Land Patent (post monarch) issued upon payment of commutation**
- **Mahele Award**
  - After 1855
  - **Royal Patent (during monarchy) issued upon payment of commutation**
  - **Land Patent (post monarch) issued upon payment of commutation**



**Indices of Awards  
Made by  
The Board of  
Commissioners  
To Quiet Land Titles  
in the  
Hawaiian Islands**

**Compiled and published by  
the Office of the  
Commissioner of Public  
Lands of the  
Territory of Hawaii  
1929**



# Mahele

## Chief's Lands

Partial List of Lands Agreed Upon by the Mahele to Belong to the More Important Aliis and Chiefs  
and Confirmed to Them by Awards of the Commission to Quiet Land Titles

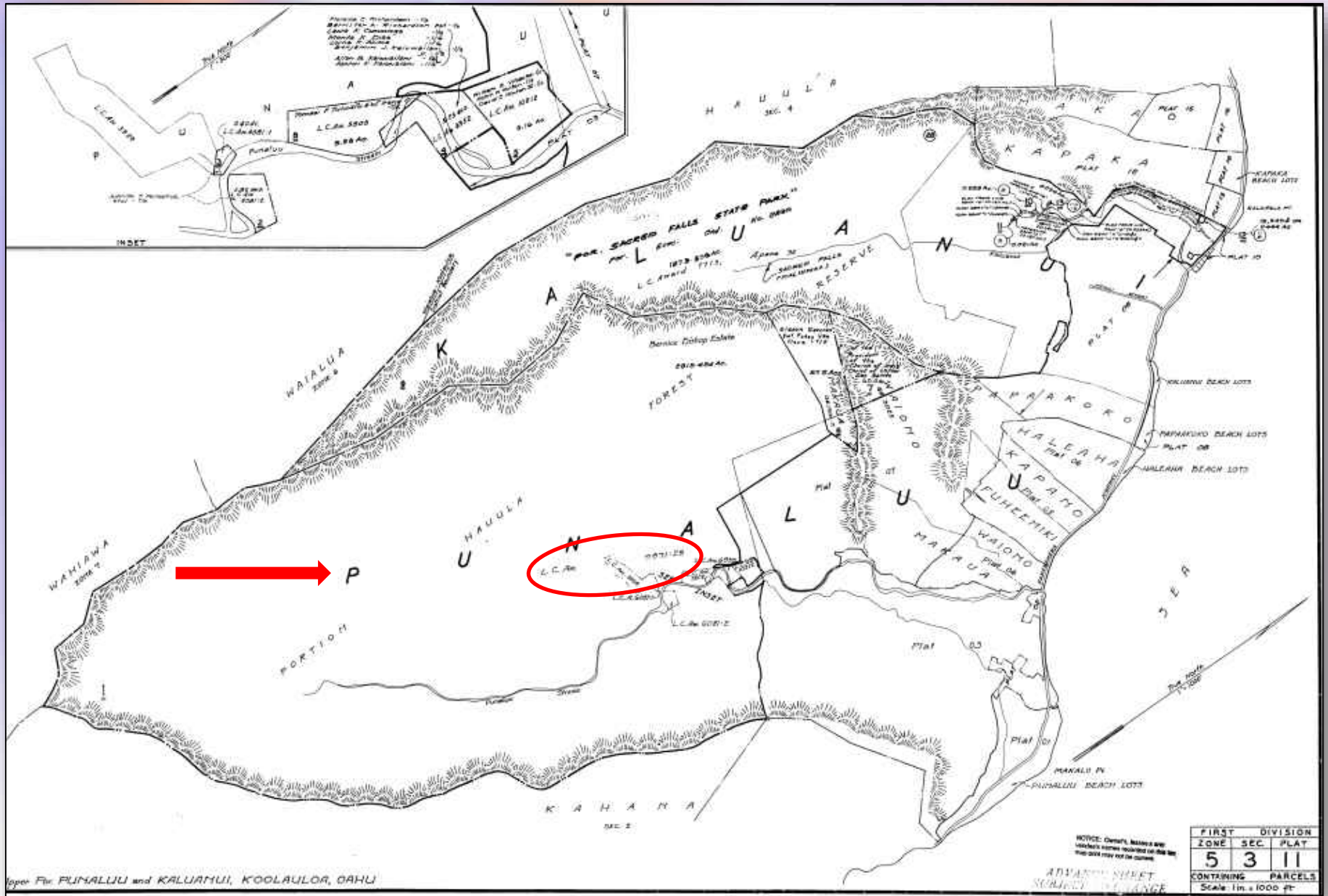
17

Awardee	Remarks	L. C. A.	Book	Page	Apana	R.P.	Lands and Location
Leleiohoku, Wm. Pitt Husband of Nahienaena—sister of Liholiho— King Kamehameha II, and Kauikeaouli—King Kamehameha III. His wife died on Dec. 30, 1836; he afterwards married Ruth Keelikolani.		9971	10	586	1	.....	Kalakalaula, Hamakua, Hawaii
		9971	10	592	2	.....	Kapoaula, Hamakua, Hawaii
		9971	10	594	3	.....	{Kemau, Hamakua, Hawaii {Pohakuhaku
		9971	10	596	4	.....	Waikoloa, Hamakua, Hawaii
		9971	10	598	5	.....	Paalaea, Hamakua, Hawaii
		9971	10	599	6	7735	Kaala, Hamakua, Hawaii
		9971	10	599	7	7735	{Kawaiiki, Hamakua, Hawaii {Manowaialee
		9971	10	599	8	.....	Waialeale (1), Hamakua, Hawaii
		9971	10	600	9	6855	Honokohau iki, Kona, Hawaii
		9971	10	609	10	6882	Kahilipali, Kau, Hawaii
		9971	10	609	11	.....	Hilea, Kau, Hawaii
		9971	10	609	12	7709	Hionamoia, Kau, Hawaii
		9971	10	609	14	7714	Pualaa, Puna, Hawaii
		9971	10	610	15	7715	Kikala, Hilo, Hawaii
		9971	10	610	16	.....	Keahua, Hamakua, Hawaii
		9971	10	611	17	.....	Kana, Hamakua, Hawaii
		9971	10	611	18	.....	Kapaaula, Hamakua, Hawaii
		9971	10	611	19	6854	Niulii, Kohala, Hawaii
		9971	10	612	20	8161	Puanui, Kohala, Hawaii
		9971	10	612	21	.....	Papaaea, Hamakualoa, Maui,
	9971	10	612	22	.....	Kuiaha, Hamakualoa, Maui	
	9971	10	613	23	.....	Aki, Lahaina, Maui	
	9971	10	613	24	8143	Kamalo, Kona, Molokai	
	9971	10	613	25	7804	Punaluu, Koolauloa, Oahu	
		9971	10	617	26	7735	Kaakopua, Honolulu, Oahu
		9971	10	617	27	8126	Moeauoa, Kona, Hawaii
		9971	10	617	28	.....	Kaumalumalu, Kona, Hawaii
		9971	10	617	29	.....	Hookena, Lauhulu, Kona, Hawaii

LANDS OF ALIIS AND CHIEFS



# Mahele Chief's Lands



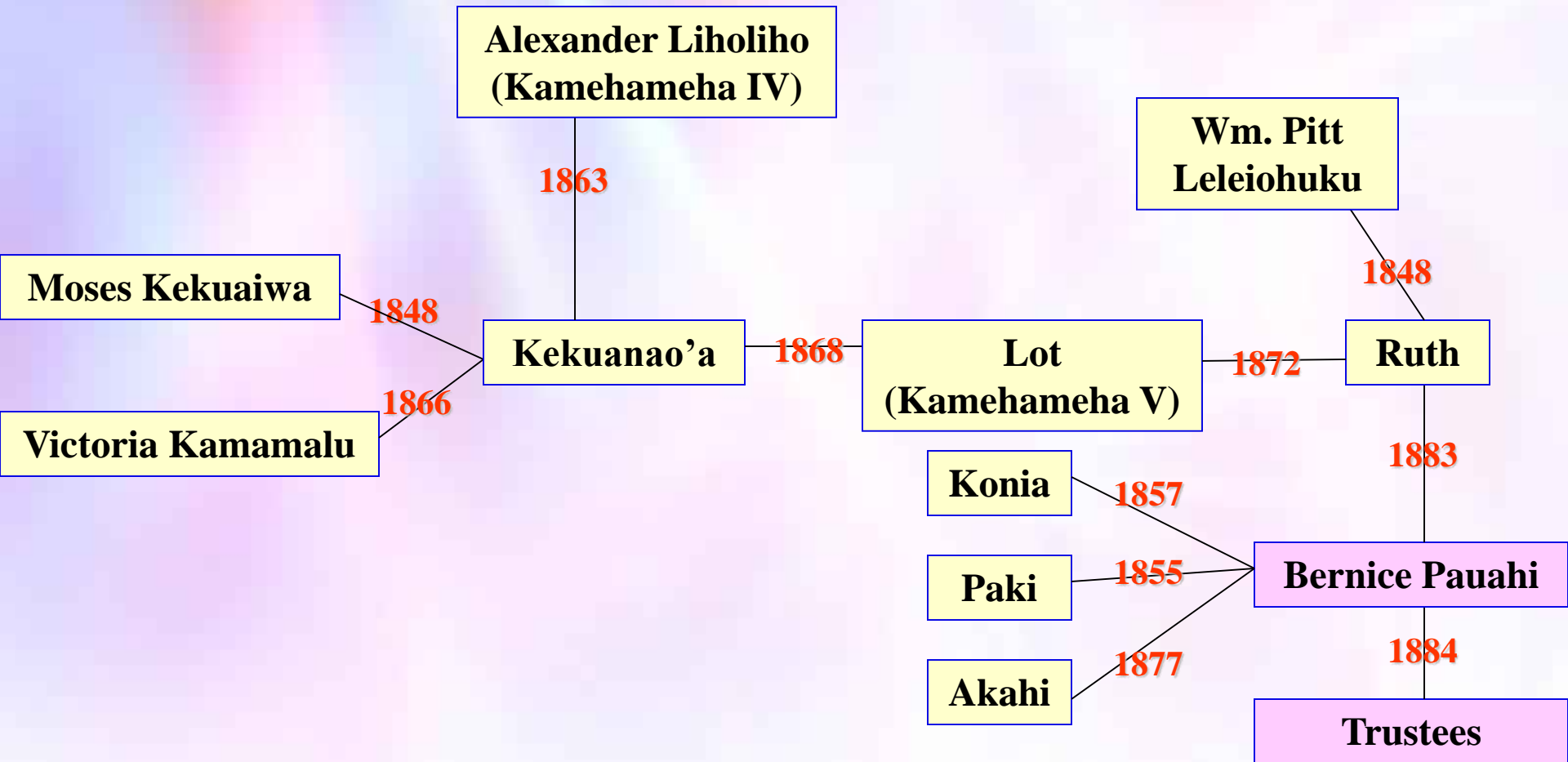
All that certain parcel of land situate at Punaluu, District of Koolauloa, City and County of Honolulu, State of Hawaii, being Forest Reserve Area, being that portion of Hauula Forest Reserve situate in the Ahupuaa of Punaluu, comprising a portion of R. P. 7804, L. C. Aw. 9971, Ap. 25 to W. P. Leleiohoku and all of R. P. 3924, L. C. Aw. 3959 to Nakolo, containing a net area of 2812.424 acres, more or less, after excluding therefrom R. P. 7908, L. C. Aw. 6081, Ap. 1 and 2 to Hio, and R. P. 6705, L. C. Aw. 5808 to Kaimanu, and portion of R. P. 913, L. C. Aw. 6952 to Komauna, said portion of the Hauula Forest Reserve covered by Tax Map Key: 5-3-11: Por. 1, and classified herein as nonproductive land.

# **Chiefs' Lands Today**

- **Many were sold and passed out of Hawaiian hands**
- **Queen Emma Foundation**
- **Liliuokalani Trust**
- **Castle & Cooke's Mililani lands**
- **Campbell Estate**
- **Damon Estate**
- **Kamehameha Schools— largest surviving block**



# Mahele Sources of Kamehameha Schools Lands



# **Confirmation & Limitations**

## **- King -**

- **Kam III's surrender of a larger portion of lands to government satisfied commutation**
- **Not necessary to obtain Award on lands**
- **Kam III and IV sold, leased, and mortgaged lands as a personal estate**
- **Estate bankrupt upon death of Kam IV**
- **Gov't bonds issued to pay debts and redeem some lands**
- **Act of 1865 – declared lands to inalienable Crown Land – preserved to support the Hawaiian Crown**
  - **Commissioner of Crown Lands**

# Mahele King's Lands

## AN ACT RELATING TO THE LANDS OF HIS MAJESTY THE KING AND OF THE GOVERNMENT.

WHEREAS, It hath pleased His Most Gracious Majesty Kamehameha III., the King, after reserving certain lands to himself as his own private property, to surrender and forever make over unto his Chiefs and People, the greater portion of his Royal Domain:

AND WHEREAS, It hath pleased our Sovereign Lord the King, to place the lands so made over to his Chiefs and People, in the keeping of the House of Nobles and Representatives, or such person or persons, as they may from time to time appoint, to be disposed of in such manner as the House of Nobles and Representatives may direct, and as may best promote the prosperity of this kingdom and the dignity of the Hawaiian Crown: Therefore, BE IT ENACTED by the House of Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled:

That, expressing our deepest thanks to His Majesty for this noble and truly royal gift, we do hereby solemnly confirm this great act of our good King, and declare the following named lands, viz:

### OAHU

Aiea	Ahupuaa	Ewa
Auwaiolimu	Ili in Honolulu	Kona
Halekou	Ili in Kaneohe	Koolaupoko
Halelena	Ili in Waikiki	Kona
Hamama	Ili in Waikiki	Kona
Hauhaukoi	Ili in Honolulu	Kona
Hauula	Ahupuaa	Koolauloa
Honokawailani	Ili in Waiau	Ewa
Hopeka	Ili in Waiahole	Koolaupoko
Kaalawai	Loi ili in Waikiki	Kona
Kahalauluahine	Ili in Waikiki	Kona
Kahalekauwila	Ili in Kaneohe	Koolaupoko
Kahaluu	Ahupuaa	Koolaupoko







# Deed - continued

From order of the probate court, public auction held and property sold to James Stewart for \$4,600

All of the ahupua'a of Kahaluu

Dated June 4, 1864

Queen Emma's dower release

206

in compliance with an order of The Hon<sup>ble</sup> J. M. Richardson Associate Justice of the Supreme Court sitting as a Court of Probate which said order is dated on the 6<sup>th</sup> day of May 1864 did offer for sale at Public Auction the Estate of Kahaluu situated in Honolulu on the Island of Oahu at the Auction Room of S. W. Cole Esq<sup>r</sup> on the 3<sup>rd</sup> day of June instant and that James Stewart of Honolulu Oahu at the said Auction did bid the sum of Seven Thousand Six Hundred Dollars and no one else did bid so much and thereupon the said James Stewart was declared to be the Purchaser and that on the 9<sup>th</sup> day of June instant the aforesaid Hon<sup>ble</sup> Justice Richardson was pleased to affirm the said sale and to order that a deed should be made in accordance with the terms of the said sale.

Now therefore in consideration of Seven Thousand Six Hundred Dollars to me in hand paid by the said James Stewart the receipt of which is hereby acknowledged - have granted bargained and sold by these presents do grant bargain and sell unto the said James Stewart and to his heirs & assigns forever all the Ahupua'a of Kahaluu situated in Honolulu Island of Oahu subject to Native rights as granted by the Board of Land Commissioners seeing and accepting that portion of the said Ahupua'a granted to Lewis Maignat by his deed

including an Ali containing 86 1/2 acres purchased from Hawaiian Govt Royal Patent N<sup>o</sup> 1278 a survey of the said Ahupua'a is passed to the said Stewart with this deed of conveyance a reduced copy of which is hereto appended. To have and to hold unto the said James Stewart and unto his heirs and assigns forever and of the said John O. Dominis Administrator as aforesaid for and on behalf of the said Estate will warrant and defend the before granted premises together with all its Fish Ponds rights of fishing and all other rights privileges and appurtenances thereto belonging unto the said James Stewart and to his heirs & assigns forever.

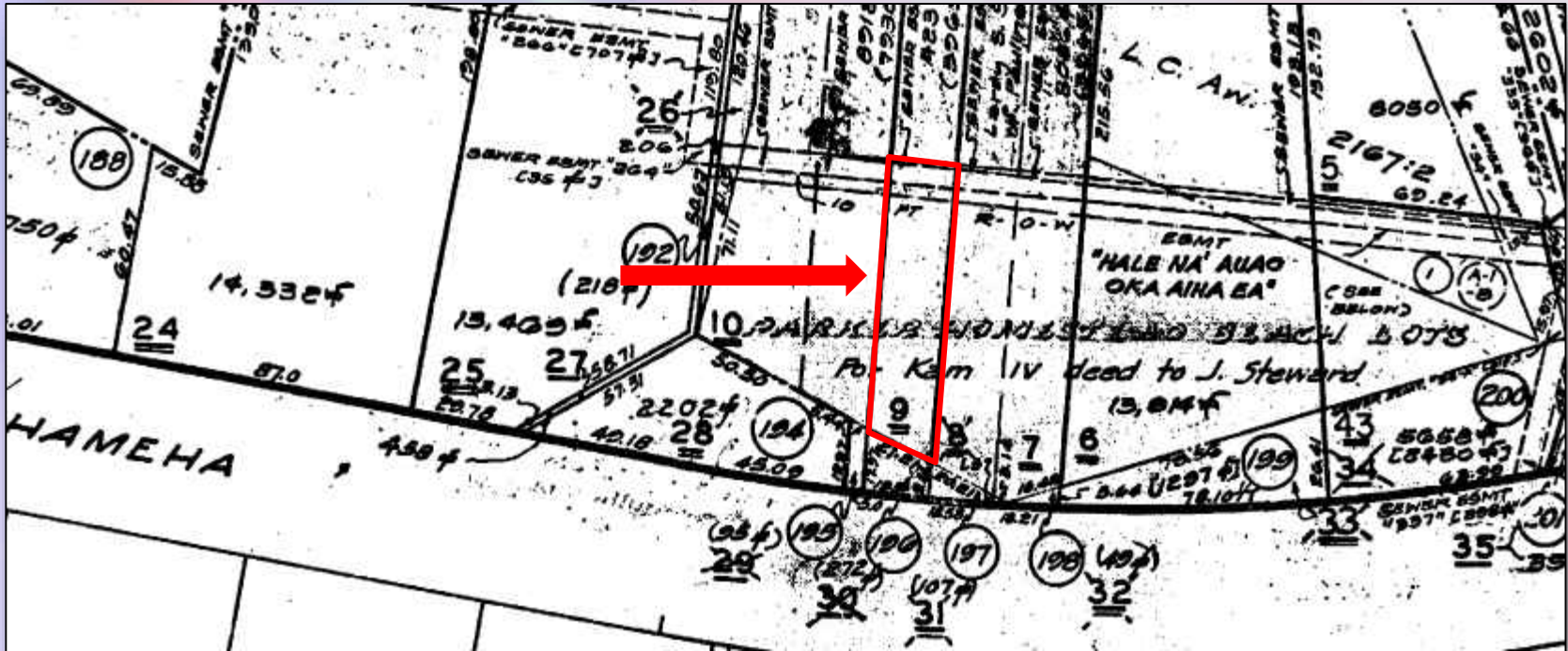
In testimony whereof I have hereunto set my hand and Seal this 4<sup>th</sup> day of June A.D. 1864 at Honolulu, Island of Oahu.

Jno. O. Dominis  
Administrator of the Estate of His late  
Majesty Kamehameha IV.

And I the undersigned widow of His late Majesty Kamehameha IV in consideration that the Mortgage previously given on the said Ahupua'a be released and for various other good and valuable considerations by me received have quit claimed and do forever quit claim to all right title & interest in the said Ahupua'a of Kahaluu unto the said James Stewart his heirs and assigns forever.

Emma

# Kamehameha Deed TMK (1)-4-7-009-009



All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Deed of Kamehameha IV to James Steward, dated June 4, 1864, recorded in Liber 18 at Page 205) situate, lying and being at Kahaluu, District of Koolaupoko, City and County of Honolulu, State of Hawaii

# **King/Crown Lands Post Monarchy**

- **1893 – Republic of Hawaii**
- **1898 – Annexation Act**
  - Ceded to United States (approx. 1.8 million acres)
  - title vested in U.S.
- **1900 – lands subject to “possession, use and control” of Territory**
- **1959 – Admission Act**
  - Title to lands transferred to Hawaii as public trust lands (approx. 1.2 million acres)

# **Confirmation & Limitations**

## **- Government -**

- **Were set aside for the purpose of making land available for sale and development**
- **Administered by Minister of Interior**
- **Included:**
  - **Lands specified in the Mahele**
  - **Lands relinquished by the chiefs in lieu of commutation fees**
  - **Lands forfeited by chiefs failing to present claims within the statutory period**
  - **Lands purchased by the Government**
  - **.**

# **Government Lands**

- **Lands sold (by Grants) to support the cash-poor Kingdom's increasing Government offices.**
  - **Lands (1 to 50 acres) set apart on each islands to be sold to natives at about 50¢ per acre**
  - **Often sold to obtain revenue to support Government costs**
- **1848-1850, approx. 28,000 acres sold**
- **By 1857, approx. 182,000 acres sold**
- **By 1873, approx. 590,000 acres sold**




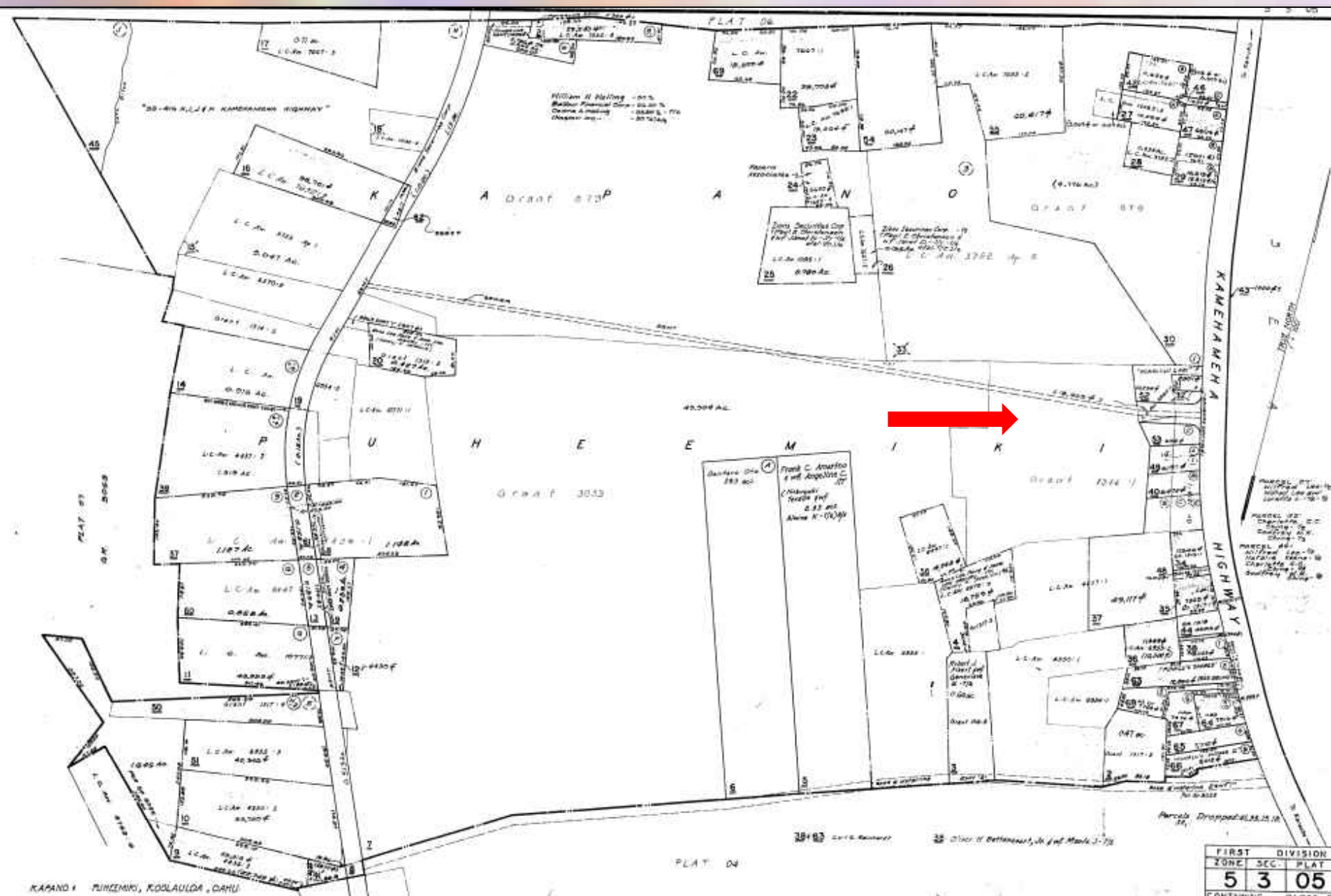
# Grants

- **1 through 3629 (approx.) – Royal Patent Grants issued by Royal Government**
- **3630 through (approx.) 13,624 – Land Patent Grants issued by Territory**
- **(approx.) S-13,625 + - Land Patent Grants issued during statehood**

# Government Land in Mahele

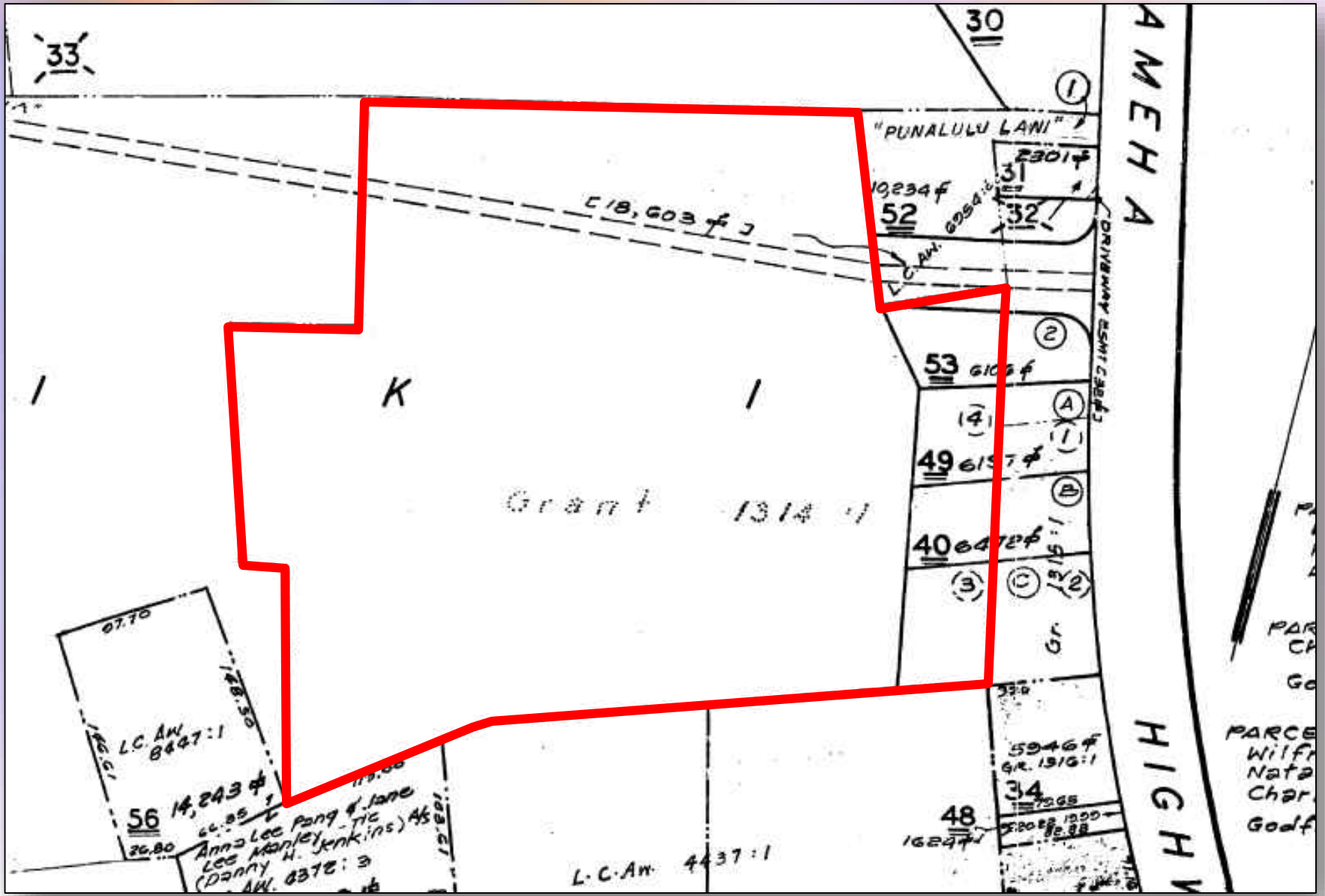
## GOVERNMENT LANDS

Names of Lands	Ahupuaa	Districts
Poea	Ili in Waiahole	Koolaupoko
Pohakea	Ili in Kailua	Koolaupoko
Pohakulawaia (1/2)	Ili in Kalihi	Kona
Pohakupu 1 (1/2)	Ili in Kailua	Koolaupoko
Pohakupu 2 (1/2)	Ili in Kailua	Koolaupoko
Pohakupu (1/2)	Ili in Waimalu	Ewa
Pookea	Ili in Kailua	Koolaupoko
Puakukui (1/2)	Ili in Kaalaea	Koolaupoko
Pualehua	Ili in Waimano	Ewa
Puanea	Ili in Kailua	Koolaupoko
Puawahakea (1/2)	Ili in Kaneohe	Koolaupoko
 Puheemiki	Ahupuaa	Koolauloa
Puiwa	Ili in Waikele	Ewa
Puiwa	Ili in Kaneohe	Koolaupoko
Punaluu (1/2)	Ili in Kaneohe	Koolaupoko
Puuiki (1/2)	Ili in inKapalama	Kona



KAPANI PUKIEMKI, KOSLAULDA, GAHU

FIRST DIVISION		
ZONE	SEC.	PLAT
5	3	05



33

30

①

"PUNALULU LANI"

2301 sq ft

10234 sq ft

52

31

32

18,603 sq ft

L.C. Am.

AMEHA

DRIVEWAY (SMT CASE)

②

53 6102 sq ft

(4)

(A)

49 6157 sq ft

(1)

(B)

40 6472 sq ft

(3)

(C)

(2)

Gr

1

K

1

Grant 1314

67.70  
185.50  
185.51  
L.C. Am. 8427:1  
56 14,243 sq ft  
66.85  
26.80

119.00  
Anna Lee Pang & Jane Lee Manley-Jenkins (Danny H. Jenkins) 45  
AK. 8372:3

L.C. Am. 4437:1

5946 sq ft  
Gr. 1916:1  
34  
1265  
5208 1900  
12.88

48  
16247

HIGHWAY

PARCE  
CH  
Go  
PARCE  
Wilfr  
Nata  
Char.  
Godf

Royal Patent Grant 1314

HELU 1314

PALAPALA SILA NOU.

Issued to Kauluai

Apana 1 = 2.90 acres

South 16° East,  
21.00 chains

Apana 2 = 0.51 acres

Ma teia Palapala Sila Nui he hoike aku nei o Kamehameha III, ke Alii nui a he Akua i kama hokomihoi  
i hooehohi ai maluna o ka Hawaii Poo Aina, i na kaula a puna, i teia la, aha iho, o na kama ma hope Alii,  
na hawai iho loa aha oia ma he aha ahaia ia *Kauluai*  
i kama *wahi* kaula i mauna puu ia ia, i hea apana ma a  
pau e waiho la ma *Puheemiki* *Wahie* *Koolauka*  
ma ka Mokupuni o *Wahie*; a penei hoi ka waiho ma o na Mokuna:

Apana 1. E hoomaka ana ma ka kili; Kona Akau o kona pahale  
a e holo ana Houa 16° Hiko 21.00 kaula, a Akau 61° Hiko 14.1 kaula ma  
ia pahale; Houa 24° Hiko 3.86 kaula ma ka paauna; Houa 67° Houa  
4.52 kaula; Houa 45° Houa 2.37 kaula; Akau 28° Houa 2.33 kaula a Houa  
71° Houa 0.51 kaula ma ka Kuleana; Akau 72° Houa 2.81 kaula;  
Akau 63° Hiko 1.31 kaula; Akau 21° Houa 2.20 kaula ma ka Aupuni;  
Akau 69° Hiko 1.41 kaula ma ka Kapauna, i ka kili ma. 2.90 aka.

Apana 2. (Kila) ma ka pali. E hoomaka ma ka kili Hiko Houa  
i ka Kapauna Kula (Kona, a e holo ana Houa 2° Houa 0.91 kaula ma  
ka Aupuni; Houa 85° Houa 5.72 kaula ma ka Kaakaa; Akau 100 kaula  
ma ka pali; Akau 88° Hiko 5.72 kaula ma ka Kapauna i ka kili  
ma. 0.51 aka.



Royal Patent Grant 1314  
Page 2

Purchase price \$81.00

Mineral reservation

Dated March 21, 1857

141

a maunalo o la Apuna  
 Eia ke kumu o ka lilo ano; ua hana'i mai oia Hoko o ha waihana waiwai o la Apuna i *ma. dala*  
*no \$81.00*

Alex, ua koo i ke Apuna na miao minerals a ioe na mine metals a pau.  
 No *Maunaloa*  
 ua eia i ke lilo ano, no *Maunaloa* maunaloa ano, ma ke ano aloha a me ke ano aloha, a me ke  
 ano aloha, ua pii ma ke ano aloha a ha Poe Ahooloto e kau lilo a me na aloha aloha a pau i ke  
 maunalo i ke maunalo.

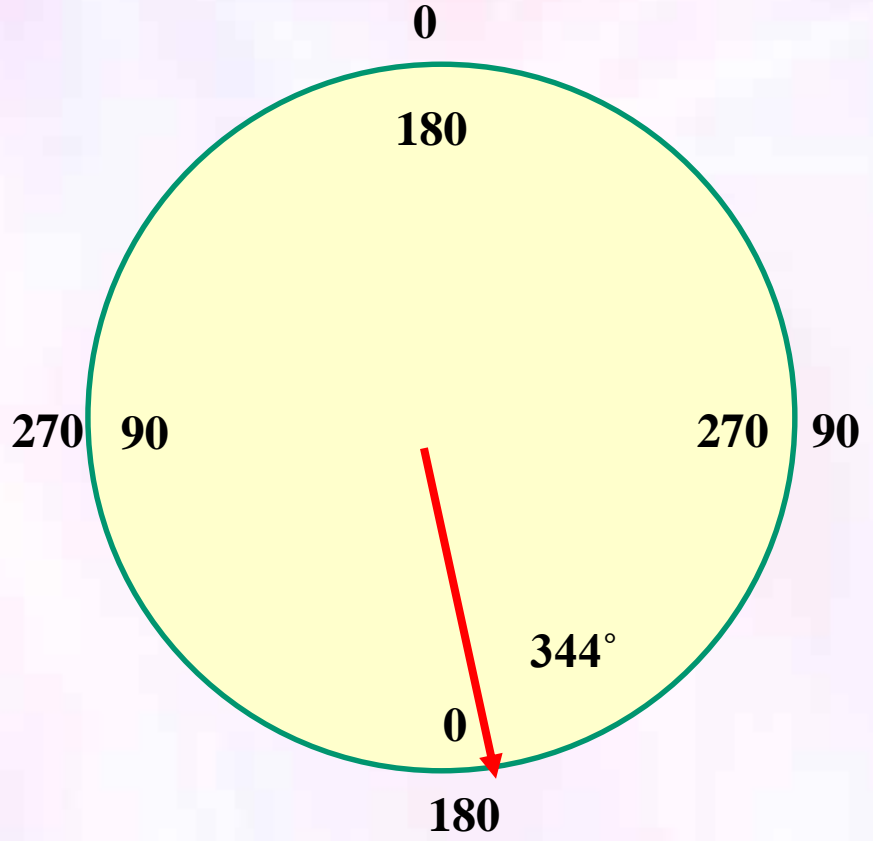
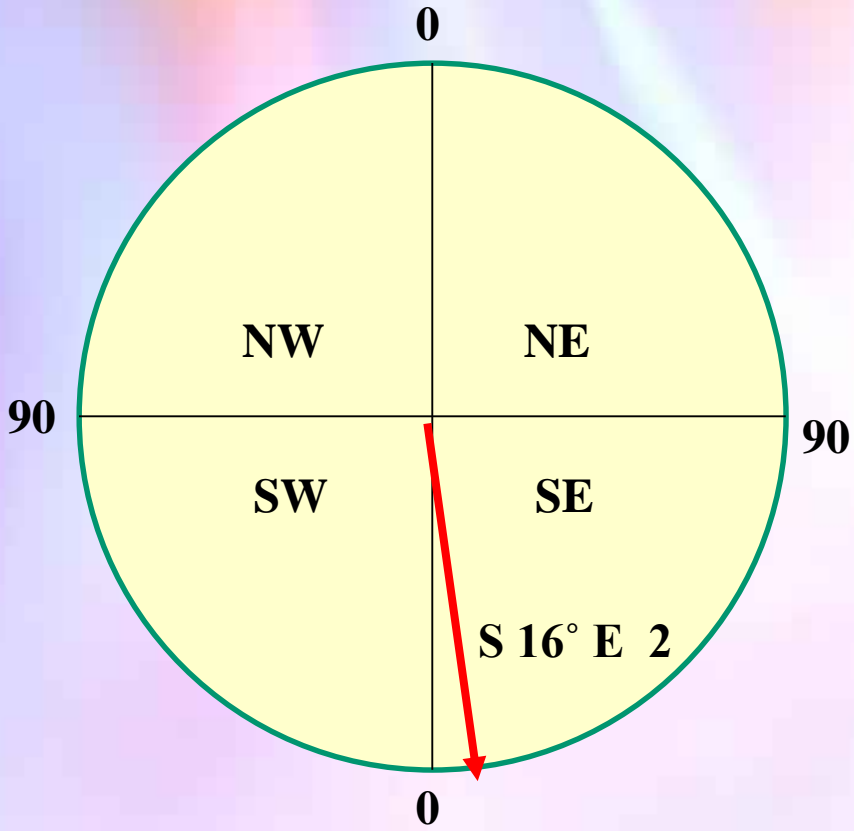
A i ma e ike'i, ua kau wai i ke'u maunalo, a me ka Sila Nui o ke Hawaii Poe Aha, ma  
 Honolulu, i hea in *21* o *Maunaloa*, 1857.

*Maunaloa*

*Maunaloa*



**North**



ALL OF THAT CERTAIN PARCEL OF LAND BEING PORTIONS OF GRANT 1314,  
APANA 1 TO KAULUAI AND GRANT 3053 TO KAAIMANU, ET AL. SITUATED AT  
PUHAEMIKI, KOOLAULOA, OAHU, HAWAII, BEING IDENTIFIED ON THE TAX  
MAPS OF THE ISLAND OF OAHU AS TMK PARCEL: 5-3-05:53, AND  
CONTAINING AN AREA OF 6,106 SQUARE FEET, MORE OR LESS.

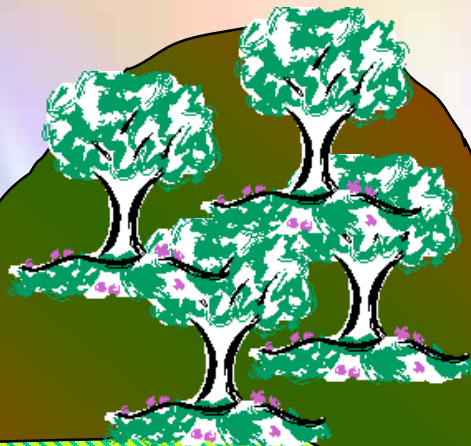
# **Royal Government Lands**

## **Post Monarchy**

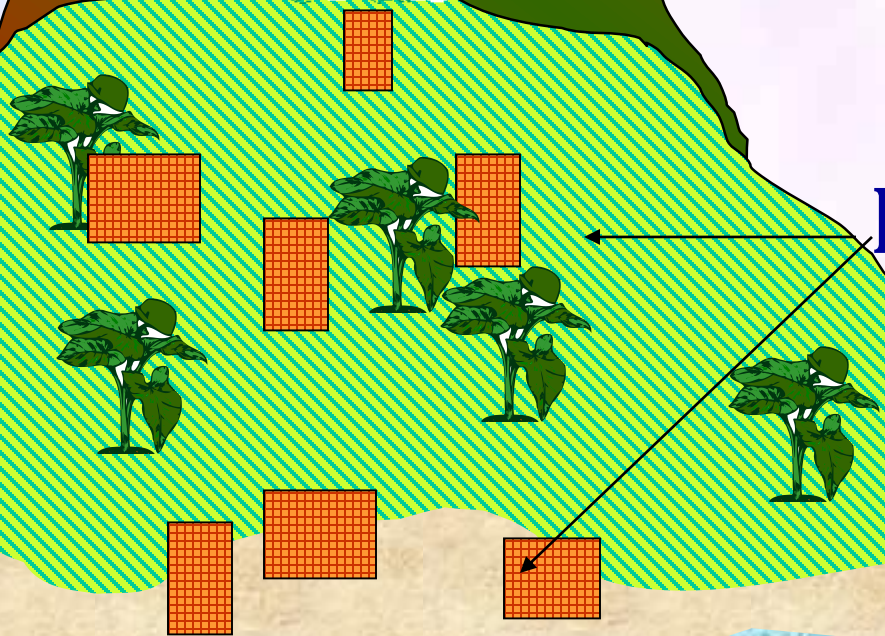
- **1893 – Republic of Hawaii**
- **1898 – Annexation Act**
  - **Ceded to United States (approx. 1.8 million acres)**
  - **title vested in U.S.**
- **1900 – lands subject to “possession, use and control” of Territory**
- **1959 – Admission Act**
  - **Title to lands transferred to Hawaii as public trust lands (approx. 1.2 million acres)**

# ahupua'a

Forests



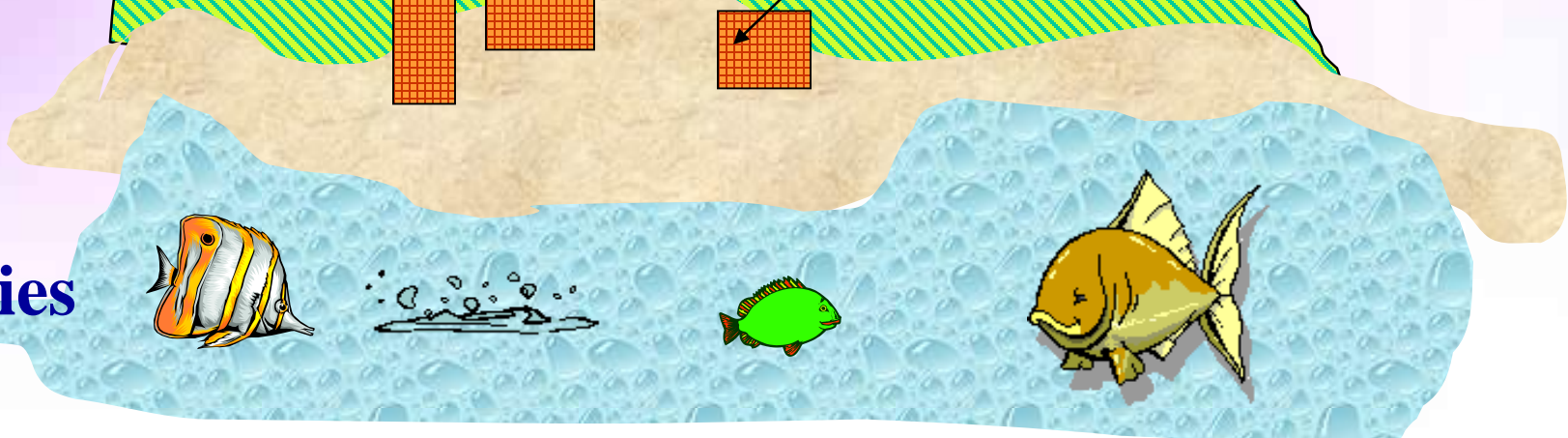
Middle  
Lands



kuleana

Sea

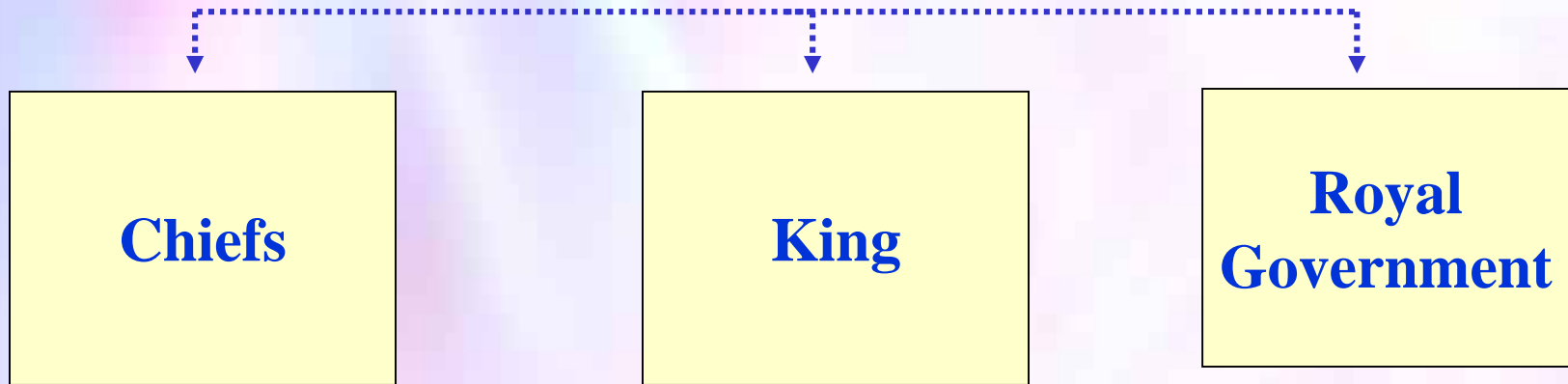
Fisheries



# **Original Governing Principles Mahele**

- **Adopted by the King and Privy Council**
  - **King retain his private lands as individual property**
  - **Of the remaining lands...**
    - **1/3 for Government**
    - **1/3 to the chiefs**
    - **1/3 for the tenants**

# **Ka Mahele of 1848**

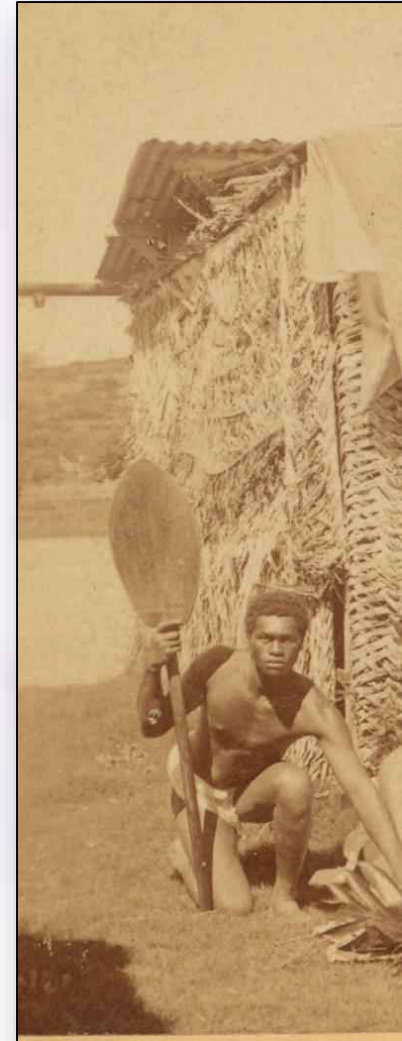


**Rights of the Tenants?**  
**ua koe ke kuleana o na kanaka**  
*(reserving the rights of all native tenants)*



# Post-Mahele – Plight of the Tenant

- **Disenfranchised tenant**
  - Foreign buyers of chiefs' lands
  - Concept of private property vs. old tenure system



# **Kuleana Act of 1850**

- **King, Government, and Chiefs' lands all “subject to the rights of native tenants”**
- **Limited to cultivated tracts, plus small house lot distinct from cultivated lands**
- **Land Commission authorized to award fee simple titles to occupied and improved lands**
  - **Needed two witnesses to validate the petition**
  - **Needed survey**
  - **Owner of ahupua‘a responsible for commutation**

# **Deterrent to Tenants' Claims**

- **Hawaiian tradition vs. with western concept of “private property**
- **Little education of the steps needed to make claim**
- **Inadequate notification to tenants in remote rural areas**
- **Inflexible 4-year time limit to claim**
- **Expense and availability of surveyors**
- **Interference of chiefs**

# **Advice to the Tenants**

**“Two courses then are open for you.  
Either to secure your lands, work on them  
and be happy, or to sit still, sell them and  
then die. Which do you choose?”**

**Judge Lee**

***Polynesian* Feb. 16, 1850**

# **Kuleana Claims**

- **Pahale lot – house lot**
- **Kalo lot – farm lot**
- **29,221 eligible – 8205 made claims**
- **28,658 acres – less than 1% of Hawaii lands**
- **Average of 2.57 acres each**

## NUMERICAL INDEX OF AWARDS

346

L. C. A.	Book	Page	Awardee	Location	R. P.	Book	Page	Memo
7143								
7144								
7145								
7146								
7147	10	536	Kahele	Kailua, Koolaupoko, Oahu	7402	25	191	
7148								
7149								
7150	3	744	Kuanea	Kaliawa, Kalihi, Oahu	3395	14	583	
7151	7	671	Kanemakua	Kaliawa, Kalihi, Oahu	{ 3394 3286	14 14	581 365	
7152	10	328	Kiniakua	Niupaipai, Honolulu, Oahu	{ 3713 3600	16 15	185 615	
7153								
7154								
7155	3	744	Kawauke	Kaliawa, Kalihi, Oahu	3400	14	593	
7156	10	157	Kapali for Muimui	Alewa, Honolulu, Oahu	2767	12	665	
7157	9	173	Kanekuapuu	Haleu, Lahaina, Maui	2734	12	533	
7158	10	211	Kahoopii	Niupaipai, Honolulu, Oahu	3613	15	667	
7159								
7160								
7161	7	670	Kamuhea	Waikiki, Kona, Oahu	4155	17	307	
7162	9	230	Kaawa	Auwaiolimu, Honolulu, Oahu	1627	6	113	
7163	4	575	Koi	Kapalama, Honolulu, Oahu	{ 686 2848	4 13	33 159	

NUMERICAL INDEX OF AWARDS

1200



# **Native Hawaiian to Foreign Control of Lands**

- **Law of 1850 - right of foreigners to purchase land and to dispose of at will**
- **Government lands auctioned to foreigners**
- **Adverse Possession Law – 1870**

# Kuleana Award

Frank C. Amartino  
w/ Angeline C. J/T  
Nobuyuki Terada & w/ f.  
2.83 acs.  
Alwine K.-T/E)A/s



07.70  
182.61  
128.50  
L.C. Am. 8447:1  
**56** 14,243  $\phi$   
66.85  
26.80  
115.00  
Anna Lee Pang & Jane  
Lee Marley - TIC  
(Danny W. Jenkins) A/s  
L.C. Am. 8372:3  
18,750  $\phi$   
65.20  
10.50  
61.30  
128.61  
148.80  
Gr. 1317:3  
L.C. Am. 6955:1

Robert J. Albert & w/ f.  
Genevieve U.-T/E  
O.G.Gac.

Grant 1316:2

Grant 1314:1

L.C. Am. 4437:1

49,117  $\phi$

**37**

L.C. Am. 4350:1

L.C. Am. 6954:1

**53** 6100  $\phi$

**49** 6197  $\phi$

**40** 6472  $\phi$

**59** 46  $\phi$   
Gr. 1316:1

**48** 1624  $\phi$

**73** 60  $\phi$   
Gr. 1317:1

Gr. 1318  
**44** 4925  $\phi$

1124  $\phi$   
L.C. Am. 6955:2  
**36** (10,500  $\phi$ )

**38** 5029  $\phi$

**63** 12,820  $\phi$  (SEE BELOW)

**68** LD CT  
7785  $\phi$   
102.00

**79** 74  $\phi$

**67** 7916  $\phi$

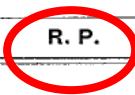
**64** 7916  $\phi$

HIGHWAY

Tax Key Parcel (1) 5-3-005-056

## NUMERICAL INDEX OF AWARDS

L. C. A.	Book	Page	Awardee	Location	R. P.	Book	Page	Memo
8444	See Award 8271							
8445	Not Awarded							
8446	5	421	Kalua	Kawailoa, Waialua, Oahu	3070	13	623	
8447	6	569	Kupau	Puheemiki, Koolauloa, Oahu	6843	26	181	
8448	6	457	Kalaeloa	Au 1, Hamakua, Hawaii	6335	24	41	
8449	7	373	Kaupu	Waiea, S. Kona, Hawaii	5124	20	475	
8450	3	562	Kaino	Kalahiki, S. Kona, Hawaii	6551	24	473	
8451	Not Awarded							
8452	10	425	Keohokalole, A.	Kealakekua, S. Kona, Hawaii	{7533	25	267	
					}3607	15	603	
8452	10	424	Keohokalole, A.	Aapueo, Kula, Maui	4388	18	105	
8452	10	462	Keohokalole, A.	Alae, Kula, Maui	4388	18	105	
8452	10	424	Keohokalole, A.	Kamehame, Kula, Maui	{4388	18	105	
					}7453	25	203	
8452	10	462	Keohokalole, A.	Kealahou 3-4, Kula, Maui	{4388	18	105	
					}7453	25	203	
8452	10	462	Keohokalole, A.	Koheo, Kula, Maui	4388	18	105	
8452	10	424	Keohokalole, A.	Kukuiaeo, Kula, Maui	4388	18	105	
8452	10	425	Keohokalole, A.	Muolea, Hana, Maui	4388	18	105	
8452	10	423	Keohokalole, A.	Pacohi, Lahaina, Maui	4388	18	105	
8452	10	432	Keohokalole, A.	Honohina, Hilo, Hawaii	{4386	18	97	
					}7693	29	41	
					{7532	25	2	



# Native Testimony

Claim 8447. Kupau.

Kauoalani, sworn, says he knows the land claimed by Kupau in Puheemiki. It consists of three kalo patches, a piece of kula land and a House Lot.

The 3 kalo patches form one piece, bounded on Punaluu side by the line of Waiohau-mauka by Maiahe's land, - on Hanuula side by Kaka's land, - Makai by the same.

The kula land is bounded Mauka by a pali, - on Hanuula side by Kawai's land, - Makai by a watercourse, - on Punaluu side by Polani's land. The House Lot of claimant is included in this piece.

Kupau has lived there since the time of Kam I.

The Konohiki's Agent had no objections to make to this claim.

## Claim 8447 Kupau

Kauoalani, sworn, says he knows the land claimed by Kupau in Puheemiki. It consists of three kalo patches, a piece of kula land and a house lot.

... The house lot of claimant is included in this piece. Kupau has lived there since the time of Kam I.

The konohiki's agent had no objection to make to this claim.

# Land Commission Award 8447

October 21, 1851

To Kupau  
October 21, 1851

Honolulu October 21 1851

*W. L. Lee*

*W. L. Lee*  
*J. Kikaulaha*  
*Louise*  
*G. M. Robertson*  
*J. M. Smith*

*W. L. Lee*

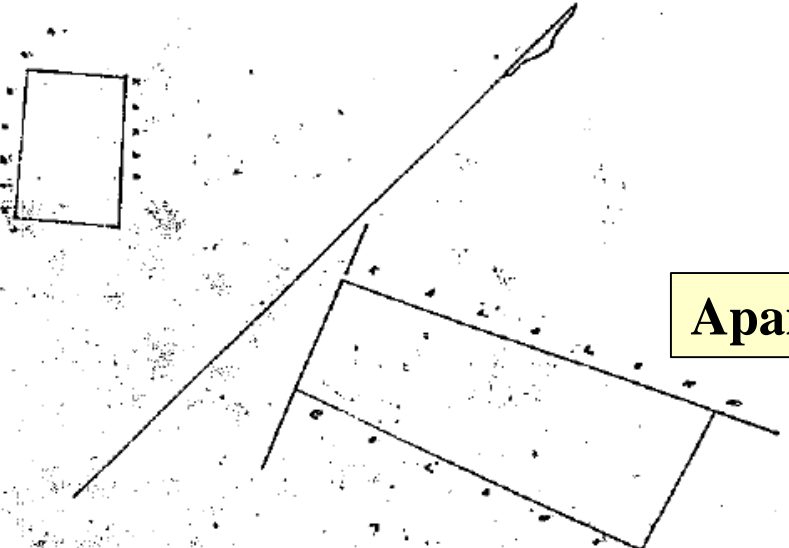
*Ma Guberniti Kaula Oahu*

**Apana 1** 3 Lei ana Pichumiti. Kaula Oahu.  
Chomata ana ma ke kiki Ahau, Ke 43 Kikina 224 fanku e feli ana i ke Kaula. Ke 50 Kaula 160 fanku e feli ana i ke Kaula. Ahau 17 Kaula 225 fanku e feli ana i ke Kaula. Ahau 17 Kikina 148 fanku e feli ana i ke Kaula. i ke kiki mua  $\frac{33}{100}$  Oka.

**Apana 2** Kula Chomata ana ma ke kiki Ahau, a e kiki ana. Ke 64 Kaula 590 fanku e feli ana i ke Kaula. Ke 25 Kikina 180 fanku e feli ana i ke Kaula. Ahau 70 Kikina 580 fanku e feli ana i ke Kaula. Ahau 17 Kaula 240 fanku e feli ana i ke Kaula. i ke kiki mua  $\frac{1}{4}$  Oka.  
Sept 30 1851  
A. F. Turner  
Luna ana Oahu

Apana 1 - 33/100 acres

Apana 2 - 1 1/4 acres





# Royal Patent 6843 – December 1, 1876

HELU 6843

## Palapala Sila Nui

A KE ALII, MAMULI O KA OLELO A KA POE HOONA KULEANA.

No ka Hea, Ua hoohole na Luna Heona i na kumu kuleana aina i ka olelo, he kuleana oiaio ko

Kupou

Kuleana Helu 8447

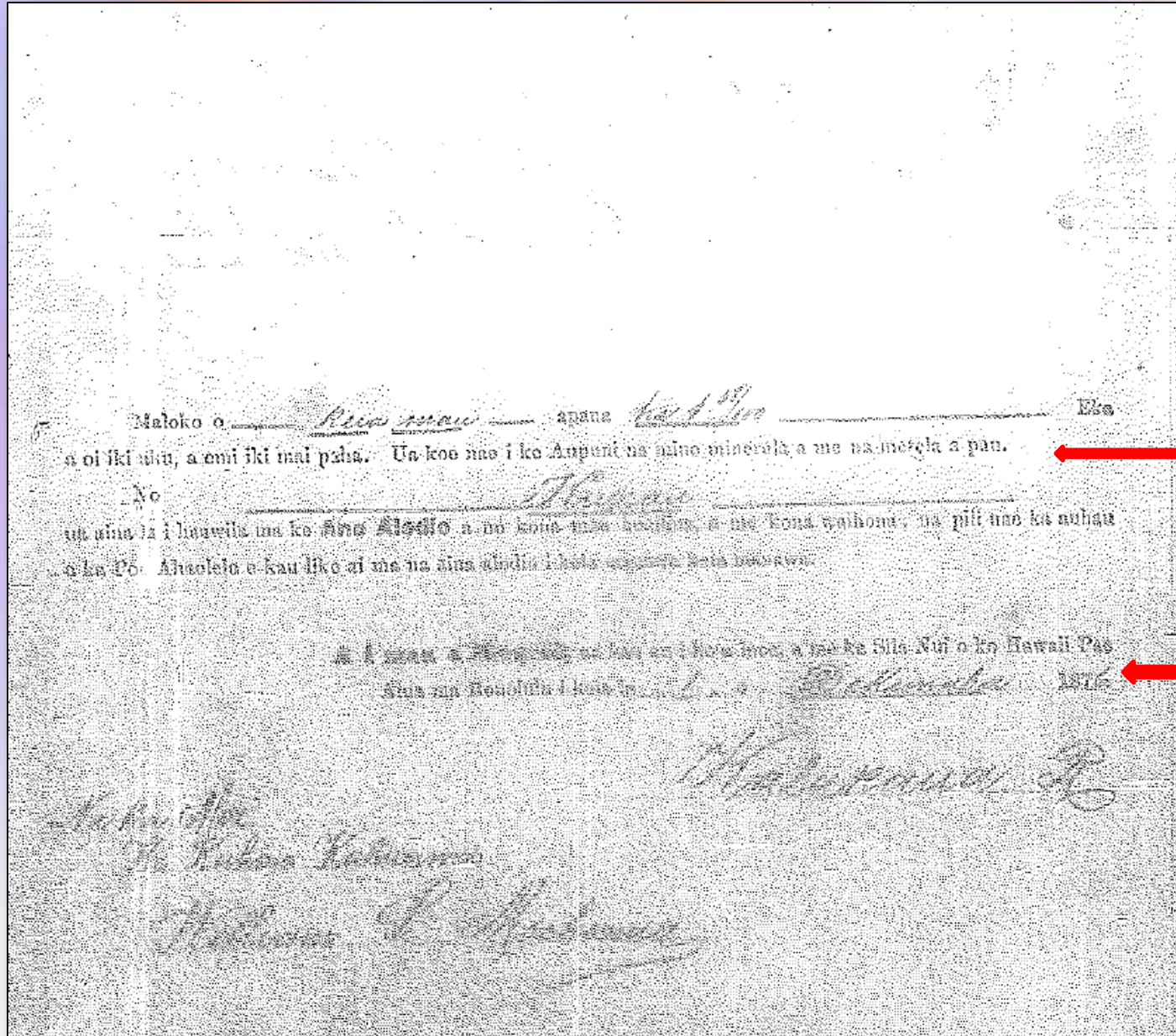
ma ke Ano Aledio iloko o kahi i oleloia malalo.

Noia, ma keia Palapala Sila Nui, ke hoiko aku nei o Kalakaaua, ko Alii Nui a ke Akua i kona  
lokomaikai i hoohole ai maluna o ko Hawaii Pae Aina, i na kanaka a pau, i keia la nona Iho, a no  
kona mau hope Alii, a ua hawii aku oia, ma ke Ano Aledio ia Kupou  
i kela mau wahi a pau loa ma Tuhacmiki, Koatoulou,  
ma ka Mokupuni o Waiau penei na mokuna:

<u>Apena 1.</u>	<u>I Loi.</u>	<u>E hoemaka ana ma ke kahi oiaio</u>
<u>Hea 43° N. 224 paku a pili ana i ke kaha</u>		
<u>51° N. 160</u>		<u>Konohiki</u>
<u>Aheo 41°</u>	<u>225</u>	
<u>49° N. 168</u>		<u>i ke kahi oiaio</u>
		<u>ke Hea oiaio</u>
<u>Apena 2.</u>	<u>Kulou.</u>	<u>E hoemaka ana ma ke kahi oiaio a o kahi oiaio</u>
<u>Hea 61° N. 570 paku a pili ana i ke kaha</u>		
<u>25° N. 180</u>		<u>Konohiki</u>
<u>Aheo 70°</u>	<u>570</u>	<u>Pohani</u>
<u>19° N. 240</u>		<u>Konohiki i ke kahi oiaio</u>
		<u>Hea oiaio</u>

Issued on  
kuleana 8447

# Royal Patent 6843 – December 1, 1876



Mineral reservation

Dated  
December 1, 1876

ALL of that certain parcel of land situate approximately 650 feet West of Kamehameha Highway at Puheemiki, Koolauloa, City and County of Honolulu, State of Hawaii being Royal Patent 6843, Land Commission Award 8447, Apana 1 to Kupau, described as follows:

Beginning at a pipe at the Northwest corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "Kahana" being 7,678.50 feet North and 8,272.67 feet West and running by azimuths measured clockwise from true South:

- |    |             |        |   |
|----|-------------|--------|---|
| 1. | 239° 00'    | 97.70  | feet along Grant 3053 to Ka-aimanu, et al. to a pipe;   |
| 2. | 329° 00'    | 148.50 | feet along Grant 3053 to Ka-aimanu, et al. to a pipe;   |
| 3. | 56° 17' 30" | 66.35  | feet along Royal Patent 7864, Land Commission Award 4372, Apana 3 to Kaluhiai to a pipe;  |
| 4. | 70° 00'     | 26.80  | feet along Royal Patent 1295, Land Commission Award 6955, Apana 1 to Kaaumoana to a pipe;   |
| 5. | 147° 00'    | 146.61 | feet along Grant 3053 to Ka-aimanu, et al. to the point of beginning and containing an area of 14,243 square feet, or 0.327 acre, more or less. |





# Legal Description – Title Source

## Chiefs

Claims to Land  
Commission &  
Minister of Interior

- Land Commission Award (LCAw.)
  - Patent issued upon payment of commutation and survey (RP or LP)
- Mahele Award
  - Patent issued upon payment of commutation and survey (RP or LP)

## King

Sales by Kam III  
& Kam IV

- Kamehameha Deed
  - Reference to deed's recording information

## Tenants' Kuleana Lands Claims to Land Commission

- Land Commission Award (LCAw.)
  - Patent issued upon payment of commutation by owner of surrounding lands or ahupua'a (RP or LP)

## Government

Direct sale of land  
by government

- Royal Patent Grant - RPGr (Monarchy)
- Land Patent Grant – LPGr (Territory)
- Land Patent Grant - #S-LPGr (Statehood)



# Customary and Traditional Rights to the Land



# **Kuleana Rights**

**Historically, Hawaii has always recognized the rights of Native Tenants, having certain rights within the ahupua‘a.**

## **§7-1, HRS – 1859**

**“Where the landlords have obtained, or may hereafter obtain allodial title to their lands, the people on each of their lands shall not be deprived of the right to take firewood, house-timber, aho cord, thatch, or ki leaf, ...for their own private use, but they shall not have a right to take such articles to sell for profit. The people shall also have a right to drinking water, and running water, and the right of way...**

# **Laws for Kuleana Rights**

- **Article XII, section 7 – Hawaii Constitution**
- **Hawaii Revised Statutes, section 1-1**
- **Hawaii Revised Statutes, section 7-1**
- **Case Law**
- **Kuleana Act of 1850**



# **Interpreting the Laws**

## **Kuleana Rights**

- **Reasonable access to the kuleana from major roads**
- **Agricultural uses, such as taro cultivation**
- **Traditional gathering rights in and around the ahupua‘a**
- **House lot not larger than  $\frac{1}{4}$  acre**
- **Sufficient water for drinking and irrigation from nearby streams, including traditionally established waterways such as auwai**
- **Fishing rights in the coastal region from beach to reef**

# Evolution of Tenant Rights

- **Oni v. Meek (1858)**
  - “If it’s not in HRS 7-1, it doesn’t exist”
- **Dowsett v. Maukeala (1895)**
  - Occupancy of land not properly claimed or awarded, even after the Kuleana Act, must be considered unlawful.
- **Kalipi v. Hawaiian Trust Co. (1982)**
  - “Just because it’s not in HRS 7-1, doesn’t mean it doesn’t exist, but you still have to live in the ahupua’a to claim any rights”

**Changing  
attitude**

# Evolution of Tenant Rights

**Changing  
attitude**

- **Pele Defense Fund v. Paty (1992)**
  - “Not only do you have rights not found in HRS 7-1, you don’t even have to reside within the ahupua’a to claim them. (However, in order to have such rights you may have to be a native Hawaiian.)”
    - **Extended the rights on undeveloped land outside the boundaries of the ahupua'a**
    - **Must prove that the gathering rights were exercised in the past (presumably prior to the Great Mahele of 1848).**



# Evolution of Tenant Rights

- **PASH\* v. Hawaii County Planning Commission (1992)**
  - Rights can be exercised beyond the physical boundaries of the ahupua'a
  - Do not have to be a “Native Tenant”, but must be a descendent from someone who inhabited the Islands prior to 1778
  - No determination of what “traditional & customary” rights are
  - Rights can be exercised without owner’s lawful permission

**Changing  
attitude**

# What Land is Affected?

- All “under-developed” land
- Is any land exempt?
- Who has rights?
- What rights can be exercised?
- When can these rights be exercised?

# **PASH Red Flags**

- **Stream, river, or trail**
- **Ocean front**
- **Kuleana**
- **Burial or archaeological sites**
- **Forest reserve or indigenous flora or fauna**
- **Pond or heiau**
- **Historically significant**
- **Other signs of customary or traditional use**



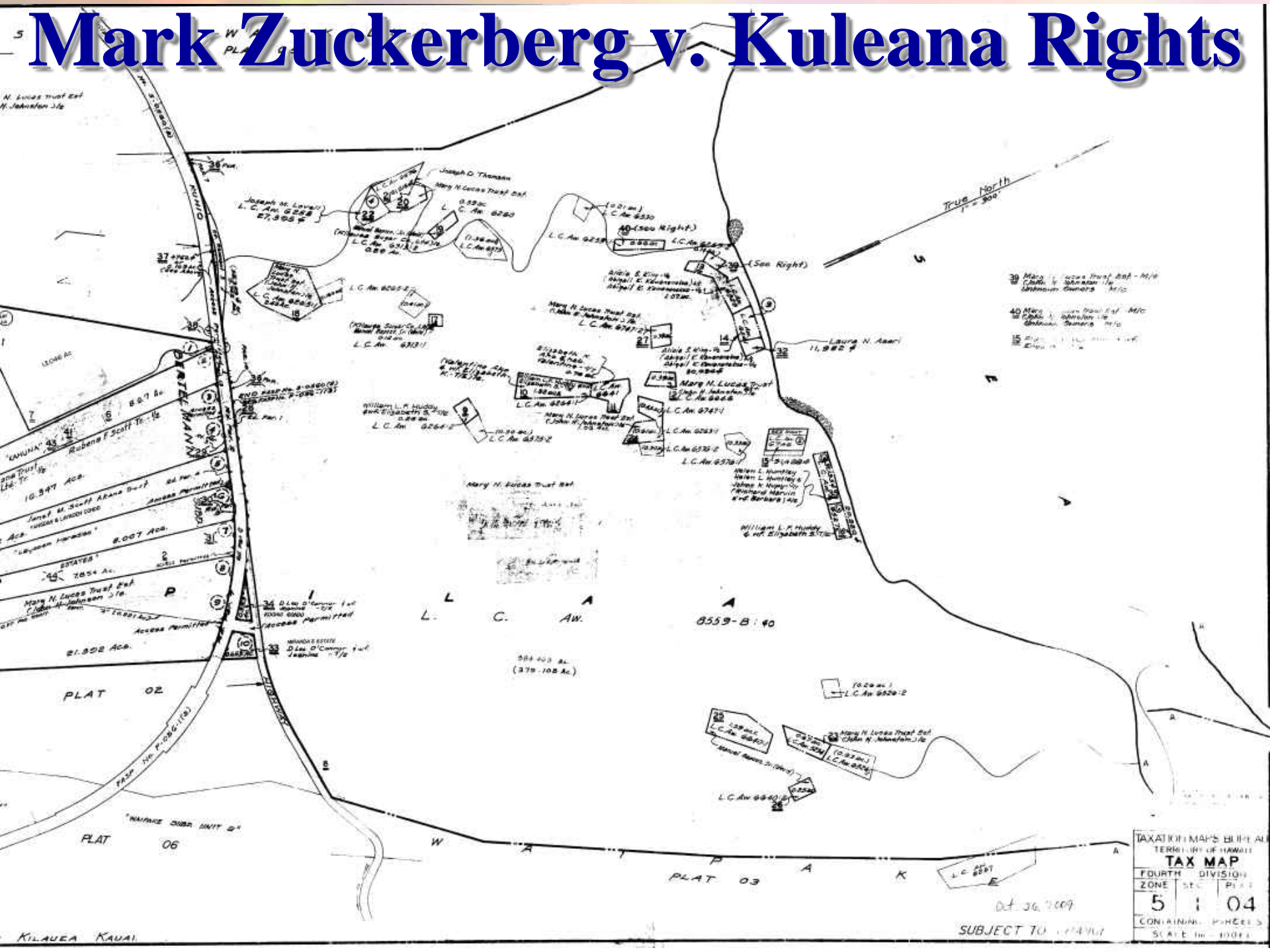
Time To Build

KAHU AINA  
PLANTATION





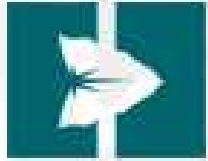
# Mark Zuckerberg v. Kuleana Rights



TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
<b>TAX MAP</b>		
FOURTH DIVISION		
ZONE	SEC	PLAT
5	1	04
CONTINUAL - PAGES 3		
SCALE 1" = 100'		

Oct 30, 2009  
SUBJECT TO PLAT 07

# Hawaiian Home Lands



Established by Prince Kūhiō & the U.S. Congress

**Department of Hawaiian Home Lands**



# **Hawaiian Homes Act**

- **Establishing land base for native Hawaiians**
- **Assuring long-term tenancy to beneficiaries**
- **Preventing alienation of the fee title so lands always to held in trust for continued use by native Hawaiians**
- **Providing water and supportive infrastructure so lands will always be useable and accessible**
- **Providing financial support to enhance economic self-sufficiency and promote community-based development**

# **Hawaiian Home Commission Act**

**July 1921**

- **200,000+ acres from Crown and Government lands**
  - **Remote lands with poor soil and difficult terrain**
  - **Little or no water**
  - **Excluded lands with forest reserve and cultivated sugar lands**
- **99-year leases**
- **50% blood quantum**

# O‘ahu Lands Designated in Act

- Nanakuli – 3,000 acres
- Lualualei – 2,000 acres
- Waimanalo – 4,000 acres
- Portion of Punchbowl Hill – 30 acres
- Portion of Kewalo – 64 acres

**Note: This list is an example of designed lands and is not a complete list of lands designated for O‘ahu.**



# **Growing Trend**

## **Foreigner's Land Domination**

- **1864**
  - 320,000 acres to 213 Westerners
- **Reciprocity Treaty of 1876**
  - **Domination of Western-owned sugar plantations**
    - Duty-free sugar to U.S.
- **Big Five**
  - **Castle & Cooke, Alexander and Baldwin, C Brewer & Co., American Factors (Amfac), and Theo H Davies and Co**
  - **Controlled 36 of the 38 sugar plantations**
  - **Produced 7 out of every 8 tons of sugar**

# **Land Ownership**

**1940 - 1970**

- **Large tracks of land controlled by a few**
  - **Big Five control of sugar and pineapple land**
  - **Bishop Estate – 375,000 acres of land**
- **Limited land to purchase by citizens**
- **1960 land ownership:**
  - **State and Federal – 49%**
  - **72 private owners – 47%**

# Origins of the Residential Lease

**RECORDATION REQUESTED BY:**  
MORTGAGE FINANCE & LEASING CORP.  
320 Ward Avenue  
Honolulu, Hawaii 96814

**AFTER RECORDATION, RETURN TO:**  
MORTGAGE FINANCE & LEASING CORP.  
320 Ward Avenue  
Honolulu, Hawaii 96814

**RETURN BY: MAIL ( ) PICKUP (x)**

LIBRARY 287 PAGE 401  
105 FEB 23 PM 2:46

FHA FORM NO. 2372H (Rev. December 1963)  
VA FORM NO. 26-64506

**LEASE**

LEASE NO. 15,229

THIS INDENTURE, made this 19th day of January, 1966, by and between

**THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF BERNICE PAUAHI BISHOP, DECEASED,** whose place of business and post office address is 519 Halekaawala Street, Honolulu, State of Hawaii,

\_\_\_\_\_ of the first part, and WAYNE F. WEATHERFORD and ROBERTA S. WEATHERFORD, husband and wife, as Tenants by the Entirety, \_\_\_\_\_ whose residence and post-office address is 1447 Liholiho Street, Apartment 4-6, Honolulu, State of Hawaii, \_\_\_\_\_ hereinafter called "Lessee," of the second part, \_\_\_\_\_

WITNESSETH: That Lessor, in consideration of the rent hereinafter reserved and of the covenants herein contained and on the part of Lessee to be observed and performed, does hereby demise and lease unto Lessee, and Lessee does hereby accept and rent:

ALL that certain parcel of land situate at Maunaloa, District of Honolulu, City and County of Honolulu, State of Hawaii, being part of R.P. 4475, L.C. Aw. 7713, Apana 30 to Victoria Kamamalu, shown and described on the map filed in the Bureau of Conveyances of Hawaii as follows:

LOT NO. 71 FILE PLAN NO. 917 AREA 5,822 square feet.

TAX MAP KEY 9-42-2

Notarized to be a true and correct copy of the original presented for record  
MCHIKI ADACHI, Judge

AKV

# **Residential Lease**

**1940 - 1970**

- **Large landowners initiated residential leasehold market for long term leases**

✓ 1940 to 1949	26,229 state	20,501 O‘ahu
✓ 1950 to 1959	54,048 state	45,188 O‘ahu
✓ 1960 to 1969	83,455 state	70,835 O‘ahu

- **Bishop Estate owned 36% of the leasehold lots**
- **Harold K. L. Castle owned 26% of the leasehold lots**

# **Hawaii Land Reform Act - 1967**

- **Purpose – to change land ownership and promote private ownership of residential property.**
- **Provided a conversion process empowering public body to condemn residential leasehold lands**
- **Lessees petitioned Hawaii Housing Authority (HHA) to begins sales**
  - **Declined to implement the Reform Act.**



# **1975 Amendment**

- **Provided HHA with flexibility regarding condemnation**
- **Easier for lessees to buy the fee**
- **1979-1982 = 30% of the total number of conversions occurred.**
- **1986-1990 = 57% of the total number of conversions occurred.**

# **O‘ahu Condominium Leases**

- **1991 there were about 17,000 residential condo units on leased land**
- **Legislative bills did not pass**
- **December 1991 – C & C of Honolulu enacted leasehold conversion law for Condos**
  - **Ordinance 91-95**
- **2005 - Bill repealed Ordinance 91-95**

# **Conclusion**

**Feudal system**

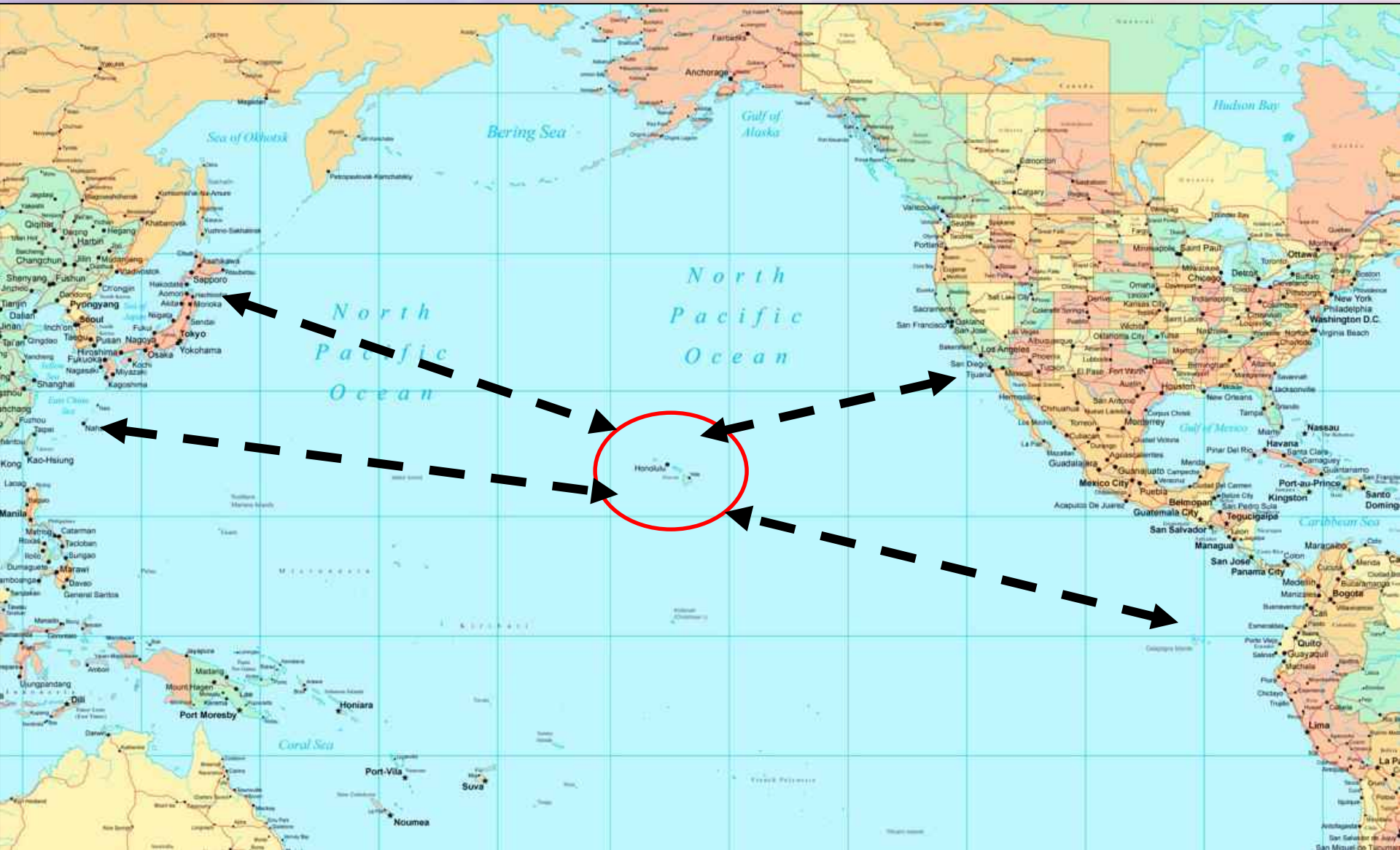
**vs.**

**Allodial ownership**

**Laws of Kingdom of Hawaii**

**vs.**

**Western ideals and culture**



# **What Did You Learn?**

- **Do you understand the foundation of Hawaii's fee simple land rights?**
  - **Kamehameha's feudalistic tenure system**
  - **Foreigner's influence and dominance**
    - **Introduction of western land laws**
  - **Origins of the leasehold system in Hawaii**
    - **Termination of leasehold system**



# **What Did You Learn?**

- **Are you able to recognize red flags that may lead to “Customary and Traditional” land rights?**
- **Do you understand the current status of leasehold estates in Hawaii?**

