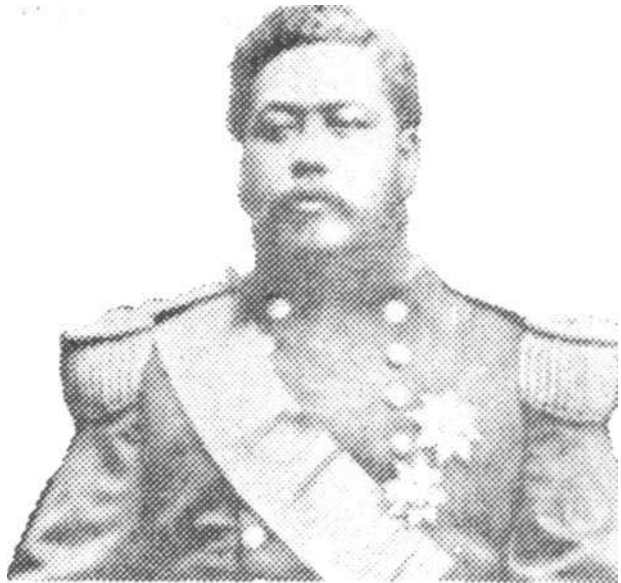


Approach And Methodology



King David Kalakaua

Approach And Methodology

A. APPROACH

The Native Hawaiians Study Commission was established by an Act signed into law on December 22, 1980 (Public Law 96-565, Title III). This Act defined the duties of the Commission as follows:

Sec. 303(a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

The Congress provided in the Act that a Commission of nine members be appointed by the President. Further, it provided that "not more than three of such members shall be residents of the State of Hawaii." President Reagan appointed to the Commission three persons from Hawaii and six government officials. ^J

V Appointment of government officials to the Commission was specifically contemplated by Congress, since the enabling Act provided that "members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their services on the Commission" (Section 302(g)).

Since the Congress had not appropriated funds for the Commission, it was immediately faced with a decision as to whether to (1) delay all work until a supplemental appropriation could be obtained (possibly not until late Spring of 1982), or (2) seek funds from the President's unanticipated needs appropriation. (Other funding options were blocked by the Anti-Deficiency Act.) To avoid delay, the Commission chose to seek funds from the unanticipated needs appropriation. Since funds in that account are limited, the Commission developed a work plan that would permit holding Commission funding to a minimum and permit heavy reliance on assistance from other agencies, pursuant to the authority of Section 303(j) of P.L. 96-565.

Upon approval of funds by the President, the Commission established a staff, with two persons in Washington and two in Honolulu. As part of the Commission's budget submission to Congress in March, 1982, it stated that its resource requirements had been reduced to a minimum and that "to the greatest extent possible, the Commission will rely on other agencies for the support needed in its information-gathering activities." (Request for Supplemental Appropriation, March, 1982.) Thus, the full Commission had decided, and the Congress was fully informed, that material for the Report would be developed, researched, and prepared by government officials. In fact, the Commission has relied extensively on the substantial expertise of employees of appropriate agencies. At every stage the full Commission was aware of the scope of the project and who would develop information for and write particular portions of the Report.

Also, as provided for in the Act establishing it, the Commission has

developed materials and written its Report with extensive public participation. It conducted hearings throughout Hawaii in January 1982. It has held a number of meetings open to the public. Its Draft Report has been circulated for public comment, and the comments received from a spectrum of the public have been analyzed and reflected in the Report. Thus, a large number of people of diverse background, experience, and race have contributed to and commented on this Report, as envisioned in the Act that established the Commission.

The findings of the Draft Report and a major part of the Final Report have been reviewed and adopted by the nine Commission members. The goal of the Act, to assure a fair Report through diverse representation and contribution, has been realized.

B. METHODOLOGY

President Reagan appointed the nine Native Hawaiians Study Commissioners in September, 1981, and the Commission's first meeting was held on September 23, 1981. During the remainder of 1981, the Commission developed and adopted a study plan and a budget. The Commission's study plan outlined the substantive areas of study as well as the timing of the various phases of the study. Substantively, the study plan proposed the gathering of information in two basic areas:

- Socioeconomic and cultural/ including education, health, employment, housing, history, language, and religion; and
- Federal, State, and local relationships, including diplomatic history, history of land ownership, assessment of the State, private and local programs, review of the over-

throw of the Hawaiian monarchy and the subsequent annexation of Hawaii to the United States, and identification of Federal programs for which native Hawaiians might be eligible.

The study plan also defined the schedule for the Commission's work:

- I. Organize Commission and staff, November-December, 1981;
- II. Collect facts and information, January-June, 1982;
- III. Assimilate and analyze facts and information, draft findings, June-August, 1982;
- IV. Commissioners review, discuss, and revise first draft of findings, August, 1982;
- V. Publication of Draft Report of Findings, circulated for 60 days for public comment, September 23, 1982 (publication date required by Sec. 303(c) of P.L. 96-565);
- VI. Further study and development of proposals for the Final Report, November, 1982-June, 1983;
- VII. Submission of Final Report to Congress, June 23, 1983 (submission date required by Sec. 303(d) of P.L. 96-565).

As indicated above, Commission funding for fiscal year 1982 was received from the President's Unanticipated Needs Fund in December 1981. (In October 1982, the Commission received an appropriation for the fiscal year 1983 funding necessary to complete its work.) In January 1982, the Commission hired its staff—an Executive Director and a

secretary for the Washington office, and a Hawaii Coordinator and a secretary for the Hawaii office.

The Commission's series of public hearings in Hawaii to begin the data collection phase of the study plan was held in January 1982. Eight public hearings were held on the islands of Oahu, Molokai, Maui, Hawaii, and Kauai. The Commission heard testimony and received written statements from hundreds of individuals during the dozens of hours of hearings. Everyone who wanted to testify was given the opportunity. Those testifying included native and non-native Hawaiians of all age levels and from all walks of life. In addition, an informational meeting was held to acquaint Commissioners with the key issues relating to native Hawaiians. At this meeting, Commissioners heard expert testimony from representatives of several organizations that are intimately involved in native Hawaiian programs and problems, including: Alu Like, Inc., the Hawaiian Homes Commission, the Office of Hawaiian Affairs, and the Bishop Estate. Throughout its stay in Hawaii, the Commission heard and experienced, first-hand, numerous statements on the entire spectrum of issues regarding the culture, needs, and concerns of native Hawaiians: the homesteading program, preservation of religious sites, educational problems, health, land issues, legal rights, preservation of the Hawaiian language and culture, and many more.

The Commission then divided its members into two committees to organize, research, and draft the two primary sections of its study plan. As a result of the wealth of information received at the hearings in Hawaii, the two committees of the Commission were able to refine and elaborate on the Commission's original study plan. As contemplated by the Commission's approved study plan, data collection and drafting of particular

sections of the study were assigned to various Commissioners and to the staff. As indicated earlier, the Commission relied on the resources of other agencies for assistance in information-gathering activities, including the U.S. Census Bureau, the U.S. Department of Health and Human Services, the U.S. Department of Housing and Urban Development, the U.S. Department of Agriculture, the U.S. Department of the Interior, the U.S. Department of Justice, and the Naval Historical Research Center.

As the data collection effort continued, the third phase of the study plan (assimilation and analysis of facts and information) was begun by the two committees and the staff, based on the information already collected from the public hearings, from State and Federal agencies, and from other organizations. Preliminary drafts of the Draft Report of Findings were reviewed by the Commission in June and August. The culmination of this process was the publication of the Commission's Draft Report of Findings on September 23, 1982, as required by law.

After publication of the Draft Report, the Commission announced in the Federal Register, and through its office in Hawaii, that there would be a public comment period on the Draft Report of sixty days—from September 23 to November 23, 1982 (as set forth in the Commission's study plan). To encourage the submission of written comments, copies of the Report were circulated in Hawaii to individuals, native Hawaiian organizations, and State government agencies. Copies of the Draft Report were also placed in public libraries throughout the State to ensure increased access to the Report by the public at large. On the mainland, copies of the Report were circulated to members of Congress, to Federal Government agencies, and to other interested organizations and individuals.

Interest in the Draft Report was great, and the Commission received numerous requests for an extension of the deadline for public comments. To accommodate all of those who wished to comment, the Commission announced in the Federal Register and through its office in Hawaii that it would extend the comment period for an additional sixty days—to January 23, 1983.

By the end of January, the Commission had received almost one hundred written comments on the Draft Report from individuals, native Hawaiian organizations, State government agencies, Congressmen, and Federal agencies. The Commission's Draft Report was revised based on all these comments, as well as on the new information that had been collected by the Commission since the publication of the Draft Report. Because of their importance, the written comments received considerable attention as the Final Report was drafted. As a result, the written comments received by the Commission on its Draft Report appear in the Final Report in three different ways. First, as required by statute, all written comments received by the Commission are reproduced in full in the Appendix of the Final Report. Second, some of the comments were used to revise the text of the main Report and these comments are referenced in the text where they are used. Finally, there is a summary in the Appendix of all written comments that are not specifically referenced in the text of the Report.

The revised Draft Report, including draft conclusions and recommendations based on the Report and the information gathered by the Commission, was sent by the chairmen of the two committees for review, prior to the Commission's meeting in March 1983. At this meeting, the Commission reviewed each section of the Report and voted on whether to approve and

accept each chapter. The results of these votes are as follows:

- Preface: unanimously approved
- Approach and Methodology:
 - approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede)
 - disapprove (Kamali'i, Beamer, Betts)
- Executive Summary:
 - approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede)
 - disapprove (Kamali'i, Beamer, Betts)
- Conclusions and Recommendations:
 - approve (Shipley, Auderson, Dinkins, Handley, Morales, Schleede)
 - disapprove (Kamali'i, Beamer, Betts)
- Part I
 - "Demographics": unanimously approved
 - "Health and Social Services": unanimously approved
 - "Education": unanimously approved
 - "Housing": unanimously approved
 - "Ancient History to the Reciprocity Treaty":
 - approve (Shipley, Anderson, Dinkins, Handley, Morales, Schleede);
 - disapprove (Kamali'i, Beamer, Betts)
 - "Native Hawaiian Culture": unanimously approved
 - "Native Hawaiian Religion": unanimously approved

- Part II
 - "Land Laws and Land Relationships":
 - approve (Shiple, Anderson, Dinkins, Handley, Morales, Schleede);
 - disapprove (Kamali'i, Beamer, Betts)
 - "Diplomatic and Congressional History: From Monarchy to Statehood":
 - approve (Shiple, Anderson, Dinkins, Handley, Morales, Schleede);
 - disapprove (Kamali'i, Beamer, Betts)
 - "Existing Law, Native Hawaiians, and Compensation":
 - approve (Shiple, Anderson, Dinkins, Handley, Morales, Schleede);
 - disapprove (Kamali'i, Beamer, Betts)
 - "Review of Hawaiian Homes Commission Programs":
 - approve (Shiple, Anderson, Dinkins, Handley, Morales, Schleede);
 - disapprove (Kamali'i, Beamer, Betts)
 - "Federal Responses to the Unique Needs of Native Hawaiians": unanimously approved
 - "State of Hawaii's Responses to Native Hawaiians' Unique Needs": unanimously approved
 - "Private and Local Responses to Special Needs of Native Hawaiians": unanimously approved
- List of References:
 - unanimously approved
 - Appendix: unanimously approved

Three of the Commissioners also presented a substitute V for the "Conclusions and Recommendations" section. The latter had been previously circulated by the committee chairmen. During the second day of the Commission's March meeting, the three Hawaiian members announced that they would be developing and submitting a minority report.

^J This substitute was reviewed by the Coanissianers during their March meeting, but had not been circulated previously. The substitute section is reproduced in this Report in the Appendix.

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Hawaii's multi-ethnic society is reflected in the faces of this high school cheering section.

Executive Summary



10

Executive Summary

VOLUME I

CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations of the Native Hawaiians Study Commission immediately follow this Executive Summary. They are not summarized here.

PART I, SOCIOECONOMIC AND CULTURAL SECTION

Part I of the Final Report of the Native Hawaiians Study Commission presents information and statistics on various socioeconomic and cultural factors affecting the lives of native Hawaiians. The contents of each chapter are summarized below.

"Demographics"

This chapter presents a demographic profile of native Hawaiians in the following areas.

Characteristics of the Population

After the arrival of foreigners in Hawaii in 1778, the native population drastically declined. This trend was reversed in the beginning of this century when the part-Hawaiian population began a rapid increase, a trend that continues today.

This section also summarizes the present characteristics of the native Hawaiian population. According to the State of Hawaii, in 1980 there were 9,366 full-Hawaiians and 166,087 part-Hawaiians, comprising about 19 percent of the State's population. Native Hawaiians are a young population—in 1980, the median age for males was 22.0, and the median age for females was 23.2. The male/female ratio for

native Hawaiians is fairly equal—in 1980 males accounted for 49.5 percent of the native Hawaiian population, and females accounted for 50.5 percent.

Geographic Distribution

The majority of the native Hawaiian population (as well as the majority of the State's population) lives on Oahu. There still exist pockets of native Hawaiians located in economically-deprived, rural areas on many islands.

Education

The percentage of native Hawaiian children between the ages of 14 and 17 who were enrolled in school in 1970 was lower than that for any other group in Hawaii (91.6 percent for females and 90.7 percent for males, compared to an overall State figure of 94.8 percent). The median number of years of school completed by native Hawaiians over 25 years of age in 1970 was 12.0, compared to a State median of **12.3**. Only 49.7 percent of native Hawaiians over 25 had graduated from high school in 1970. In 1970, only 4.2 percent of native Hawaiians over 25 had completed four or more years of college, a figure lower than that for **any** of the other ethnic groups in Hawaii.

State of Hawaii data for 1977 show little improvement: only 46.9 percent of native Hawaiians over 25 had graduated from high school. Figures for that same year also showed that only 4.6 percent of native Hawaiians over 25 had completed four or more years of college, a percentage still lower than that for any other ethnic group. A 1976 Alu Like, Inc., Needs Assessment Survey indicated, however, that education for their

children was a top priority for native Hawaiian parents.

Employment

In 1970, 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women were unemployed, compared to State figures of 2.6 percent and 3.7 percent, respectively. Of all native Hawaiian males over the age of 16, 76.4 percent were in the labor force in 1970, compared with the total State figure of 81.5 percent. Also in 1970, 47.9 percent of native Hawaiian women over the age of 16 were in the labor force, compared with 49 percent for the State as a whole.

A 1975 Census Update Survey estimated that the unemployment rate for native Hawaiians was 11.6 percent, compared to 6.5 percent for the State of Hawaii as a whole. The present rate is probably even higher. Other data for 1975 show that only 17.8 percent of native Hawaiian men have professional/managerial positions, while 53.6 percent are classified as blue collar workers.

Income

In 1949, the proportion of native Hawaiian males in the lowest income brackets was above that for all other groups. Their median income for the same year was higher than the "all races" and Filipino groups but below that of the Chinese, Caucasian, and Japanese groups. By 1969, the situation of the native Hawaiians had improved somewhat. According to the U.S. Census, they were no longer over-represented in the lowest income categories.

According to the 1975 Census Update Survey, however, native Hawaiian personal income was still below the Caucasian and State-wide figures. Other data for 1977 show that the (civilian) median family income of

pure Hawaiians was lower than the part-Hawaiian, Filipino, Caucasian, Japanese, and Chinese groups. The part-Hawaiian group was third lowest (Filipinos were second).

In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level. In 1982, the number of native Hawaiians on welfare (Aid to Families with Dependent Children) and general assistance) was significantly higher than their relative share of the population.

Criminal Justice

The percent of native Hawaiian adults arrested in Hawaii in 1981 was higher than the native Hawaiian percentage share of the population. The percentage of native Hawaiians arrested for specific crimes was also larger for many types of crime than their share of the population.

The picture for native Hawaiian juveniles arrested is even more striking. Native Hawaiian juveniles comprised the largest percent of those arrested for each crime examined.

Health

Infant mortality remains significantly higher for native Hawaiians compared to the other groups in Hawaii. Part-Hawaiians have a birth rate of 23.1, compared to 17.5 for full-Hawaiians and 19.5 for the State. Part-Hawaiians and full-Hawaiians also have a significantly higher rate of illegitimate births than the other ethnic groups.

Native Hawaiians have historically had a lower life expectancy than other groups in Hawaii. This trend continues—in 1970, the native Hawaiian life expectancy was 67.62 years, compared with an average for the State of 74.20 years.

A study published by the State of Hawaii Department of Health **examined** mortality rates among full-Hawaiians, part-Hawaiians, and all other races in Hawaii from 1910 to 1980. The study concluded that:

- Part-Hawaiians' mortality rates for heart disease were generally higher than the "all races" group except for some years, while the rate for full-Hawaiians **was** consistently higher than that for the other groups;
- Part-Hawaiians and the "all races" group had similar mortality rates for cancer, while the rate for full-Hawaiians was much higher than both of the other groups; and
- The mortality rate for accidents did not differ for part-Hawaiians and the "all races" group but was two times higher for the full-Hawaiian group.

Statistics from the Hawaii Tumor Registry show that native Hawaiian men had the highest incidence of stomach and lung cancer for the period from 1973 through 1980, compared to Caucasian, Chinese, Filipino, and Japanese. Native Hawaiian women, compared to these same groups, had the highest incidence of lung and breast cancer.

The Hawaiian and part-Hawaiian group reports the highest prevalence among ethnic groups in Hawaii of "acute conditions," especially respiratory conditions. For chronic conditions, the prevalence for the native Hawaiians is high, relative to the other groups, only for asthma, mental and nervous conditions, and bronchitis/

emphysema. Native Hawaiians, according to this data, report the lowest prevalence of cancer, compared to the other groups.

According to the Hawaii substance; abuse needs survey:

- Of the total number of estimated substance abusers in Hawaii (103,748, or 14.7 percent of Hawaii's general population), 20.9 percent were Hawaiian or part-Hawaiian.
- Hawaiians and part-Hawaiians account for 19.4 percent of alcohol abusers, 22.3 percent of drug abusers, and 22.8 percent of the population abusing both alcohol and drugs.

Socio-political Profile

The State of Hawaii consists of a population of considerable racial and cultural diversity. From the earliest times, interracial marriage was accepted by the community. Native Hawaiians have among the highest interracial marriage rates. This racial and ethnic mixture has affected the political sphere. Since the 1930's, no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in Hawaii.

In 1978, the Office of Hawaiian Affairs was created, which has a board of trustees that is elected only by native Hawaiians. For the first board election in 1980, 31 percent of the total native Hawaiian population registered to vote, 80 percent of those who registered actually voted, and 100 candidates ran for the nine board positions.

The 1981 Hawaii State Legislature consisted of seven part-Hawaiians in the House of Representatives (out of

a total of 51), and three in the Senate (out of a total of 25).

"Health and Social Services"

Two main topics are included in this chapter. First, the historical and cultural background of native Hawaiian health is discussed. This section (written by Dr. Richard Kekuni Blaisdell) includes information on the health and illnesses of native Hawaiians in three distinct time periods: prior to contact with foreigners (1778 and before), contact with foreigners (1778 to 1893), and from the overthrow of the monarchy to the present (1893 to 1983). The second part of the "Health and Social Services" chapter describes the State and Federal programs available to native Hawaiians. Programs include those in the mental health area, medical and family health, and communicable diseases.

"Education"

The education system in Hawaii is reviewed in this chapter. The historical development of the education system is traced from ancient times through the activities of the missionaries and the education system of the Territory of Hawaii. The chapter also includes a discussion of the present system, reviews programs initiated specifically for native Hawaiians, and discusses native Hawaiian participation in the educational community, including the problem of underrepresentation of native Hawaiians in higher education and in the teacher workforce.

"Housing"

Housing costs and characteristics for native Hawaiians and other

ethnic groups in Hawaii are examined in the chapter entitled "Housing." Among the findings of this section are:

- The median value of a house in Hawaii is two and one-half times greater than the 1980 national median value.
- The native Hawaiian group has the lowest median value of owner-occupied housing units of all ethnic groups in Hawaii.
- In comparing owners versus renters, native Hawaiians and Filipinos are split almost equally between owners and renters (similar to the State average), while over two-thirds of Chinese and Japanese households are owner-occupied. For the White group, only 43 percent of households are owner-occupied.

The "Housing" chapter also discusses some unique features in the housing situation of native Hawaiians that result from the Hawaiian Home Lands program. It reviews the programs of the Hawaii State Department of Hawaiian Home Lands for homestead homes construction and repair, cost and financing, and loans. Impediments to the use of programs of the U.S. Department of Housing and Urban Development by native Hawaiian homesteaders are also identified.

"Ancient History to the Reciprocity Treaty"

Knowledge about history of the Hawaiian Islands and their inhabitants is necessary to understand the culture and lifestyle of native Hawaiians. This chapter in Part I

traces the history of Hawaii from ancient times through the adoption of the Reciprocity Treaty between Hawaii and the United States in 1875. The chapter includes a discussion of: ancient Hawaii prior to the arrival of western foreigners; the arrival of Captain Cook in 1778; the changes wrought by the activities of the missionaries; the transformation of the kingdom's system of government toward an Anglo-American style; the kingdom's relationships with foreign governments and citizens; the agitation for annexation to the United States; and the growth of the sugar industry in Hawaii and its effect on the politics and economy of the kingdom.

"Native Hawaiian Culture"

The Commission was fortunate to have had the assistance of knowledgeable native Hawaiian authors in compiling the information on native Hawaiian culture and religion. The chapter on "Native Hawaiian Culture" contains a detailed explanation and description of the Hawaiian language, including comparison to other Polynesian languages, the cultural importance of the Hawaiian language, the history of the Hawaiian language, the rise of English as the dominant language in Hawaii, and the role of pidgin in Hawaii today. This section on the Hawaiian language was written by Larry L. Kimura, at the direction of and funded by the Office of Hawaiian Affairs, which submitted the paper to the Commission.

This chapter also contains a discussion of historic preservation in Hawaii. It examines the roles of the State and Federal Governments in preserving historic properties, and describes the practical problems in the implementation and enforcement of

historic preservation regulations in Hawaii today.

"Native Hawaiian Religion"

The chapter on "Native Hawaiian Religion" was written by Rubellite K. Johnson. Professor Johnson's paper (also written at the direction of and funded by the Office of Hawaiian Affairs) discusses: the ancient Hawaiian concept of the soul of man in relation to ancestral or spiritual beings in nature, or beyond nature, during human life and in a spiritual afterlife; the relationship between the community worship of the chiefs and priests a? a ruling class, and family worship from pre-contact to the present; post-conversion Hawaiian conflict in native identity or crisis in self and group esteem, including Hawaiian resiliency in adjusted identity change; the need felt by some emerging native Hawaiian groups to recover self-esteem by pledging faith in ancient religious beliefs and customs, through participation in a revitalized religious setting.

PART II. FEDERAL, STATE, AND LOCAL RELATIONSHIPS

This section of the report covers two separate aspects of the unique interests and needs of native Hawaiians: their land-related claims and interests, and the responses of Federal, State, local, and private entities to their concerns about land and other issues.

"Land Laws and Relationships"

The chapter on "Land Laws and Relationships" reviews land tenure relationships among the king, high chiefs, sub-chiefs (konohiki) and maka'ainana (commoners). It describes

traditional land tenure relationships before the arrival of westerners and it reviews changes in these relationships brought about by changes in practice and law from 1778 to 1846. The chapter also sets forth the history of the Board of Land Commissioners, established in 1848 to address landholding matters, and the resulting principles that led to the Great Mahele of 1848. The Great Mahele divided the land of the Hawaiian Kingdom among the king, the chiefs, and the commoners, with designated rights. Resulting landholding relationships are described. Also, the chapter outlines subsequent laws, including the Act of 1846 that permitted sales of government lands, the Kuleana Act that provided for acquisition of land by commoners, and patterns of land acquisition by foreigners.

In response to specific questions about land ownership raised during the course of the January 1982 hearings of the Commission, the chapter also analyzes certain issues of concern to native Hawaiians. These issues include a description of water and fishpond rights under Hawaiian law. Fishponds remain in private ownership today, while fisheries are in private ownership only to the extent that the owners followed specified procedures to obtain recognition of their rights. Rights to use of water are established by a series of rules unique to Hawaii and closely related to ancient Hawaii land law. Further, the chapter summarizes geothermal and mineral rights under Hawaiian law, and describes the possible effect of geothermal development on traditional native Hawaiian communities. The history of kuleana land rights (rights accorded to commoners to acquire land), including present problems in ownership of these plots, is described. The Hawaiian law of adverse possession—a legal doctrine

that allows persons who have occupied land under certain conditions to claim it for their own—is set forth, and its effect on native Hawaiian landholding rights discussed. Finally, the chapter addresses the necessity of genealogical searches to satisfy land ownership requirements of native Hawaiian landholdings.

"Diplomatic and Congressional History; From Monarchy to Statehood"

This chapter continues on from the history section of Part I. It divides the history of Hawaiian-United States relationships into four sections. The first covers this history from 1875 to 1893. As background, it outlines the events leading to the signing of the Reciprocity Treaty of 1875 between the United States and Hawaii. It also sets forth the relations between the king and certain American advisors who, throughout this period, had a strong influence on Hawaiian policies. The next part of this section encompasses the events from 1881 to 1887, including financial problems in Hawaii and internal political struggles among different American advisors to the crown. The next portion of this section describes the events surrounding the writing of a new constitution in 1887 and the establishment of cabinet government, which subsequently curtailed the power of the king. The period from 1887 to 1893 was marked by efforts of native Hawaiians to take back some of the power that had been removed from them with the formation of a cabinet government. In 1891, King Kalakaua died and Princess Liliuokalani became queen. The final part of this section covers the efforts of the queen to take back authority for the crown and annexation movements during this same period, leading to the sequence of events that resulted in the overthrow of the monarchy.

The second section of this chapter addresses the fall of the monarchy and the annexation of Hawaii to the United States. Because of the sensitivity of this period of history, this section was prepared by a professional historian. It sets forth relationships within Hawaii and between Hawaii and the United States, providing background for the fall of the monarchy. It also details the events of the days and weeks leading up to the establishment of a provisional government and the queen's resignation in January 1893. Further, the section outlines the unsuccessful steps that the queen took in an effort to regain her kingdom. Finally, the section describes the United States' response to the developments in Hawaii, and the resulting efforts to annex Hawaii, first by treaty, and eventually, by joint resolution of both houses of Congress in 1898. Formal transfer of sovereignty occurred on August 12, 1898, when the Hawaiian Islands became a territory of the United States.

The third section of this chapter analyzes a number of specific questions regarding the process of annexation. These include a review of Hawaii's annexation by joint resolution rather than by treaty. The primary reason for the use of the joint resolution was expediency: the United States was concerned about protection of its strategic position in the Pacific; waiting to obtain the required two-thirds majority in the Senate for annexation by treaty could have been too slow to guarantee that protection. This section also describes the Congressional debate surrounding annexation. It then compares the procedures for annexation of Hawaii to the procedures used to annex other territories of the United States, including Florida, Louisiana, and Texas. The final portion of the analysis reviews whether any native Hawaiians signed

annexation documents in Hawaii, noting the difficulties of making such an assessment with the genealogical data now available.

The fourth section of the chapter describes the history of Hawaii's admission to statehood, and compares Hawaii's admission to that of Louisiana, Florida, Texas, Oregon and Alaska.

"Existing Law, Native Hawaiians, and Compensation"

The question addressed in this chapter is "whether native Hawaiians are entitled to compensation for loss of land or sovereignty." In light of the history of landholding laws in Hawaii and the history of the fall of the monarchy and annexation, the Commission has examined whether native Hawaiians have any claims under present law for compensation from the United States for loss of land or sovereignty. The chapter first describes the background of law on these matters, and states that much of the law has developed in relation to American Indians. Second, the chapter analyzes whether native Hawaiians meet the legal requirements for holding "aboriginal title" to Crown and Government lands and whether they are entitled to compensation for loss of any such title. It reviews each of the factors that must be met to establish aboriginal title, in light of the history and sociological facts about native Hawaiians. The requirements that must be met are: the group must be a single landowning entity; there must be actual and exclusive use and occupancy of the lands; the use and occupancy must be of a defined area; and the land must be used and occupied for a long time before aboriginal title was extinguished. While the native Hawaiians may meet some of these requirements, they do not meet all of them.

Further, if aboriginal title existed, the question of whether the United States could be responsible to compensate for its loss is determined by when that title was extinguished. The assumption of sovereignty over the area by the United States must have acted to cause the extinguishment of aboriginal title in order for compensation to be considered. The chapter reviews the history of Hawaiian land law, and finds that acts of the Hawaii legislature before 1893 had the effect of extinguishing aboriginal title, if it had indeed existed. Because the United States did not extinguish any such title, it is not responsible to compensate for its loss. Further, any such loss cannot be compensated under either the Fifth Amendment or under the Indian Claims Commission Act, as presently written.

The question of whether native Hawaiians are entitled to compensation for loss of any "recognized" title to Crown and Government lands is also examined in this chapter. It reviews the definition of the possible laws by which the United States may be regarded as having "recognized" that native Hawaiians have title to Crown and Government lands. The analysis determines that the United States did not recognize title of native Hawaiians to these lands. Further, even if there were recognized title, no compensation for loss of that title would be available under present law.

The next section of the chapter considers whether native Hawaiians are entitled to compensation for loss of sovereignty. The section defines sovereignty, primarily as that concept has been developed in the context of Indian tribes. Since the United States Congress can take away sovereignty of native groups at will, loss of sovereignty is not compensable under the Fifth Amendment. Moreover, it cannot be compensated under the

Indian Claims Commission Act.

Therefore, native Hawaiians have no present legal entitlement to compensation from the United States for any loss of sovereignty.

The next section of this chapter considers whether there is any trust relationship arising from statutes or other laws, between the natives of Hawaii and the United States. It examines each possible source of such a trust relationship and determines that if there is any such relationship, it is at most a very limited special trust that would not entitle native Hawaiians to any compensation. Finally, the chapter compares any possible native Hawaiian claims to claims of native Alaskans, for which the latter were compensated in the Alaska Native Claims Settlement Act.

"Review of Hawaiian Homes Commission Programs"

The review of the Hawaiian Home Lands program was conducted by the Office of Inspector General of the U.S. Department of the Interior, in response to a request in February 1982. The Inspector General submitted a report in September 1982, and it is that report, along with the reply by the Governor of the State of Hawaii, that appears as this chapter of Part II. The report discusses problems concerning the status of the Hawaiian Home Lands, program accomplishment, financial management, applicant eligibility lists, and leasing activities.

"Federal Responses to the Unique Needs of Native Hawaiians"

The steps that the Federal Government is taking to meet the unique needs of native Hawaiians are outlined in this chapter. These include identification of federal programs for

which native Hawaiians may be eligible, particularly those programs that meet needs identified in Part I of this report. These responses also include a study of military property requirements in Hawaii, which identifies possible surplus military land. The chapter describes the work of the President's Federal Property Review Board, and states that the federal members of the Commission will work with that Board to ensure that it is aware of the needs of native Hawaiians in considering property dispositions. Finally, the chapter describes the present status of the establishment of the Kaloko/Honokohau National Historic Park.

"State of Hawaii's Responses to Native Hawaiian's Unique Needs"

This chapter describes three groups of steps that the State has taken to address the needs of native Hawaiians. The first section outlines Section 5(f) of the Admission Act. Section 5(f) provides that the State must hold certain lands, including the proceeds from their sale or disposition, as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, for the development of farm and home ownership on as widespread a basis as possible, for the making of public improvements, and for the provision of lands for public use. The chapter describes the implementation of this provision, including the return of federally-controlled lands (ceded lands) to the State of Hawaii, the State's responsibilities in relation to the ceded lands, and the State's exercise of those responsibilities.

A second section of this chapter describes the Office of Hawaiian Affairs (OHA), established by an

amendment to Hawaii's Constitution in 1978. A primary motive for establishing OHA was to secure a pro rata portion of the public land trust fund for native Hawaiians. OHA also provides an opportunity for all native Hawaiians to choose leaders and exercise self-government and self-determination. OHA's purposes and operations are described.

A final section notes that other existing State programs for education, health, and other needs of native Hawaiians are described in Part I of the Report.

"Private and Local Responses to Special Needs of Native Hawaiians"

The last chapter of the Final Report describes four private organizations that work to meet the needs of native Hawaiians. These are the Kamehameha Schools/Bernice Pauahi Bishop Estate, the Queen Liliuokalani Children's Center, the Lunalilo Home, and Alu Like, Incorporated.

APPENDIX

The Appendix contains four main sections. First, it includes Title III of Public Law 96-565, the Act that created the Native Hawaiians Study Commission. Second, it contains the substitute "Summary of Findings, Conclusions, and Recommendations" section that was submitted by three of the Native Hawaiians Study Commissioners at the Commission's last meeting in March, 1983.

The next section of the Appendix contains a summary of the written comments received by the Native Hawaiians Study Commission during the public comment period on the Commission's Draft Report of Findings. These written comments are reproduced in their entirety, as required by statute, in the final section of the Appendix.

VOLUME II

Volume II contains the dissenting views submitted by Native Hawaiians Study Commissioners Kina'u Kamali'i, Winona Beamer, and H. Rodger Betts.

Conclusions And Recommendations

Conclusions And Recommendations

During the past 18 months, the Native Hawaiians Study Commission has learned a great deal about the culture, needs, and concerns of native Hawaiians. This education has come through study by the Commission and its staff of expert resource documents and data, public testimony from hundreds of native Hawaiians during dozens of hours of public hearings, and close to 100 written comments from individual citizens, private organizations in Hawaii, and State and Federal government agencies on the Commission's Draft Report of Findings. From these contributions, the Commission has compiled what we believe to be the most extensive and up-to-date summary available on the socioeconomic and cultural conditions of native Hawaiians. In addition, the Commission has collected and analyzed important material on key legal and historical factors that may affect matters of concern to many native Hawaiians, such as reparations and land ownership. We also believe that our report to Congress is an important step toward increasing public awareness of native Hawaiians, their history, culture, and special needs.

A. CONCLUSIONS

1. Social, Economic, and Cultural Concerns

The detailed report of the Commission includes extensive data on social, cultural, and economic conditions. This information, in summary, supports the following conclusions:

- After the arrival of foreigners in Hawaii in 1778, the native population drastically declined, both as a percentage of the population and in

absolute numbers. This trend was reversed in the beginning of this century when the part-Hawaiian population began a rapid increase, a trend that continues today.

The native Hawaiian population now constitutes about 19 percent of the State of Hawaii's total population. The population is the youngest, in terms of median age, among Hawaii's ethnic groups and this fact has important implications for education and employment not only today, but in the future as well.

Native Hawaiians have followed the statewide trend in moving toward the island of Oahu. The Hawaiian Homes program has not alleviated this movement since the majority of applicants desire residential homesteads on Oahu. The reason is obvious: employment opportunities on Oahu are more numerous than on the other islands.

Although education for native Hawaiians has improved, many problems still remain. Educational data show that native Hawaiian students have high absenteeism and drop-out rates, score lower in some standardized tests, and many do not go on to college. Thus, there are fewer native Hawaiians enrolled at the University of Hawaii and fewer native Hawaiians in the educational workforce. These educational data explain to some degree the problems of native Hawaiians in the employment and income areas.

It has been shown that education is a high priority of native Hawaiian parents, and this fact will facilitate the efforts to improve educational attainment at several levels--the students themselves, the family, the school, the community, and the State.

Unemployment is a greater problem for the native Hawaiian population than for other ethnic groups in Hawaii. Data also show that native Hawaiians still lag behind most other ethnic groups in terms of the percentage of their population in professional positions. Over 22 percent of native Hawaiian men have jobs classified as "menial."

Income levels for native Hawaiians fall below that of some of the other ethnic groups. Data for 1977 show that full-Hawaiians had the lowest median family income of civilians in Hawaii compared to other ethnic groups. Part-Hawaiians had the third lowest. As suggested above, lower employment and income are due, to a large extent, to educational and training deficiencies.

In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level. In 1982, the number of native Hawaiians on welfare (Aid to Families with Dependent Children and general assistance) was significantly higher than their relative share of the population.

The high unemployment rate of native Hawaiians generally, and the educational problems of

native Hawaiian youth are reflected in criminal justice data. Native Hawaiian youth constitute the largest percent of juveniles arrested for several crime categories. Alcohol and drug abuse problems also exist for native Hawaiians, although incidence is lower than for some other groups, including Caucasians.

- Native Hawaiians continue to have a shorter life expectancy than other ethnic groups in Hawaii and a higher infant mortality rate. The incidence of cancer is higher than that of other groups for both men and women of native Hawaiian descent. Other health problems include a high prevalence of respiratory conditions and a high mortality rate, particularly for full-blooded Hawaiians, for heart disease, cancer, and accidents.
- Given the high cost of housing on the islands, housing problems exist for all groups in Hawaii: the median value of a house in Hawaii is two and one-half times greater than the 1980 national median value. The lack of adequate housing may be even more acute for native Hawaiians because of their lower income levels. For native Hawaiians on Hawaiian Home Lands, there exist impediments that prevent them from using the assistance programs of the U.S. Department of Housing and Urban Development.
- The State of Hawaii consists of a population of considerable racial and cultural diversity. From the earliest times, inter-racial marriage was accepted by

the community. Native Hawaiians have among the highest interracial marriage rates. This racial and ethnic mixture has affected the political sphere. Since the 1930's, no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in Hawaii.

- The native Hawaiian people have a rich cultural heritage. An important part of that heritage is the Hawaiian language, as demonstrated by the attempts that are being made to revive and preserve it. Another key aspect of this cultural heritage is the native Hawaiian religion and its relationship to the needs of native Hawaiians today. Historical preservation could play a greater role in preserving this heritage.

2. Federal, State, and Local Relationships

The Final Report of the Native Hawaiians Study Commission also analyzes issues related to Hawaiian history and land ownership. This information and analysis support the following conclusions:

- The history of land ownership and tenure in Hawaii is unique and complex. In the mid-nineteenth century the king developed a process and had enacted a series of laws to change the ownership patterns to fee simple ownership. These laws, the way they were implemented, and other economic, social, and political forces in Hawaii at the time put a large amount of Hawaii's land in the hands of westerners by 1890.
- Native Hawaiians have expressed concern about a number of specific legal questions that

affect land ownership. Some of these questions, such as ownership problems arising from the exercise of kuleana land rights, are unique to Hawaii and will take time to resolve. Others, such as laws affecting rights to water and adverse possession, are similar to problems existing in many other states.

- Hawaii has a long and rich history. As a separate sovereign nation, it developed relations with the United States through treaties and other dealings prior to 1893. For example, treaties were developed between the two countries to facilitate trade and to serve the interests of those in Hawaii seeking economic development to improve the country's financial situation. The treaties also promoted the economic, security, and defense interests of the United States. In addition to these foreign policy considerations, tensions between the monarch and the legislature also affected Hawaiian politics during these years, as did efforts by the native Hawaiians to regain power from reformers. The culmination of these treuas occurred in 1891 when Liliuokalani became queen and attempted to reassert the power of the throne against the legislature and the reformers.
- In 1893 the monarchy was overthrown. The overthrow, and the lack of resistance by the queen and her cabinet, was encouraged in part by the presence of United States forces, consisting of one company of Marines and two companies of sailors (approximately 100 men), acting without express authority from the United States Government.

- President Cleveland, inaugurated just after the landing of United States forces, dispatched Representative Blount to investigate the events. His report blamed the American Minister, John L. Stevens, for the revolution. The United States Senate then commissioned the Morgan report, which reached an almost opposite conclusion. The Commission believes the truth lies between these two reports.
- In 1897, Hawaii's new government and the United States entered into an agreement that Hawaii would be annexed to the United States. The annexation question was submitted for consideration by the Hawaii legislature. In the United States, it was passed by Joint Resolution of both houses of Congress, rather than as a Treaty requiring a two-thirds majority of the Senate. President McKinley's concern to secure a foothold in the Pacific for the United States in the face of the Spanish-American War prompted use of a Joint Resolution. (Texas is the only other territory that was annexed to the United States by Joint Resolution.) The relations between the United States and Hawaii up to the time of annexation were relations between two separate, sovereign nations, not between a sovereign and those subject to its sovereignty.
- Determining if any native Hawaiians signed annexation documents is difficult without extensive genealogical research. An estimate is that six native Hawaiians were in the Hawaiian legislature when it adopted the 1894 Constitution calling for annexation.
- In 1959, Hawaii became a State of the United States. The history of its admission to statehood, like that of other states, is unique.
- The Commission examined both common law and statutes to determine whether there currently exists any legal basis for compensation for loss of land. The Commission also reviewed articles and reports making the legal argument for compensation. Generally, the most likely possible theories for the award of compensation to native groups for loss of land were aboriginal title or recognized title doctrines:
 - The law has developed specific tests for establishing aboriginal title: the group must be a single land-owning entity; there must be actual and exclusive use and occupancy of the lands; the use and occupancy must be of a defined area; the land must have been used and occupied for a long time before aboriginal title was extinguished. Additionally, title must have been extinguished by the government of the United States, not by another body, such as the government of Hawaii before the United States annexed Hawaii. Finally, some law must give the native group, here the native Hawaiians, a right to compensation for loss of aboriginal title. The Commission finds that the facts do not meet the

tests for showing the existence of aboriginal title. Even if the tests had been met, the Commission finds that such title was extinguished by actions of the Hawaiian government before 1893, and certainly before annexation, which was the first assumption of sovereignty by the United States. Finally, even if these tests had been met, neither the Fifth Amendment to the United States Constitution nor current statutes provide authority for payment of compensation to native Hawaiians for loss of aboriginal title.

- The law also has developed specific legal requirements for compensation of loss of lands by recognized title. The Commission examined the question of whether treaties and statutes, the Joint Resolution of Annexation, or the Fifth Amendment to the United States Constitution provide a basis for payment under the theory of recognized title, and concluded that no basis exists.
- The Commission examined whether a trust or fiduciary relationship exists between the United States and native Hawaiians and concluded that no statutes or treaties give rise to such a relationship because the United States did not exercise sovereignty over the Hawaiian Islands prior to annexation, and the Joint Resolution of Annexation, No. 55 (July 7, 1898) did not create a special

relationship for native Hawaiians.

- The Commission considered whether native Hawaiians are entitled to compensation for loss of sovereignty, and found no present legal entitlement to compensation for any loss of sovereignty.
- A report prepared by the Inspector General of the Department of the Interior summarized a number of problems with regard to the Hawaiian Home Lands program. A Federal/State Task Force was created to propose solutions to these problems and its report is due to the Governor of Hawaii and the U.S. Secretary of Interior by mid-1983.
- The State of Hawaii has taken a number of steps to respond to the unique needs of native Hawaiians. These include acquisition and disposition of revenue pursuant to Section 5(f) of the Statehood Admissions Act; establishment of the Office of Hawaiian Affairs; and establishment of particular programs specifically for native Hawaiians within other departments of the State Government.
- A number of private and local organizations have also worked to meet the unique needs of native Hawaiians. These groups' have been funded either by endowments (often from the estates of kings or queens of Hawaii), or by the Federal Government.

To summarize the Commission's findings with regard to the overthrow of the Hawaiian monarchy: Based upon the information available to it, the Commission concluded that Minister John L. Stevens and certain other individuals occupying positions with the U.S. Government participated in activities contributing to the overthrow of the Hawaiian monarchy on January 17, 1893. The Commission was unable to conclude that these activities were sanctioned by the President or the Congress. In fact, official government records lend strong support to the conclusion that Minister Stevens' actions were not sanctioned.

Besides the findings summarized above, the Commission concludes that, as an ethical or moral matter, Congress should not provide for native Hawaiians to receive compensation either for loss of land or of sovereignty. Reviewing the situation generally, including the historical changes in Hawaii's land laws and constitution before 1893, the Hawaiian political climate that led to the overthrow, the lack of authorized involvement by the United States, and the apparent limited role of United States forces in the overthrow, the Commission found that on an ethical or moral basis, native Hawaiians should not receive reparations. In reaching this conclusion, the Commission did not find the Hawaiian circumstances analogous to the time when Congress voted payments to Colombia, as a result of the U.S. role in Panama. Those payments were based, in part, on the breach of commitments by the United States Government under an 1846 treaty guaranteeing to Colombia the "right of sovereignty and property" over the Isthmus of Panama, and, in part, on commitments owed to Colombia pursuant to certain contracts.

Nevertheless, the Commission strongly recommends that the issue of reparations not impede the important steps that should be taken now to

improve the condition of native Hawaiians. Based on the information it has collected, the Commission believes that the social and economic problems of native Hawaiians deserve immediate action and that these needs should be addressed promptly.

B. RECOMMENDATIONS

Based on its findings, the Commission would recommend consideration of early action in the following areas:

- Additional educational and training opportunities to better equip native Hawaiians for employment.
- Information services and technical assistance to assist both job applicants and small business concerns.

[These measures should help deal with problems involving education, unemployment, crime, and alcohol and drug abuse, which appear to be related.]
- Additional nutrition education programs and research to assist in reducing incidence of disease and accidents, and to reduce mortality rates.
- Specific assistance to native Hawaiians in finding housing.
- Continued efforts to offer opportunities for native Hawaiians to learn about and develop a sense of pride in their culture.

Steps can be taken by private individuals and organizations and by governments at all levels to address these areas of concern. The Commission feels that private groups

and local governmental units may be most effective in addressing many of these problems because they are closer to the native Hawaiians, better understand their needs, and can most easily adjust their priorities. The next most effective level is the State Government, which already has in place several programs that address specific needs of native Hawaiians. Finally, there are existing programs within the Federal Government that also may be of use in addressing these needs. Therefore, as an action program is developed, the Commission recommends that, in order of priority:

- First consideration should be given to efforts that are undertaken by private native Hawaiian groups. In fact, such groups have made significant contributions, which can and should be expanded. Examples of effective private groups that could expand and/or redirect their activities include: Alu Like, Inc., the Hawaiian Civic Club, and the Bishop Estate.
- Second consideration should be given to efforts of local governmental units. Local governments should be in a good position to work directly with native Hawaiians in formulating solutions for their particular needs.

Third consideration should be given to existing State government agencies that specifically deal with concerns of native Hawaiians. The primary examples are the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands. (It should be noted that the Federal/State Task

Force on the Hawaiian Home Lands program will make specific recommendations on how this program can better serve its constituents.)

- Fourth consideration should be given to efforts of State government agencies and the Governor who administer various State and Federal programs that apply either (a) only to native Hawaiians, or (b) to various citizens including native Hawaiians.
- Fifth consideration should be given to a wide variety of Federal programs that are already available or that could be made available to help address specific needs. Private, local, and State officials in Hawaii should take the initiative to become aware of available programs, secure and disseminate information on them, and ensure that native Hawaiians have equal access to those programs.

Possible Specific Actions

Within this framework, it appears to the Commission that a number of specific actions can be taken to speed the application of resources to needed areas. For example, the Commission recommends that:

1. In the area of education, appropriate private, local, and State organizations should consider:
 - Instituting a program to encourage educational development that emphasizes the importance of education for native Hawaiian youth, and recruits eligible native Hawaiian students to pursue higher education.

- Expanding the Hawaiian Studies Program to meet the goal of promoting the opportunity for all age groups to study Hawaiian culture, history, and language in public schools.
- Establishing a clearinghouse, perhaps under the auspices of the University of Hawaii, to provide information on financial aid available to prospective college students from Federal and State Governments, and from private individuals and organizations; and to make this information available to high schools throughout the State.
- Making sure that Federal programs for vocational training funded through block grants are targeted to groups most in need, including native Hawaiians.

In the area of health, appropriate private, local, and State organizations should consider:

- Systematically collecting, recording, and analyzing critical health data on Hawaiians for use in specific health benefit programs.
- Including a specific focus on the special needs of native Hawaiians in nutrition education programs (Federally- and State-funded) for children and adults.
- Using the clearinghouse organization suggested in number 5 below to assist organizations in applying for Federal grants to tailor nutritional information specifically to the native Hawaiians and their lifestyle.

- Initiating efforts to ensure that information on specific Federal programs (for example, supplemental food program for women, infants, and children) is disseminated through native Hawaiian organizations, and recruit eligible native Hawaiians to participate in these programs.
- Ensuring that a fair share of Federal block grant monies are directed toward alleviating specific health problems, including those of concern to native Hawaiians, such as infant mortality and child and maternal care.

3. In the area of housing, appropriate private, local, and State organizations should consider:

- Instituting efforts to disseminate information on federal housing programs to native Hawaiians.
- Assisting individuals and builders in applying for these programs.

4. In the area of culture, appropriate private, local, and State organizations should consider:

- Giving higher priority to native Hawaiian sites in considering nominations for the National Register of Historic Places; activating the State Historic Preservation Plan and revising, in consultation with native Hawaiians, the plan in an effort to ensure protection of ancient Hawaiian artifacts and sites.

- Instituting a mechanism, perhaps under the Bishop Museum, to collect information on existing federal programs in the area of the arts and humanities and assisting native Hawaiians who wish to apply for these programs.

The Governor should consider creating, perhaps within an existing agency or organization, a group to:

- Act as a clearinghouse for information on existing federal programs that can be of help to native Hawaiians. The existing Catalog of Federal Domestic Assistance can provide an excellent starting point; and
- Perform a "facilitating" role by assisting individuals and groups in identifying relevant programs, contacting appropriate officials, and writing applications and proposals.

During the course of its study, the Commission found a diversity of data uses and collection methods among State agencies and between State and Federal agencies, resulting in data on native Hawaiians that are not comparable. Therefore, the Governor should consider reviewing the use of population figures and the methodologies used in data collection on native Hawaiians to ensure consistency among State agencies. Then, the Governor should make recommendations to the U.S. Bureau of the Census on specific changes for the

1990 Census that would ensure comparability between State and Federal data.

Actions by Federal Agencies

The Commission also recommends that the heads of all Federal departments and agencies act to ensure that the needs and concerns of native Hawaiians, to the extent identified and defined in the Commission's Report, be brought to the attention of their program administrators; that these administrators consult officials in Hawaii for further guidance on specific programs; and, once this guidance is received, consider actions that could be taken to ensure full and equal access by native Hawaiians to various assistance programs. Among those programs that appear to the Commission to warrant special attention are the following:

1. In the Department of Education, guaranteed student loans; program grants for educationally-deprived children; educational opportunity grants.
2. In the Small Business Administration, programs to provide technical assistance, advisory services, and grants and loans to small businesses, such as Economic Opportunity Loans for Small Businesses, Management Assistance to Small Businesses, Management and Technical Assistance for Disadvantaged Businessmen, and Small Business Loans.
3. In the Department of Labor, the employment and training programs for Native Americans (including native Hawaiians) under the Job Training Partnership Act.

In the Department of Health and Human Services, programs for native Hawaiians under the Administration for Native Americans, including financial assistance, training and technical assistance, and research, demonstration and evaluation; Alcohol, Drug Abuse, and Mental Health Administration project grant and information programs; Maternity and Child Health Program; Head Start.

In the Department of Housing and Urban Development, programs to assist native Hawaiians in obtaining adequate housing, including guaranteed/insured housing loans, interest reduction programs, mortgage insurance, home improvement programs, guaranteed/insured loans for rental units, and housing programs for the handicapped and elderly.

The Commission also supports legislation pending in the U.S. Congress that would change the National Housing Act to allow FHA single-family mortgage insurance to be extended to lands administered by the Hawaiian Homes Commission for the use and benefit of native Hawaiians, without regard to limitations regarding marketability of title.

In the Department of Agriculture, rural housing and farm operating loans from the Farmers Home Administration for Hawaiian Home lands.

In the National Institutes of Health, programs dealing with heart disease of the National

Heart, Lung, and Blood Institute; grants and contracts relating to cancer, funded by the National Cancer Institute; other programs in NIH that address the special health problems of native Hawaiians, such as infant mortality.

8. In the Department of the Interior, programs in the area of historic preservation, and educational/cultural programs in conjunction with National Parks and Monuments in Hawaii.
9. The Federal Property Review Board should continue to consider the unique needs of native Hawaiians when property use is reviewed and when disposition of surplus federal property is considered.

Parti
Socioeconomic And Cultural Section



An ancient Hawaiian village with a faint outline of famous Diamond Head in the background.

Demographics

A. INTRODUCTION

Profile of Hawaii 1/

The State of Hawaii consists of eight major southerly islands in a chain of islands and 124 minor islands with a total area of 6,450 square miles. Of this total, 6,425 miles are land and 25 are inland waters.

The eight major islands total 4,126,000 acres of land area, of which 98 percent form the six major islands of Hawaii, Maui, Oahu, Kauai, Molokai, and Lanai (in order of largest land mass). The seventh island, Niihau, is privately owned and the eighth, Kahoolawe, is a military bombing range and uninhabitable.

There are three levels of government in Hawaii—Federal, State, and County. There are only four counties. The seat of the State Government is in the State Capitol at Honolulu on the island of Oahu, which houses the State Legislature and the Governor's offices.

The major industries in Hawaii have shifted from those that are primarily agricultural to service industries. In order of importance, the major industries today in Hawaii are:

- Tourism
- Construction
- Sugar
- Pineapple
- Defense
- Diversified Agriculture

Data Sources and Reliability 2/

The sources used in the descriptions that follow in this chapter are diverse, with varying degrees of reliability. Essentially two types of sources were used to compile the data in this chapter: scholarly demographic studies (for example, Adams, Lind, and Taeuber), and official government censuses and statistics (Schmitt for earlier figures, U.S. Bureau of the Census data, and State of Hawaii statistics).

As always in the use of statistics, there are inherent dangers of misclassification and misinterpretation. Earlier data are less reliable than later data. Some data collected by the Federal Government directly after statehood in 1959 are unusable because mainland race classifications are meaningless in Hawaii. Some data are not collected by ethnic groups by either the State or Federal Governments. It is hoped, however, that the wide variety of data used here will obviate some of these problems. Even where precise information is not available for lack of data, the reader may at least be able to discern trends in each of the areas discussed.

The most complete statistical compilation, from the earliest available figures to postcensal estimates made by the State in 1965, is contained in a book written by Robert C. Schmitt, Hawaii State Statistician. 3/ Schmitt reviews the various sources of demographic data for accuracy and reliability. A brief summary of his review will give a general idea of much of the data used here.

There are numerous problems with the earliest available data. Captain Cook's estimates and those of others

for the original population count of Hawaiians in 1778 ranged from 100,000 to 500,000. 4/ Estimates are almost completely missing from 1779 to 1822. The sociologist, Romanzo Adams, did much research to fill in this gap. Missionary estimates after 1823 are characterized by Adams as "not very accurate, but nevertheless, valuable." 5/ The first censuses in 1839, 1847, and 1848 were not successful. A moderately successful count was obtained in 1849, but 1850 is the date of the first acceptable population count.

Censuses were taken by the kingdom of Hawaii from 1847 to 1896. The last census, in 1896, was accurate and comprehensive. Problems with the kingdom's census data include the fact that age data were most frequently misreported and ethnic breakdowns were different from those used after annexation. However, Schmitt evaluates the kingdom's census data as follows:

Findings were usually consistent with what is known of the general social and economic conditions of the period. Notwithstanding their limitations, the censuses contributed greatly to knowledge of the demography of Hawaii. 6/

From 1900 to 1980, U.S. Bureau of the Census data can be used. Here again problems occur, especially in the area of misclassification of race. Schmitt says of the U.S. Census data:

Although the errors and discrepancies cited...sometimes involve thousands of persons, their net effect is often insignificant in relation to the total population. For all their limitations, the U.S. census reports offer an unequaled statistical picture of the social, demographic and

economic development of Hawaii since 1900. V

There are important considerations that must be taken into account in using U.S. Census data and the statistics compiled by the State of Hawaii. For the 1980 U.S. Census, "race" was assigned on the basis of self-identification. If the person was unsure of his/her race, the race of the mother was used (in 1970, race of the father was used). In gathering State of Hawaii statistics, respondents are asked their ethnic composition and those with mixed blood, including part-Hawaiian, are included in the latter category. Exacerbating this difference is the fact that in 1970 and 1980, the category "part-Hawaiian" was not used in the U.S. Census. Many part-Hawaiians may have believed that the "Hawaiian" category was only for those with a large percentage of Hawaiian blood.V S

The natural result of the differences in these methods is that the State of Hawaii counts many more native Hawaiians than the U.S. Census does and, therefore, State and U.S. Census figures cannot be accurately compared. The actual effects of these differences are a matter of debate that cannot be resolved at this time. However, the reader should at least be aware that this issue exists. In this Report, the origin of the statistics used is clearly identified in the text or in each table.

Definitions

The definition used by the U.S. Congress for the term "native Hawaiian" in the Act creating the Native Hawaiians Study Commission is as follows: "any individual whose

V¹ For a more complete explanation of the differences in the data collection for the 1970 and 1980 censuses, see page 41, below.

ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778." 8/ Confusion arises, particularly in an historical overview, between full-Hawaiians, part-Hawaiians, and Hawaiians of 50 percent blood quantum of the races inhabiting the Hawaiian Islands prior to 1778 (the definition for inclusion in the Hawaiian Home Lands program).

For the purposes of this Report, the Commission has decided that the following definitions will always apply, 9/ unless otherwise noted in the text:

Hawaiian or full-Hawaiian: Pure-blooded Hawaiian;

Part-Hawaiian: Any individual of mixed blood whose ancestors were natives of Hawaii prior to 1778;

Native Hawaiian(s): ^/ Either full- or part-Hawaiian; in the plural, the combination of both groups as defined above*

Historical Background **/

The period after the arrival of Captain Cook, from 1778 to 1850, was one of sweeping changes in the Hawaiian Islands. The native

V When discussing the beneficiaries of the Hawaiian Homes Commission Act, however, "native Hawaiian" refers to those descendants of not less than one-half-part blood of the races that inhabited the Hawaiian Islands prior to 1778.

**/ For a more complete history, see Part I, "Ancient History to the Reciprocity Treaty," and Part II, "Diplomatic and Congressional History: From Monarchy to Statehood."

population declined drastically as result of declining birth rates and high mortality rates. Urban centers grew up around Honolulu, Hilo, and Lahaina as trade with foreigners increased. Native Hawaiian men signed up as sailors on foreign ships, never to return. Foreigners began to take up residence on the islands, and the first indentured laborers arrived.

The changes from 1850 to 1900 were no less drastic. The population decline of the islands as a whole was arrested and began a rapid increase, swelled by thousands of immigrant laborers. The composition of the population (age, sex, race, marital status) was dramatically altered, however, as the native population continued its decline. Constitutional government was introduced, and the system of land ownership was changed. By the end of this period, the monarchy did not even exist, replaced in 1894 by a caretaker Republic awaiting annexation to the United States.

The period from 1900 to 1960 covers Hawaii's territorial years. The full-Hawaiian population continued its decline, while there was a dramatic increase in the part-Hawaiian population as inter-marriage among Hawaii's ethnic groups increased. Large numbers of immigrant laborers continued to enter Hawaii in the first half of the period. The second half saw a great increase in the number of U.S. military personnel.

From 1960 to 1980, the change from an agricultural economy to a service economy is clearly evident. The native Hawaiian population continued to increase, and a Hawaiian "cultural revival" began.

B. POPULATION AND COMPOSITION
OF POPULATION

Population Trends from 1778 to 1850

It is probable that Hawaii was first inhabited by "a few hundred" Polynesians who arrived in large, doubled-hulled canoes. From this modest beginning, the native Hawaiian population was estimated to be between 100,000 and 500,000 people at the time of first Western contact in 1778. The population figure that has come to be accepted by most authors is 300,000. Captain Cook found an island grouping fully populated, based on a subsistence economy with a strict hierarchical social system, and kings on various islands in almost constant warfare with each other.

Contact with foreigners after centuries of isolation from the rest of the world greatly changed the islands and their people. The total population of Hawaii for the period from 1778 to 1850 declined dramatically, from approximately 300,000 in 1778 to 84,000 in 1850. Table 1 and Chart 1 illustrate this decline. ^V The major causes of the decline are examined in the next section.

Causes of Population Decline **/

Population growth or decline is the net result of four forces: birth, death, in- and out-migration. Until the first immigrants arrived in 1852, the natural decrease outweighed migration in determining the demographic make-up of Hawaii.

Epidemics and Diseases: When British Captain James Cook anchored

^V All tables and charts appear at the end of the chapter.

**/ For more data on the historical development of native Hawaiian health, see below, pages 99 to 109.

off the island of Kauai on January 18, 1778, his rediscovery ended the prolonged isolation of the Hawaiian Islands. This lack of contact had left the native population with no built-up immunities and virtually defenseless to disease. Unlike continental peoples, the vast oceanic distances among the Pacific island groups had effectively prevented the spread of any bacterial or viral illnesses anywhere in Polynesia. As a result, Western contact in Polynesia meant the introduction of diseases that proved to be devastating to the island population. The first to be introduced in Hawaii was venereal disease.

The physical mobility among the islands and the accepted sexual behavior of native Hawaiians had assured the spread of the disease. (Although syphilis is not an immediate threat to the size of a population, its effects on the incidence and health of children born to parents carrying the disease very often include deformity or early death.) It was also the custom of native Hawaiians not to permit deformed children to survive birth. This practice of native infanticide was reported by Westerners for the next 50 years, but the exact number of such deaths will never be known.

Hawaii State Statistician Robert C. Schmitt wrote that:

...the roles of abortion, infanticide, and infant mortality are difficult to assess. Artemas Bishop, writing in 1838, noted that "the great majority of the children born in the islands die before they are two years old." Some students attributed the frequent barrenness, stillbirths, and infant deaths to venereal disease. Abortion and infanticide, known to have existed in pre-contact times, reached new highs in 1819-1825 and 1832-1836... 10/

These dates indicate generational patterns, suggesting that the impact of venereal disease continued for at least three generations before it abated or became a less virulent strain.

The lack of any natural immunity to Western diseases among the native Hawaiians was far more dramatically traceable with the introduction of air- or water-borne contagion. The first recorded epidemic occurred in 1804. From native accounts of the symptoms, it is now assumed that outbreaks of either cholera or bubonic plague occurred. Of an estimated population of 280,000 in the year before this epidemic, nearly half succumbed.

Later epidemics also contributed to the high mortality rate: influenza first appeared in 1826, and measles, whooping cough, diarrhea, and influenza struck in rapid succession in 1848 and 1849.

Other causes mentioned by authors for the declining population are:

- Limited knowledge of treatment for certain diseases, poor infant care, breakdown of the old moral order, and disruption of important economic activities; 11/
- Inter-island warfare that did not abate until 1795 and infanticide, mostly of females, to balance the loss of males in war; and
- The sandalwood trade, which caused innumerable natives to work gathering sandalwood, weakened them, and caused them to neglect other economic pursuits, such as fishing and farming. 12/

Migration: although it was not a major cause of population decline, the migration of young Hawaiian men did play a role. The recruitment of native Hawaiians as crew members for

visiting ships evidently began in 1788. Romanzo Adams estimated that the number of island seamen increased from 200 in 1823 to 300 in 1825, 400 in 1832, 600 in 1836, 3,500 in 1848, and 4,000 in 1850. At mid-century, then, nearly 5 percent of the total Hawaiian population had enlisted as sailors. More importantly, this group accounted for approximately 12 percent of all Hawaiian males 18 years of age or older. 13/

Population Trends from 1850 to 1896

According to the census data of the kingdom, this period witnessed the reversal of the decline in the overall population of Hawaii. While there was a 3.5 percent per year population decline in 1853, the population in 1896 was increasing at a rate of 3.3 percent per year (see Table 2).

However, far-reaching changes were occurring in the lifestyle and composition of the population, as the native population continued its decline. Central to this transformation was the importation of laborers, beginning in 1852, to work the newly-established sugar plantations. The effects of the plantation system are evident in the increase of non-Hawaiians, a considerable excess of males over females, and a youthful population.

Immigration

Although there was a sufficient number of Hawaiians to meet the labor needs of the plantations, the native cultural pattern of subsistence living was not conducive to plantation labor. As Lind concluded, since Hawaiians could satisfy their simple living expectations by a few hours toil in the taro patches, "there was little reason for the Hawaiians to offer themselves as plantation laborers under the onerous and confining conditions which prevailed—long hours of hard labor under driving rain and hot tropical sun..." 14/

The first immigrant labor group to arrive was the Chinese, followed by Japanese and, eventually, others. This new infusion of population from China and Japan brought with it new diseases. The first outbreak of leprosy occurred as a result. (Hawaiians called the disease ma'i Pake--the Chinese sickness.) The kingdom of Hawaii responded with quarantine stations to examine all incoming workers. However, the dread disease had established itself within the population, and, in an attempt to contain its spread, the leper settlement at Kalaupapa on the island of Molokai was established.

In any event, the greater consequence of labor immigration was the change in the composition of the total population. By 1896, full-Hawaiians represented less than half of the total population for the first time. Within a decade, this change was even more pronounced, as the Hawaiian population was less than one-third the number of non-natives, as shown in Chart 2.

As Chart 3 shows, most conspicuous in this non-native population were Asian immigrants, primarily from China and Japan. Especially after favorable arrangements for Hawaiian sugar were established with the United States in the Reciprocity Treaty of 1876, this portion of the population increased even more.

The influx of immigrant population--largely adult males--created an imbalance in the male/female ratio. Only Portugal required the re-settlement of wives and children as a condition of labor contracts. Although later efforts were made by the nation of Japan to facilitate "picture bride" arrangements for their people, plantations continued to assume that workers would return to their native countries. However, as might be expected in such a situation, patterns of increasing inter-marriage began to emerge.

Although intimate contact is known to have occurred between Hawaiians and Westerners since 1778, it was not until the Census of 1850 that a separate category designated "half caste" began to enumerate the children of these unions. In that year, more than 500 hapa haole children were counted. Three years later, this number had doubled. By 1890, this change in the genetic background of native Hawaiians accounted for about 15 percent of the total native Hawaiian population, as shown in Table 3.

Population Trends from 1900 to 1960

With the emergence of a new group composed of full- and part-Hawaiians (see Table 4), there was a significant reversal in the declining native Hawaiian population trend in the first half of the twentieth century. Major factors that accounted for this population increase were: establishment of a program of Western preventive medicine and Hawaiians learning the value of Western medicine and changing their mode of life accordingly; the build-up of some immunity to disease; and growing inter-marriage. Part-Hawaiians have become Hawaii's most rapidly expanding ethnic group. ^{15/}

Age and sex pyramids for the native Hawaiian population (illustrated in Chart 4) nearly approximate a normal distribution. The base is decidedly broad in 1920 and even broader in 1960; the broader the base, the younger the population. The median age of 16.0 for native Hawaiian males in 1960 was lower than that of any other major ethnic group in Hawaii.

Population Trends from 1960 to 1980

Federal and State figures vary substantially on the population of Hawaii in 1980. Table 5 shows the U.S. Census Bureau tally for Hawaii in

1970 and 1980. The 1970 total for native Hawaiians of 71,375, seems disproportionately low, given the combined (Hawaiian and part-Hawaiian) total of 102,403 in 1960 (revised estimate) and 115,962 in 1980. This discrepancy is probably due to the differences in the methods of data collection that were employed in the 1370 census for Hawaii. V In spite of this anomaly, the trend of an increasing native Hawaiian population is continuing. The 1970 census shows that 9.3 percent of Hawaii's

V According to the U.S. Bureau of the Census, Subject Report, Japanese, Chinese and Filipinos in the United States, PC (2)-IG, p. XI: "Racial statistics for Hawaii are not strictly comparable with those from earlier censuses for several reasons, including the elimination of the racial category 'part Hawaiian' and changes in the rules on racial classification for persons with racially mixed parentage. In 1960, 'part Hawaiian' was included as a separate category in the race item. Mixtures of Hawaiian and any other race were classified as 'part Hawaiian.' In 1960, 91,109 persons, or 14 percent of the total population of Hawaii, were included in this category. In the 1970 census, persons of mixed descent were asked to enter the race with which they identified themselves. When persons were in doubt about their racial classification, the father's race was used."

On the other hand, persons were asked in the 1980 census to report the race with which they most clearly identified. In Hawaii, persons who reported "Part Hawaiian" were classified as "Hawaiian." Persons reporting more than one race were asked to report the one with which they most closely identified. Finally, in those cases where the respondent could not report one race, the race of the mother was used.

population was native Hawaiian. The comparable figure for 1980 was 12.0 percent.

Population statistics from the State of Hawaii Data Book for 1981 vary widely from the U.S. Census information (see Table 6). In the State's tabulation, full- and part-Hawaiians comprise 18.9 percent of the total Hawaii population with a total of 175,453 persons, compared to the 12 percent (or 115,962) figure from the 1980 U.S. Census.

The differences are due largely to the definitions used in collecting the data (see above, page 36). That is, persons of mixed race are shown separately in the State table, while in the 1980 Census tabulations they are assigned to one of the unmixed groups on the basis of self-identification or race of the mother. In the 1970 U.S. Census, self-identification or the race of the father was used in ethnic classifications.

Age/sex statistics from the U.S. Census Bureau for 1970 confirm previous figures showing that many native Hawaiians are in the younger age brackets. The median age for males was 19.7 (higher than the 1960 figure of 16) and 21.8 for females. Over 48 percent of the native Hawaiian population in 1970 was 19 years old or younger.

Data from the 1980 Census shows that native Hawaiians continue to be the youngest ethnic group in the State. Table 7 displays median ages for Hawaii's major ethnic groups. For native Hawaiians, the median age for males was 22.0 (compared to 27.6 for all races) and 23.2 for females (compared to 29.1 for all races).

The ratio between males and females continues to display the trend shown in the pyramid charts discussed on the preceding page. Of the total native Hawaiian population between the ages of 20 and 39, 53 percent are female and 47 percent are male. In the 1980 Census, 49.5 percent of all native Hawaiians were male and 50.5 percent were female.

Summary

After the arrival of foreigners, the native population of the Hawaiian Islands began a drastic decline. The major causes of this depopulation were epidemics and disease. The population of the Hawaiian Kingdom as a whole began to increase in the second half of the nineteenth century, largely through the importation of immigrant laborers to work in Hawaii's sugar fields. The result of this immigration, along with the continuing decline of the native Hawaiian population, was a decrease in the proportion of native Hawaiians in the total population. By the end of the century, native Hawaiians accounted for less than one-third of Hawaii's total population.

The part-Hawaiian population began to increase dramatically after the turn of the century. The primary reasons for this were better health and increased inter-marriage with other racial groups.

Today, the native Hawaiian population of Hawaii can be characterized as follows:

- According to the State of Hawaii, there are 9,366 full-Hawaiians and 166,087 part-Hawaiians, constituting about 19 percent of the State's population;
- Native Hawaiians are a young population—in 1980, the median age for males was 22.0, and the median age for females was 23.2; and
- The male/female ratio for native Hawaiians is fairly equal—in 1980 males accounted for 49.5 percent of the native Hawaiian population, and females accounted for 50.5 percent.

C. GEOGRAPHIC DISTRIBUTION

Prior to the arrival of foreigners, the geographic distribution of the native population among the eight major islands of Hawaii was a direct consequence of the ability of the land area to sustain necessary crops and fish. Estimates at the time of contact placed the greatest native numbers on the island of Hawaii, followed by Maui, and then Oahu. (Not coincidentally, this ordering is also indicative of the physical area of each island.)

Pre-contact settlement was organized within the ahupua'a:

...the basic landholding unit was the ahupua'a, which ranged in size from 100 to 100,000 acres and usually had natural boundaries. The ideal ahupua'a was an economically self-sufficient pie-shaped unit which ran from mountain tops down ridges to the sea. Most ahupua'a were in turn divided into ili, some of which were virtually independent 'while others were mere operating subdivisions of the ahupua'a. A hierarchical society paralleled this pattern of land division. At the top, a chief controlled each ahupua'a; land agents (konohiki) and subchiefs subordinate to the chief controlled smaller amounts of land; and at the bottom of the hierarchy, common farmers worked the land for the benefit of the chief. Commoners had other plots for their own use and had certain gathering rights in the non-cultivated lands of the ahupua'a16/

1778 to 1850

During the period from 1778 to 1851, each of the islands experienced a decrease in population roughly

equivalent to the general population decline caused by death. Movement from the strictly rural settings of the traditional lifestyle, however, occurred as a response to early commercial activities around port areas. In particular, Lahaina on Maui and Honolulu on Oahu began to acquire urban dimensions (see Table 8).

The sandalwood trade contributed to this early drift to the port areas. As the first export item of the islands, individual chiefs redirected the activities of the people within their ahupua'a to the gathering of the fragrant wood. King Kamehameha I became aware that the country **was** in danger of severe famine because of the neglect of farming and fishing as a result of this redirection. As a consequence, he ordered chiefs and people to devote more time to other activities, proclaimed all sandalwood to be the property of the government, and prohibited the cutting of young and small trees to conserve this natural resource. 17/ Liliuokalani, who succeeded Kamehameha I as king, lifted these restrictions and commoners again were required to gather the fragrant wood in great quantities. 18/ This activity, according to many authors, resulted in the practical extinction of sandalwood trees, weakened the commoners, and contributed to the decline of the native population. 19/

1850 to 1900

The trend of population decline on all islands was reversed after the Reciprocity Treaty of 1876 between the kingdom of Hawaii and the United States. As a consequence of the expanding plantation economy, population on all of the Hawaiian Islands increased rapidly, particularly from 1880 to 1930. (See Table 9 for population figures for the period from 1850 to 1896, and Table 10 for the period from 1900 to 1930.)

1900 to 1960

With the passing of the peak of plantation domination, there was a decline in population on all islands except Oahu between 1930 and 1960 (see Table 10). The expansion of the tourist industry brought slight increases on Hawaii, Maui, and Kauai. By 1960, more than 79 percent of Hawaii's residents were located on Oahu, which has less than 10 percent of the total land area. Over 45 percent of the residents of the State lived in the city of Honolulu and the adjacent urbanized area.

Population decline on islands other than Oahu was due not only to movement toward Honolulu, but also to migration from Hawaii to the mainland. The ethnic group with the highest rate of net migration (whether within Hawaii or from Hawaii to the mainland) was the part-Hawaiian group. 20/ There was also a large out-migration of the original contract laborers and their descendants. 21/

Geographic Distribution of Native Hawaiians */

As one would expect, Hawaiian culture and population have persisted most effectively in areas where Western civilization has penetrated least. Thus census reports from 1853 to 1960 reveal that the islands and districts least suitable for plantation agriculture or other Western uses have remained the havens for native Hawaiians...22/

In 1853, large numbers of foreigners settled on Oahu and Kauai,

^{^J} This section is taken, with some paraphrasing, from Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), pages 45-49.

but both islands also had their isolated districts where native culture was able to survive to a considerable degree. The expansion of plantations during the last half of the nineteenth century reduced the area within which native Hawaiians could maintain numerical and cultural dominance. The lonely islands of Niihau, Lanai, and Molokai remained relatively free of foreign influence until after annexation. By 1930, there were 17 remote districts in which native Hawaiians constituted more than 50 percent of the population.

The situation had not changed substantially by 1950, as reflected in the census reports. Although the 1960 census did not provide similar data (except for Oahu), a clearly disproportionate ratio of native Hawaiians in all of the larger census divisions where they appear indicates that the rural native havens still remained. The centers of native Hawaiian concentration were still in the underdeveloped areas of Kohalo and Kona on the island of Hawaii, of Hana on Maui, of Koolauloa on Oahu, parts of Molokai, and Niihau. However,

More important in the total experience of the natives than the survival of a few thousand persons in these isolated pockets on the edges of the expanding Western world has been the gradual absorption of the Hawaiians in that expanding world. Each new census has told the story of a larger proportion of the natives who have been drawn within the orbit of the commercial economy centering in the port towns and cities. 23/

Honolulu emerged as the dominant center. As the century advanced, Honolulu drew a higher proportion of the total native Hawaiian population. Between 1853 and 1900 the proportion of pure Hawaiians increased from

14.5 percent to 28.1 percent. In 1950, slightly more than 40 percent of the surviving 12,000 "pure" Hawaiians lived in Honolulu.

Part-Hawaiians have been even more strikingly products of the city, as they continue to constitute a greater proportion of residents in Honolulu than is true for the total population. The 1960 census seemed to show a curious reversal of this trend, since the proportion of both full- and part-Hawaiians resident in Honolulu dropped from the 1950 total. On the other hand, the proportion of both groups resident on the island of Oahu had continued to increase steadily until 1960, which suggests that the attraction of the city still operated, but that there was a preference for the suburban and peripheral areas outside the city proper.

Paradoxically, the Hawaiian Homes Commission Act had the effect of assisting this urban trend. The demand for urban sites, particularly on Oahu, far outweighs that for agricultural sites.

1960 to 1980

Information received from the U.S. Department of Labor confirms that the majority of native Hawaiians, like the majority of all Hawaii residents, lives on the island of Oahu (see Table 11). Seventy percent of the native Hawaiian population of the six largest islands lives on Oahu, compared with 79 percent for the population as a whole. Besides Niihau (whose population is almost totally native Hawaiian), the island of Molokai has the largest native Hawaiian population, which constitutes 57.3 percent of its total.

Summary

Prior to the contact with Westerners that was to change their lifestyle, the Hawaiian population

was distributed among the islands in proportion to the land mass and available food resources. The increase in trade after the arrival of foreigners upset this balance and caused a movement toward port areas. This trend has continued with the general movement of the population toward Oahu in the middle of the twentieth century. Recent years have witnessed an even greater concentration of Hawaii's population in and around Honolulu, the principal commercial and tourist center. Although there are many pockets of native Hawaiians located in economically deprived rural areas on many islands, the native Hawaiians have not been immune to the drift of the overall population toward Oahu and Honolulu, and the majority of them now live there.

0. EDUCATION

Education in pre-contact Hawaii was a formalized learning process according to social rank and function. Because there was no written language, all knowledge was carried and transmitted from generation to generation by practice, ritual, and memorization. Training in professions, such as canoe-building and fishing, was accomplished in this same manner. Similar practices were used to train the all in the religious and chiefly arts to ensure their competency to rule. This system served the Hawaiians well as they developed "the finest navigators, agriculturalists, and fishermen in the Pacific" and their culture flourished for over 1,500 years. 24/

Missionaries

A written form of the Hawaiian language and Western modes of learning were first introduced in Hawaii by American missionaries after their

arrival in 1820. Reflecting the Protestant emphasis on knowing and understanding the Bible, proselytizing efforts were combined with teaching the rudiments of reading and writing.

The missionaries began by teaching the ali'i, whose attitude seems to have been: "Teach us first and we will see if it is good. If it is, you may teach the people." 25/ The natives enthusiastically embraced the instruction offered by the missionaries after the chiefs agreed that schools should be set up for the maka'ainana, or common people. By 1831, the schools for commoners numbered 1,000 with a total enrollment of 52,000, or approximately two-fifths of the population. The preponderance of these students were adults. 26/ However, concerted attention was beginning to be given to instructing children by the end of 1820's and by the end of the 1830's, the majority of pupils in the schools were children, in numbers as high as 12,000 or 15,000. 27/

Kingdom Education System

In 1840, the kingdom of Hawaii took over the support of the schools, using the missionary schools as the nucleus of the new public school system. In that same year, literacy became a requirement for obtaining a marriage license.

By 1896, 84 percent of the Hawaiians and part-Hawaiians over the age of ten were considered literate—able to read and write in either Hawaiian or English. This percentage continued to improve through 1930 (see Table 12). 28/

Territory

Lind notes that the response to opportunities for formal education reflects interests and aspirations of the individual groups, especially insofar as the values of the

educational system are American and Western. A sensitive indicator of the differences in attitudes towards formal education in general, and American education in particular, is the proportion of children just beyond compulsory school age who are attending school. Especially in the earlier decades of the century, because the Territory's compulsory school age was 15, school attendance on the part of children aged 16 or 17 was "chiefly a reflection of a strong educational urge on the part of the young people themselves and especially on their parents." 29/ (The present mandatory school age in Hawaii is 18.)

In this regard, Table 13 contrasts the native and immigrant populations. In 1950, 78.1 percent of native Hawaiian 16- and 17-year olds were attending school, compared to 94.1 percent for Japanese and Chinese youths of the same age. It has been suggested that this does not mean that native Hawaiians did not value education, but rather reflects a disenchantment with "Western education." 30/

In terms of higher education, the 1950 census showed that 8.8 percent of Chinese who were 25 years or older had completed a college education. This compared with 3 percent for Japanese, 2.4 percent for native Hawaiians, and 0.3 percent for Filipinos.

1970 to 1980

The 1970 Census shows some improvement for native Hawaiians over the territorial attendance figures. However, native Hawaiians still lag behind other ethnic groups in key areas (see Table 14). The percentage of native Hawaiian 14- to 17-year olds who are in school is lower than that for any other group. Native Hawaiians were behind all ethnic groups, except Filipinos, in: median years of high school completed by those over 25 (12.0, compared with a State average of 12.3 and a total U.S. average of

12.1) V; and percent of those 25 years old and over who are high school graduates. Over 50 percent of native Hawaiians age 25 and over had not graduated from high school. More recent data (for 1977) show that 46.9 percent had completed high school. 31/

The Chinese, White and native Hawaiian groups had the highest percentage of students enrolled in private schools. In 1970, 10.8 percent of native Hawaiian children attending elementary school were enrolled in private schools. The corresponding figure for high schools was 14.4 percent. Thus, the overwhelming majority of native Hawaiian children attend public schools. 32/

The deficiencies in the area of higher education are particularly striking. The native Hawaiian group lags behind all groups in the percent of the population over 25 who have completed 4 or more years of college: only 4.2 percent of the native Hawaiian group completed 4 or more years in college. The statewide average is 14.0 percent and the Whites had the highest percentage of 21.5 percent. The 1977 data of the Hawaii Health Surveillance Program show that 4.6 percent of native Hawaiians completed college, compared to 16.8 percent of Caucasians (the highest) and 7.6 percent for Filipinos. 33/

A 1976 report by Alu Like, Inc. provides further information on the educational profile of native Hawaiians. Among the report's findings are:

- Of the 224 public schools, 34 (15 percent) had enrollments that were 40 percent or more native Hawaiian.

*/ The low figure for Filipinos, 8.7 percent, is probably due to the fact that this group was the last immigrant group to arrive in Hawaii, and many older Filipinos have received little or no formal education.

- Of **the** 5,000 students in those intermediate/high **schools**, **33** percent had been **absent 20 days** or **more a year**.
- Of the 20,000 native **Hawaiian** youngsters aged 12 to 17, 10 percent were not enrolled in any school.
- Of the 34,000 native **Hawaiian** students in public schools, approximately 12,900 (35 to 38 percent) were in the lower stanines (1-3) for **SAT reading**, compared with 24 percent for the State.
- Of the approximately 72,000 native Hawaiians age 25 **and** older, 31 percent had not finished high school (this is an improvement over the 1970 Census figure of 50.3 percent).
34/

Given these problems, it is not surprising that "educational needs **are** in [the] top priority for programs according to the Hawaiian population." 35/ The 1976 Alu Like Needs Assessment Survey sample that voiced this priority also indicated that parents have high aspirations for their children and feel it is important for them to finish high school. 36/ These parents also believed that schools are:

...not sensitive to the needs of children with a culturally Hawaiian life-style, and **that** Hawaiian children are in need of head-start preparation **for** the public schools as a way of integrating their cultural **orientation** with that of the vastly different orientation in the public elementary schools they **will** attend. 37/

Summary

Formal education in Hawaii, as it was known in the United States, 38/ began with the arrival of the missionaries in 1820. The native Hawaiians enthusiastically embraced learning to read and write. By the end of the nineteenth century, the vast majority of native Hawaiians were literate (in Hawaiian or English).

During the territorial years, however, a low attendance rate for children beyond the compulsory school age can be seen. This is probably due to the attitudes of children, and especially their parents, toward American education. In contrast, a 1976 Alu Like Needs Assessment survey indicated that education for their children was a top priority for native Hawaiian parents.

Despite these aspirations, educational problems still exist. According to the 1970 U.S. Census, native Hawaiians have the following characteristics with regard to education:

- The percentage of native Hawaiian children between the ages of 14 and 17 who are enrolled in school is lower than that for any other group in Hawaii (91.6 percent for females and 90.7 percent for males, compared to an overall State figure of 94.8 percent);
- The median number of years of school completed by native Hawaiians over 25 years of age was 12.0, compared to a State median of 12.3;
- Only 49.7 percent of native Hawaiians over 25 have graduated from high school (State data show that this figure was even less in 1977—46.9 percent); and

- Only 4.2 percent of native Hawaiians over 25 have completed 4 or more years of college, a figure lower than that for any of the immigrant groups. (The 1977 figure is 4.6 percent; still lower than any other ethnic group.)

E. EMPLOYMENT

1778 to 1850

Early censuses tell us little about the changing modes of earning a living that were brought on by the introduction of trade during the first half of the nineteenth century. Lind notes that "an increasing number of the Islanders were living on the margins of the two competing economies, deriving most of their livelihood from the cultivation of their own kuleana

but also earning some money for the purchase of trade goods from the sale of farm surplus or from an occasional day of work with the government." 39/ 1850 to 1900

The census of 1866 collected occupation data for the first time. Although it may not be accurate, Lind notes that it provides a rough indication and, when taken with other census data, "suggests that well over half of the natives were still living under a predominantly subsistence economy." 40/

By 1896 the sugar plantations had emerged as the major factor in the Hawaiian economy. It appears likely that well over 90 percent of the gainfully-employed were engaged in occupations associated with plantations or in other fields in commerce and trade. Nearly two-thirds of all employed persons were unskilled laborers. 41/ (See Table 15 for occupation data for the years 1866 through 1896.)

Reliance of plantations on immigrant labor became necessary when the

sugar industry began to expand rapidly, especially in the 1870's. Until then, one writer states:

Contrary to many reports, native Hawaiians did not leave the field work. As late as 1869, several plantations employed all native Hawaiian labor. By 1870, while the native population was declining, there was a tremendous expansion of sugar production from two million to 20 million pounds annually. The demand for increased production and labor had to come from outside the kingdom. This fact is demonstrated by a report in 1873; on the thirty-five plantations in existence at the time there were 3,786 employees. Of this there were 2,627 men and 364 women who were native Hawaiians. This shows that more than 80% of the labor force was native Hawaiian up to that time. 42/

However, even after the importation of immigrant laborers for plantations began in earnest, native Hawaiians continued to play a minor but important role as luna (supervisors) and skilled workers. 43/

1900 to 1960

This period saw a marked decline in the number of plantation/agricultural workers, especially since 1930. In the 1940's, one can see the important influence of the war in terms of both new employment opportunities and numbers of military personnel. Expansion of the tourist industry brought further opportunities.

Throughout the entire period since 1896, part-Hawaiians have been much less represented in the ranks of unskilled labor than full-Hawaiians. It was not until 1950, however, that full-Hawaiians were significantly over-represented in this area. 44/

Advancement in the professions is one of the "most sensitive gauges of advancing prestige on the part of the several ethnic groups." 45/ The advantage that those in the haole group enjoyed is evident in Table 16. The advantage that native Hawaiians, especially part-Hawaiians, enjoyed in the professions during earlier census periods largely disappeared before 1940. In 1930, there were more judges, lawyers and teachers in Honolulu who were Hawaiian and part-Hawaiian than any other group. Yet, the vast majority of native Hawaiians in Honolulu had lesser occupational roles. 46/ Chinese, on the other hand, greatly increased their representation in the professions from 1930. 47/

Native Hawaiians have always been less than proportionally represented in occupations of commerce, although part-Hawaiians have apparently made a better adjustment than pure Hawaiians. One reason for this may be that important elements in the native Hawaiian culture hampered success in business on the part of Hawaiians. Noted Hawaiian sociologist Romanzo Adams speculated on the causes of the situation in the 1930's:

...the old Hawaiians had no commerce and probably not even barter...The introduction of profit seeking trade by foreigners brought from the outside world certain commodities that the Hawaiians greatly desired and hence they, under the tutelage of foreigners, did gradually enter upon a commercial economy. But, so far [i.e., 1937], they have not brought their mores into full harmony with such an economy...To an old-fashion Hawaiian, the practices of the hard-boiled business man are immoral. One would be ashamed to drive a hard bargain based on another man's necessity...48/

This gap is gradually diminishing among ethnic groups, as Table 17 illustrates. Native Hawaiians, especially those of mixed ancestry, revealed special aptitude as craftsmen, including the operation and handling of machinery. 49/

1960 to 1980

Employment levels and types are closely related to educational levels. The educational problems noted above presage the employment picture for native Hawaiians. According to the 1970 U.S. Census, 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women in the civilian labor force were unemployed in 1970 (see Table 18). These figures compare with 2.6 percent for men and 3.7 percent for women for the State of Hawaii overall. The unemployment rate for native Hawaiian men was also higher than the average U.S. rate. The comparable figures for the United States as a whole were 3.9 percent and 5.2 percent for men and women, respectively. 50/

The unemployment rate for native Hawaiian males was significantly higher than that for the Japanese, Chinese, Filipino, and White groups. Japanese men had the lowest unemployment rate at 1.4 percent. Native Hawaiian women also had a higher unemployment rate than other ethnic groups, except for the White group.

The percent of native Hawaiian males in the labor force, 76.4 percent, was similar to that for the Chinese, Filipinos, and the average, U.S. rate. It was lower than the percentage for the State as a whole, 81.5 percent, for Japanese, 79.7 percent, and for Whites, 86 percent. However, it should be noted that almost 45 percent of the White male labor force was in the armed forces.

The unemployment picture for native Hawaiians in 1975 is shown in Table 19, based on data from the 1975 Census

Update Survey by the Office of Economic Opportunity. The unemployment rate for both males and females for the six major islands was estimated at 11.6 percent, compared to 6.5 percent for the State as a whole. More recently, U.S. Department of Labor correspondence with the State indicates that the present rate is probably higher than the 1975 level, while the overall unemployment rate in Hawaii has dropped to 5.9 percent. 51/

Data for 1975 on the distribution of men in the occupational structure of Hawaii show that native Hawaiians still lag behind other ethnic groups in the percentage of their population with professional/managerial positions. Only 17.8 percent of native Hawaiians are classified as "professional-technical, managerial," compared to 33.6 percent for Caucasians, 34.3 percent for Japanese, and 50.4 percent for Chinese. On the other hand, 53.6 percent of native Hawaiians have occupations classified as "blue collar," while 42 percent of Caucasians, 42.2 percent of Japanese, and 21.2 percent of Chinese have blue collar jobs. Filipinos and Portuguese fare even worse than native Hawaiians: 16 percent of Filipinos and 17.7 percent of Portuguese are classified as professional, while 55.4 percent of Filipinos and 58.1 percent of Portuguese have blue collar jobs. Over 22 percent of native Hawaiian men have jobs in the "menial" occupational category, a higher percentage than that of any of the other five ethnic groups studied. 52/

Summary

In ancient Hawaii, the inhabitants lived in a subsistence economy, farming and fishing for just enough to satisfy their needs. The coming of the white man changed this situation and a market economy grew up alongside the natives' subsistence one.

When trading declined and large-scale agriculture took over, the economy changed again. The decline in the native population and the lack of interest on the part of the natives in toiling in the fields made the importation of immigrant laborers necessary. Many native Hawaiians continued to work as supervisors for the plantations, however.

In the early part of the twentieth century, native Hawaiians, and especially part-Hawaiians, had some advantage over other ethnic groups in the professions, particularly in the fields of law, politics, and teaching. This advantage disappeared by 1940, however. By 1950, full-Hawaiians were over-represented in the unskilled labor class. Data for 1975 show that only 17.8 percent of native Hawaiian men have professional/managerial positions, while 53.6 percent are classified as blue collar workers.

According to 1970 U.S. Census information, the employment status of native Hawaiians is as follows:

- 4.3 percent of native Hawaiian men and 5.2 percent of native Hawaiian women were unemployed, compared to State figures of 2.6 percent and 3.7 percent, respectively;
- 76.4 percent of native Hawaiian males over the age of 16 were in the labor force, compared with the State figure of 81.5 percent;
- 47.9 percent of native Hawaiian women over the age of 16 were in the labor force, compared with 49 percent for the State as a whole.

A 1975 Census Update Survey estimated that the unemployment rate for native Hawaiians was 11.6 percent, compared to 6.5 percent for the State of Hawaii as a whole.

F. INCOME

As is the case with employment figures, income levels are closely related to educational attainment. The economic advancement of native Hawaiians has been relatively slow compared with that of the major immigrant groups in Hawaii. This fact may reflect the continuation of traditional values, in which accumulation of money does not figure prominently, as Adams noted (see above, page 49). Although their median income in 1949 was slightly above that recorded for all males, the proportion of Hawaiians and part-Hawaiians in the lowest income class was notably above that of any of the major immigrant groups. Other evidence indicates that pure Hawaiians, even more disproportionately than part-Hawaiians, were represented in the lowest income levels. ^{53/}

The 1970 Census shows that by 1969 all groups had improved their economic situation (see Table 20). The median income for Hawaiians was still below that for Chinese and Japanese, but it was higher than the median income of the "all races" group, the Caucasian group, and the Filipinos. The proportion of native Hawaiians in the lower income groups also improved. These figures may be misleading, however, as pointed out in several comments received by the Commission, ^{54/} since military income is included in Caucasian income, lowering the range. One writer notes that a more accurate picture can be obtained from the 1975 Census Update Survey, which shows that Hawaiian and part-Hawaiian personal income was below both the Caucasian and State-wide figures. ^{55/} Another source of data confirms this latter statement. The Hawaii Health Surveillance Program results show that in 1977, the median family income of civilians in Hawaii for selected ethnic groups was as follows: ^{56/}

Pure Hawaiian	\$ 9,278
Filipino	12,683

Part-Hawaiian	13,615
Caucasian	19,005
Japanese	19,431
Chinese	21,183

Poverty Level and Welfare

Statistics from the State Department of Health show that 41,483 native Hawaiians, or about 27 percent, were classified as below the poverty level in Hawaii in 1975 (see Table 21).

The number of native Hawaiians in certain welfare categories far exceeds their relative share of the population. In 1982, while native Hawaiians comprised 12 percent of the total State population, they made up 30.8 percent of those in the AFDC-UP category (see Table 22). In the general assistance category, 22.1 percent were native Hawaiians and native Hawaiians comprised 15.2 percent of the food stamps program. However, native Hawaiians comprised 10.7 percent of the medical category and thus were under-represented when compared to their population share. ^{57/}

The State of Hawaii Department of Social Services and Housing notes that these figures may lead to a different conclusion than that many native Hawaiians are on welfare:

If welfare is based upon need (i.e., in accordance with strict Federal and State guidelines),

^{58/} The figures presented in this paragraph were submitted by the Hawaii State Department of Social Services and Housing. The population figures used are from the U.S. Census. If State of Hawaii population figures had been used, native Hawaiians would comprise 18.9 percent of the population and thus be under-represented in both the "food stamps" and "medical" categories.

then the data may also demonstrate a "healthy attitude" on the part of native Hawaiians toward their welfare programs. Their social concept of "shame" may not prevent the use of welfare and, therefore, we may be seeing their greater, more optimum use of welfare programs as compared to other cultures. 57/

Summary

In 1949, the proportion of native Hawaiian males in the lowest income brackets was above that for all other groups. Their median income for the same year was higher than the "all races" and Filipino groups but below that of the Chinese, Caucasian, and Japanese groups.

By 1969, the situation of the native Hawaiians had improved somewhat. They were no longer over-represented in the lowest income categories. According to U.S. Census data, their median income was higher than the "all races" group, the Caucasians, and the Filipinos, but below that for the Chinese and Japanese.

Other statistics paint a more dismal picture, however:

- According to the 1975 Census Update Survey and Hawaii State data, native Hawaiian income levels were still below the Caucasian figures, contrary to the U.S. Census information; 58/
- In 1975, over one-fourth (27 percent) of native Hawaiians were classified as below the poverty level; and
- In 1982, the percentage of native Hawaiians on welfare (AFDC and general assistance) was significantly higher than their relative share of the population.

G. CRIMINAL JUSTICE V

Hawaii ranks thirty-ninth among the fifty States and the District of Columbia in terms of population. However, Hawaii is ranked sixth among the States and the District of Columbia on the total crime index. Breaking *ti* crime index down by type, Hawaii is ranked thirty-ninth for violent crime (the same as its population rank), and fifth for non-violent crime.

Ethnic Stock of Adult Arrestees

Table 23 shows the ethnic stock of persons arrested in Hawaii in 1981 compared to each ethnic group's percentage share of the population. The percentage of arrestees who were Hawaiian or part-Hawaiian was 23 percent, almost double their share of the population (12 percent, according to the 1980 U.S. Census). "Negroes" comprised 4.1 percent of those arrested, more than double their share of the population (1.8 percent). Other ethnic groups whose proportion of arrests was greater than their share of the population were:

Caucasian—35.3 percent (33 percent of population); and the "other" group—11.9 percent (5 percent of population).

Comments received by the Commission on its Draft Report 59/ cast some doubt on the validity of these figures. Specifically, "the ethnic definitions used in the numerators [of Tables 23 and 25] seem to differ significantly from those used in the denominators." 60/ The result of using these figures is "a serious exaggeration of [native] Hawaiian crime rates." 61/ Using the

f/ All the information in this section is taken from State of Hawaii, Hawaii Criminal Justice Information Data Center, Crime in Hawaii 1981; A Review of Uniform Crime Reports (April 1981).

population figures of the Hawaii Health Surveillance Program (which are used in this Report in Table 6), instead of the 1980 U.S. Census data (see Table 5) used by the Hawaii Criminal Justice Center, would yield significantly different results. The Health Surveillance Program tabulation (see Table 24) indicates that native Hawaiians constitute 18.9 percent of Hawaii's population (instead of 12 percent) and therefore the proportion of arrestees (23 percent) would not be double (although still greater than) native Hawaiians' share of the population. Both tabulations are presented here because, for whatever reason, the Hawaii Criminal Justice Information Data Center chose to use U.S. Census population figures in Tables 23 and 25. In a footnote to the table the Center states: "Population figures from State of Hawaii, Department of Planning and Economic Development. By self-identification or race of mother. Data are not comparable to Health Surveillance Program tabulations used in previous years' reports." 62/

Table 25 shows the race of those arrested for specific crimes in Hawaii in 1981. For all crimes listed in the table except gambling, the race of those arrested was most often White, and the second most numerous group of arrestees was Hawaiian/part-Hawaiian in all cases except manslaughter. The number of Hawaiians/part-Hawaiians arrested for each crime was greater than their relative share of the population (12 percent, in this study), except for manslaughter and gambling. 63/ Of those arrested for robbery and burglary, 24.5 percent and 27.3 percent were Hawaiian or part-Hawaiian. The White group percentages also exceeded their population share (33 percent), although not in as many categories.

A study on incarceration was written by University of Hawaii sociologist Jean Kussebaum. She found that

nearly 60 percent of the prison population in Hawaii is Hawaiian or part-Hawaiian. 64/

Race of Juveniles Arrested

Educational difficulties of native Hawaiian youths are reflected in criminal justice statistics. According to State of Hawaii statistics, native Hawaiian youths comprised the largest percentage of arrestees for each crime appearing in Table 26. Almost 53 percent of juveniles arrested for motor vehicle theft were native Hawaiian. More than 44 percent of runaways were native Hawaiian, and more than 42 percent of juveniles arrested for burglary were native Hawaiian.

Summary

The percent of native Hawaiian adults arrested in Hawaii in 1981 was greater than the native Hawaiian percentage share of the population. The percentage of native Hawaiians arrested for specific crimes was also, in many crime categories, larger than their share of the population.

The picture for native Hawaiian juveniles arrested in 1981 was even more striking. Native Hawaiian juveniles comprised the largest percent of those arrested for each crime examined.

H. HEALTH 65/

Birth and Death Rates

Evidence compiled by population experts indicates that there were "widespread and prolonged low birth rates [in Hawaii in the nineteenth century] due to venereal disease." 66/ The birth rate in Hawaii increased from 21.3 in the 1848 to 1859 period to 23.6 in the 1880 to 1889 period, while the death rate declined from 45.8 to 25.3 in the same interval.

From 1910 to 1965, the birth rate went from 31.3 to 27.3, while the death rate continued its decline from 16.3 to 5.5 (see Table 27). Since the figures on birth and death rates that appear in Table 27 refer to all residents in Hawaii (not just native Hawaiians) it will be helpful to keep in mind the composition of the population during the time covered in the table (1848 through 1965). ^{67/} The birth and death rates from the period of 1848 to 1884 occurred during a decline in the proportion of full-Hawaiians from greater than 95 percent of the population to less than 50 percent, and a further decline to less than two percent in 1965 (concomitant with a decline in the overall death rate). At the same time, there was a gradual increase in the part-Hawaiian population from less than two percent in 1848 to about 15 percent in 1965.

The death rate for the State of Hawaii did not decrease much from 1965—the death rate in 1980 was 5.0, compared to 5.5 in 1965. ^{68/} The birth rate declined from 27.3 in 1965 to 18.6 in 1980 for the State population as a whole. ^{69/}

Infant Mortality

Extraordinary improvement in the overall infant mortality rate in Hawaii occurred during this century—from 119 deaths per 1,000 births in 1924 to 10 deaths per 1,000 by 1980. Throughout most of this period, however, Hawaiians and part-Hawaiians continued to display mortality rates higher than the average. For example, in 1970 full-Hawaiians had an infant mortality rate of 65, compared to 22 for part-Hawaiians, and 19 for the State as a whole (see Table 28).

Only the accompanying high birth rates among native Hawaiians off-set infant mortality and permitted the population to increase. These high

birth rates also created an age distribution that was heavily weighted toward a young population; a trend that continues today (see above, page 41).

The high infant death rates for Hawaiians and part-Hawaiians compared to other ethnic groups in Hawaii continues. According to the Hawaii State Department of Health: "The infant death rate of part-Hawaiians was significantly higher during the five-year period of 1977-1981 than that of Caucasians, Chinese, Filipino and Japanese. The confidence limits on the small races were so broad that their rates for that period cannot be considered significantly different from any of the larger racial groups." ^{70/} Table 29 shows that the infant death rate for part-Hawaiians during this period was 13.8, compared to 8.9 for Caucasians, 7.0 for Chinese, 9.2 for Filipinos, 8.8 for Japanese, and 10.5 for the "all races" group.

Table 30 presents comparative figures for characteristics of births in Hawaii in 1980. Part-Hawaiians have a relatively high birth rate—higher than full-Hawaiians, which foreshadows the trend already indicated for an increasing part-Hawaiian population. Full- and part-Hawaiians have a similar male/female birth ratio. Part- and full-Hawaiian infants have low birth weights 7.4 percent of the time, compared to 11.8 percent for Japanese and 9.3 percent for the Filipino group. Part-Hawaiians, followed by full-Hawaiians, have an extremely high ratio of illegitimate births.

Life Expectancy

Life expectancy patterns for the nineteenth century in Hawaii are not available. However, by 1910 enough reliable data had been collected to make this kind of statistical extrapolation possible. These projections reveal that native Hawaiians exhibited

a significantly lower life expectancy throughout the period from 1910 through 1970 than any other ethnic group in Hawaii. In 1970, the life expectancy for native Hawaiians was 67.62 years, compared to 77.44 for Japanese (the highest of all groups) and 74.20 years for all groups (see Table 31).

Leading Causes of Death

Table 32 shows the leading causes of death for the State of Hawaii population as a whole from 1920 to 1980. 71/ Most notable of those causes that are growing in importance as the century progresses are heart disease (although it declined in importance from 1960 to 1980) and cancer.

There is considerable variation in the proportion of persons dying of various causes in the different races of Hawaii. Table 33 shows the "crude" mortality rates by race for the ten leading causes of death in Hawaii for 1980. 72/ The death rate (based on estimated population per 100,000) for diseases of the heart was 163 for Caucasians compared to 62 for Hawaiians (the lowest of the five ethnic groups compared). The rate for cancer was: 138 for Japanese, 130 for Caucasians, 123 for Chinese, 113 for native Hawaiians, and 85 for Filipinos.

In February 1982, the Hawaii State Department of Health published a study by Mele A. Look, on the mortality of the Hawaiian people. 73/ Look, who is a student at the University of Hawaii, compared the mortality rates of full-Hawaiians, part-Hawaiians, and an "all races" group (the sum of all other ethnic groups in the State of Hawaii) for the years from 1910 to 1980.

Look's study reports the following findings (see also, Chart 5):

Overall mortality rates:

- For each period studied, the

major causes of death were the same for all three groups;

- Overall mortality rates have been continuously declining for all three groups;
- The "all races" group has the lowest rates overall; part-Hawaiians had rates similar to the "all races" group in many cases;
- Rates for full-Hawaiians have been declining but remain at a consistently higher level.

Causes of death now on a downward trend:

- Pneumonia, non-rheumatic endocarditis and myocardial degeneration, and infective and parasitic diseases, such as tuberculosis--full-Hawaiians' mortality rates for these diseases were two to five times higher than the "all races" group and as much as four times higher than the part-Hawaiians' mortality rates.

Causes of death on an upward trend;

- Heart disease--mortality rates were generally higher for full- and part-Hawaiians except in 1910, 1920 and 1960, when rates for part-Hawaiians were not significantly different from the "all races" group; full-Hawaiians' heart disease mortality rates were consistently greater than the other groups;
- Cancer--the part-Hawaiian and "all races" groups' mortality rates were at similar levels, differing significantly only in 1930 and 1970; full-Hawaiians have a mortality rate of one to two times higher than both of the other groups;

- **Accidents—death rates did not differ significantly between part-Hawaiians and the "all races" group, but full-Hawaiians' rates were two times higher; this may be due to type of occupation.**

Probable factors 74/ that may be associated with high mortality rates of full-Hawaiians:

- Income level;
- Inadequate understanding of Western health care and a formal education;
- High content of salt in Hawaiian foods;
- Cultural concepts of health and illness that may affect self-diagnosis and willingness to seek treatment;
- Genetic factors; the ability to resist diseases may be associated with ethnicity.

Incidence of Cancer 75/

Cancer is the second leading cause of death in Hawaii and during 1980, there were 2,769 new cases of cancer diagnosed. The incidence of cancer varies markedly in the various racial groups in the State. Table 34 compares the "age standardized" incidence rates of selected cancers for five groups (Caucasian, Chinese, Filipino, native Hawaiian, and Japanese) for the period 1973 through 1980. Since the incidence varies by age, the rates are "standardized" to show what the rates in the various racial groups would be, if all groups had the same age composition. The table shows that of the five ethnic groups, native Hawaiian men had by far the highest incidence of stomach and

lung cancer. They had the second highest incidence of prostate cancer, after Caucasian men. For women, the incidence of cancer of the lung and breast was highest for native Hawaiians. Native Hawaiian women were second to Caucasian women in the incidence of cancer of the cervix.

Acute and Chronic Conditions 76/

The State of Hawaii collects data on the presence and prevalence of acute and chronic conditions. As seen in Table 35, the Hawaiian and part-Hawaiian group reports the highest overall level of acute conditions among the major ethnic groups in Hawaii. They have particularly high rates for respiratory conditions.

The Hawaiian and part-Hawaiian group fares better when compared to other ethnic groups on the prevalence of chronic conditions (see Table 36). Of the twenty chronic conditions reported, the native Hawaiian group scored highest in only one (not counting the "other" group), asthma with or without hayfever. The Hawaiian group reported the second highest prevalence in two categories: mental and nervous condition and bronchitis/emphysema. The Hawaiian group also reported the lowest prevalence of malignant neoplasms (cancer).

A few cautionary notes should be added to this discussion. As reported in the mortality study above, combining full- and part-Hawaiians may be misleading, given the significantly higher mortality rate of full-Hawaiians for some of these diseases. The method of collecting the data must also be considered. The data in these tables was gathered by the Hawaii Health Surveillance Program via a statewide household survey. During 1980, 14,407 persons were interviewed to obtain these statistics. Those excluded from the sample were:

persons living in military barracks, nursing or rest homes, prisons, dormitories, the island of Niihau, and Kalaupapa Settlement. 77/

Other information received by the Commission 78/ confirms that full- and part-Hawaiians do indeed have health problems in some areas. Data prepared by the Hawaii Department of Health for Alu Like, Inc., **shows that** full- and part-Hawaiians reported higher prevalences, compared to all races, for the following conditions:

Condition	Full-Hawaiians	All Races
High blood pressure	22.6%	12.2%
Diabetes	14.4	5.3
Arthritis	8.3	5.6
Heart trouble	4.2	2.8
Stroke	1.4	0.7

Condition	Part-Hawaiians	All Races
Asthma	17.2%	8.5
Chronic bronchitis	3.8	1.7

Substance Abuse

An assessment of the needs in Hawaii for alcohol and drug abuse prevention was recently **made by the** Alcohol and Drug Abuse Branch of the Hawaii State Health Department. The assessment is based on data from the 1979 State Substance Abuse Survey. To compile this information, face-to-face interviews were conducted **with** persons 12 years of age and older in 3,127 households throughout the State. 79/ In evaluating the data, the report warns that:

It should be noted that all quoted numbers of the alcohol and drug abuse populations are likely to be severe under-estimates.

Federal studies have demonstrated that self-reported alcohol use is underreported by nearly 50 percent. This phenomenon is likely to be even greater for the usage of illegal substances such as marijuana or cocaine...80/

Despite this problem and the fact that the information is now four years old, the report is "the most comprehensive and detailed look at Hawaii's alcohol and drug abuse problems to date." 81/

The report divides substance abusers into three categories: alcohol abusers, drug abusers, and abusers of both alcohol and drugs. Combining all three, there were approximately 103,748 persons in Hawaii in 1979 who were currently substance abusers. This number accounts for 14.7 percent of Hawaii's population 12 years of age and older. 82/ The following sections discuss abuse and treatment in each of the categories, across ethnic groups in Hawaii.

Alcohol Use and Abuse

Alcohol use is less prevalent in Hawaii than it is on the U.S. mainland. In Hawaii, 79.2 percent of the population has tried alcohol at least once in their lives. This compares to 90 percent on the mainland. In terms of current alcohol users, 55.1 percent of Hawaii's population currently uses alcohol, compared to 61 percent of the mainland population. Current alcohol use is also significantly lower for Hawaii in each age category, compared to similar mainland age categories. 83/

Table 37 summarizes the lifetime and current use of alcohol in Hawaii for the various ethnic groups. The group with the highest percentage of current users is the Caucasian group (77.7 percent), followed by the Hawaiian/part-Hawaiian (52.8) and Portuguese (52.6) groups. State-wide, 55.1 percent of the population are current users.

Approximately 7.6 percent of Hawaii's general population reported the average daily consumption of two or more ounces of pure ethanol per day jV and were thus classified as alcohol abusers. ^{84/} The comparison of alcohol abusers by ethnic group is shown in Table 38. Relative to their population sizes, Caucasians (40.6 percent of alcohol abusers) and Hawaiians/part-Hawaiians (19.4 percent) constitute the groups most at risk for alcohol abuse.

Table 38 also shows ethnic breakdowns of those alcohol abusers who have received treatment. The needs assessment reports that all demographic groups are "dramatically underserved." The unduplicated treatment admission count for fiscal year 1979-1980 represented only 2.8 percent of the estimated alcohol abusers in need of services. ^{85/} Comparing their percentage in treatment to their percentage of the alcohol abusing population, the Filipinos, Chinese, Japanese, Hawaiian/part-Hawaiian, and "other" ethnic category groups were especially underserved. Caucasians, on the other hand, were overserved.

Drug Use and Abuse

Compared to the U.S. mainland, the 1979 State Survey revealed the following drug use trends in Hawaii:

- Hawaii has a significantly greater percentage of persons who have used cocaine, hallucinogens, and heroin than the mainland.

*/ Roughly equivalent to four bet-is or four wines or 3.5 hard-liquor drinks in the Hawaii Department of Health Study (p. 6).

- The current use of cocaine is significantly greater in Hawaii than on the mainland. ^{86/}

Ethnic trends for drug use in Hawaii are also summarized:

- Over forty percent of both Caucasians (43.2 percent) and Hawaiians/part-Hawaiians (40.2 percent) have tried marijuana.
- Nearly one out of four Caucasians (22.7 percent) have tried cocaine, while fifteen percent of the Hawaiians/part-Hawaiians have tried it.
- One out of ten Caucasians (10 percent) and thirteen percent of Hawaiians/part-Hawaiians (13.4 percent) have tried inhalants.
- One out of five Caucasians (19.9 percent) and nearly twelve percent (11.8 percent) of Hawaiians/part-Hawaiians have tried hallucinogens.
- Nearly one out of twenty Caucasians (4.6 percent) and Hawaiians/part-Hawaiians (4.9 percent) have tried heroin at least once in their lives.
- Caucasians have the greatest percentages of lifetime use for all non-medical psychotherapeutic drugs, with the exception of the non-medical use of tranquilizers among Portuguese (14.7 percent).

Nearly one out of ten Caucasians (9.5 percent) and one out of twenty Hawaiians and part-Hawanans (4.9 percent) and Portuguese (4.5 percent) report current cocaine use.

- Approximately one out of five Caucasians (21 percent) and Hawaiians/part-Hawaiians (20.9 percent) are current marijuana users. ^{87/}

Approximately 5.3 percent of Hawaii's general population age 12 and over are drug abusers. ^{88/} Of these drug abusers, 49.1 percent are Caucasian and 22.3 percent are Hawaiian or part-Hawaiian. As with alcohol abuse, Caucasians and Hawaiians/part-Hawaiians are the groups most at risk for a drug abuse problem, relative to their respective population sizes. (See Table 39 for the ethnic composition of Hawaii's drug-abusing population.)

Table 39 also shows, by ethnic group, the drug abusing population that is receiving treatment. Overall, all drug abusers are underserved since only 1.8 percent of the drug abusers in need of services were in treatment in fiscal year 1979-80. ^{89/} Comparing their percentage in treatment with their percentage in the drug-abusing population, Caucasians were underserved, while Hawaiians and part-Hawaiians were overserved.

Alcohol and Drug Abuse

Of the 12,163 persons (1.7 percent of Hawaii's general population) who abuse both alcohol and drugs, 49 percent are Caucasians, and 22.8 percent are Hawaiian or part-Hawaiian. Relative to their population size, Caucasians, Hawaiians/part-Hawaiians, and Portuguese are most at risk for an alcohol/drug-abuse problem. ^{90/} (See Table 40.)

Summary

Birth rates in Hawaii were low in the nineteenth century. The fertility rate could not keep pace with the episodic arrival of epidemics and disease. In 1980, Hawaii's death rate

was 5.0, down a little from the 1960-1965 figure of 5.5. The birth rate for the State decreased from 27.3 in 1965 to 18.6 in 1980.

Infant mortality has remained higher for native Hawaiians than for the other groups in Hawaii in the twentieth century, even though it has been steadily declining. In 1963, the infant mortality rate for Hawaiians was 38 and that for part-Hawaiians was 25. The infant death rate of part-Hawaiians remains significantly higher than that of Caucasians, Chinese, Filipinos, and Japanese.

Other statistics show that part-Hawaiians have a birth rate of 23.1, compared to 17.5 for full-Hawaiians and 19.5 for the State. Part-Hawaiians and full-Hawaiians also have a significantly higher rate of illegitimate births than the other ethnic groups.

Native Hawaiians have historically had a lower life expectancy than other groups in Hawaii. This trend continues—in 1970, the native Hawaiian life expectancy was 67.62 years, compared with a total for the State of 74.20 years.

A study published by the State of Hawaii Department of Health examined mortality rates among full-Hawaiians, part-Hawaiians, and all other races in Hawaii from 1910 to 1980. The study concluded that:

- Part-Hawaiians' mortality rates for heart disease were generally higher than the "all races" group except for some years;
- Full-Hawaiians' mortality rates for heart disease were consistently higher than those for either of the other groups;
- Part-Hawaiians and the "all races" group had similar mortality rates for cancer, while

the rate for full-Hawaiians was much higher than that for either of the other groups; and

- The mortality rate for accidents did not differ for part-Hawaiians and the "all races" group, but it was two times higher for the full-Hawaiian group.

Statistics from the Hawaii Tumor Registry show that native Hawaiian men had the highest incidence of stomach and lung cancer for the period from 1973 through 1980, compared to Caucasian, Chinese, Filipino, and Japanese. Native Hawaiian women, compared to these same ethnic groups, had the highest incidence of lung and breast cancer.

The Hawaiian and part-Hawaiian group reports the highest prevalence among ethnic groups of "acute conditions," especially respiratory conditions. For chronic conditions, the prevalence for the native Hawaiians relative to the other groups is high only for asthma, mental and nervous conditions, and bronchitis/emphysema. According to this data, native Hawaiians report the lowest prevalence of cancer (as opposed to incidence), compared to other groups.

For the purposes of the Hawaii State Substance Abuse Survey, Hawaiians and part-Hawaiians accounted for 15.8 percent of the general population of Hawaii. With this number as a comparison, the following data summarizes the findings of the Hawaii substance abuse needs survey:

- Of the total number of estimated substance abusers in Hawaii (103,748 or 14.7 percent of Hawaii's general population), 20.9 percent were Hawaiian or part-Hawaiian.
- Alcohol abusers in Hawaii tend to be older (26 years and

above), male, either Caucasian or Hawaiian/part-Hawaiian, married, employed, have more than a high school education, and live in East Honolulu or Central Oahu.

- Hawaiians and part-Hawaiians account for 19.4 percent of alcohol abusers, and only two percent of this group receives treatment.
- Drug abusers tend to be younger (under 26), equally male or female, Caucasian or Hawaiian/part-Hawaiian, single, employed, have more than a high school education, and reside in East Honolulu or Central Oahu.
- Of the total estimated number of drug abusers, 22.3 percent are Hawaiian or part-Hawaiian, and only 3.6 percent of this group receives treatment.
- Abusers of both drugs and alcohol tend to be predominantly male, Caucasian or Hawaiian/part-Hawaiian, equally young or old (26 and over), single, employed, have more than a high school education, and live in East Honolulu or Central Oahu or Maui.
- Hawaiians and part-Hawaiians account for 22.8 percent of the alcohol and drug-abuse population. 91/

I. SOCIO-POLITICAL PROFILE

Inter-marriage

In Hawaii, interracial marriage is recognized in law, and there is no public opposition to it. Although there may be personal and family sentiment against interracial marriage, this is not overriding. As Romanzo Adams notes:

If antagonistic sentiment prevails in some group of less influence and if its members feel free to give expression to such antagonistic sentiment only within the intimate group of like-minded and under conditions that more or less imply that it is confidential, such sentiment may be important in some ways but it is not public sentiment. In Hawaii a man or woman is free to marry out of his or her race so far as public sentiment is concerned. 92/

Adams feels that the large number of interracial marriages in Hawaii is a consequence of this freedom. 93/

Interracial marriage became an acceptable phenomenon in Hawaii very quickly after the arrival of foreigners. There were many factors contributing to this acceptance. First, the Hawaiian family system at the time was not rigidly organized. There was much freedom in interpersonal and sexual relations, except for the all'i. Little or no ceremony was associated with either marriage or divorce. Marriage to one partner did not prevent marriage to another at the same time. The practice of giving away children to friends or relatives to raise (hanai) further increased the freedom of women. Adams concluded that:

The freedom of the Hawaiians in relation to marriage was an important factor in the early interracial marriage. Had there been a strictly organized and regulated system among the Hawaiians it would have operated to prevent marriage with foreigners because the foreigners who came to Hawaii could not readily conform to the requirement of such regulations. 94/

Other factors also contributed to this phenomenon. Since Hawaiians had

had no contact with outside groups, they were free of an antagonistic bias against them or against marrying them. At first, most interracial marriages were between native women and foreign men. The explanation for this is obvious: the white men who arrived as traders brought no women. Later, when immigrant laborers began to arrive, only the Portuguese required that women accompany the men. Thus, there were disproportionate numbers of males over females for ethnic groups such as the Japanese, Chinese and Filipinos.

Another factor to be considered in this connection was the rapidly declining population of native Hawaiians throughout the nineteenth century. Kings, chiefs, and missionaries alike were concerned, and the government of the kingdom consciously searched for cognate racial groups to strengthen the Hawaiian stock. Inter-marriage was not only accepted, for native Hawaiians it was necessary to save the race. Chart 6 confirms this fact, showing as it does the steadily declining full-Hawaiian population and the rapid increase in the part-Hawaiian population after 1920.

Table 41 shows the percent of marriages for each ethnic group that involved a partner of another ethnic group for the period from 1912 to 1981. The high percentage of such "out-marriages" for native Hawaiians is evident throughout the interval covered by the table.

World War II, with the attendant increase in military personnel, had an important effect on race relations in Hawaii. The large influx of white males brought a form of racial prejudice to Hawaii that had not been prevalent before. Nevertheless, there was an increase in out-marriages, especially of Caucasian males and non-Caucasian females. 95/

The result of this extensive interracial marriage has been the creation of a population of considerable racial and cultural diversity. The extent of racial harmony among groups throughout

history is a matter of some dispute. Based on his studies, Adams wrote that:

...there is, in Hawaii, an uncommon degree of freedom in relation to interracial marriage and that this freedom is the consequence of the special practices, doctrines and sentiments relating to race that have come out of the historic conditions. The historic situation has favored the development of the mores of racial equality. Because there is no denial of political rights and economic or educational privilege on grounds of race, because racial equality is symbolized, the social code permits of marriage across race lines. 96/

The Commission received comments 97/ on the issue of racism in Hawaii that do not coincide with the conclusion of sociologist Romanzo Adams that: "The historic situation has favored the development of the mores of racial equality." 98/ Even though race relations do not seem to be the idyll painted by some authors, racial tensions in Hawaii do not seem to be all-pervasive. One writer states, for example, that "while there were many times in the past [that is, in the 1800's] when native Hawaiians felt the pangs of racism, for the most part racism was kept beneath the surface and remained latent." 99/ Later on during the Republic of Hawaii (1894-1900), property qualifications and other restrictions for voters would openly discriminate against poor native Hawaiians and all Asiatics in Hawaii (see following section).

Race relations in Hawaii did, however, reach dangerously low levels in the early 1930's with the Massie rape case, which was cited in at least one comment received by the Commission. 100/ In 1931, Mrs. Massie, the wife of a young Navy lieutenant,

was attacked and allegedly raped by five "dark-skinned youths" near Waikiki. 101/ A racially-mixed jury was unable to reach a verdict on her alleged assailants and: "A private report from the Pmkerton Detective Agency to Governor Judd showed subsequently that the woman's story was full of contradictions and that in the opinion of the consultants, an acquittal was absolutely justified." 102/ The U.S. Navy did not agree and the "Commandant of the Fourteenth Naval District sent scorching wires to the Secretary of the Navy denouncing the administration of justice in Hawaii." 103/ Meanwhile, Mrs. Massie's husband and mother kidnapped one of the accused, a native Hawaiian, and killed him. This time, the jury convicted them. After much agitation on the U.S. mainland and by the military in Hawaii, however, the Governor commuted the 10-year prison sentences of Mrs. Massie's husband and mother to one hour.

The uproar caused by this case was accompanied by "hysterical" Navy reports stating that the enforcement of the law in Hawaii was lax and inefficient and described "dark gangs of prowlers, lusting after white women, Japanese annoyances directed at Navy personnel, and riots caused by fighting between natives and Orientals against whites." 104/ As a result, there was strong pressure by the Navy to strip Hawaii of its territorial status, and bills were introduced in Congress to create a commission government in Hawaii in which the Army and Navy would have a voice. None of these bills was passed, but the residents of Hawaii became aware for the first time of their tenuous position as a U.S. territory.

Political Participation

The Monarchy

The evolution of native Hawaiian society from birth-determined chiefs

to constitutional monarchy in the 1840's permitted limited political participation by all of the people for the first time. Although mana (the degree of sacred power and rank) was supplanted by hereditary succession to the throne in 1819, it was not until the Constitution of 1840 that any fundamental changes in the traditional patterns of governance occurred.

The Constitution of 1840 created a two-house legislature based on the British Parliamentary model. The House of Nobles was to be appointed by the king and duplicated the pre-contact Council of Chiefs. The House of Representatives was to be elected from and by adult males who were citizens of the kingdom. (For a more complete description of the Constitution, see below page 158.)

The notion of male suffrage, like the House of Representatives itself, was a Western concept. Women of high royal rank were included in the House of Nobles, but precluded from the democratically-inspired electoral process. In addition, the position of kuhina nui, or premier, became a male function for the first time, after twenty years of hereditary succession by the highest-ranking woman.

As early as the reign of Kamehameha IV (1854-1863), however, there were attempts to change the constitution. The king, and his brother who would succeed him, believed the existing constitution was too far in advance of the needs of the people. The king wanted to centralize more power to the monarch and to limit suffrage.

Both of these goals were accomplished by Kamehameha V (1863-1872) when he abrogated the old constitution and proclaimed a new one in 1864. Universal manhood suffrage was abolished. Property qualifications were instituted for the members of the House of Representatives and property and educational qualifications were instituted for voters. Although

Lunalilo, Kamehameha V's successor, successfully petitioned the legislature to repeal the property qualification for voters, education requirements remained.

The Republic of Hawaii

Preparations for establishing the Republic of Hawaii in 1894 placed new restrictions on voters. The first step in adopting a constitution for the Republic was to elect the delegates to a constitutional convention. All voters were required to sign an oath that stated, in part, "I will support and bear true allegiance to the Provisional Government of the Hawaiian Islands, and will oppose any attempt to reestablish monarchical government in any form in the Hawaiian Islands." 105/ This requirement had the intended effect of disenfranchising almost all the native Hawaiian voters. Another, unexpected effect, however, was the disenfranchisement of many Americans who were afraid that by signing the oath, they would lose their U.S. citizenship. 106/ The result of this disenfranchisement was striking: in 1890 there had been 13,593 registered electors; for the election of delegates to the constitutional convention, there were only 4,477. 107/

The constitutional convention, made up of eighteen elected delegates and nineteen members of the Provisional Government (to ensure "success" of those in favor of a Republic) agreed on a constitution that "was satisfactory to all but the most extreme oligarchs." 108/ Property qualifications were instituted for both voters and members of the legislature. Candidates for the Senate, or upper house, were required to have an income of \$1,200 or to own \$3,000 in property. Candidates for the lower house, the House of Representatives, had to have an income of \$600 or own property worth \$1,000. 109/ Requirements for voters were:

- An oath pledging the voter would not aid in any attempted restoration of the monarchy;
- The ability to read, write, and speak either Hawaiian or English;
- To vote for Senators, the voter was required to have \$1,500 above all incumbrances, or personal property worth \$3,000, or an income of \$600 (in all cases, all taxes must have been paid). There were no property qualifications required to vote for members of the House of Representatives. 110/

Another issue the Republic's constitution had to resolve was the question of citizenship. This issue was "rather skillfully" 111/ handled to ensure exclusion of all Orientals from the franchise. The constitution stated that all persons born or naturalized in Hawaii were citizens. In addition, the Minister of Interior could grant citizenship to foreigners who had fought for the Provisional Government, without prejudicing the foreigner's native allegiance (an action that would prove to be controversial). 112/ For others, in order to be naturalized a person must have come from a country that had a naturalization treaty with Hawaii (Japan and China did not) and, "as an extra precaution," should be able to speak, read, and write English. 113/

The obvious result of these provisions was to disenfranchise many voters. One historian notes, however, that registration for the first legislative election (although far below pre-Republic levels) showed "great improvement" over the number of voters who had registered for election of delegates to the constitutional convention. 114/ On Oahu, 1,917 voters registered, of whom there

were 509 native Hawaiians, 466 Americans, 274 from England and its colonies, 175 Germans, 362 Portuguese, and 131 others. 115/

Territory and State

After annexation to the United States and passage of the implementing legislation (the Organic Act) in 1900, the situation changed dramatically. Broad male suffrage was restored in Hawaii for the first time since 1864. All citizens of the Republic automatically became citizens of the Territory of Hawaii and there were no property qualifications for voters or for candidates. Because Oriental immigrants were still excluded from voting due to the definition of citizenship, native Hawaiians could command an absolute majority at the polls. 116/

Royal presence in this new political pattern, especially in partisan party politics, was assured when Prince David Kawanakoa became one of the charter members of the new Hawaii Democratic Party and his younger brother, Prince Jonah Kuhio Kalaniana'ole, occupied a similar position in the new Hawaii Republican Party. In this way, it was believed that the royal family could maintain a dominant role in island government. Prince Kuhio, for example, served as the Territory's delegate to Congress from 1904 until his death in 1921. The delegate's position, although non-voting in the national legislature, was the highest elective office for which any voters could cast ballots. As a Territory, Hawaii could not vote for the U.S. president or vice president, it had only the one non-voting slot in the U.S. House of Representatives, and its governor and secretary were appointed by the President of the United States.

From 1902 until 1940, the Territory identified voters by "race." Although

native Hawaiians were a numerical minority within the total population, as noted above the exclusion of Asian immigrants who had retained a non-American nationality left native Hawaiians as the dominant ethnic block until just prior to World War II. According to one author: "In every election, Hawaiians and part-Hawaiians comprised more than half of the candidates for office. The Hawaiian voter turnout was always substantially higher than that for other groups..." 117/ Table 42 shows the ethnic makeup of registered voters in Hawaii from 1902 to 1940.

The possibility of race-oriented voting patterns has always been present in Hawaii for one group or another. In numerical terms, once native Hawaiians lost the absolute majority of the electorate in 1925, no other ethnic group has ever had the voter strength to win a territorial or statewide election by itself. Writers disagree, however, on the degree to which racial prejudice affects voting trends in Hawaii. Andrew Lind, writing in 1967, states that:

...even in a local election district, where a majority of the voters might be of the candidate's own ethnic group, publicly to solicit support on a racial basis would under Hawaiian conditions be tantamount to committing political suicide. The candidate would draw to himself the wrath of all the other ethnic groups as well as the hostility of the members of his own group in the opposition party. lid/

Others, including some Hawaiians who commented on the Commission's Uraft Report, 119/ strongly disagree with this benign assessment. Lawrence Fuchs writes that: "In Hawaii, where the tradition of racial aloha and actual widespread intermarriage often

prevented overt expressions of racial prejudice, ethnic tensions frequently found their way into the voting booth." 120/ To support this, Fuchs reports that interviews with more than three-quarters of the defeated candidates in the 1958 primaries revealed that:

- The overwhelming majority of these men and women attributed their loss to the racial prejudice or pride of other groups constituting a majority of voters in their districts.
- Defeated Chinese, haole, and Hawaiian Democrats often blamed Japanese voters for plunking for their own kind.
- Republican Japanese primary losers complained they could not win haole votes and native Hawaiian Republicans also complained of haole domination of the party. 121/

Fuchs also studied key ethnic precincts and the results of voter surveys. He reports that these results revealed that:

- All major ethnic groups tended to favor their own kind, but that Japanese plunking was far less decisive than frequently claimed, and that other groups—the Chinese, haole, Portuguese, and Hawaiians—plunked at least as extensively as the Japanese.
- Ethnic tensions could readily be inferred from election results in key precincts—candidates did well in those precincts dominated by their own ethnic group.

- Strong candidates often did well among all groups, but always best with their own. Weak candidates limped badly everywhere, but showed least weakness among their own kind. 122/

Fuchs does not think that these manifestations of ethnic politics, however, are aberrations in the American political system. Rather, he says that "ethnic claims in politics, far from being un-American, followed the typical American pattern." 123/ Unlike Lind, however, he concludes that ethnic factors play a "significant role" (at least in that election) in Hawaiian politics. 124/

Creation of the Office of Hawaiian Affairs

A separate identification and unique political participation for native Hawaiians was ratified by a majority of the total State electorate in 1978 when key amendments to the State Constitution established the Office of Hawaiian Affairs (OHA). By the terms of the new Article XII:

...Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of

trustees; provided that each of the following islands have one representative: Oahu, Kauai, Maui, Molokai, and Hawaii. The board shall select a chairperson from its members...

The first OHA election in 1980 was supported by an 80 percent turnout among the more than 55,000 native Hawaiians who had registered to vote in this separate election (see Table 43). More than 100 candidates sought the nine positions on the board of trustees.

Table 44 shows the characteristics of the 1981 Hawaii State Legislature. There were seven part-Hawaiians in the State House of Representatives (14 percent of the total) and three in the State Senate (12 percent of the total).

Summary

The population of the State of Hawaii has considerable racial and cultural diversity. From the earliest times, interracial marriage was accepted by the community. As time went on and as different ethnic groups arrived, such marriages became widespread. Native Hawaiians have among the highest interracial marriage rates.

This racial and ethnic mixture has effects in the political sphere. Since the 1930's no one ethnic group has had an electoral majority, although ethnic factors do play a role in politics in **Hawaii.**

From the time of annexation until the 1930's, native Hawaiians comprised the largest voting block, with an absolute majority of all voters for much of that time. Voter participation among native Hawaiians was always high,

However, during the Territory period, the highest elective office **in Hawaii** was the non-voting delegate to the U.S. Congress. The Governor was appointed by the President of the United States.

In 1978, the Office of Hawaiian Affairs was created, which **has** a **board** of trustees that is elected only by native Hawaiians. For the **first board** election in 1980, 31 percent of the total native Hawaiian population registered to vote, 80 percent of those who registered actually voted, and 100 candidates ran for the nine board positions.

The 1981 Hawaii State Legislature consisted of seven part-Hawaiians in the House of Representatives (out of **a** total of 51), and three in **the** Senate (out of a total of 25).

DEMOGRAPHICS

TABLES

TABLE 1

TOTAL POPULATION: 1778 TO 1850

Population			Date	Population
Date	Series A	Series B		
1778	300,000	300,000	1823	134,925
1796	280,000	270,000	1831-1832	124,449
1803		266,000	1835-1836	107,954
1804	280,000	154,000	Jan. 1849	87,063
1805	152,000		Jan. 1850	84,165
1819	145,000	144,000		

a/ Adam's alternate estimates, here arbitrarily designated A and B.

Source: Robert C. Schmitt, *Demography of Hawaii: 1778-1965* (Honolulu: University of Hawaii Press, 1968), p. 41.

TABLE 2

POPULATION OF HAWAII: 1850 to 1896

Census Date	Population	Annual change	
		Amount	Percent
Jan. 1850	84 165		
Dec. 26, 1853	13 138	-2,771	3.5
Dec. 24, 1860	69 800	-478	0.7
Dec. 7, 1866	62 959	-1,150	1.7
Dec. 27, 1872	56 897	-1,002	1.7
Dec. 27, 1878	57 985	181	0.3
Dec. 27, 1884	80 578	3,766	4.5
Dec. 28, 1890	89 990	1,569	1.7
Dec. 27, 1896	109 020	3,310	3.3

a/ Computed by the formula for continuous compounding.

Source: Schmitt, p. 69.

TABLE 3

HAWAIIAN POPULATION BY RACE: 1853-1896*
(in percent)

Census Year	All Races	Hawaiian ("native")	Part-Hawaiian ("half-caste")	Non-Hawaiian ("foreign")		
				Total	Born in Hawaii	Born elsewhere
1853	100.0	95.8	1.3	2.9	0.4	2.5
1860 a/	100.0		96.1	3.9		--
1866	100.0	90.7	2.6	6.7		
1872	100.0	86.2	4.4	8.4	1.5	7.9
1878	100.0	76.0	5.9	16.1	1.6	16.4
1884	100.0	49.7	5.2	45.1	2.5	42.6
1890	100.0	38.3	6.9	54.9	3.3	46.5
1896	100.0	28.5	7.8	63.8	12.6	51.2

a/ Chinese living in Honolulu are included with the native population.

Source: Schmitt, p. 74.

TABLE 4
ETHNIC STOCK: 1900 TO 1960

Ethnic Stock	1900 a	1910	1920	1930	1940	1950	1960 b,
Total	154,001	191,909	255,912	368,336	423,330	499,769	632,772
Percent Distributer	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Hawaiian	19.3	13.6	9.3	6.1	3.4	2.5	1.8
Part-Hawaiian	5.1	6.5	7.0	7.7	11.8	14.8	14.4
Caucasian	18.7	23.0	21.4	21.8	26.5	24.9	32.0
Puerto Rican	—	2.5	2.2	1.8	2.0	1.9	—
Spanish	—	1.0	0.9	0.6	—	—	—
Portuguese	—	11.6	10.6	7.5	24.5	23.0	—
Other Caucasian	—	7.7	7.7	12.2	—	—	—
Chinese	16.7	11.3	9.2	7.4	6.8	6.5	6.0
Filipino	—	1.2	8.2	17.1	12.4	12.2	10.9
Korean	—	2.4	1.9	1.8	1.6	1.4	—
Japanese	39.7	41.5	42.7	37.9	37.3	36.9	32.2
Negro	0.2	0.4	0.1	0.2	0.1	0.5	0.8
Other Races	0.3	0.2	0.1	0.1	0.1	0.3	2.0

a/ The 1900 Census apparently misclassified many Part-Hawaiians and used ethnic categories not entirely consistent with those of the 1910-1930 enumerations. Romanzo Adams made two separate efforts to adjust these data (see his The Peoples of Hawaii, p. 9, and Interracial Marriage in Hawaii, p. 8).

b/ A second tabulation of 1960 race statistics, using a different procedure for allocating nonresponse, resulted in significantly different totals for some groups, particularly the Hawaiians.

Source: Schmitt, p. 120; compiled from U.S. decennial census data.

TABLE 5
HAWAII POPULATION BY RACE 1970 AND 1960

	1970		1960	
Total	No.	%	No.	%
	769,913	1	965,000	1
White	298,160	38.8	318,608	33.0
Black	7,573	1.0	17,352	1.8
Am. Indian/Esk./				
Aleut	1,126	0.1	2,778	0.3
Chinese	52,439	6.8	56,260	5.8
Filipino	93,915	12.2	133,964	13.9
Japanese	217,307	26.3	239,618	24.6
Korean	6,656	1.1	17,946	1.9
Vietnamese	—	—	3,459	0.4
Hawaiian	71,375	9.3	115,962	12.0
Other	—	—	14,168	1.5
Other	—	—	1,677	0.2
Other	—	—	604	0.1
Other	18,410	2.4	42,602	4.4

Includes full and part-Hawaiians. See explanation of U.S. Census data.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, 1967, Census of Population: Race of the Total Population by State—1960, Supplementary Report PC60-1A-3 (Washington, D.C.: Government Printing Office, July 1967), pp. 6-14.

TABLE 6

HAWAII POPULATION - 1980
BY ETHNIC STOCK

(Excludes persons in institutions or military barracks, on Niihau, or in Kalawao. Based on a sample survey of 14,407 persons.)

<u>Total</u>		
Ethnic Stock	Number	Percent
All groups.	930,271	100.0
Unmixed.	676,344	72.7
Caucasian.	244,832	26.3
Japanese.	218,176	23.5
Chinese.	47,275	5.1
Filipino.	104,547	11.2
Hawaiian.	9,366	1.0
Korean.	11,803	1.3
Negro.	11,799	1.3
Puerto Rican. . . .	6,649	0.7
Samoan.	11,173	1.2
Other unmixed or unknown.	10,723	1.2
Mixed.	253,927	27.3
Part-Hawaiian. . . .	166,087	17.9
Non-Hawaiian. . . .	87,840	9.4

Source: State of Hawaii, Department of Planning and Economic Development, The State of Hawaii Data Book, 1981, A Statistical Abstract (November, 1981), p. 38. (Herein-after referred to as Hawaii Data Book.)

TABLE 7
MEDIAN AGE BY SEX
1980

	Total	Male	Female
All races	28.3	27.6	29.1
White	28.0	27.4	28.7
Japanese	35.6	34.0	37.2
Chinese	33.0	32.4	33.6
Pilipino	26.9	27.8	26.0
Hawaiian V	22.6	22.0	23.2

^J Includes full and part-Hawaiians,
•ee explanation of U.S. Census data,

Source: U.S. Bureau of the Census,
Census of the Population: 1980, Special
tabulation.

TABLE 8

POPULATION BY ISLAND: 1779 TO 1850

Island	King	1779 Emory	Bligh	1805 (Young- • on)	1823 (Jarves)	1831-1832 (Censui)	1835-1836 (Census)	1849 (Census)	1850 (Census)
All islands..	400,000	300,000	242,200	264,160	142,050	130,313	108,579	80,641	84,165
Hawaii.	150,000	120,000	100,000	100,000	85,000	45,792	39,364	27,204	25,864
Maui.	65,400	75,000	40,000	48,000	20,000	35,062	24,199	18,671	21,047
Kahoolawe. . . . .	....	...	...	160	50	80	80	...	...
Lanai.	20,400	3,500	1,000	7,000	2,500	1,600	1,200	528	604
Molokai.	36,000	10,000	20,000	25,000	3,500	6,000	6,000	3,429	3,540
Oahu.	60,000	60,000	40,000	40,000	20,000	29,755	27,809	23,145	25,440
Kauai.	54,000	30,000	40,000	40,000	10,000	10,977	8,934	6,941	6,956
Niihsu.	10,000	1,500	1,000	4,000	1,000	1,047	993	723	714
Lehua.	4,000	...	200						

Source: Schmitt, p. 42.

TABLE 9
POPITLATION BY GEOGRAPHIC AREAS: 1850 TO 18*6

	Total	Hawaii		Lanai	Molokai	Total	Honolulu	Other Oahu	Kaua:	Nnhau
1850	84,165	25,864	21,047	604	3,540	25,440	a/	—	6,956	714
1853	73,138	24,450	17,574	600	3,607	19,126	11,455	7,671	6,991	790
1660	69,900	21,481	16,400	646	2,864	21,275	14,310	6,965	6,487	647
1866	62,959	19,808	14,033	394	2,290	19,799	13,521	6,278	6,299	325
1872	56,897	16,001	12,334	346	2,349	20,671	14,852	5,819	4,961	233
1878	57,985	17,034	12,109	214	2,581	20,236	14,114	6,122	5,634	177
1884	80,578	24,991	15,970		2,614	28,068	20,487	7,581		8,935
189C	89,990	26,754	17,357		2,626	31,194	22,907	8,287		11,859
1896	109,020	33,265	17,726	105	2,307	40,205	29,920	10,285	15,226	164

a Not shown in the official reports, but: later given as 14,484 (The New Era and Weekly Arqjs,
Honolulu.)

Source: Scrinutt, p. 70. (Changes were made in the table as it appeared in the draft report based
on comments received froir, Pobert C. Schmitt.)

TABLE 10
POPULATION BY ISLAND: 1900 to 1960

Island	1900	1910	1920	1930	1940	1950	1960
All islands	154,001	191,874	255,881	368,300	422,770	499,794	632,773
Oahu a/	56,504	81,993	123,496	202,887	257,696	353,020	500,409
Honolulu a/	39, 11/	52,183	81,820	137,582	179,358	248,034	294,194
Rest of Oahu	19,195	29,810	41,676	65,305	78,338	104,986	20e,215
Other lslands	95,497	109,881	132,385	165,413	165,074	146,774	132, it 3
Hawaii	46,843	55,382	64,895	73,325	73,276	68,350	61,332
Maui 7		(28, 623	36,080	48,756	46,919	40,103	35,717
LanaiJ	25,416	I 131	185	2,356	3,720	3,136	2,115
Kahoolawe		2	3	2	1		
Molokai	2,504	1,791	1,784	5,032	5, 340	5,280	5,023
Kauai	20,562	23,744	29,247	35,806	35,636	29,663	27,922
Nnhau	172	208	191	136	182	222	254
Percent of total							
Oahu	36.0	42.7	48.3	55.1	61.0	70.6	79.1
Honolulu	25.5	27.2	32.0	37.4	42.4	49.6	46.5
Pest of Oahu	12.5	15.5	16.3	17.7	18.5	21.0	32.6
Other islands	62.0	57.3	51.7	44.9	39.0	29.4	20.9

a/ Data for Island of Oahu and City of Honolulu include minor outlying islands legally part of
the City: 32 in 1940 (ail lr. Palmyra), 14 in 1950 (all on French Frigate Shoals), and 15 in 1960
(all or. French Frigate- Shcals) . Excludes Midway, never part of the Territory or State of Hawaii
tjt sometimes reported with Hawaii for census purposes.

Source: Schir.itt, 116.

TABU: 11

GEOGRAPHIC DISTRIBUTION

	Total	Native Hawaiian	% Native Hawaiia of Island's per	% of total Native Hawaiia: population
Hawaii	82,900	27,510	33.2	15,
Maui	55,300	12,555	22.	7.
Oahu	696,600	123,000	17.7	7C
Kauai	35,500	7,206	20.3	4
Molokai	6,660	3,932	57.3	2,
Lanai	2,957	587	15.1	0.
Total	860,117	174,790		100

Source: U.S. Department of Labor, Assistant Secretary for Policy, Evaluation and Research, Memorandum to Lloyd Aubry (March 30, 1982). (Data originally compiled by Hawaii Health Surveillance Program, according to comments from Robert C. Schmitt.)

TABLE 12

PERCENTAGE OF POPULATION OF SCHOOL
AGE OR OLDER WHO WERE LITERATE,
1890-1930

	AGE SIX AND OVER	AGE TEN AND OVER		
	1896	1910	1920	1930
Hawaiian	84.0	95.3	97.0	96.6
Part-Hawaiian	91.2	98.6	95.2	99.3
Portuguese	27.8	74.6	61.1	90.3
Chinese (excluding)	85.7	96.5	99.2	99.7
Chinese	48.5	67.7	79.0	64.3
Japanese	53.6	65.0	79.2	87.3
Korean		74.1	82.7	82.4
Filipino		66.4	53.3	61.5
Puerto Rican		26.4	53.3	68.0
TOTAL				
	63.9	73.2	61.1	64.9

Source: Lind, p. 80. (Data for year 1890 omitted since, according to Robert C. Schmitt, they are not comparable to later years because the 1890 data did "not take into account literacy in Asia, languages, thus understating the rates shown for Chinese and Japanese.")

TABLE 13

PERCENTAGE OF POPULATION OF SCHOOL
AGE OR OLDER WHO WERE LITERATE,
1890-1930

	1890	1910	1920	1930	1940
Hawaiian	36.6	41.3	37.0	36.6	36.6
Part-Hawaiian	58.1	57.5	55.1	56.6	56.6
Caucasian-Hawaiian	59.7	60.2	56.3		
Chinese-Hawaiian	54.3	51.9	52.5		
Caucasian	25.9	34.0	49.1	56.6	77.4
Portuguese	15.5	25.8	35.6		
Other Caucasian	63.6	64.0	70.1		
Chinese	57.3	69.1	76.7	86.9	94.1
Japanese	29.9	35.1	54.3	72.8	98.1
Filipino	21.1	17.6	24.2	50.2	61.8
Korean	53.1	65.4	68.0		
Puerto Rican	8.4	9.3	15.2		
TOTAL POPULATION		40.1	51.4	61.1	71.1

Source: Lind, p. 81

TABLE 14
SCHOOL ENROLLMENT - 1970 •/

	State	Hawaiian •*/	Japanese	Chinese	Filipino	White
Total Enrolled, 3 to 34 yrs. old	235,765	24,671	65,590	16,922	30,524	88,110
Percent Enrolled, 3 to 34 yrs. old	52.4*	55.1*	60.3%	61.6*	54.5*	45.7*
3 and 4 yrs. old	24.5	24.2	34.8	27.1	15.4	25.2
5 and 6 yrs. old	67.4	86.4	90.8	85.6	85.7	66.9
7 to 13 yrs. old	96.7	96.4	97.1	96.3	96.0	97.7
14 to 17 yrs. old: Male	96.1	90.7	95.8	93.7	91.2	96.3
Female	93.5	91.6	95.8	95.0	93.2	92.5
15 to 24 yrs. old: Male	24.3	21.7	62.9	45.5	24.8	16.5
Female	28.4	20.5	68.2	43.9	23.5	17.9
25 to 34 yrs. old	6.5	2.9	11.9	7.5	3.3	7.2
Percent in Private Schools						
Elementary (1 to 8 yrs.)	10.6	10.8	7.1	21.0	7.0	12.7
High School (1 to 4 yrs.)	12.8	14.4	3.6	26.2	5.7	16.9
Median School Yrs. Completed (25 yrs. and over)	12.3	12.0	12.3	12.4	8.7	12.7
Percent High School Graduates (25 yrs. and over)	NA	49.7	60.3	66.1	34.4	NA
Percent Completing 4 or more yrs. of college (25 yrs. and over)	14.0	4.2	10.8	16.0	4.9	21.5

V Based on sample.

•*/ In 1970 U.S. Census data, the "Hawaiian" category includes full- and part-Kawaiians.

Source: For Hawaiian, Japanese, Chinese and Filipino data, U.S. Bureau of the Census, Subject Reports, Japanese, Chinese and Filipinos in the United States, PC(2)-1G, 1970, pp. 11, 70, 129 and 178. For statewide data, U.S. Bureau of the Census, General Social and Economic Characteristics, United States Summary, PC(1)-C1 U.S. Summary, 1970, pp. 490-494. For whites and some stateside data, U.S. Bureau of the Census, Census of the Population: 1970, Vol. I, Characteristics of the Population, Part 13, Hawaii, pp. 13-32, 13-75, 13-76, 13-211, and 13-214.

TABLE 15

OCCUPATION: 1866.-1896

Sex and census year	All Occupations		Agri- cultur- alists by	Laborers c/	Mechanics	Professions, ¹ workers <i>a</i>	Other occu- pations
	Number <i>a</i> /	Percent of pop. over 15					
Both sexes:							
1866		. . .	8,258	5,025	1.146	512	
1872			9,670	4,772	2.115	582	
1876	24,795	59.4	8,763	7,871	2.606		5,555
1884	39,541	68.1	10,968	12,351	3,519		12,303
1890	41,073	61.8	5,377	25,466	2,802	638	6,790
1896	55,294	70.2	7,570	34,438	2,265	1,224	9,797
Male:							
1890	38,930	83.6	5,280	23,863	2,691	463	6614
1896	51,705	91.0	7,435	32,027	2,265	942	9,036
Female:							
1890	2,143	10.8	97	1,603	112	155	<i>nt</i>
1896	3,589	16.3	135	2,411		282	"61

a May include workers under 15.

b/ "Agriculturalists" to 1884; "farmers" and "planters and ranchers" for 1890; and "farmers and agriculturalists," "rice planters," "coffee planters," and "ranchers" for 1896.

c/ "Laborers" in 1866, 1890, and 1896; "plantation laborers" in 1872 and "contract laborers" in 1878 and 1884.

d/ "Professionalists" in 1866; "clergymen," "teachers," "licensed physicians," and "lawyers" in 1872; "professional men and teachers" in 1890; and "doctors," "lawyers," and "other professions" in 1896.

Source: Schmill, p. 77.

TABLE 16

GAINFULLY EMPLOYED MALES CLASSIFIED AS PROFESSIONAL, 1836-1960

	Number Employed					Per Cent of Total				
	1896	1910	1930	1950	1960	1896	1910	1930	1950	1960
Hawaiian	132	126	242	93	• /	1.4	1.6	4.1	3.6	• /
Port-Hawaiian	54	71	293	649	V	4.0	3.1	6.7	6.3	• /
Portuguese	30T	444	18CH	4,232	5,589	• 7!	3.1	11A	16.9	17.9
Other Caucasian	164J		1,563J			4.8J	.5	13.2	10.7	16.6
Chinese	300	65	259	876	1,633	1.8J	.5	3.4	5.5	10.1
Japanese	88	221	1,204	2,506	5,286	.5	.5	3.4	1.2	1.6
Fillipino			268	296	424			.6	6.6	• /
Korean			58	121	V			2.7	.9	•
Puerto Rican			2C	15	V			1.1	3.7	V
All Others	13	23	32	138	V	2.2	.4	4.2		
TOTAL	781	950	4,119	8,829	14,025	1.5	1.1	3.4	7.3	10.2

*/ Not separately available.

Source: Lind, p. 80.

TABLE 17

EMPLOYEE *HALI* CIVILIANS BY *IAKvJE* ETHNIC GROUPS AND MAJOR OCCUPATIONS
1940, 1*50 •/, 1960

		All Races			Percent oi Total Employed			
		Nurober	Per Cent	Haw'n.	Cauca- sian	Chinese	Filipino	Japa- nese
Managers, Officials, and Proprietors, including Farm.	1940	12,612	10.6	5.8	20.0	16.3	1.4	12.9
	1950	15,274	12.6	7.9	18.5	20.1	3.0	15.1
	1960	16,650	12.3		19.4	16.6	2.7	13.7
Clerical, Sales and Kindred Workers	1940	12,371	10.4	6.3	16.3	26.6	1.6	11.4
	1950	15,049	12.4	9.9	14.1	26.3	3.4	15.1
	1960	17,149	12.5		13.3	21.3	4.8	14.8
draftsmen, Foremen, and Kindred Workers	1940	15,526	13.0	15.4	17.4	10.2	2.4	18.6
	1950	25,251	20.9	22.9	21.2	18.4	7.5	27.7
	1960	32,312	23.6		19.2	20.7	14.3	30.2
Operatives and Kindred Workers	1940	14,422	12.1	19.6	14.4	12.0	8.0	11.6
	1950	19,350	16.0	20.1	12.7	11.3	19.9	15.0
	1960	20,687	15.2		11.7	9.9	22.1	13.0
Service Workers, including Household	1940	6,463	7.1	8.9	3.4	12.3	5.8	6.3
	1950	9,276	7.1	10.0	6.7	7.8	11.2	5.3
	1960	9,573	7.0		5.5	7.1	10.6	5.3

V The *trLijoz* occupational categories used in 1950 are not strictly comparable with those used in 1940, despite an obvious attempt by the census to secure comparability. Corrections have been made for the military population in the 1940 census returns by eliminating "soldiers, sailors, and marines," most of whom were Caucasians.

Source .• Lind, p. 82.

TABLE 18

EMPLOYMENT STATUS - HAWAII, 1970 ^y

	State	Hawaiian	Japanese	Chinese	Filipino	White
Male, 16 years old & over	272,726	207,681	75,286	18,224	35,576	112,723
Labor Force	222,221	15,797	60,026	13,870	27,084	96,899
Percent of Total	81.5%	76.4%	79.7%	76.1%	76.1%	86.0%
Civilian labor force	173,361	15,303	59,242	13,603	25,632	54,526
Employed	166,940	14,651	58,388	13,315	24,912	52,772
Unemployed	4,421	652	854	288	720	1,754
Percent of civilian labor force	2.6%	4.3%	1.4%	2.1%	2.8%	3.2%
Not in labor force	50,365	4,884	15,260	4,020	8,492	15,824
Female, 16 years old & over	249,292	22,398	83,780	18,349	24,057	92,362
Labor Force	122,048	10,730	47,898	9,946	11,497	38,214
Percent of Total	49.0%	47.9%	57.2%	54.2%	47.8%	41.4%
Civilian labor force	121,123	10,711	47,852	9,935	11,497	37,419
Employed	116,616	10,150	46,638	9,761	10,948	35,411
Unemployed	4,507	561	1,014	174	549	2,008
Percent of civilian labor force	3.7%	5.2%	2.1%	1.8%	4.8%	5.4*
Not in labor force	127,244	11,668	35,882	8,403	12,560	54,178

^y Data based on 20 percent sample.

* In 1970 U.S. Census data, the "Hawaiian" category includes full- and part-Hawaiians.

Source: U.S. Bureau of the Census, Census of the Population 1970, Subject Report P(2)-1G, Japanese, Chinese and Filipinos in the United States, for Hawaiian, Japanese, Chinese, and Filipino statistics, pp. 13, 75, 133, and 179. For State of Hawaii statistics, U.S. Bureau of the Census, Census of the Population 1970, PC(1)-C1, General Social and Economic Characteristics, U.S. Summary, pp. 500-501. For whites, U.S. Bureau of the Census, Census of the Population, 1970, Characteristics of the Population, vol. I, Part 13, Hawaii, pp. 13-266 and 13-267.

TABLE 19

NUMBER OF HAWAIIAN-- AND PART-HAWAIIANS
UNEMPLOYED IN THE STATE - 1975

	<u>Hawaiian</u>		<u>Part-Hawaiian</u>	
	Male	Female	Male	Female
Oahu	20	154	2,338	2,006
Hawaii	24	0	322	234
Kauai	10	10	31	51
Maui	0	7	137	178
Molokai/Lanai	26	11	234	123
TOTAL	80	182	3,062	2,592
TOTAL MALE t				
FEMALE	262		5,654	
GRAND TOTAL		5,916		
UNEMPLOYMENT RATE <i>jj</i>		11.6%		
STATE WIDE UNEMPLOYMENT				
RATE * «/		6.5%		

•/ Unemployment rate • $\frac{\text{Number unemployed}}{\text{No. in labor force}}$

Number of Hawaiians/Part-Hawaiians in labor
force (1973) - 51,058

Unemployment rate for Hawaiians/Part-
Hawaiians (1975) » $\frac{5,916}{51,058}$ - 11.6%

»»/ From 1975 State Data Book.

Source: Oahu, Hawaii, Maui, Molokai and
Lanai: OEO 1975 Census Update Survey; Kauai:
1974-5 Kauai Socioeconomic Profile Survey, up-
dated and weighted. Received from U.S.
Department of Labor.

TABLE 20
PERCENTAGE OF MALES RECEIVING INCOMES IN 1949, 1959, 1969 BY INCOME CLASSES

	Up to 5999	51,000- 1,999	52,000- 2,999	53,000- 3,999	54,000- 4,999	55,000- 6,999	57,000- 9,000	510,000 and Over	Meiar. Incor.e
All Races									
1949	16.6	22.3	27.1	17.6	6.9	5.3	11.1	16.5	2,3-;
1959	11.3	14.4	12.2	16.0	13.0	16.0	8.7	6.5	3,71"
1969 i/	8.5	10.0	8.1	6.4	6.1	14.3	19.6	26. e	6,529
Caucasian									
1949	9.7	24.6	17.8	18.3	10.1	11.0	4.6	3.7	2,65-
1959	7.9	21.5	11.9	12.7	10.9	14.5	9.9	10.6	J, (4 ~
1969 */	7.3	10.6	10.4	7.8	5.9	13.6	16.3	26.1	6,; *: :
Chinese									
1949	17.6	14.9	20.2	22.9	11.9	7.5	3.4	3.5	2,9c4
1959	10.8	7.0	6.9	10.2	13.7	26.1	15.4	9.6	5,09?
1969 V	8.6	7.4	4.8	4.5	4.1	10.5	15.2	33.5	8,0'.
Japanese									
1949	17.5	17.3	29.6	21.1	6.8	3.7	1.4	1.5	2,42"
1959	12.5	6.4	8.9	15.4	15.8	24.2	9.7	5.0	4,30.
1969 V	7.4	8.0	4.9	4.2	4.3	11.1	22.8	31.0	7,83-
Filipino									
1949	18.1	32.6	40.2	7.6	1.2	.5	.1	.1	1,99:
1959	14.5	11.6	22.0	28.0	11.7	9.5	2.3	.5	3,CT1
1969 V	8.2	11.3	7.7	6.8	10.6	21.6	16.2	ic,;	5,052
Hawaiian and Part-Hawaiian									
1949	22.5	17.2	25.5	21.5	7.1	3.7	1.5	.7	0,369
1959	8.5	7.9	5.4	5.4	5.8	13.6	22.5	21.9	6, i J i
1969 i y	8.5	7.9	5.4	5.4	5.8	13.6	22.5	21.9	6, i J i

*/ **Males**, with income, **age** 14 and over; 1969 **data** not entirely comparable with previous **data**.

*/ Males, with income, **age** 16 and over.

Source: 1949 and 1959 data from Lind, p. 100. 1969 data from U.S. Department of Commerce, Bureau of the Census, 1970 Census of the Population; Japanese, Chinese, and Filipinos in the United States, Subject Report PC(2)-1G (Washington, D.C.: Government Printing Office, 1973), pp. TIT 74, 1T6-a-T 179; and 1970 Census of the Population; Characteristics of the Population, Vol I, Part 13, Hawaii (1973), p. 13-77.

TM--..F. 21
HBEF ! HAWAIIAN3 AND FAFT-HAWAIIANS
BELOW POVERTY LEVEL IN THI: STATE

	Hawa n a n		Part-Hawaiian	
	Male	Female	Male	Female
Oahu	716	836	12,616	14,697
Hawaii	287	364	3,751	3,466
Kauai	112	72	414	612
Haul	74	130	1,238	1,447
Moiokai, Lar.a;	23	SO	291	283
Total	1,212	1,454	16,312	20,505
Total Male				
ar,) Ferafe	2	666	35	617
Grand Total			41	463
Source:	197S OE0 Census Ipdate.			

TA3LE 23
POPULATION AND ARRESTS AS A PERCENTAGE
OF ETHNIC STOCK, STATE OF HAWAII,
1961

	FotJlatLor. 1'		Arrests	
	Number	Perc ;nt	Number	Percent
Caucasian	318,770	33 0	13,110	35.3
Black	17,364	1 8	1,506	4.1
Indian	2,655	3	10	--
Chinese	56,265	5 6	691	1.9
Japanese	239,746	24 9	2,871	7.7
Filipino	133,940	13 9	3,966	10.7
Samoa;	14,073	1 S	1,507	4.1
Korean	17,962	1 9	512	1.4
Hawaiian/ Fart-Hawaiian	115,500	12 0	6,551	23.0
Other	48,394	5 0	4,408	11.9
TOTAL	964,691	100 0	37,132	100.0

Percentages may not tntal 100 due to rounding.

1/ Population figjres from State of Hawaii, Departner.t of Flar.nir.g and Economic Development. By seif-identification, cr race of mother. Data are not comparable to Health Surveillance Program tabulations used in previo-s years' retorts.

Source: State of Hawaii, Hawaii Criminal Justice Information Center, Crime in Hawaii 1931; A Revlew of Ur.ifcrr Cri.tt ftepcrts (April 1981), p. 39.

T*BLE 22
PERCENT OF NATIVI HAWAIIAN? IK EACH Kt.l.IAH
CATEGORY COKFARLL TO PERCENT OF NATIVT
HAWAIIAN'S IN TOTAL POPULATION

State	Welfare Categ-'i ie»				
	AFDC-UF	Gener al Aaelatance		Stajapa	Medical
		ASP	rooA		
Total Hawaiian percent	964,691 115,500 12.0	54.819 16,878 30.8	9.713 2,144 22.1	41.577 6. 3)1 15.2	20,26* »,171 10.7
<u>Oahu</u>					
Total Hawaiian Percent	762,56b 80,172 10.5	40,101 12,302 30.7	7,372 1,36 3 18.5	28,123 3, 797 13.5	14,166 1,116 7.9
<u>Hawaii</u>					
Total Hawaiian Percent	92,053 17,274 18.8	8,797 2,778 31.6	1,441 451 31.3	7,864 1,453 18.5	3, 344 594 17.8
Total Hawaiian Percent	70,991 11? 350 17.4	3,825 1,273 33. 3	553 220 39.8	3.1b) 805 25. 5	1,551 279 18.0
<u>Kauai</u>					
Total Hawaiian Percent	39,062 5,704 14.6	2,096 521 25.0	347 lie 31.7	2.4)7 276 11. 3	1.20H 16. 15. 1

Source: State population obtained from The State of Hawaii Data Book, 1982. Welfare data obtained from Department of Social Service* and Housing, October-December 1982.

TABLE 24
POFILATION AND ARRESTS AS A PERCENTAGE
OF ETHNIC STOCK, STATE OF HAWAII,
1981
(USING STATE OF HAWAII POPULATION FIGURES)

Ethnicity	Fopulat ion X'		Arrests %
	Number	« Dist.	
Caucasian	244,832	26. 3	35. 3
Japanese	218,176	23.5	7.7
Hawaiian/ Part Hawaiian	175,453	18.9	23.0
Filipino	104,547	11.2	10. 7
Chinese	47,275	5. 1	1.9
Korean	11,802	1. 3	1.4
Black	11,799	1.3	4. 1
Samoaan	11,173	1.2	4. 1

1/ Population figures from State of Hawaii Health Surveillance Program; pro-vided to the Commission by the Hawaii Department of Social Services and Housing.

TABLE 25

OFFENSE BY RACE OF ADULTS ARRESTED, STATE OF HAWAII, 1961
(PERCENT)

RACE	MURDER	MAN- SLAUGHTER	RAPE	ROBBERY	AGGRAVATED ASSAULT	BURGLARY	LARCENY- THEFT	DRV , ABVSI	GAHBLIN
Caucasian	31.4	37.5	34.7	31.7	29.8	31.5	39.2	4a.:	6.9
Black	4.0	6.3	11.8	8.2	8.5	3.8	3.7	6.1	0.5
Indian	—	6.3	—	—	0.4	—	—	—	—
Chinese	—	—	—	1.6	0.7	1.9	4.1	1.6	5.6
Japanese	*.0	25.0	2.6	7.4	8.1	6.6	8.4	8.0	18.4
Filipino	13.7	—	4.9	3.7	15.1	e.&	11.3	3.3	47.0
Hawaiian/ Part Hawaiian	21.6	6.3	21.5	24.5	21.0	27.3	18.6	17.5	8.3
Korean	—	—	1.4	0.4	2.2	C.l	1.7	0.4	2.3
Samoan	15.7	12.5	6.9	10.5	3.7	3.6	4.1	1.1	1.1
Other	9.8	6.3	16.0	12.1	10.7	10.3	8.8	7.7	7.6
Total %	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total No.	51	16	144	514	272	770	3,953	2,627	763

V Percentages may not add to 100, due to rounding.

Source: Crime in Hawaii 1981, pp. 61-62.

TABLE 26

OFFENSE BY RACE OF JUVENILES ARRESTED, STATE OF HAWAII, 1981
(PERCENT)

RACE	MURDER	BURGLARY	LARCENY- THEFT	MOTOR VEHIC- CLE THEFT	OTHEF- ASSAULT	VANDALISM	DRUG ABUSE	RUN- AWAYS
Caucasian	8.0	19.5	17.1	12.9	13.8	18.8	30.0	21.4
Black	1.2	0.7	1.4	0.8	1.1	0.8	0.5	1.3
Indian	—	—	—	—	—	—	—	—
Chinese	—	—	1.2	—	0.2	0.4	0.3	0.4
Japanese	2.5	2.6	6.8	3.8	3.6	5.4	t.5	2.0
Filipino	6.8	7.6	15.7	8.1	9.3	11.3	9.2	5.7
Hawaiian/ Part-Hawaiian	38.9	42.3	32.1	52.8	41.7	36.8	33.4	44.5
Korean	—	0.7	1.5	0.8	2.6	—	0.3	0.7
Samoan	24.7	6.9	6.1	4.9	7.5	7.1	1.0	3.1
Other	17.9	19.4	18.1	15.9	20.2	19.2	18.8	21.0
Total %	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total No.	162	995	3,137	371	549	239	601	1,070

*/ Percentages may not total 100, due to rounding.

Source: Crime in Hawaii 1981, p. 74.

TABLE 27

TAB. I: 28

CRUDE BIRTH AND DEATH RATES, 1648 TO 1965

(Place of occurrence basis. Not adjusted for underregistration, thought to be extensive in many of these years. Because of doubtful accuracy, the data before 1910 should be used with utmost caution.)

Period	Birth Rate a/	Death Rate a/
1848-1859	21.3	45.8
1860-1869	27.1	40.8
1870-1879	41.0	51.4
1880-1889	23.6	25.3
1890-1899 b/		26.4
1900-1909	16.6	16.6
1910-1919	31.3	16.3
1920-1929	39.5	14.4
1930-1939	26.2	9.6
1940-1949	26.6	6.8
1950-1959	31.8	6.1
1960-1965	27.3	5.5

a/ Annual events per 1,000 population computed as average of annual rates for period. Population base excludes armed forces after 1897. Residence basis to 1950; de facto basis thereafter.

b/ City of Honolulu only.

Source: Schnutt, p. 164.

TABLE 29

PERCENTAGE OF DEATHS BY RACE OF MOTHER, 1977-1981

	BIRTHS	DEATHS	RATE %
All races	87,463	922	10.5 +/- 0.7
Caucasian	26,664	236	8.9 +/- 1.1
Hawaiian	707	7	9.9 +/- 7.3
Part-Hawaiian	16,606	256	13.6 +/- 1.7
Chinese	3,285	23	7.0 +/- 0.9
Filipino	14,954	137	9.2 +/- 1.4
Portuguese	12,688	112	8.8 +/- 1.6
Puerto Rican	1,066	8	7.5 +/- 5.2
Korean	1,775	20	11.3 +/- 4.9
Portuguese	735	6	8.2 +/- 5.5

V Number of infant deaths per 1,000 live births +/- 95% confidence limits.

Source: Department of Health Annual Report, Statistical Supplement 1977, 1976, 1973, 1930, 1981. Confidence limits calculated by Department of Health Research and Statistics Office.

DEATHS UNDER ONE YEAR OF AGE PER THOUSAND BIRTHS, 1924-1980

	1924	1929	1940	1950	1960	1970	1980
All Races	119	91	50	24	22	21	19
Hawaiian	265	198	129	60	42	36	65
Part-Hawaiian	96	109	57	26	26	25	22
Portuguese	100	64	39	24	20	20	19
Other Caucasian	44	59	40	24	21	21	18
Chinese	64	59	40	24	21	21	18
Japanese	86	57	34	18	22	17	14
Korean	70	51	36	19	29	16	35
Filipino	296	219	73	31	25	22	18
Puerto Rican	110	99	67	26	24	13	32

Source: For 1924-1963: Lind, p. 106, for 1970 and 1980, Hawaii State Department of Health, Annual Report Statistical Supplement, 1970 and 1980.

CHARACTERISTICS OF BIRTHS BY RACE OF MOTHER, HAWAII RESIDENTS 1960-1980

Race of Mother	Births	Rate Per 1000 Pop.	Sex Ratio	Low Birth	Illegitimate
Total	18,129	19.5	1.1	7.1	175.9
Caucasian	5,859	24.0	1.1	5.9	133.6
Hawaiian	163	17.5	0.9	7.4	27b.1
Part-Hawaiian	3,841	23.1	1.0	7.4	363.2
Japanese	2,655	12.2	1.1	11.8	67.8
Chinese	704	14.9	1.0	8.2	62.8
Filipino	3,042	29.1	1.1	9.3	153.3

1/ All data Department of Health Statistical Supplement 1980.

2/ Based on population totals from State of Hawaii Data Book 1961.

3/ Males divided by females.

4/ Number of illegitimate births per 1000 live births.

TABLE 31

ESTIMATED LIFE EXPECTANCY AT BIRTH BY ETHNIC GROUP, 1910-1970

YEAR	CAUCASIAN	CHINESE	FILIPINO	HAWAIIAN	JAPANESE	OTHER	TOTAL
1910	54.83	54.17	n/a	32.58	49.34	15.62	43.96
1920	56.45	53.80	28.12	33.56	50.54	28.38	45.69
1930	61.90	60.07	46.14	41.87	60.07	32.58	53.95
1940	64.03	65.32	56.85	51.78	66.28	59.46	62.00
1950	69.21	69.74	69.05	62.45	72.58	68.29	69.53
1960	72.80	74.12	71.53	64.60	75.65	62.19	72.42
1970	73.24	76.11	72.61	67.62	77.44	76.74	74.20

Source: C. B. Park, R.W. Gardner, and E.C. Nordyke, R&S Report. Research and Statistics Report (Honolulu: Hawaii State Department of Health, June 1979), p. 3. Comparable figures for 1980 are not yet available from the Department of Health.

TABU: 32

LEAVING CAUSES OF DEATH, 1923 TO 1960

Cause of Death	Percentage distribution of							Rate per 100,000 population						
	1920	1930	1940	1950	1960	1970	1980	1920	1930	1940	1950	1960	1970	1980
All Causes	100.0	100.0	100.0	100.0	100.0	100.0	100.0	1,767	1,043	724	583	568	549	504
Inf., «MJ and pneumonia	32.3	12.6	7.2	4.6	3.6	4.1	3.6	572	132	52	27	21	22	18
Tuberculosis (all forms)	11.5	9.8	8.3	3.9	0.4	HA	HA	204	102	60	2)	2	HA	HA
Osteomyelitis and arthritis	9.6	6.6	1.0	0.7	0.4	MA	MA	169	19	7	4	)	HA	HA
Diabetes of early infancy	1.4	6.6	6.7	6.7	7.5	4.9	1.9	96	69	41	39	43	27	10
Heart disease	4.8	11.7	18.1	29.6	33.0	32.9	31.5	86	122	131	173	188	180	159
Accidents (all forms)	1.1	7.0	7.6	6.0	7.6	7.1	6.6	84	73	55	35	43	18	33
Myocardial infarction	3.8	6.2	9.2	2.0	1.)			68	65	67	12	1		
Cancer and other malignant neoplasms	3.)	5.8	9.8	18.4	17.2	18.1	23.3	59	61	71	90	98	99	117
Cerebral hemorrhage	3.0	4.7	6.0	8.9	8.8	HA	HA	53	49	4)	52	50	HA	HA
Diphtheria and complications thereof	1.9	1.7	0.7	0.4	0.1	HA	HA	33	18	5	2	1	HA	HA
Scarlet fever	1.7	2.6	1.9	1.3	2.0	2.3		20	19	11	7	7	11	11
Whooping cough	1.2	1.6	0.5	0.1	C	HA	HA	20	17	4	1	0	HA	HA
Unlabeled malformations	0.8	1.1	1.8	2.8	2.2	1.8	1.4	13	11	13	16	13	10	7
Birth defects	0.4	1.1	2.0	3.0	2.6	2.3	2.6	7	11	14	18	15	11	13

a. All data in this table are based on the 1923-1960 data.
b. Including causes not shown as percentages.

Source: For 1920-1960 data, Anna M. Export, Chart of the Health, Status of Hawaii, Statistical Abstract, 1960, p. 34.
for 1970 and 1980, HAWAII State Department of Health, Statistical Summary, 1960, p. 23.

TABLE 3i

LEADING CAUSES OF DEATH V IN HAWAII
RESIDENTS BY RACE 1980

AGE STANDARD: ZL: INC iDErx or CANCIH B) KACE
HAWAII 1973-1980

Copdition	Caucasian	Ou- nest-	Fili- pi no	Haw'n	Japa- nese
Diseases of Heart	163	227	144	62	179
Cancer	130	123	85	113	138
Cerebro-vascular	39	40	40	27	53
All accidents	40	27	38	41	22
Influenza 'pneumonia	15	17	20	10	32
Diabetes mellitus	10	27	10	21	11
Suicide	18	c	4	10	10
Perinatal conditions	10	3	15	15	4
Cirrhosis of liver	17	5	7	3	5
Homicide	11	3	6	10	3

•/ Rates based on estimated population per
100.003 (1960 Census).

Source: Unpublished tables from Department
of Health Research and Statistics Office supplied
by Dr. Thomas Burch.

RACE	MALE				rxwAU.	
	priState	atofcach	lung	lun^	breas-	cervix
Caucasian	59.5	11.3	65.1	26.5	V4.2	39.0
Chinese	27.1	12.5	42.6	26.6	7C.3	19.9
Filipino	30.2	7.7	24.5	18.9	6.4	32.5
Hawaiian	38.3	4C.2	103.1	39.7	97.B	34.2
Japanese	30.6	30.]	34.1	11.9	54.5	17.2

Source: Hawaii Tjaor Regiitr>, unpublished data
supplied by Dr. Thoaus Burch, Hawaii State Dapartaent
of Health.
Incidence rate per 100,000 population.
Population estimates froo Health Surveillance
Program of the Depajtaient of Health for 197fc.

TABLE 35

NUMBER OF ACUTE CONDITIONS PER 100 PERSONS PER YEAR EY ETHNICITY, 1980

	CAUCASIAN	JAPANESE	HAWAIIAN PT. HAWAIIAN	FILIPINC	CHINESE	ntiEJ a jjhi's'i ""T
All Acute Conditions	193.2	123.8	200.4	123.8	104.3	212.4
Infective Parasitic Diseases	15.5	3.0	e.1	8.2	11.9	15.7
Respiratory Condition	118.4	88.0	150.0	90.8	56.3	138.4
Upper Respiratory	72.9	71.1	110.0	58.2	44.7	96.7
Ir.fluenia	40.2	13.8	39.0	30.3	9.5	35.7
Other Respiratory Condition	5.2	3.1	1.1	2.2	2.1	5.9
Digestive System Condition	3.6	3.0	4.3	3.4		2.4
Injuries	31.6	16.8	18.4	10.8	15.9	22.4
All Other Acute Conditions	24.1	12.8	19.6	10.6	20.2	33.6

Source: Hawaii State Department of Health, Statistical Supplement, 1980, p. 71.

TABLE 36

NUMBER OF CHRONIC CONDITIONS PER 1,000 PERSONS PER YEAR BY ETHNICITY, 1980

SELECTED CHRONIC CONDITION	CAUCASIAN	JAPANESE	HAWAIIAN PT. HAWAIIAN	FILIPINO	CHINESE	OTHER UMKUUOI
Heart Condition	25.4	22.0	17.6	17.1	27.6	10.6
Impairments of Back or Spine	40.9	36.3	28.4	18.2	31.1	20.4
Hypertension without Heart Involvement	61.3	119.3	58.1	74.3	125.4	36.3
Arthritis/Rheumatism	45.1	35.7	12.1	19.5	24.0	12.4
Hearing Impairment	39.1	35.9	19.7	10.0	19.4	6.5
Asthma, with or without Hayfever	24.7	20.2	50.8	26.9	17.6	33.6
Diabetes	14.9	36.4	25.4		27.9	13.9
Mental and Nervous Condition	16.6	4.7	5.7	4.7	4.2	13.5
Visual Impairment	13.8	17.0	11.6	1.6	11.3	1.1
Malignant Neoplasms	10.6	5.1	2.6	4.0	6.2	4.2
Chronic t. Allergic Skin Conditions	28.1	17.0	15.4	9.1	7.5	
Chronic Sinusitis	37.6	15.3	13.0	8.1	20.9	
Hayfever without Asthma	80.8	57.8	41.4	21.8	72.7	
Stomach Ulcer	9.1	8.5	4.3	13.6	8.0	1.1
Bronchitis/Emphysema	15.3	4.1	11.8	7.0	9.4	12.1
Betwee a, Unspecified Neoplasms	6.4	9.2	3.9	3.0	11.1	
Hemorrhoids	22.4	13.8	11.4	7.5	23.1	
Thyroid/Goiter	8.1	5.6	4.2	5.0	7.0	
Varicose Veins	3.7	5.0	2.6	1.1	5.2	
Other	6.4	13.7	13.2	17.3	18.6	

Source: Hawaii State Department of Health, Statistical Supplement, 1981, p.

TABLE 37

LIFETIME PREVALENCE AND CURRENT USE OF
ALCOHOL BY ETHNICITY

CROPS	LIFETIME USE %	CURRENT USERS *
Caucasian	91.4	77.7
Chinese	72.5	40.5
Filipino	52.3	36.1
Hawaiian/ Part-Hawaiian	80.8	52.8
Japanese	77.6	44.6
Portuguese	86.5	52.6
Territory	76.4	51.3
State	79.2	55.1

Source: Hawaii State Department of
Health, Needs Assessment, Alcohol and Drug
Abuse (Honolulu: Hawaii State Department
of Health, Alcohol and Drug Abuse Branch,
1980), p. 10.

Table is

ALCOHOL ABCSEJU AtC ALCOHOL TREATMENT PGP_LA7:of,
Bi ~rC::CITY

Group	Age of Abusers Pop.	Abusers as % of Group	Age & of Alcohol Abusers
Filipino	6.6	6.6	2.1
Chinese	1.2	3.2	2.2
Caucasian	4.6	11.1	1.1
Japanese	11.4	3.7	1.1
Hawaiian/ Part-Hawaiian	19.4	9.4	1.1
Portuguese	1.7	5.9	1.1
Other	16.0	7.8	1.6

Source: Hawaii State Department of Health, Statistical
Assessment, Alcohol and Drug Abuse, p. 11 and 14

TABLE 40

DRUG ABUSERS AND DRUG TREATMENT POPULATION
BY ETHNICITY

	%age of Abusing Pop.	Abusers as %age of Group Pop.	%age of Drug Treatment Pop.
Filipino	5.5	2.9	4.6
Chinese	2.4	2.6	2.4
Caucasian	49.1	9.5	24.6
Japanese	5.7	1.3	7.1
Hawaiian/ Part-Hawaiian	22.3	7.6	44.4
Portuguese	2.4	6.0	3.0
Other	12.0	4.1	14.0

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse, pp. 23 and 26.

ETHNICITY OF PERSONS ABUSING
BOTH ALCOHOL AND DRUGS

Group	%age of Abusing Pop.	Abusers as %age of Group Pop.
Filipino	.3	.1
Chinese	.3	.1
Caucasian	49.0	3.0
Japanese	6.3	.5
Hawaiian/ Part-Hawaiian	22.8	2.5
Portuguese	4.8	3.8
Other	16.5	2.0

Source: Hawaii State Department of Health, Needs Assessment, Alcohol and Drug Abuse, p. 29.

TABLE 41

INTERRACIAL MARRIAGES AS PERCENTAGE OF ALL MARRIAGES, 1912-1981

		Percent Out-Marriages							
		1912- 1916	1920- 1930	1930- 1940	1940- 1950	1950- 1960	1960- 1964	1970- 1979	1980- 1981
Hawaiian	Grooms	19.4	33.3	55.2	66.3	78.9	85.9	86.6	91.2
	Brides	39.9	52.1	62.7	77.2	81.5	85.4	88.7	87.0
Part-Hawaiian	Grooms	52.1	38.8	41.0	36.9	41.3	47.0	57.3	56.0
	Brides	66.2	57.7	57.9	64.2	58.4	56.6	58.0	58.9
Caucasian	Grooms	17.3	24.3	22.4	33.8	37.4	35.1	25.9	23.8
	Brides	11.7	13.8	10.7	10.2	16.4	21.1	20.7	18.1
Chinese	Grooms	41.7	24.8	28.0	31.2	43.6	54.8	60.4	60.0
	Brides	5.7	15.7	28.5	38.0	45.2	56.6	65.2	64.2
Japanese	Grooms	0.5	2.7	4.3	4.3	8.7	15.7	33.2	39.1
	Brides	0.2	3.1	6.3	16.9	19.1	25.4	40.2	44.3
Korean	Grooms	26.4	17.6	23.5	49.0	70.3	77.1	60.8	47.4
	Brides	0.0	4.9	39.0	66.7	74.5	80.1	82.4	76.9
Filipino	Grooms	21.6	25.6	37.5	42.0	44.5	51.2	47.1	44.8
	Brides	2.6	1.0	4.0	21.0	35.8	47.5	50.3	53.1
Puerto Rican	Grooms	24.4	18.6	29.6	39.5	51.3	65.0	79.1	77.1
	Brides	26.4	39.7	42.8	40.5	60.5	67.2	77.4	71.0
TOTAL		11.5	19.2	22.8	26.6	32.8	37.6	N/A	N/A

Sources: For 1912-1964, Lind, p. 106; for 1970-1981, Hawaii Department of Health, Statistical Surveys.

TABU: 42

MASTERED VOTERS (1902-1940)

	PERCENT OF TOTAL				
	1902	1910	1920	1930	1940
Hawaiian 4					
Part-Hawaiian	68.6	66.6	55.6	38.1	24.7
Portuguese	4.7	10.6	11.7	15.8	30.1
Other Caucasian	2.3	20.0	25.8	23.1	23.1
Chinese	1.1	2.7	4.3	8.4	8.5
Japanese	0.0	0.1	2.5	13.4	31.0
All Others				1.0	5.6
TOTAL	100.0	100.0	100.0	100.0	100.0

Source: p. 97.

REGISTERED VOTERS BY CAST TOP THE BOARD OF TRUSTEES OF THE O-TJCE Or HAWAIIAN AITAIRJ .
By COUNTING: • November 4, 196

County	Registered Voters			Voters Cast	
	Both Sexes	Male	Female	No.	Percent
State total 1/	54,083	24,415	29,668	42,646	74.2
Hawaii	7,441	3,362	4,079	1,158	6.6
Honolulu	6,331	2,972	3,359	4,171	75.1
Kauai	37,341	16,706	20,635	29,499	76.9
	2,955	1,403	1,552	1,411	48.3

1/ Based on 1960 population estimated by race from the Hawaii Health Survey "10.11 percent of the Hawaiian and Part-Hawaiian population registered for the O-TJCE special election and 24.4 percent cast ballots. Participation in this special election was limited to persons with Hawaiian blood, namely: approximately 175,453--including those ineligible because of age--in 1980.

Source: Hawaii State Data Book, B 333.

TABLE 44

COMPOSITION OF THE 1981 HAWAII STATE LEGISLATURE

	HOUSE OF REPRESENTATIVES			SENATE	
	Total	Democrats	Republicans	Total	Democrats
All members	51	39	12	17	
Island of residence:					
Hawaii					
Maui					
Lanai					
Molokai					
Oahu	39	29	10	19	12
Kauai	3	3		1	1
Niihau					
Ethnic Stock:					
Caucasian, except Portuguese	8	5			
Chinese	1	1			
Filipino	3	3			
Japanese	24	23		12	
Native Hawaiian				1	
Portuguese					
Other (unclassified) 1/					
Mixed: Part-Hawaiian					
Mixed: Non-Hawaiian					

1 Hawaiian, Korean, Puerto Rican, Samoan, or other ethnic stock.

Source: Hawaii State Data Book, p. 336.

DEMOGRAPHICS

CHARTS

CHART 1

TOTAL NATIVE HAWAIIAN POPULATION
1778 - 1850
(in thousands)

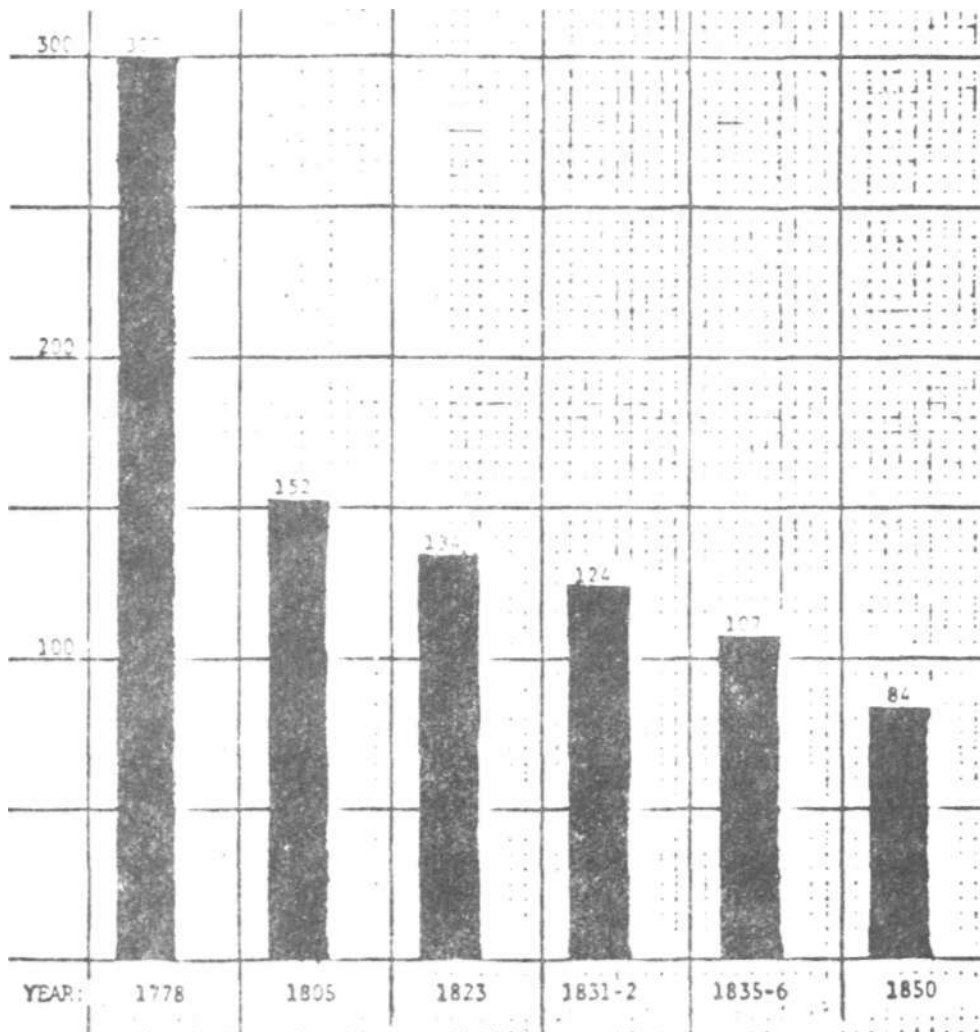
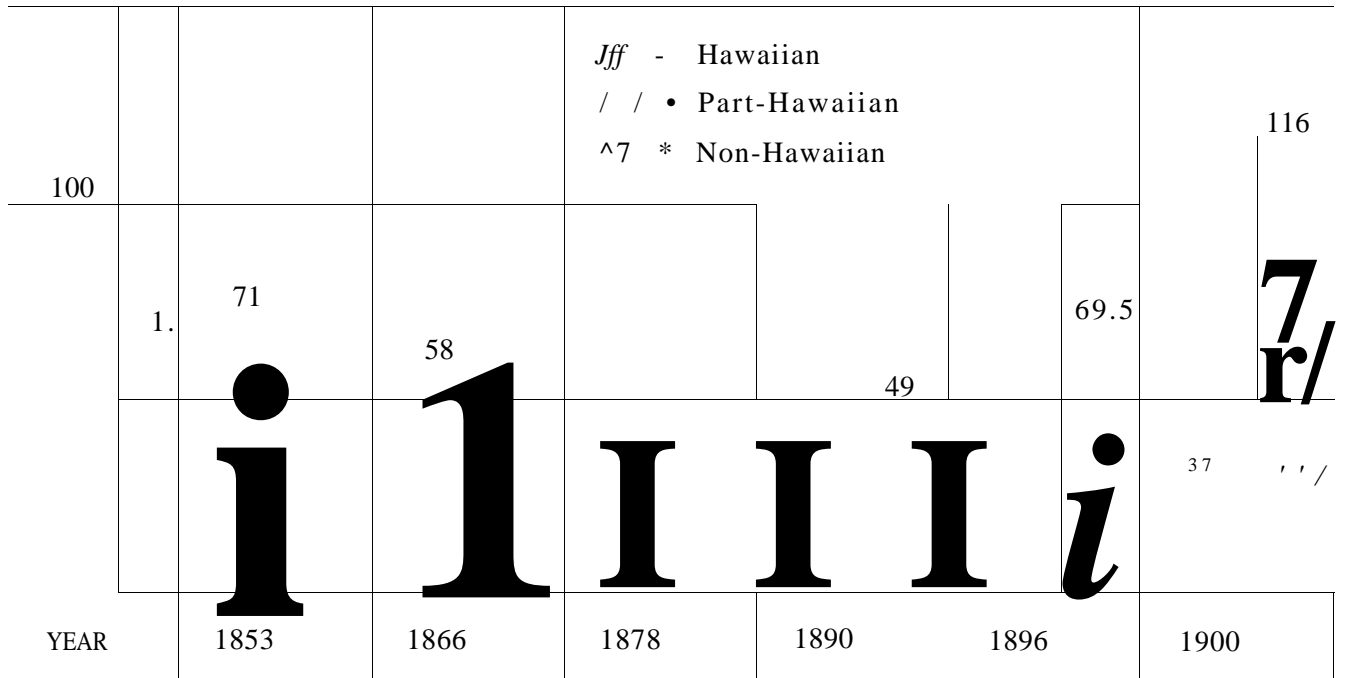


CHART 2

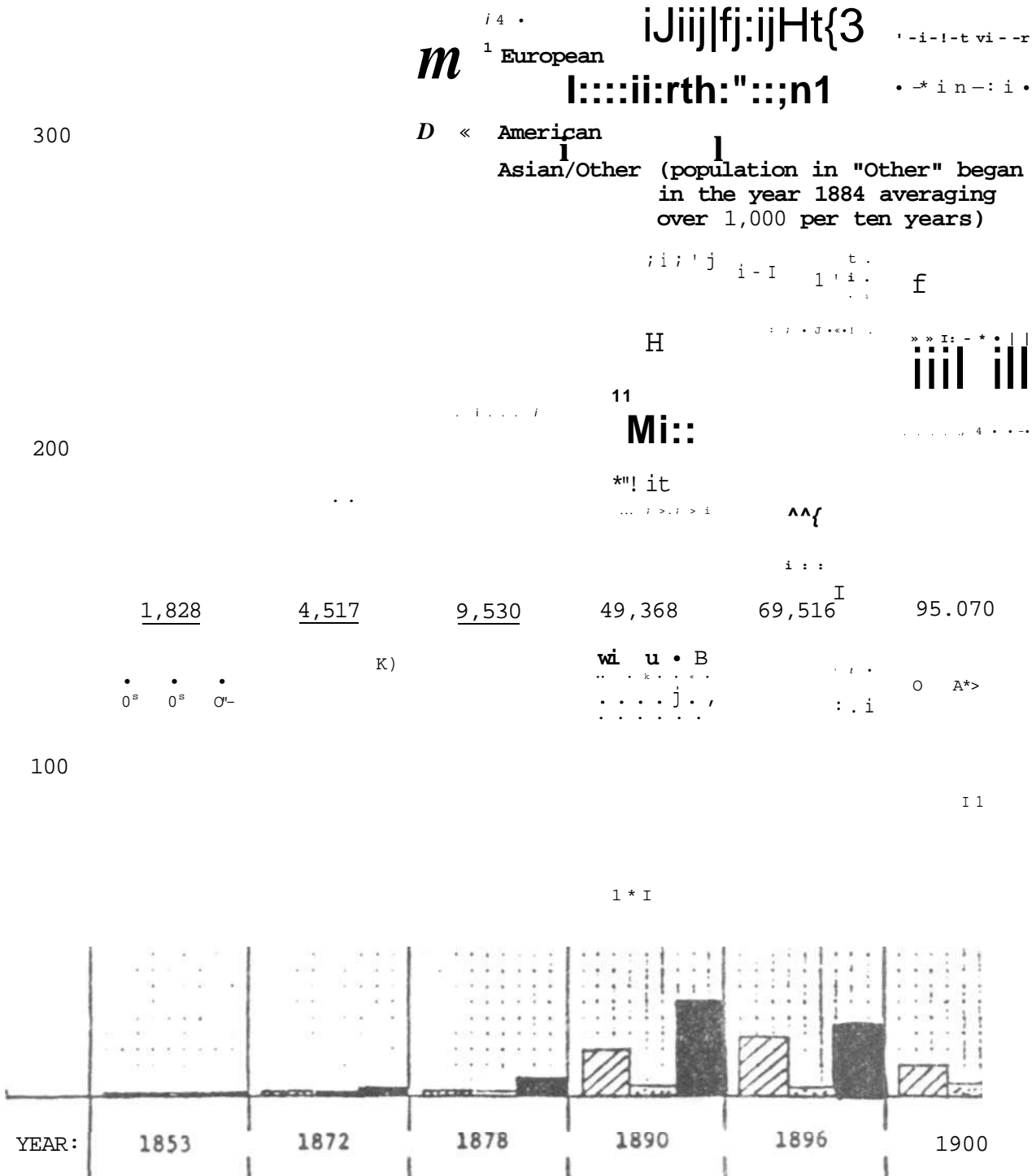
TOTAL POPULATION BY RACE
1853-1900
(in thousands)



Source: Schmitt, pp. 74 and 120.

CHART 3

NON-HAWAIIAN POPULATION BY NATIONAL ORIGIN
1853-1900
(in thousands)

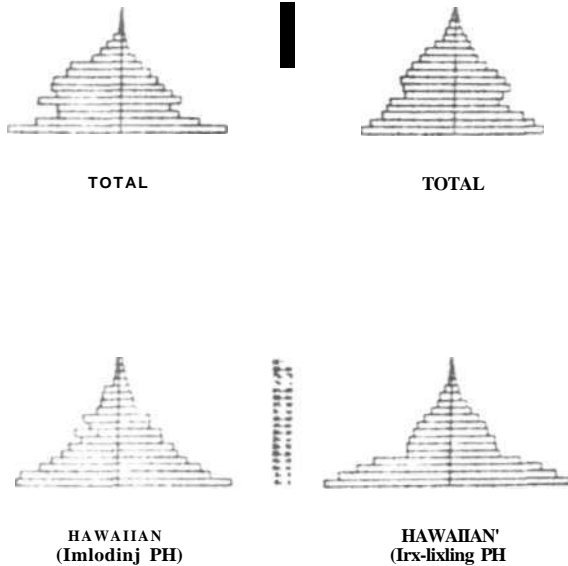


Source: Schmitt, pp. 75 and 121.

CHART 4

ACT AND SEX W rWCDS
1520,1960

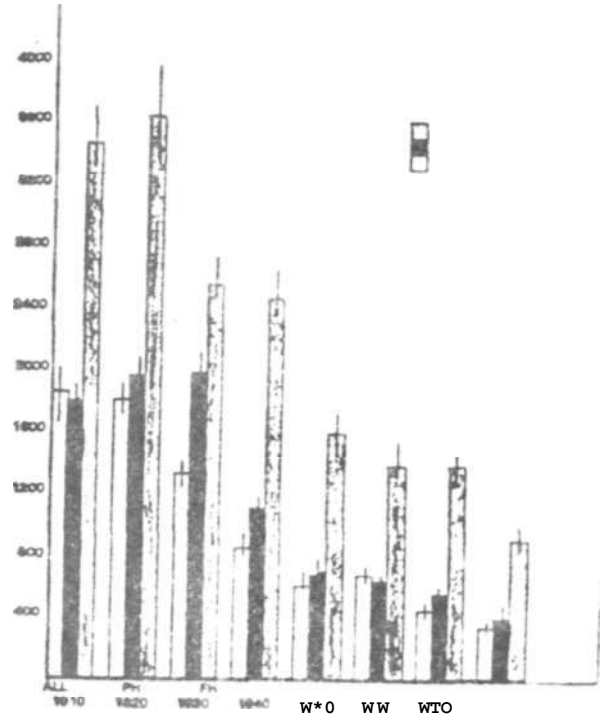
1«21)



Source: Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), p. 34.

CHAPT 5

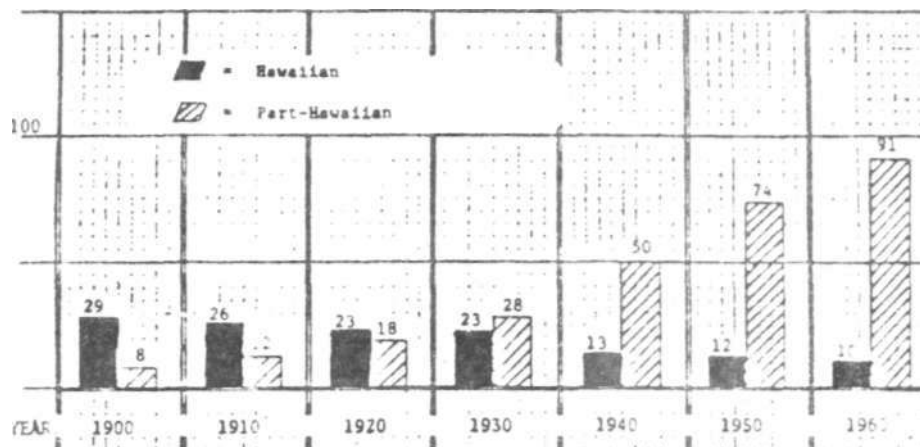
CAUSE CF DEATH: AU CAUSES BY STANDAKJIZEL'
RATES PEJ. 10(,000 POT. 95% CX



Source : Me 1 * r. look, A Mortality Study of the Hawaiian pe~fle, R 4 D Report, Issue No. 3B (Honolulu: Hawaii State Department of Health, Research ant* Statistics Office, 1962), p. 8.

CHART 6

NATIVE HAWAIIAN POPULATION
1900-1960
(in thousands)



Source: Schrutt, p. 120.

DEMOGRAPHICS

NOTES

1/ State of Hawaii, Office of the Governor, "Fact Sheet," April, 1981.

2/ As noted in the text, the Native Hawaiians Study Commission utilized data from a variety of sources. It was hoped, when the Commission began its work, that all 1980 Census data would be available to it before the statutory submission deadline for its Final Report. In fact, some U.S. 1980 Census data was made available by the Bureau of the Census via a special tabulation completed for the Commission (see "Housing" chapter). However, due to technical problems with the 1980 Census, the publication date for the more detailed information (by State and by ethnic group) was not available to the Commission before the printing deadline for the Commission's Final Report. However, in anticipation of this problem and as a result of comments received by the Commission on its Draft Report, the data that do appear in this Final Report are the most recent available--whether from State or Federal sources. A comparison of the historical trends in the text and the most recent data (most only 3 to 5 years old) available suggest that these trends could be expected to continue, even if 1980 Census data were available. As a summary, the following list presents the subject areas for which statistical data appear in this Final Report, and the latest year for which information was available to the Commission. With one exception, none of the data is dated before 1975, and two-thirds of the statistics are dated at least 1980. The areas where statistical data for native Hawaiians are presented are as follows:

Population 1980
 Age/sex statistics 1980
 Education 1977
 --Educational workforce 1980
 --U. of Hawaii enrollment... 1982
 Employment status 1975
 Occupation status 1975
 Income 1977
 Poverty level 1975
 Welfare 1962
 Criminal justice 1981
 Health
 - infant mortality rates 1980
 --characteristics of births. 1980
 - life expectancy 1970
 -leading causes of death... 1980
 - incidence of cancer 1973-80
 -acute conditions 1980
 --chronic conditions 1980
 -substance abuse 1979
 Interracial marriages 1980-81
 Housing characteristics ICS 1980

3/ Robert C. Schinitt, Demographic Statistics of Hawaii 1778-1965 (Honolulu: University of Hawaii Press, 1968). Robert C. Schmitt reviewed the Commission's Draft Report, made several comments on corrections (all of which were incorporated) and noted that: "Notwithstanding these errors, the demographic, statistical, and historical aspects of the study have been handled reasonably well, reflecting a satisfactory degree of competence and objectivity" (p. 3). Another comment received by the Commission disputes the relevance of the statistical section of the study. Congressman Cecil Heftel states:

Similarly the statistical compilations of the draft may have some uses but do not describe or define Hawaiians. To judge Hawaiians today in juxtaposition with their contemporaries may locate them, on

some socio-economic scale, but does not answer the crucial question: How true are their lives to native Hawaiian culture and values?

It is not enough to look back a century and reach certain conclusions, not enough to probe the past with modern statistical tools, unless you also are able to evaluate the Hawaiian experience and ethics against a Hawaiian concept. What may appear undesirable in one culture can have a logical explanation in another. To do a total, meaningful summation of Hawaiians, it will be necessary to measure them against Hawaiian values (pp. 1-2).

4/ Schmitt, pp. 18-22

5/ Ibid., p. 16.

6/ Ibid., p. 68.

11 Ibid., p. 114.

8/ Public Law 96-565, 96th Congress (94 STAT. 3321), Title III, Section 305, December 22, 1980.

9/ There was some confusion on definitions used in the Commission's Draft Report since these terms were not always used consistently (see comment by Herbert Jay (Nahaolelua) Almeida). An attempt has been made to correct that situation.

10/ Schmitt, p. 37.

11/ Adams, quoted in Schmitt, p. 37.

12/ Trene B. Taeuber, "Hawaii," Population Index 28 (April 1962):98.

13/ Schmitt, p. 39.

14/ Andrew w. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1968), p. 7.

15/ Ibid., pp. 17-19.

16/ Neil Levy, "Native Hawaiian Land Rights," The California Law Review, Volume 61 (July 1975): 549.

17/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume 1, 1778-1834, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), pp. 1-89. [Hereinafter cited as "Kuykendall, Volume I."]

18/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, From Polynesian King to America on-wealth (New York: Prentice-Hall, Inc. 1948), p. 42.

19/ For example, see Taeuber, p. 98 (cited above); Kuykendall and Day, p. 43; Kuykendall, Volume I, pp. 89-90; Schmitt, p. 36; Adams, p. 7. This paragraph was revised as the result of a comment by Congressman Daniel Akaka, who states: "The claim that 'social disruption' was caused by Kamehameha I becoming the prime agent for the sandalwood trade is made without substance (p. 19-20), where is the evidence for such a claim? There is no citation to indicate the source for this conclusion. Without an identification of both the source and the justification for its conclusion, I find the statement implausible since it suggests that the Hawaiians are to blame for their own demise" (p. 3).

20, Taeuber, 108.

21/ Romanio Adams, Interracial Marriage in Hawaii: A Study of the Mutually Conditioned Processes of Acculturation and Amalgamation, reprinted from 1937 ed. (New York: AMS Press, 1969). pp. 31-32.

- 22/ Lind, p. 45.
- 23/ Ibid., p. 47.
- 24/ Quote in comment received by the Commission from **Haunani-Kay Trask, et al.**, p. 6.
- 25/ Adams, p. 55.
- 26/ Kuykendall, Volume I, p. 106.
- 27/ Ibid., p. 110.
- 28/ Lind, p. 88.
- 29/ Ibid., p. 91.
- 30/ See comment by Haunani-Kay Trask, et al., p. 6.
- 31/ Andrew N. White and Marilyn Landis, The Mental Health of Native Hawaiians, Report Compiled for Alu Like, Inc. (September 1982), Table 3.9, p. 78. Data in this table from Hawaii Health Surveillance Program results.
- 32/ Comment by Violet Ku'ulei Ihara.
- 33/ White and Landis, Table 3.9, p. 78.
- 34/ Alu Like, Inc., "Information Presentation for the Native Hawaiian [sic] Study Commission" (January 9, 1982).
- 35/ Winona Rubin, Testimony Presented to the Joint Public Hearing of the [Hawaii] House and Senate Committees on Education (July 31, 1982, Honolulu), p. 1.
- 36/ Ibid., p. 2.
- 37/ Ibid., pp. 1-2. This paragraph added to Final Report as a result of comments received from Congressman Daniel Akaka, p. 4.
- 38/ Revised from Draft Report at suggestion of comments from Haunani-Kay Trask, et al, p. 6.
- 39/ Lind, p. 66.
- 40/ Ibid., p. 67.
- 41/ Ibid.
- 42/ Louis Agard, The Sandalwood Trees: Politics and Hope, p. 16. (Received by the Commission from John Agard.)
- 43/ Lind, p. 76.
- 44/ Ibid., p. 79.
- 45/ Ibid.
- 46/ Lawrence H. Fuchs, Hawaii Pono: A Social History (New York: Harcourt, Brace & World, Inc., 1961), p. 69.
- 47/ Lind, p. 79.
- 48/ Adams, pp. 243-247.
- 49/ Lind, pp. 81-83.
- 50/ U.S. Department of Commerce, Bureau of the Census, Census of the Population: 1970; General Social and Economic Characteristics, PC(1)-C1 (Washington, D.C.: U.S. Government Printing Office, 1972), pp. 500-501.
- 51/ Attachments to letter sent from Lloyd Aubry, Special Assistant to the Assistant Secretary of Policy, Evaluation and Research, U.S. Department of Labor, to Carl A. Anderson, Commissioner, Native Hawaiians Study Commission (April 1982). Note: Hawaii Data Book, p. 255, gives State rate of 10.3 percent for 1976.
- A comment received by the Commission from Louis Agard notes that this relatively low unemployment rate for

the State of Hawaii may be misleading: "Low unemployment rates in Hawaii do not necessarily mean high job opportunities are available in Hawaii... While employment appears high because the unemployment rate is low at 6%, the fact is that a surplus of labor is evidenced by higher wages on the mainland U.S. than in Hawaii in nearly every instance" (p. 46).

52/ 1975 Office of Economic Opportunity, Special Sample; in University of Hawaii, Report to the 1982 Legislature in Response to H.R. 509, Requesting the University of Hawaii to Study the Underrepresentation of Ethnic Groups in the Student Population of the University System (November 1981), Table 23.

53/ Lind, p. 99.

54/ Comments received from Haunani-Kay Trask, et al, p. 7; Robert C. Schmitt, Hawaii State Statistician, p. i; and Hideto Kono, Hawaii Department of Planning and Economic Development, p. 1.

55/ Comments received from Haunani-Kay Trask, et al, p. 7.

56/ Hawaii Health Surveillance Program, Population Report Number 11 (Honolulu: Hawaii State Department of Health, 1979); cited in White and Landis, Table 3.14, p. 83.

57/ Comment received from Franklin Y. K. Sunn, Director, State of Hawaii Department of Social Services and Housing (DSSH). DSSH also updated the table on welfare for the Commission.

58/ The Commission received a comment from the Hawaii State Department of Social Services and Housing that states the following with regard to these findings: "The view expressed in this summary appears

somewhat paradoxical, inasmuch as the low income status (perceived as 'dismal' in the summary) of some native Hawaiians could also have been the result of individual choice, i.e., for a 'back-to-the-land,' shun western materialistic cultures kind of approach. (This is an approach espoused by many Hawaiian activist organizations.) The question, then, is from whose perspective is this summary statement made?" (p. ?). A similar comment was made by Louis Agard (p. 50): "Mostly it is important to remember that many if not the majority of native Hawaiians enjoy a more simple lifestyle and therefore are considered at the poverty level in Hawaii society. This is the lifestyle they have selected to enjoy. Rather than the accumulation of material things native Hawaiians are more interested in the justice of sharing. But native Hawaiians have been obliged to conform to other standards and must fend for themselves in the system."

59/ Comments received from Robert C. Schmitt, Hawaii State Statistician, p. 2; Haunani-Kay Trask, et al, p. 7; and Franklin Y. K. Sunn, Director, State of Hawaii Department of Social Services and Housing, pp. 2-3.

60/ Comments by Schmitt.

61/ Ibid.

62/ State of Hawaii, Hawaii Criminal Justice Information Center, Crime in Hawaii 1981; A Review of Uniform Crime Reports (April 1981), p. 39.

63/ If the Hawaii Health Surveillance Program data on population had been used, the exceptions, besides manslaughter and gambling, would include larceny-theft and drug abuse.

64/ See comments submitted to the Commission. Haunani-Kay Trask, et al, states that figures on incarceration are "crucial since they reveal racism in B**ntencing and other judicial policies as well as the overall state of oppression of Hawaiians" (p. 7). Louis Aqard writes that: "[High arrest rates for native Americans] support the charges of oppression by the use of racism, and minority groups must conform to those very laws and social practices designed to maintain their subjugation" (p. 30).

65/ Mental health is not discussed in this section; it is extensively discussed below in the "Health and Social Services" chapter.

The entire section on Health in this chapter was substantially revised from the Commission's Draft Report, primarily as a result of extensive comments received from Thomas A. Burch, M.D., Chief, Research and Statistics Office, Hawaii State Department of Health. The Commission is grateful to Dr. Burch for the time and effort he expended in updating many of the statistics in this section. Dr. Burch also reviewed the revised draft before publication of the Final Report.

Readers should be aware that the Hawaii State Department of Health data used in this section is not comparable to data from the U.S. Census Bureau. The collection method for Hawaii State Department of Health data is as follows:

The race recorded on vital statistics records at the Department of Health--birth, death, and marriage certificates--is based entirely upon voluntary information and, hence, cannot be considered as indicating true genetic relationships.

The race of a child is determined from the race of the parents

entered on the birth certificate in accordance with the following policies which are based upon the procedure used by the Bureau of the Census on those censuses conducted prior to 1970. If the race of both parents is the same, the child is coded as that race. If the race of both parents is not the same and either parent is designated Hawaiian or Part-Hawaiian, the child is coded Part-Hawaiian. If either parent is designated Negro or Black, the child is coded Negro. In all other mixtures, the child is coded according to the race of the father. Illegitimate births are coded according to the race of the mother.

The races coded on a marriage certificate are whatever race the bride and groom recorded when they obtained their marriage license. The race on a death certificate is whatever race the informant gave the funeral director who prepared the death certificate.

The race of an individual included in the department's household health survey is coded in accordance with the above criteria based on the race of the individual's parents as furnished by the respondent. Individuals whose parents are of different races are coded either Part-Hawaiian or Other Mixture depending upon the racial mix.

The race item on the 1970 and 1980 United States decennial census was based entirely upon self-identification AS a single race so that it is no longer possible to get counts of racial mixtures from the census. The race items from the 1970 and 1980 census are not comparable with the race designations of the Department of Health--or any other race statistics collected in Hawaii. (Communication received from Dr. Thomas A.

Butch, Chief, Research and Statistics Office, State of Hawaii, Department of Health, dated January 13, 1983. Hereinafter referred to as "Burch, Hawaii State Department of Health.")

66/ Comment received from Robert C. Schmitt, p. 2. Also mentioned in comment received from Richard Kekuni Blaisdell, p. 1.

67/ The remainder of this paragraph based on information provided by Richard Kekuni Blaisdell, p. 2.

68/ Department of Health, State of Hawaii, Annual Report, Statistical Supplement, 1980, September 1981, p. 19.

69/ Ibid., p. 9.

70/ The information on infant death rates that appeared in the Commission's Draft Report was substantially revised as the result of comments received from the Hawaii Department of Health. This quotation is from Burch, Hawaii State Department of Health.

71/ Comments received from Richard Kekuni Blaisdell point out that in examining cause of death over time the reader should be aware that the data will not be strictly comparable since "concepts of illness and diagnostic criteria for 'diseases' vary with time and recorder" (p. 3). The Hawaii Department of Health has produced a Study in which death certificates from 1910 to 1960 were re-coded using current classification of diseases to attempt to address this problem, and it is this data that is used in the Rele A. Look study discussed below.

72/ Information provided to the Commission by Dr. Burch, Hawaii State Department of Health. Comments from Richard Kekuni Blaisdell also suggested including such information.

73/ Me^A A. Look, A Mortality Study of the Hawaiian People, B & .- Report, Issue No. 38 (Honolulu: Hawaii State Department of Health, Research and Statistics Office, February 1982).

74/ The list presented here is taken from Look's study. Comments received from Richard Kekuni Blaisdell suggest the following reasons: "lower income level; inadequate health care; different cultural concepts of health and illness" (p. 3). See Blaisdell, paper entitled, "Health Section of Native Hawaiians Study: a mission Report," written at the direction of and funded by the Office of Hawaiian Affairs. This paper reproduced in the comments section of the Appendix of this Report.

75/ This section contributed by Dr. Burch, Hawaii State Department of Health. Comments from Richard Kekuni Blaisdell also suggested including such information.

76/ Other data on the health status of native Hawaiian* exist that have not been included in this report, but that confirm that the native Hawaiian population has special health problems. For example: data on the highest incidence of coronary atherosclerotic heart disease in Hawaiians/Part-Hawaiians; data on the highest prevalence of end-stage renal disease (kidney failure, in Hawaiians; data on congenital/inherited disorders, such as the highest incidence of club-foot among Hawaiians; data on the highest rates of teen-age pregnancies among Hawaiian girls; data on elderly Hawaiians, such as published by Alu Like, indicating that 75.9% of Hawaiians vs. 66.3% of non-Hawaiians over 65 years of age stated they had major chronic illness; data on medical care, such as cited by Alu Like, that 15.7% of Hawaiians over 15 years had no health insurance vs. 9% of non-Hawaiians; data on, the

relative paucity of Hawaiian health professionals. (See Appendix, comment by Richard Kekuni Blaisdell and paper by Blaisdell on "Health Section of Native Hawaiians Study Commission Report" for complete references to these data and studies.)

77/ Hawaii State Department of Health, Annual Report, Statistical Supplement, 1980, p. 60.

78/ Information received in comment from Richard Kekuni Blaisdell, p. 3. Information he presented is from a study by Alu Like, Inc., entitled, Mortality and Morbidity of Native Hawaiians, 1977.

79/ Hawaii State Department of Health, Needs Assessment; Alcohol and Drug Abuse (Honolulu: Hawaii State Department of Health, Alcohol and Drug Abuse Branch, 1980), p. 2.

80/ Ibid., p. 1.

81/ Ibid.

82/ Ibid. p- 8.

83/ Ibid. p* 9.

84/ Ibid. p- 10.

85/ Ibid. p- 14.

86/ Ibid. p- 17.

87/ Ibid. pp . 18-19

88/ Ibid. p« 23.

89/ Ibid. p- 26.

90/ Ibid. p« 29.

91/ Ibid. pp 36 an

mental health data, see chapter below entitled, "Health and Social Services."

92/ Adams, pp. 43-44.

93/ Ibid. p. 44.

94/ Ibid., p. 47.

95/ Lind, p. 109.

96/ Ibid., p. 62.

97/ Louis Agard, The Sandalwood Treest Politics and Hope, p. 50; Haunani-Kay Trask, et al, p. 8.

98/ Adams, p. 44.

99/ Louis Agard, p. 50.

100/ Ibid., p. 51.

101/ For versions of this episode see, for example: comment received from Louis Agard, p. 51; Kuykendall and Day, p. 221; Fuchs, pp. 189-190; and Gavan Daws, Shoal of Time: A History of the Hawaiian Islands (New York: The MacMillan Company, 1968), pp. 317-327.

102/ Fuchs, p. 189.

103/ Ibid.

104/ Ibid., p. 190.

105/ William Adam Russ, Jr., The Hawaiian Republic 1894-1898 (Selinsgrove, Pa.: Susquehanna University Press, 1961), p. 20.

106/ Ibid., p. 21.

107/ Ibid., p. 26.

108/ Daws, p. 281.

109/ Russ, The Hawaiian Republic, p. 33.

110/ Ibid., p. 34.

111/ Ibid., p. 32.

112/ Ibid.

113/ Daws, p. 281.

114/ Puss, The Hawaiian Republic,
p. 46.

115/ Ibid.

116/ Daws, p. 294. The above section on voting requirements in the Republic of Hawaii was extensively revised in response to comments by Congressman Daniel Akaka (p. 4) and Haunani-Kay Trask, et al (p. 8).

117/ Fuchs, p. 161.

118/ Lind, p. 96.

119/ Comment by Herbert Jay (Nahaolelua) Almeida says that: "The report fails to recognize that ethnic bloc voting has had an impact on politics in Hawaii. The AJA (Americans of Japanese Ancestry) population, for instance, was a significant factor in the 1963 Gubernatorial race results (See To Catch a Wave)" [/. 2). Haunani-Kay Trask notes that to say that candidates for political office are not helped by appealing to ethnic groups is "a falsehood since elections are constantly characterized by ethnic appeals; in modern Hawaii these appeals have been to the growing Japanese electorate" (pp. 8-9).

120/ Fu.-hs, pp. J47-3.

121/ Ibid., p. 348.

122/ Ibid., p. 349.

123/ Ibid.

124/ Ibid., p. 350.

Health And Social Services

A. INTRODUCTION

Since a wide variety of health statistics for native Hawaiians and for the State of Hawaii were presented in the previous chapter, they will not be repeated here. Instead, this chapter will focus on the historical and cultural background of native Hawaiian health; and the State and federal programs that exist to address the health needs of all residents of the State, as well as programs specifically for native Hawaiians,

The Hawaii State Health Department administers a wide range of programs emphasizing health maintenance and promotion, risk reduction, and preventive services. 1/ Total expenditures by the Department for the fiscal year ending June 30, 1980, were \$116,368,576. The Federal Government provided 12.1 percent of this amount, or 514,055,526. The various programs available to address health needs are described below. Descriptions include the services provided, the community served, and the problems encountered.

B. HISTORICAL AND CULTURAL BACKGROUND */

Critical historical events and unique cultural features influencing

*/ The following section on historical and cultural background is a complete reproduction of a section of the paper prepared by Richard Kekuni Blaisdeli, M.D., entitled: "Health Section of Native Hawaiians Study Commission Report" (pages 1 through 18, February, 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Dr. Blaisdeli is a Professor in the University of Hawaii's Medical School. Minor editorial changes have been made to conform to the Final Report's format, and the footnotes have been redesignated for the convenience of

the health and illness of native Hawaiians are conveniently considered in three periods: before contact with the non-Polynesian world; contact, beginning with Captain James Cook in 1778 to the overthrow of the monarchy in 1893; and the end of the kingdom to the present,

Pre-contact (Ancient to 1778)

Health and Illness

Prior to and at the same time of the arrival of Captain Cook in January 1778, the Hawaiians of old were generally healthy because they had adapted effectively to island ecosystems about them, and they had lived in isolation from the rest of the planet for over 500 years. 2/ Gene strength was evident in a flourishing population of an estimated 300,000 at the time of Captain Cook. 3/ These were descendants of perhaps one hundred hardy, first settlers who had arrived more than 1,000 years previously from the South Pacific, after braving over 2,000 miles of open sea in double-hulled canoes. Some gene weakness was possible because of

(cont'd) the reader. Except for these changes, the section of Dr. Blaisdeli's paper appears as submitted by OHA and is otherwise unchanged. The second part of Dr. Blaisdeli's paper, "Health Profile," is not included here--it is consistent with the health data presented in the "Demographics" chapter of this Report which incorporates previous comments submitted to the Commission by "T. Blaisdeli. Dr. Blaisdeli's entire paper is reproduced in the Appendix of this Report and the references he used are marked with "[1]" in the "List of References."

the small gene pool, inbreeding, and opportunities for genetic drift. 4/ These genetic factors could account for congenital-hereditary deformities described below, and for the impaired immunity and peculiar hypersusceptibility to disseminated infections that characterized the later contact period.

The natives' food was mainly taro, sweet potato, yam, bread-fruit and banana, with fish, and for the maka'ainana (commoners), only infrequently pig and dog. This high-fibre, low-fat, unrefined and limited sugar diet ample in vitamins and abundant in minerals, is now considered superior to the usual fare of modern western societies, with one important common fault--excessive sod'ira. 5/ This is a basis for inferring that the natives of old probably also had some arterial hypertension and related disorders, as shall be discussed later.

Personal, household, and public cleanliness of the early Hawaiians are well documented *by* and were strictly controlled by kapu (sacred law) of the kahuna (priests). 6/ Physical activity in work and play was vigorous and enjoyable, and yet with adequate time for sleep and rest. 8/

There were no crowding, no public latrines, no garbage heaps or litter, and no use of human or animal excreta as fertilizer. Because of clean air, pure water, and unpolluted land and sea, promoted by the kapu, natives unknowingly maintained control of potentially harmful pathogenic microorganisms. 9/

The natives were free of the epidemic, contagious pestilences that scourged the continents in

recurring waves for thousands of years. However, the natives did have some focal infections as evidenced in pre-contact skeletons recovered from the same sand dunes. 10/ Dental caries, which result from acid-producing mouth bacteria acting on carbohydrate-containing foods, occurred in less than 7 percent of those under age 40, to 51.5 percent in persons over the age of 60--frequencies much lower than those observed today. 11/ Some bone abscesses, were also evident, such as in the maxilla or mandible, as extensions from dental pulp infections. 12/ "Boils" were also described in Cook's journals. 13/ Thus, the early Hawaiians were not entirely free of pathogenic organisms, as some have claimed. 14/

Metabolic maladies, so prominent in native Hawaiian today, were probably also present in their ancient ancestors. However, the evidence is largely indirect and their frequencies remain uncertain. The direct evidence is also to be found in unearthed bones, which show examples of gouty arthritis, degenerative arthritis, and rheumatoid arthritis. 15/ Common soft tissue disorders, such as coronary atherosclerotic heart disease, arterial hypertension, stroke, chronic obstructive lung disease, diabetes mellitus, and end-stage renal disease, are presumed to have occurred in pre-Cook Hawaiians because heredity appears to play some role in these diseases so prevalent in native Hawaiians today. 16/ However, since the life-style factors of the maka'ainana did not include a high-fat diet, cigarette smoking, physical inactivity, and oppressive stress, the frequencies of these "diseases of civilization" in the early Hawaiians were probably less than today. No

signs of nutritional deficiencies, such as rickets and scurvy, are apparent in the osseous materials. 17/

Evidence of metastatic cancer to the bony spine has been seen in one pre-contact specimen, 18/ but no obvious cases of neoplasm were described in Cook's journals.

Trauma from accidents or intentional violence was probably the most common class of ailments, as recorded in writings, 19/ and as observed in skeletal remains. 20/ "Poisoning" may have been due more to psychic effects 21/ than to direct pharmaceutical toxicity, because the pre-contact islands apparently had no lethally poisonous plants. 22/ The only type of chemical self-abuse known in old Hawaii was "kava debauchery," described among some ali'i in Cook's journals. 23/

Mental illness was described in the form of two natives who were "wrong in their senses" in Cook's journals. 24/ This single passage contrasts with frequent other references to the islanders being "social, friendly, hospitable, humane," "blessed with frank and cheerful disposition," and "mild and agreeable, not easily excitable," 25/ which support the views of subsequent foreigners that the natives were adept at coping with stress. 26/

Congenital-hereditary disorders were apparent to Cook's men in a young man "born with neither feet nor hands," another "born blind," and two dwarfs. 27/ Four cases of club foot were found among the 1,117 pre-contact persons buried at Mokapu. 28/ The described defects were probably related to inbreeding. The survival of these malformed natives beyond infancy counters the later claims by missionaries that infanticide was traditional and widely practiced. 29/ Cook's journals record the Hawaiians as being "totally unacquainted

with [Tahitians'] horrid custom of destroying their newborn infants." 30/ The natives prized physical beauty and practiced body molding of the infant and child. 31/ Some degree of infanticide of the severely deformed newborn may have been practiced, but there were no illegitimate births in the modern sense, and generally every child was lie pua (a flower) to be cherished, assuring continuity of the heritage and race. 32/

Medical Beliefs and Practices

Health and illness were another example of the all-pervading dualism of the early Hawaiians' belief system, like sky and earth, sun and moon, male and female, mind and body, and life and death. 33/

Wellness was maintaining mana, quantifiable energy, which was both inherited and acquired. Proper balance of mana was promoted by harmony with oneself, with others, and with the gods and nature, through continuous communication with the spiritual realm and correct thought and action. 34/ The kapu (taboo), established by the kahuna (priests), sanctioned by the ali'i, and enforced by all, fostered self-discipline and responsibility in personal hygiene, health-promotion, illness-prevention, public sanitation, and respect for nature, which was the domain of the gods. 35/ Illness was loss of mana from dysharmony, such as from violation of a kapu, offending a god, or ill-thinking. 36/

The elderly were esteemed. Death after a meaningful life was welcomed as a reuniting with one's ancestors in the eternal spiritual realm and completion of a recurring cycle of rebirth and transfiguration into kinolau (non-human forms) or reincarnation into other human forms. 37/

Diagnosis was determining the mechanism of loss of mana through psycho-spiritual communication, interviewing of the patient and his 'ohana (family), and physical examination, 38/ Treatment was restoring deficient mana through ritualistic communication with the psycho-spiritual realm of the gods, supplemented by special foods, secretly formulated herbals, physical therapy and limited surgery. 39/

Medical care for the commoner was the responsibility of the patient himself, and, if necessary, an experienced 'ohana elder. Only if the illness were serious, and expensive professional fees in hogs could be paid, did a maka'ainana engage the fastidious kahuna lapa'au (priest-physician), rigorously trained at the heiau ho'ola (healing temple). 40/ The ali'i had regular access to varieties of specialty kahuna lapa'au whose rituals and practices were elaborate and extensive. 41/

The Hawaiians' autopsy observations, 42/ use of the clyster-enema, 43/ and emetics and cathartics 44/ provide evidence of beginning experimentation and scientific reasoning not found elsewhere in Polynesia. 45/

This highly-refined, holistic and preventive health system, harmoniously integrated in their social fabric, with nature about them, and their spiritual realm beyond, was never to recover from the impact of western ways.

Contact (1778 to 1893)

Peopulation

Infections: In January 1778, the arrival of the first foreigners, Captain Cook and his seamen, brought medical disaster in the form of the venereal diseases, mainly gonorrhea and syphilis, tuberculosis, other

common contagious bacterial viral illnesses, as well as alcohol, gunfire, and other forms of disrespect for the kapu, the gods, and nature. One year later, in March 1779, when these first visitors departed, the natives could see from the sick and dead about them, that "the sliding way of death" had begun. 46/

In 1804, the diarrheal epidemic of ma'i 'oku'u (probably cholera or typhoid) killed perhaps 15,000, 47/ and convinced Kamehameha the Great that the gods did not favor his military invasion of the island of Kauai. 48/

Subsequent sporadic "catarrhs and fevers" took other lives, so that by 1820, when the first missionaries landed, the population estimate of 150,000 was half that at the time of Cook, about 40 years previously. 49/ Other outbreaks of disease occurred as follows:

- In 1824, Kamehameha II and his sister-wife Queen Kāruia died of measles in London. 50/
- In 1824-1826 and again in 1832, epidemics of cough (whooping?) and measles killed thousands of natives. 51/
- In 1839, mumps killed "great numbers" including Kina'u, kuhina nui (regent), daughter of Kamehameha the Great, and mother of Kamehameha IV and V. 52/
- In 1845-1849, epidemics of measles and pertussis and then diarrhea and influenza left over 12,000 dead. 53/
- In 1840, the first case of leprosy in a Hawaiian was detected. 54/ In 1865, because of the alarming spread of this fearsome malady, a new

segregation law established a receiving leprosy hospital in Honolulu and isolation of lepers on the Kalaupapa peninsula of the island of Molokai. 55/ One out of every 39 (2.6 percent) of native Hawaiians was affected, whereas the occurrence in non-Hawaiians was one in 1,847. 56/ A peak of 1,310 active cases was reached at the end of the century, and over the 40 years since the start of segregation, an estimated 4,000 natives died of this affliction. 57/

In 1853, 1861, 1873, and again in 1882, smallpox took over 7,000 lives, in spite of compulsory smallpox vaccination in 1854. 58/

In 1857, an epidemic of colds, headache, sore throat, and deafness (influenza?) raged. 59/

In 1866, cough, chills, fever, vomiting, nose bleeding, and disability (dengue?) affected hundreds.

In 1878-1880, whooping cough brought death to 68 in Honolulu. 60/

In 1888, whooping cough struck again with 104 lives, and in 1890 diphtheria. 61/

In 1889-1890, measles and dysentery killed 26. 62/

By the time of the overthrow of the monarchy in 1893, the native Hawaiian population was reduced by 87 percent to about 40,000. 63/

Lack of Immunity, Genetic and Other Factors: Multiple factors probably accounted for the steep logarithmic decline in the population of the pure Hawaiian. 64/ Introduced infections, as cited above, in a people who lacked immunity because of their long isolation, not only explained high and irregular direct mortality, but could also explain the decreased birth rate. Local, genital, venereal, and other infections, and general, systemic infections probably impaired fertility in both men and women, increased early and late fetal deaths in utero, and contributed to neonatal and infant mortality, through indirect general debility and malnutrition. 65/

Latent genetic defects could have predisposed to reduced birth rates, 66/ and probably account for the natives' hypersusceptibility to chronic infections, aside from impaired immune mechanisms, such as in leprosy and tuberculosis. 67/

Other chronic metabolic illnesses, not readily or specifically diagnosable, especially among the maka'-ainana, but related largely to conflicting life-styles, were probably also taking their toll. These disorders include arterial hypertension, atherosclerosis, heart, kidney, and lung failure, stroke, and diabetes, so prevalent among modern Hawaiians. 68/

Among the ali'i, these terminal illnesses were identified as follows: in 1854 Kamehameha III died at age 42 of convulsions and delirium that could have been a stroke; in 1863 Kamehameha IV died with asthma at the age of 29; in 1872, at the age of 42, Kamehameha V succumbed of "buttock abscess, dropsy and asphyxia;" in 1883, Princess Ke'elikolani died at age 57 of heart failure; in 1884, Queen Emma died of stroke at the age of 49; and in 1891, King Kalakaua died at the age of 54 of "Bright's disease" (kidney failure). 69/

Despair: Cultural conflict resulted in disintegration of the old social order. In 1819, despairing because the kapu were no longer effective, the Hawaiians themselves, under the leadership of Kamehameha II, Queen Kaahumanu, and High Priest Hewahewa, formally abolished these strict sacred laws that governed personal hygiene and public sanitation. 70/ Gross pollution of person, home, the land, and water followed, as described and decried by the missionaries and other foreigners. 71/ There was decline of ali'i leadership and stewardship as the chiefs sought material luxury by exploitation of the naka'ainana in sandalwood and other trade with foreigners. 72/

with alienation from the land came disruption of the 'ohana and replacement of their traditional self-reliant, ahupua'a subsistence economy by an urban market economy. The kahuna and 'ohana educational systems disintegrated. New social ills emerged, such as alcoholism, tobaccoism, vagrancy, prostitution, and the malnutrition of processed foods. Finally, there was the perception by the native Hawaiians, preached by the missionaries, of the "superiority" of certain western ways and material culture, compared to native "primitive" beliefs and practices. The stress was too overwhelming for many islanders. Some fled, like an estimated 5,000 out-migrating Hawaiians in 1850. Others despaired inwardly, lost their will to live in a haole-dominated new order that made them strangers in their homeland, as they sought the comfort of death. 73/

Inadequacy of Traditional Native Medicine for Haole Illnesses

In this period of culture shock, there evolved a makeshift, loose health care system for native

Hawaiians with the following characteristics.

Although the major gods had been toppled, and the kahuna hierarchy abolished, the kanuna lapa'au remained underground. These officially disenfranchised kali aria, plus experienced 'ohana elders, and the patient himself, continued to care for "Hawaiian illnesses" as of yore, but with some modifications. 74/

Newly-introduced plants, such as the guava and eucalyptus, were incorporated into the native materia medica. Some western notions of disease and the pharmaceutical action of herbals on body functions were adopted, therapeutic effects that were not mediated by the traditional native concept of restoration of cana. However, there was still some reliance on aumakua, or family guardians, although the senior gods had departed. 75/ As the heiau ho'cla, as well as the other heiau, were destroyed, formal training of kahuna ceased. They were replaced by more self-styled, poorly-trained or untrained "kahuna," many of whom incurred the denunciation of missionaries, other foreigners, and even some native Hawaiians. 76/

"Hawaiian medicine for Hawaiian disease" probably survived because at that time, non-Hawaiian medicine was no more effective. Psycho-spiritual aspects of native medical care merged with new beliefs, such as Christianity, sometimes confusingly so, or were abandoned so that little of the old liturgy found its way into print when the natives learned how to write. 77/

Haole illnesses, such as gonorrhea, syphilis, cholera, diphtheria, measles, mumps, smallpox, and tuberculosis, did not respond to Hawaiian medicine, and since there were too few haole physicians initially to demonstrate that haole medicine was no better, some natives tried whatever was called haole medicine. 78/

Ascent of Haole Medicine

Haole surgery, however, was perceived as generally superior, with metal instruments, instead of bamboo or adzes, for resections, incision, and drainage of abscesses, and the techniques of suturing and ligature to arrest bleeding and promote wound healing. 79/

Western public health measures replaced the old kapu system, but initially they, too, did not seem any more effective against the devastating contagious epidemics. Key events in this area include:

- In 1836, kuhma nui Kina'u was advised to issue the first public health proclamation—the Honolulu harbor pilot was instructed to screen all foreign-arriving vessels for smallpox and other pestilences. 80/
- In 1850, Kamehameha III created a board of Health, and the first public water pipeline carried fresh water from Nu'uuanu Valley to Honolulu harbor to fill water casks. 81/
- In 1854, smallpox vaccination was made compulsory, but three smallpox epidemics followed, the latest in 1882. 82/
- In 1855, a drug law for western medications was passed and the "Hawaiian Medical Society" for haole physicians was chartered. 83/
- In 1859, the queen's Hospital, providing western medical care, was founded by King Kamehameha IV and Queen Emma. It was the first hospital for native Hawaiians, 22 years after the first of seven hospitals had been opened for foreigners. 84/
- In 1862, the first Sanitation Commission was appointed. 85/
- In 1864, burial of the dead **was** regulated by law. 86/
- In 1865, the first receiving hospital for lepers opened in Kalihi, in Honolulu, with the kingdom's new segregation laws. The following year, the first lepers were exiled to Kalawao on the Kalaupapa peninsula on the island of Molokai. 87/ In 1890, the population of the settlement reached a peak of more than 1,200. There was no satisfactory therapy and the annual death rate varied from 12 percent to 20 percent. 88/
- In 1866, the first insane asylum opened in Palama, Honolulu, with six patients. 89/
- In 1868, during the reign of Kamehameha V, a "Hawaiian Board of Health" licensed practitioners of native medicine, but certain rituals of old were proscribed, and no formal training was authorized. 90/
- In 1870, ex-missionary and ex-Prime Minister Dr. Gerrit P. Judd was authorized by the Board of Education to establish the first medical school of western medicine. Two years later, ten young native graduates were licensed to practice haole medicine, but shortly thereafter Dr. Judd had a stroke and the school was closed. 91/
- In 1873, collection of garbage and street-cleaning began in Honolulu. 92/
- In 1874, King Lunalilo died of "pulmonary consumption"

(tuberculosis) and alcoholism. His will provided for "a home for elderly infirm and destitute Hawaiians," which opened in Makiki in 1885. 93/

In 1876, the legislature authorized drainage of taro wetlands that were declared "insanitary." 94/

In 1879, the first artesian well for drinking, washing, and irrigation was drilled at Honouliuli, Oahu by James Campbell, founder of the large, landholding Campbell Estate. 95/

In 1882, the first water filtration plant was constructed at Nu'uuanu, in Honolulu. 96/ Inspection of food and licensing of dairies began in Honolulu. 97/

- In 1884, the first local government hospital, Malulani, was opened at Wailuku, Maui. 98/
- In 1886, the first plantation hospital at Makaweli, Kauai was built by the Hawaiian Sugar Co. By 1890, there were 18,900 plantation employees and four plantation hospitals. 99/
- In 1880, the government of King Kalakaua was so alarmed at the decline of the native Hawaiian population and the prevalence of squalor, insanitation, and morbidity, that the Board of Health issued a book in the Hawaiian language on Sanitary Instructions for Hawaiians, written by Walter Murray Gibson. 100/
- About the same time, the Ho'oulu a Ho'ola Lahui Society was

founded by the king and i^ueen Kapiolani "to propagate and perpetuate the race." A hon^e for destitute Hawaiians was established in Kaka'ako and the first Kapiolani Home for non-leprous children of leprous parents on Molokai opened next to the Kaka'ako Receiving Hospital. 101/

In 1890, the Kapiolani Maternity Home for birthing of infants of native Hawaiian women opened in the renovated house of the queen's recently-deceased sister, Princess Kekaulike, in Makiki in Honolulu. 102/ This private hospital was supported by contributions. Native 'women were not required to pay for their .redical care until 1917, when non-Hawaiians were first admitted. 103/

Overthrow of the Monarchy to the Present (1893-1933)

Population Changes

In 1893, with the dethronement of Queen Liliuokalani and the establishment of a non-elected Provisional Government by the haole business oligarchy, the native Hawaiians were already a minority in their homeland, although the pure Hawaiians still outnumbered the part-Hawaiians (see table in footnote). 104/ The controlling whites were the smallest minority, exceeded by the imported, non-voting Oriental laborers.

The contrast 90 years later,- in 1983, is striking. Native Hawaiians are relatively an even smaller minority, with the part-Hawaiians far outnumbering the almost vanished pure Hawaiians. The white population has greatly increased, although still exceeded by all Orientals combined. 105/

Major Illnesses

Serious infections continued in the early post-kingdom period, as is evident in the following chronology, but with no reliable, readily available data on the numbers or proportions of pure and part-Hawaiians involved. The population figures cited above provide only rough guidelines for such speculative inferences.

- In 1895, with the oligarchical Provisional Government succeeded by the oligarchical Republic of Hawaii, cholera swept through Honolulu and killed 64. 106/

In 1899, the bubonic plague took 61 lives. With the turn of the year, fire to control the plague-carrying rodents destroyed Chinatown in Honolulu, awakening public concern for the residual "filth, squalor...homeless, destitute and incurables," including more victims with tuberculosis that for the first time became reportable. 107/

In 1901, when the Honolulu Home for the Incurables (forerunner of Leahi Hospital) opened, 32 of the first 72 patients had tuberculosis. 108/

In 1903, when 900 known cases of tuberculosis were identified, about 32 percent were native Hawaiians. 109/ From 1900 to 1923, tuberculosis remained the number one reported "cause of death," with mortality as high as 200 per 1,000 population. The corresponding U.S. mainland tuberculosis mortality rate was declining from 152 to 92 per 1,000. By 1937, although TB mortality rates for all races

in Hawaii had fallen to 88 per 1,000, the rates for pure Hawaiians remained high at 265 and for part-Hawaiians at 126, while the rate for whites was 23 per 1,000. 110/

- In 1918-1920, the post-World War I influenza pandemic accounted for 1,700 deaths in Hawaii. 111/ During the war years, venereal disease became reportable. 112/
- In 1919, typhoid killed 42. 113/ In this year, the leading reported "causes of death" were influenza-pneumonia, tuberculosis, and diarrheas. 114/
- In 1920, leprosy still claimed 662 active hospital cases at Kalaupapa, with 114 new cases for the year, the majority native Hawaiians. 115/ Not until sulfone chemotherapy in 1946 did the mortality rate drop from 10 percent to 2.5 percent per year. 116/ By 1974, there were only 13 active cases of leprosy, but over 100 deformed and disabled mainly Hawaiians, with the kidney, nerve, skin, nasal, oral, facial, and limb complications of this dreaded disorder. 117/ The 29 new leprosy cases for that year were chiefly in immigrant non-Hawaiians. 118/
- In 1928-1929, acute meningitis accounted for 68 deaths. 119/
- In 1930, for the first time, heart diseases displaced infections as the leading reported "cause of death." 120/
- In 1936-1937, measles deaths numbered 205. 121/

- In 1940, the highest-ranking recorded "causes of death" in the Territory were heart diseases, cancer, and kidney failure. 122/
- In 1942, during the second World War, diphtheria involved 90. The following year, mosquito-borne dengue affected scores. 123/
- In 1950, the top reported "causes of death" were heart diseases, cancer, and stroke. 124/
- In 1958, acute poliomyelitis struck 77. 125/

Health Measures

The following anti-disease actions parallel similar developments on the U.S. mainland, but with some features distinctive of Hawaii and the native Hawaiian people.

- e In 189y, after the annexation of Hawaii to the United States as a territory, the first sewers were laid in Honolulu, then a city of 40,000. 126/
- In 1902, what is now Leahi Hospital opened on the mauka slope of Diamond Head in Kaimuki, Honolulu, as the Home for the Incurables, with four wards- It was a private institution created with contributions from nine wealthy businessmen of the haole oligarchy and \$750 from the Board of Health. 127/ The proportion of tuberculous patients rose from 50 percent initially, to 100 percent in 1950, when the Territorial Government built a new hospital wing and assumed operating expenses for the hospital, wi-free medical care for TB patients. 128/ In 1968, the hospital became a State institution of the University of Hawaii School of Medicine. In 1976, it was transferred to the State Department of Health. 129/
- In 1908, the U.S. Congress generously provided \$300,000 for the ambitious U.S. Leprosy Investigation Station on the Kalaupapa peninsula, Molokai. Only 9 of the 700 patients at the settlement agreed to participate in the Station's investigations, and then only for a few days, so the elaborate facility was compelled to shut down after only two years. 130/ In 1980, the U.S. Congress approved the recommendations of a commission that Kalaupapa be preserved indefinitely for the remaining leprosy patients there, and then become an historical and cultural reserve under the U.S. National Park Service. 131/ Active cases of leprosy are now treated at Leahi Hospital in Honolulu, but some patients are still championing the right to remain in the non-hospital, rural cottage setting of Hale Mohalu in Pearl City on Oahu. 132/
- In 1911, the first resident intern was appointed in Hawaii at the Queen's Hospital, a haole medical graduate from California. 133/
- In 1914, the first public health nurse was appointed by the Board of Health. 134/
- In 1916, the first school of nursing in Hawaii started at the Queen's Hospital. 135/

- In 1918, during World War I, venereal diseases became reportable. 136/
- In 1921, the Territorial Government established Waimano Home for the mentally-retarded and severely deformed. Statistics on the number of native Hawaiian patients institutionalized there are scheduled to be available in March 1983. 137/
- In 1925, the first maternal and child care programs were started by the Board of Health. 138/
- In 1930, the new Territorial mental health hospital opened at Kaneohe, Oahu with 541 patients. 139/
- In 1936, a Crippled Children's Bureau and Office of Health Education were created in the Board of Health. 140/
- In 1937, a separate Bureau of Vital Statistics was established. 141/
- In 1938, the Hawaii Medical Service Association (HMSA), a private health insurance firm, was founded by the Territory's school teachers and social workers. HMSA is now open to all and by 1975 it had over 400,000 members. 142/
- In 1967, the University of Hawaii School of Medicine accepted its first class of 25 students. None was a native Hawaiian. 143/

C. MENTAL HEALTH PROGRAMS

Mental Health Status of Native Hawaiians 144/

Native Hawaiians generally present the same variety and pattern of mental health problems as other groups in the State, according to a service and research project in Hawaii called Hale Ola o Ho'opakolea. 145/ (The efforts of this group will be described below.) One main difference, however, is that the native Hawaiians have "that unique set of problems associated with indigenous peoples living under a non-indigenous government." 146/ For instance, immigrants who are non-English speakers have a choice, usually, of returning to their respective countries to maintain their linguistic, cultural, and other ties, while native Hawaiians have no choice but to remain in Hawaii. Some native Hawaiians "perceive themselves as citizens of an unfairly defeated nation [and] some see themselves as an oppressed people." 147/

Native Hawaiians are a unique cultural group with long-standing traditional patterns of personal, family, and social behavior that still contribute to the identity and security of individuals in their daily lives. As a result, the causes of mental health problems, their perceptions by native Hawaiians, and the appropriate means by which they are resolved differ markedly from *non-*Hawaiians. 148/ The Hale Ola Project summarizes the situation as follows:

Pressures to successfully provide adequate income levels for families and stable jobs produce stresses among native Hawaiians and generate role and value

conflicts, and present competing incentives to maintain cooperative, Hawaiian collective lifeways or to adopt more contemporary, competitive and individualistic lifeways associated with modern American lifeways. A significant part of the problem is perhaps that there are no real alternatives that one can freely turn to aside from the dominant Western lifestyle. A great deal of evidence has been accumulated in particular on how a native Hawaiian child who wants to retain the Hawaiian lifestyle is heavily penalized in the state educational system.

Such conflicts and stresses foster mental and emotional disorders among native Hawaiian families in particular. In addition, lower levels of formal education attainment and higher levels of unemployment and underemployment contribute to stresses and disorders...^{149/}

Hawaii State Department of Health Programs

According to the Hawaii State Department of Health, the community's needs for mental health services exceed the available public and private resources, although the State is attempting to decrease the gap and make its services available to more people. The Mental Health Division of the Health Department now operates eight community mental health centers—five on Oahu, and one in each of the other counties (Hawaii, Maui, and Kauai). ^{150/} Many of these centers also operate satellite facilities to reach more people. The first ethnic-oriented mental health clinic, which is for Chinese-speaking persons, was opened in June 1980. A new program has also been funded to set up a network of community residential facilities.

The centers on the neighboring islands report some problems, mainly with manpower. The island of Hawaii has only one community residential facility for mentally-ill adults--with only four beds. The county hopes to expand the facility to twelve beds. Maui County reports that outpatient services are adequate in the Central Maui area, but are limited in West Maui, the South Shore and "up-country" areas, and on Molokai and Lanai.

In addition to its community mental health centers, the Mental Health Division also operates four specialized programs:

- Courts and Corrections, which provides mental health consultation to the State's court and correctional programs;
- Children's Mental Health Services;
- Hawaii State Hospital; and
- Alcohol and Drug Abuse.

The first three of these programs report problems of manpower availability that may restrict services.

The Alcohol and Drug Abuse program does not provide direct services itself. Through contracts with private agencies, the program allocates State and Federal funds to twenty-one drug abuse and alcohol programs statewide. The State program does provide technical assistance, research, and training to these local programs.

The Alcohol and Drug Abuse branch completed a statewide population survey of the incidence and prevalence of substance abuse in Hawaii. Preliminary data from the survey indicate that:

- Hawaii has a significantly higher percentage of people

using cocaine (4.7 percent) than the U.S. mainland (two percent);

- Marijuana is used by a slightly higher percentage of people in Hawaii (14.4 percent) than on the U.S. mainland (13 percent); and
- The current non-medical use of sedatives is also slightly higher in Hawaii (1.2 percent) compared to the U.S. mainland (0.7 percent). 151/

Federally-Funded Programs

The Hale Ola Project is a service and research effort supported by federal funds from the National Institute of Mental Health and the Administration for Native Americans (under the U.S. Department of Health and Human Services). 152/ The Project is administered in Hawaii by Alu Like, Inc., and was initiated because it was found that "Western approaches to therapy and mental health care are not entirely suitable or appropriate for non-Western, including native Hawaiian, individuals with mental or emotional problems." 153/

Hale Ola o Ho'opakolea is a recent effort to test and demonstrate the effectiveness of an alternate and culturally-sensitive approach to meeting the mental health care needs of native Hawaiians. The three-year project (entering its third and final year at the beginning of 1983) is located on the Wai'anae Coast.

According to the Project Director, the Hale Ola Project is a unique effort in several respects. It represents the first time that a service center has been established to utilize a culturally-sensitive approach to service delivery targeted for native Hawaiians with mental, emotional, and related problems. It

is a center that employs qualified service staff drawn from the Wai'anae Coast communities to provide counseling, referral, follow-up, training, and information gathering in a manner appropriate to native Hawaiians. Informal approaches to care-giving assistance are emphasized **and** flexibility is maintained with regard to setting the time and frequency with which care is provided. Hale Ola also represents a unique effort to identify, recruit, and coordinate the variety of informal care-givers and natural healers who are present in every community and offer a wide range of services generally uncatalogued and unacknowledged by professional service agencies. Hale Ola is working to link formal and informal sources of assistance in order to create a network of care for individuals with various kinds of problems and service needs. Finally, Hale Ola is unique in its organizational character; it was initiated by Wai'anae Coast community groups and it continues to be directly guided by and responsible to a community-based administrative committee consisting of residents and service agency staff.

The Hale Ola Project has also been responsible for sponsoring cultural research efforts that seek to elicit specific kinds of information directly applicable to culturally-sensitive service delivery. In particular, Hale Ola has formulated a community research program that consists of three main research efforts:

- A community survey of native Hawaiian perception and communication styles with regard to personal problems;
- A survey of informal care-givers and natural healers on the Wai'anae Coast; and

- A survey of the knowledge, attitudes, and practices of formal agency-based service providers on the Coast with regard to their sensitivity to native Hawaiian service needs.

By the beginning of 1983, the first research effort had been completed and documentation of this effort was being produced. The second effort was almost completed, and the third was being initiated.

Another program involving federal funds transferred from the National Institute of Mental Health to the Administration for Native Americans is the "Most-In-Need" (MIN) project. ^{154/} This program, also administered by Alu Like, addresses the needs of native Hawaiian youth through service transition change, as well as improved relations among community, private, county, and state agencies. The need for this program was founded in the experience that native Hawaiian youth were particularly affected by disjointed care from traditional service delivery systems.

On the island of Molokai, the most-in-need group was identified by island human service providers as native Hawaiian youngsters between the ages of 12 and 14 years, residing in the Hawaiian Homestead areas of Hoolehua, Kalamaula, Kapaakea, Kamiloloa and One Alii. Puu Huoli, a subsidized housing project in Kaunakakai, and the Mana'e (east) end of the island, were also targeted. An estimated 250 youth fall into the target group.

Since 1979, the MIN Project has contacted and established positive relationships with over 150 native Hawaiian youngsters. The Project operated a demonstration summer program for two years and implemented a special after-school program in 1981 in the Hoolehua, Kaunakakai, and Mana'e areas. In addition, MIN conducted studies in juvenile

delinquency and recreation to further clarify problems and concerns on Molokai.

D. MEDICAL HEALTH SERVICES

Among the programs operated by the State of Hawaii in this area are: public health nursing, chronic diseases, and nutrition.

The public health nursing program focuses on "wellness"-health promotion and maintenance, and disease prevention. The program provided services to 33,268 individuals during 1979-80, through visits to homes, private and parochial schools, day care centers, care homes, neighborhood centers, and nursing offices. The program also provides ongoing home health services to eligible people on Molokai and Lanai.

The objective of the Chronic Disease Branch is to reduce the complications and severity of chronic diseases by providing prevention, detection, and educational services. Major activities include:

- Screening for diabetes, hypertension, and cervical cancer;
- Provision of financial assistance to those with end-stage kidney disease; and
- Consultations to medical facilities about the rehabilitation care of chronically-ill patients.

The Nutrition Branch seeks to promote "wellness" in the State through good nutrition and the reduction of the risk of nutrition-related diseases. Direct nutrition services, consultation to other public and private agencies, and educational services are provided. Recently, the Branch developed and distributed a new publication that is entitled, "You Can Reduce Your Risk of Disease Through

Diet—Follow these Dietary Guidelines."

The Federal Government currently funds several programs in the priority medical health problem areas for native Hawaiians. ^{155/} The National Heart, Lung, and Blood Institute currently funds two large-scale programs in Hawaii concerning heart disease. The first is an epidemiologic study of heart disease conducted by the Geographic Diseases Section of the Honolulu Heart Study. The second is a high blood pressure education program directed at communication problems among ethnic groups.

There is also a great deal of activity in relation to cancer in the State of Hawaii. The National Cancer Institute, Public Health Service currently supports almost \$2.5 million in grants and contracts in Hawaii specifically directed at cancer. Among the subjects under study are alcohol and cancer, diet and prostate cancer, lung cancer and dietary vitamin A, and clinical cancer education programs.

E. FAMILY HEALTH SERVICES

The Family Health Services Division of the Hawaii State Department of Health offers several programs. Among them are: maternal and child health, school health, crippled children services, and community services for the developmentally disabled.

The goal of the Maternal and Child Health Branch is to "interrupt the cycle of medical and psychosocial problems which tend to be passed from one generation to another, particularly in the more disadvantaged families." ^{156/} In order to reach this goal, programs are offered in the areas of family planning, perinatal care, and growth and development from infancy through adolescence. The combined programs serve approximately

45,000 individual clients annually. Specific programs include:

- Maternity and infant care project clinics for low-income families in Hilo, Waimanalo, and Nanakuli;
- Attempts to prevent child/spouse abuse and neglect through identification of families at high risk and an integrated system of community support;
- Screening and referral for vision, hearing, and development delays of children attending preschools; and
- Children and youth project for low-income families in Waimanalo. ^{157/}

Special mention should be made of a project in Waimanalo, where the population consists of a high proportion of native Hawaiians. The Waimanalo Health Clinic is a combined Maternity and Infant Care/Children and Youth project. The Clinic offers a full range of services for mothers and children, and is staffed by a multidisciplinary team that includes specialists in speech and hearing, nutrition, public health nursing, social services, and medical services. The Clinic has developed unique projects in the areas of community public health nursing, adolescent health care, nutrition, and dental health programs. The Waimanalo Health Clinic is the only one of its kind in the State of Hawaii and "serves as a model to demonstrate the ideal in delivery of maternal and child health services in the community setting." ^{158/}

Under the School Health Program, health aides, supervised by school nurses, provide preventive and

emergency care in every public school in the State. The program also offers diagnostic evaluations for three- to ten-year-olds with learning disabilities.

The services provided by the Crippled Children Services Branch include: diagnosis, medical and surgical treatment, general counseling, occupational and physical therapy, speech therapy, social work, and nursing services. Diagnostic evaluations are provided without charge to all medically-eligible children. Treatment services are also free to families in financial need.

The Federal Government also provides funds for specific programs in the family health area. ^{159/} The U.S. Department of Health and Human Services supports:

- A program at the State Department of Health to support services to children with special needs;
- A special State project for mentally-retarded children; and
- 0 A medical genetics screening program at the State Department of Health.

In addition, the School of Public Health at the University of Hawaii is the recipient of \$301,000 in Federal funding to support a maternal and child health program directed to help young mothers during the pre- and postnatal periods.

F. COMMUNICABLE DISEASES

The Epidemiology Branch of the Hawaii State Department of Health operates the one venereal disease clinic in the State. Other programs include school immunization programs, an influenza vaccine program, and research on fish poisoning, salmonellosis, and leptospirosis. It is feared that the latter may be an

occupational hazard of the growing aquaculture industry, and surveillance activities to monitor the situation are to be intensified.

The Tuberculosis Program offers detection services and preventive treatment. Tuberculosis remains a problem in Hawaii because of immigration, particularly of Indo-Chinese refugees.

The other major program in the communicable diseases category is the Leprosy Program. At the end of December 1979, there were 458 cases of leprosy on the state register. Of these cases, 328 were outpatients, 12¹ were residents of Kalaupapa on Molokai, ^{160/} and six resided at the South Trotter Wing at Leahi Hospital on Oahu. The Communicable Disease Division reports that, over the past ten years, there have been an average of 40 new leprosy cases each year. Of these cases, about 80 percent involve people who were born in Samoa or the Philippines. The Leprosy Program does not collect ethnic data on patients, but has informed the Commission that the distribution of the small numbers of locally-born cases appear to be indicative of the ethnic population distribution in Hawaii. ^{161/}

Since 1974, the policy of the State has been to place all new leprosy cases under outpatient treatment, unless there are severe reactions or complications. Only three percent of the leprosy program budget was allocated to outpatient care in 1979-1980, while inpatient care accounted for the balance. The majority of the inpatients, as noted above, live in Kalaupapa, and their care is made more expensive by their advancing age (their average age in 1979 was 61). By law, the residents of Kalaupapa may live out the rest of their natural lives there.

In December 1980 (in the same public law that created the Native Hawaiians Study Commission), the U.S. Congress established the Kalaupapa National Historic Park. However, the

State of Hawaii continues to provide for the care of the patients.

G. COUNTY AND STATE HOSPITALS

The Hawaii State Department of Health administers four hospital systems that include **twelve hospitals** and one medical center. **These** facilities provide and **coordinate** high-quality acute and **long-term** health care to all citizens of **the** State, where such care is **not** routinely available from the **private sector**.

The locations of the facilities are as follows:

- Hawaii County: Five hospitals in Hilo, **Kona**, **Honokaa**, Kau and **Kohala**;
- Maui County: Two hospitals on Maui (Maui Memorial and Kula Hospital) and one medical center (at Hana); one hospital on Lanai;
- Honolulu County: Two hospitals (Leahi and Maluhia); and
- Kauai County: Two hospitals (Kauai Veterans and Samuel Mchelona Memorial).

H. OTHER PROGRAMS

The Hawaii State Department of Health also conducts the following programs:

- Dental health, with programs in dental hygiene, hospital dentistry, and community services;
- Waimano Training School and Hospital, which is the State's

only residential institution for the mentally retarded;

Health Promotion and Education, which promotes healthful lifestyles and health maintenance; and

The State Health Planning and Development Agency, whose activities are statewide planning for health services, manpower and facilities, and the development of resources to support its plans.

HEALTH AND SOCIAL SERVICES

NOTES

1/ All of the information on the Hawaii State Department of Health programs in this section is taken from the Hawaii State Department of Health, Narrative Annual Report, Fiscal Year Ended June 30, 1980; hereinafter referred to as "Dept. of Health, Annual Report, 1980."

2/ O. A. Bushnell, A History of Infectious Diseases in Hawaii (unpublished manuscript, 1970). Dr. Bushnell is Professor Emeritus at the Medical School of the University of Hawaii.

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4/ Bushnell, A History of Infectious Diseases in Hawaii.

5/ C. D. Miller, "The Influence of Foods and Food Habits upon the Stature of Teeth of the Ancient Hawaiians," Appendix E, in C. E. Snow, Early Hawaiians: An Initial Study of Skeletal Remains from Mokapu, Oahu (Lexington: University of Kentucky Press, 1974); and also, Personal Communication to Dr. Blaisdell from J. Hankin, University of Hawaii professor of nutrition, 1979.

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7/ Bushnell, "Hygiene and Sanitation among the Ancient Hawaiians."

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10/ See C. E. Snow, Early Hawaiians: An Initial Study of Skeletal Remains from Mokapu, Oahu; and I. J. Larsen, Ancient Hawaiian Medicine, Thesis for the American Orthopedic Academy, 1966.

11/ H. G. Chappel, "Jaws and Teeth of Ancient Hawaiians," Vol. 9 (Honolulu: Bernice P. Bishop Museum, 1927):249.

12/ See I. J. Larsen.

13/ See Beaglehole.

14/ F. J. Halford, Nine Doctors and God (Honolulu: University of Hawaii Press, 1954).

15/ See Snow; and I. J. Larsen.

16/ R. K. Blaisdell, "Hawaiian Health Needs," The Native Hawaiian, Vol. 5 (December, 1980):1.

17/ See Snow; and I, Larsen.

18/ See Snow.

19/ See Bushnell, A History of Infectious Diseases in Hawaii; I. J. Larsen; and Halford.

20/ See Snow; and I. J. Larsen.

21/ S. M. Kamakau, Ka Po'e Kahiko, Special Publication No. 51 (Honolulu: Bernice P. Bishop Museum, 1964).

22/ Personal Communication to Dr. Blaisdell, from K. Nagata, University of Hawaii botanist, March, 1982.

- 23/ See Beaglehole.
- 24/ Ibid.
- 25/ Ibid.
- 26/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Mary Kawena Pukui, E. W. Haertig, and Catherine A. Lee, Nana I Ke Kumu, Volumes I and II (Honolulu: Hui Hanai, 1972 and 1979).
- 27/ See Beaglehole.
- 28/ See Snow.
- 22/ Robert C. Schmitt, The Missionary Censuses of Hawaii, Pacific Anthropology Record No. 20 (Honolulu: Bernice P. Bishop Museum, 1973).
- 30/ See Beaglehole.
- 31/ See Pukui, Haertig, and Lee.
- 32/ Ibid.
- 33/ Rubellite K. Johnson, Kumulipo, Hawaiian Hymn of Creation (Honolulu: Topgallant Publishing Co., Ltd., 1981).
- 34/ Pukui, Haertig, and Lee. [See, also, chapter in this Report entitled, "Native Hawaiian Religion."]
- 35/ See Bushnell, "Hygiene and Sanitation among the Ancient Hawaiians;" and, Pukui, Haertig, and Lee.
- 36/ See Pukui, Haertig, and Lee; and, E. S. C. Handy, Mary Kawena Pukui, and K. Livermore, Outline of Hawaiian Physical Therapeutics, Bulletin 126 (Honolulu: Bernice P. Bishop Museum, 1934).
- 37/ See Kamakau; and, Pukui, Haertig, and Lee. [See, also, chapter in this Report entitled, "Native Hawaiian Religion."]
- 38/ See Bushnell, A History of Infectious Diseases in Hawaii; Pukui, Haertig, and Lee; and Handy, Pukui, and Livermore.
- 39/ Ibid.
- 40/ See Kamakau; and, John P. Ii, Fragments of Hawaiian History (Honolulu: Bernice P. Bishop Museum, 1959).
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- 42/ See Kamakau.
- 43/ See Kamakau; and, Handy, Pukui, and Livermore.
- 44/ See, Ibid.; and, Ii.
- 45/ P. Buck, "Remarks on Hawaiian Medical Lore," in N. P. Larsen, Rededication of the Healing Heiau Keaiwa, Hawaiian Historical Society Annual Report (1951).
- 46/ See Bushnell, A History of Infectious Diseases in Hawaii; Kamakau; Ii; and, Malo.
- 47/ Robert C. Schmitt, "The 'oku'u—Hawaii's Greatest Epidemic," Hawaii Medical Journal, Vol. 29 (1970):359.
- 48/ Bushnell, A History of Infectious Diseases in Hawaii.
- 49/ See Schmitt, The Missionary Censuses of Hawaii; and, Robert C. Schmitt, Demographic Statistics of Hawaii, 1778-1965 (Honolulu: University of Hawaii Press, 1968).

50/ Bushnell, A History of Infectious Diseases in Hawaii.

51/ Ibid.

52/ Ibid.

53/ Ibid.

54/ See Halford.

55/ A. V. Skinsnes, Evolution of Hawaii's Leprosy Control Program, 1865-1981, Master of Science Thesis, University of Hawaii (April, 1981); and, O. K. Skinsnes, "Notes on Leprosy in Hawaii" (unpublished, 1983). [O. K. Skinsnes is a Professor in the Dept. of Pathology, University of Hawaii Medical School.]

56/ A. A. S. M. Mouritz, "The Path of the Destroyer," Honolulu Star-Bulletin (1916).

57/ Skinsnes, "Notes on Leprosy in Hawaii."

58/ Bushnell, A History of Infectious Diseases in Hawaii.

59/ Ibid.

60/ Ibid.

61/ Ibid.

62/ Ibid.

63/ Schmitt, Demographic Statistics of Hawaii.

64/ See Bushnell, A History of Infectious Diseases in Hawaii; and, R. K. Blaisdell, "Hawaiian Medical Practices" (Lecture and Manuscript, Kamehameha Schools, 1979).

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(Honolulu: University of Hawaii Press, 1977).

66/ N. Morton, C. S. Chung, and M. P. Mi, Genetics of Interracial Crosses in Hawaii (New York: Karger, 1967).

67/ O. K. Skinsnes, "Infectious Granulomas: Exposit from the Leprosy Model," Annual Review of Medicine, Vol. 33 (1982):47.

68/ See Blaisdell, "Hawaiian Health Needs;" and, R. K. Blaisdell, "He Mau Ninau Ola," Ka Wai Ola O OHA (February, 1983).

69/ R. K. Blaisdell, "History of Medicine in Hawaii" (unpublished, 1983).

70/ Blaisdell, "Hawaiian Medical Practices."

71/ See Halford.

72/ See Bushnell, A History of Infectious Diseases in Hawaii; and Lawrence Fuchs, Hawaii Pono: A Social History (New York: Harcourt, Brace & World, 1961).

73/ See Bushnell, A History of Infectious Diseases in Hawaii; Blaisdell, "Hawaiian Medical Practices;" and, Fuchs.

74/ Blaisdell, "Hawaiian Medical Practices."

75/ See chapter on "Native Hawaiian Religion," below, by Rubellite K. Johnson.

76/ See Halford.

77/ See chapter on "Native Hawaiian Religion," below, by Rubellite K. Johnson.

78/ Blaisdell, "Hawaiian Medical Practices."

T9/ See C. S. Judd, Medical History of Hawaii (unpublished manuscript, University of Hawaii Medical School, 1978); and, Halford.

80/ Bushnell, A History of Infectious Diseases in Hawaii.

81/ See Bushnell, A History of Infectious Diseases in Hawaii; Blaisdell, "History of Medicine in Hawaii;" and, J. Liberman, "Our 125-Year Health Heritage," Hawaii Health Messenger, Vol. 38, No. 4 (1975):1.

82/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

83/ See Ibid.; and, Judd.

84/ R. Greer, "The Founding of the Queen's Hospital," Hawaiian Journal of History, Vol. 3 (1969):110.

85/ Bushnell, A History of Infectious Diseases in Hawaii.

86/ Ibid.

87/ See Mouritz; and, Skinsnes, Evolution of Hawaii's Leprosy Control Program.

88/ See Mouritz; and, Skinsnes, "Notes on Leprosy in Hawaii."

89/ Blaisdell, "History of Medicine in Hawaii."

90/ Ibid.

91/ O. A. Bushnell, "Hawaii's First Medical School," Hawaiian Historical Review, Vol. 2 (October, 1967):396.

92/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

93/ Blaisdell, "History of Medicine in Hawaii."

94/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

95/ Blaisdell, "History of Medicine in Hawaii."

96/ See Judd; and, Blaisdell, "History of Medicine in Hawaii."

97/ See Ibid.; and, Bushnell, A History of Infectious Diseases in Hawaii.

98/ See Judd.

99/ Ibid.

100/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

101/ M. L. Hanley and O. A. Bushnell, "A Song of Pilgrimage and Exile: The Life and Spirit of Mother Marianne of Molokai," Franciscan Herald (Chicago, 1980).

102/ M. Yardley and M. c. Rogers, "A History of Kapiolani Hospital" (unpublished, 1983).

103/ Ibid.

104/ Schmitt, Demographic Statistics of Hawaii. See table below.

Hawaii's Population by Major Ethnic Stock in 1778, 1893 and 1983 v (in thousands)

Ethnic Stock	1776		1893		1983	
Hawaiian	300	100%	40	45%	179.3	18%
Pure	300	100	34	38	9.3	1
Part	0		6	7	170	17
White	0				300	31
U.S.-Europe			12	13		
Portuouese			8			
Oriental	0		30	33		
Other	0					
Total	300	100%	90	100%	980	100%

.*/ Approximate figures from Schmitt.

105/ Ibid.

106/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

107/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Leahi Hospital, Annual Reports, 1902-1980.

108/ Leahi Hospital, Annual Reports.

109/ Ibid.

110/ B. H. Douglas, "Tuberculosis in the Territory of Hawaii," Public Health Committee, Chamber of Commerce of Honolulu (1938).

111/ See Bushnell, A History of Infectious Diseases in Hawaii; and, Blaisdell, "History of Medicine in Hawaii."

112/ See Ibid.; and, Judd.

113/ Bushnell, A History of Infectious Diseases in Hawaii.

114/ Ibid.

115/ See Skinsnes, "Notes on Leprosy in Hawaii;" and, R. K. C. Lee and A. Russell, Public Health and Medical Sciences in the Pacific: A 55-Year Review, 1920-1975, U.S.-Hawaii, Pacific Science Association (1983).

116/ Ibid.

117/ Lee and Russell.

118/ See Skinsnes, "Notes on Leprosy in Hawaii;" and, Lee and Russell. [See also, below, page 114.]

119/ Lee and Russell.

120/ Ibid.

121/ See Liberman; and, Lee and Russell.

122/ Lee and Russell.

123/ See Liberman; and, Lee and Russell.

124/ Lee and Russell.

125/ See Liberman; and, Lee and Russell.

126/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

127/ Leahi Hospital, Annual Reports, 1902-1980.

128/ Ibid.

129/ See Ibid.; and, Lee and Russell.

130/ See Skmsnes, Evolution of Hawaii's Leprosy Control Program; and, Hanley and Bushnell.

131/ Kalaupapa National Park Advisory Commission Report (1980).

132/ Skinsnes, Evolution of Hawaii's Leprosy Control Program.

133/ See Judd.

134/ Ibid.

135/ Ibid.

136/ See Bushnell, A History of Infectious Diseases in Hawaii; Judd; and, Blaisdell, "History of Medicine in Hawaii."

137/ Personal Communication to Dr. Blaisdell from W. Sakai, Waimano Training School and Hospital Administrator (February, 1983).

138/ Lee and Russell.

139/ Ibid.

140/ Ibid.

141/ See Liberman; and, Lee and Russell.

142/ See Judd.

143/ Personal Communication to Dr. Blaisdell from B. B. C. Young, University of Hawaii Medical School, Dean of Students (February 1983).

144/ The Commission also received two other papers that deal, in whole or in part, with the mental health of native Hawaiians; both were written at the direction of and funded by the Office of Hawaiian Affairs. They are: (1) Richard Kekuni Blaisdell, M.D., "Health Section of Native Hawaiians Study Commission Report" (see,

particularly, pages 34-37); and (2) Ramon Lopez-Reyes, "The Demise of **the** Hawaiian Kingdom: Its Psycho-Cultural Impact and Moral Legacy." Both papers appear in their entirety, in the Appendix of this Report.

145/ See Appendix for comment received from Hale Ola o Ho'opakolea, p. 2.

146/ Ibid.

147/ Ibid.

148/ Ibid.

149/ Ibid.

150/ According to comments received from the Hale Ola Project/ the clinic operated on the Wai'anae Coast of Oahu "was noted for its inability to adequately meet the mental health care needs of native Hawaiians on the Coast. This problem was largely due to the insensitivity of clinic staff to the unique manner in which native Hawaiian clients identified, communicated and sought to resolve their problems" (p. 3).

151/ Dept. of Health, Annual Report, 1980, p. 9. For a detailed discussion of this survey, see preceding chapter, "Demographics," pages 57 to 59.

152/ The information on this program is drawn from comments received by the Commission from the Hale Ola Project staff, pp. 3-5.

153/ Ibid., p. 3.

154/ Information on this program supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services; and in written testimony submitted to the Commission on January 10, 1982, by George Osakoda,

Project Director for the Most-In-Need Project on Molokai.

155/ Information supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services. The Commission also received a comment from the Director of Indian Health Services (a part of the U.S. Department of Health and Human Services) stating that: "Native Hawaiians are not within the scope of the [Indian Health Service (IHS)] program and there are no IHS programs specifically targeted to serve them. The regulations governing eligibility for IHS services at 42 CFR Part 36.2 (b) states in pertinent part: (b) Indian includes Indians in the continental United States, and Indians, Aleuts and Eskimos in Alaska" (p. 1).

156/ Dept. of Health, Annual
Report, 1980, p. 19.

157/ Ibid.

158/ Ibid., p. 20.

159/ Information supplied by Commissioner Carl Anderson, U.S. Department of Health and Human Services.

160/ *In January 1983, the number of patients who were residents of Kalaupapa was 114. (Communication from Hawaii Department of Health, Communicable Disease Division.)

161/ This information on the national and ethnic origin of new leprosy cases was obtained by the Commission from the Communicable Disease Division of the Hawaii State Department of Health in January 1983, in response to a comment received from Bill Kama who states that the Draft

Report did not mention the lepers' plight and that "the majority are Hawaiians, and they have been treated like third class citizens."

Education

A. INTRODUCTION

The chapter above on "Demographics" presents the statistics on education in Hawaii that are now available to the Commission. This chapter will review the historical development of the educational system in Hawaii. It will include criticisms of the system, review programs that have been initiated specifically for native Hawaiians, and discuss native Hawaiian participation in the educational community.

B. HISTORICAL BACKGROUND

Early Background

Formal education as practiced in the United States began in Hawaii after the arrival of the Protestant missionaries in 1820. Before that time, learning was passed down orally from one generation to another. For the commoners (maka'ainana) this process generally involved learning the trades from elders. The ali'i were instructed in the higher arts of religion, ruling, and warfare.

The missionaries lost no time in introducing their version of a formal education system, although it was at first restricted to the ali'i, at the latter's command. The missionaries' first task was to reduce the hitherto oral Hawaiian language to written form. Within a year of their arrival, the missionaries developed the first Hawaiian alphabet. A year later, the first textbook in Hawaiian was printed--a sixteen-page primer with the alphabet and rudimentary lessons.

When the ali'i gave the missionaries permission to establish schools for commoners, the growth in numbers of both students and schools was phenomenal. By 1831, approximately

two-fifths of the population was enrolled in schools. 1/ Throughout the decade of the 1820's, the majority of students were adults. Concerted efforts were begun to teach children in the 1830's, when the novelty of education had worn off for the adults.

Until 1840, education was the domain of the Protestant missionaries, with native Hawaiians as teachers. After 1840, this control diminished for two reasons. First, in 1840 a law was enacted to provide for a national system of common schools supported by the government. As a result, for the first time the people as a whole were required to send their children to school. In 1845, the legislature created a cabinet-level position of Minister of Public Instruction. The second reason for this diminished control was that religious tolerance was declared a government policy and other religious sects (primarily Catholic) began establishing schools. However, in spite of government direction, the schools maintained their sectarian character until the end of the reign of Kamehameha III in 1854.

By the middle of the nineteenth century there were two types of schools, government common free schools and select schools. The former comprised the free public school system. The language of instruction was Hawaiian, and the students were taught by native Hawaiian teachers. The select schools were the private schools set up for specific groups. Instruction was in English. The Royal School, which was established in 1839 by the Rev. Amos Starr Cooke and his wife, was the school that the children of the highest-ranking ali'i attended. 2/ In 1842, another missionary established Punahou, for missionary children.

Other private schools were established, mostly under denominational auspices, although some received government support. Throughout most of the second half of the nineteenth century, these private schools offered the only secondary education that was available. 3/

English was not taught in Hawaiian public schools until the early 1850's. The missionaries were at first very much against the idea of abandoning the Hawaiian language as the medium of instruction. They believed that "in order to preserve the nation, they must preserve its speech." 4/ However, by the middle of the nineteenth century English had become the primary language of business, government, and diplomacy. In 1844, a weekly newspaper published in English was the official organ of the kingdom's government. 5/ The government was pressured to encourage the teaching of English in public schools by both foreigners and Hawaiians. 6/ In 1853-54, the kingdom's legislature enacted laws to support English schools for native Hawaiians. In 1854, ten such schools were established and by the end of the century, all public school instruction was in English.

In 1854, the government also re-organized the school system along territorial, rather than sectarian, lines. Although religious organizations remained involved in the public school system for several years, their influence eventually waned. However, religious groups continued to establish numerous vocational and secondary schools.

During the years of the Republic of Hawaii (1894-1900), further developments occurred in the school system. Educators were invited to come to Hawaii from the mainland. The Constitution of the Republic prohibited the use of public money for denominational schools. Honolulu High

School, which was the first public secondary school in Hawaii, was established in 1895. 7/

Henry S. Townsend was named inspector general of the Hawaii school system in 1896. He was very much associated with the new philosophy of progressive education that was being espoused on the mainland by John Dewey, and he introduced it to Hawaii's teachers. 8/ Townsend also persuaded the Republic to establish a Normal School so that Hawaii could train its own teachers. In 1905, of 400 teachers employed in the public schools, 148 were native Hawaiian. 9/ In 1899, the Republic abolished the practice of charging tuition for public schools, and this further advanced the cause of universal education.

At the time of annexation, there were several types of schools in Hawaii. There were 140 public schools and 55 private schools. There was only one foreign language school (in Japanese) but this would be substantially augmented later with more Japanese, Chinese, and Korean language schools. Several industrial and vocational schools also existed, including the Kamehameha Schools for native Hawaiian boys and girls, which was established in 1887. In a class by itself was Punahou, which was a "symbol of educational excellence as well as elite status," with an exclusionary policy that it would maintain for some time. 10/

Territorial Education System

After annexation, many teachers were brought to Hawaii from the mainland, and the process of "Americanization" began in earnest. Hawaii's public schools became the primary carrier of American values to all of the races that inhabited the islands. Oriental families quickly took advantage of the school system.

Japanese and Chinese enrollment increased dramatically from 1900 to 1911, while haole, Portuguese, and native Hawaiian enrollment increased only slightly. 11/

More public high schools were established—at Hilo in 1905, on Maui in 1913, and on Kauai in 1914. A public college of mechanical and agricultural arts was established in 1907 and was enlarged to become the College of Hawaii in 1912, and the University of Hawaii in 1920. 12/

The Hawaii educational system had made remarkable strides, yet more could be done. It was investigated by a mainland team under the direction of the Federal Commissioner of Education in 1920. The team's report criticized several aspects of the system and offered many recommendations: the average per capita expenditure for education was low; teachers were underpaid and there were too few of them; not enough was spent on maintenance of and supplies for schools; secondary schools needed to be expanded and to offer a wider curriculum (only 3 pupils of every 100 were then in public high schools); the university needed to be expanded; and junior high schools and public kindergartens needed to be created. 13/

Many of the survey's recommendations were adopted. One of the changes brought about was in the credentials necessary to become a teacher. The Commission recommended that only high school graduates be admitted to the Normal School and that the training period be extended to two years. At the time, eighth grade graduates were admitted for a four-year course and high school graduates received one year of training. 14/ In 1931, the Territorial Normal and Training School and the university's School of Education united to form the Hawaii Teachers College. 15/ The Laboratory Schools of this College became known for their innovative teacher training program. 16/

The federal survey also suggested that pupils be segregated in public schools according to their ability to use English correctly. This was based on the theory that the use of pidgin by (mainly) Oriental children would retard the progress of other students.

After 1920, the pressure for school segregation mounted. It was no longer possible for all Caucasian children to attend private schools, and the public schools were now about 60 percent Japanese and Chinese. 17/ Segregation by race was impossible because of the extensive interracial marriage that had already taken place. It would also not be possible to create separate schools just for haole students, since the "Hawaiians and Portuguese, constituting an overwhelming majority of voters, would never permit such a system." 18/

The Territory responded by creating the "English Standard" schools that required students to pass English entrance examinations to qualify for admission. At first, this dual school system tended to segregate students by race. It discriminated mostly against Orientals and full-Hawaiians, depending on the location of the school. It also helped to perpetuate class distinctions and to emphasize social distinctions. However, these distinctions were lessened as time went on, and by the time the English Standard system was abolished in 1947, these schools were attended by more Japanese than haole students. 19/

During the life of this system, only a small minority of Hawaii's children attended English Standard schools. In 1941, less than 7 percent of the students enrolled in the public school system attended them, while the rest of the students attended regular public schools. 20/

Mainland teachers played a key role in Hawaii's education system. They stressed American culture and American values. They concentrated on the tenets of democracy, freedom, patriotism, and equality. Such moral and philosophical ideas were in sharp

contrast to the stratified social system that existed in Hawaii at the time. As late as 1920, the bulk of Hawaii's teachers were haole (40 percent), Hawaiian or part-Hawaiian (25 percent), and Portuguese (12 percent). 21/ After the Normal School was expanded, however, more Oriental and Hawaii-trained teachers began teaching.

C. CRITICISMS OF THE SYSTEM

Critics of the American educational system point out that native Hawaiians have been forced into a mold that does not fit them and that their identity has been taken from them. 22/

The Native Hawaiians Study Commission heard much testimony in January 1982 about the need for greater attention to native Hawaiian education. One native Hawaiian criticized the present system in the following way:

The Americans educational system has used the schooling process historically and contemporaneously as a means to inculcate American values on Native American communities, thereby altering native ways of life.

...The American Protestant Mission, the plantation system and industrialism, all are factors that have combined to establish American socio-economic order in these islands with little or no regard for Native Hawaiian identity. The school has become an instrument for the advancement of American ideology: its objectives are to deculturate Native Hawaiians rather than to acculturate them.

...most Americans understand what happened in Hawaii history as a process of acculturation as an equal two-way sharing process between Native Hawaiian and

American culture. In [other] words, the process of cultural change in Hawaiian American communities is present in society and through the educational media a distorted point of view, the schools teach "white-American history" not "native-American history." As a consequence of this perspective, acculturation processes have always been perceived as a problem for Native Americans. They are not viewed in their proper perspective as problems which have been imposed on Hawaiians by Euro-American culture which has stripped them of their capacity to control their own life ways. 23/

In response to these criticisms of the educational system in Hawaii, the Commission received comments from the Superintendent of the State of Hawaii Department of Education. The Superintendent states that:

It is intimated that the educational system in Hawaii selectively destroyed the Hawaiian culture as it Americanized the children of Hawaii. If the culture were indeed destroyed, which we do not believe to be true, the causes have to be so much more complex than that the dominant haole or western-oriented school system did a total brain wash of the native population. The churches played a large part in this as did the centers of power in mercantilism, commerce and agribusiness. The other established ethnic groups could also complain that the culture of their respective ancestor generations who came to Hawaii were also "destroyed" by the western-oriented school system of this Territory which had, rightly or wrongly, been taken over by the United States.

We are living in a time when diversity of interests, backgrounds, and cultures is far more tolerated in the United States and other parts of the world than it was since the time of western contact here through the Second World War. There have been terrible injustices and inequities carried out against minority populations—ethnic, religious, and socio-economic. Perhaps the Hawaiians were dealt a harsh hand *in* the past but the modern public educational system in Hawaii is now striving to promote not only Hawaiian culture but excellence in education for our Hawaiian and non-Hawaiian children and for this we need the kokua and support of the leaders in all areas of the Hawaiian community. 24/

D. PROGRAMS FOR NATIVE HAWAIIANS

Hawaiian Studies Program

In the 1960's and 1970's, there was renewed interest in the Hawaiian culture—music, religion, and language. Support for this renewed interest grew and:

As the elements of this renaissance became more focused and as Americans in general became more interested in their cultural roots, Hawaiians and others in the community began calling for more Hawaii-oriented courses of study in schools and colleges. The projection that the Hawaiian language will be lost with the passing of the existing native speakers became of major concern in view of belief that understanding of the language is the key to understanding more fully the whole culture of the Hawaiian people. 25/

A key aspect of this belief in the importance of preserving the Hawaiian culture is that it will benefit not only the native Hawaiians, but all the residents of the State. According to the State Department of Education:

We intend for all of our students, Hawaiian and non-Hawaiian, in all grades from Kindergarten to Twelve to have the opportunity to learn about the early Polynesian immigrants, the native Hawaiians and all of the other immigrant groups, and their interrelationships which have resulted in the Hawaii which we know today. We also believe that it is important for our students to recognize that we live in an island environment with its physical and metaphysical aspects, limitations, and possibilities. 26/

Responding to this impetus, in 1978 a State Constitutional Amendment was adopted to create a Hawaiian Studies Program 27/ that mandates the State to:

...promote the study of Hawaiian culture, history and language. The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. 28/

To carry out this program, the State instituted the Hawaiian Studies Program to "develop knowledge, understanding, appreciation and internalization of fundamental aspects of Hawaiian culture, including values, concepts, practices, history, and language." 29/ Students are introduced to the various aspects of Hawaiian culture through ten areas of study (language, food, health, music, games, numbers and mathematics, history, etc.).

Approximately 30 percent of the program's effort has been devoted to teaching the Hawaiian language at the elementary level. Teachers are native-speaking elders (kupuna) who are drawn from the community and trained in classroom management and instructional techniques. 30/ To date, the State Department of Education has completed curriculum guides for grades kindergarten through the sixth grade. 31/

The program began in 1980 and expanded from 35 schools in 1980-81 to 82 schools in 1982-83, with kupuna in 886 elementary classes. 32/ However, allocations from the State Legislature for kupuna salaries have been the same for the past three years, \$201,960. Without more money, the program will be unable to expand horizontally (to more districts) or vertically (to higher grade levels). 33/

Many parents and organizations are concerned about the lack of an integrated Hawaiian education program in the public schools. For example, during a public hearing in Hawaii on expanding the Hawaiian Studies Program, one person testified that:

We believe that the Hawaiian Studies program should not be an isolated "unit" taught at certain times in a child's school career, but rather should be an on-going integration of cultural concepts, knowledge, history, and language into the "regular" curriculum. 34/

Concerns were also voiced about the use of kupuna in the present program. The speaker noted that: in-service training for teachers is needed so that they can effectively use the contribution of the kupuna; the number of kupuna per school do not reflect the school population; there is a lack of money for supplies; there is no clear understanding of how kupuna are assigned to classrooms; and there is inadequate in-servicing for the kupuna themselves. 35/

Other Programs

Other educational programs exist in Hawaii that are directed specifically toward native Hawaiians. These programs are both publicly and privately financed.

One such program is the Hawaiian Learning Program at the University of Hawaii School of Social Work. This undergraduate and graduate training program has been federally-funded for five years by the Social Work Education Branch of the National Institute of Mental Health. Its purpose is to help and encourage native Hawaiians to become social workers with both professional skills and Hawaiian cultural values as a base for their training in helping fellow Hawaiians. Students take courses, work in practicum situations with native Hawaiian clients, families, or school children, and do research. Graduates of the program have gone on to work for organizations such as Alu Like, Inc., and other public and private social agencies in Hawaii. 36/

Alu Like, Inc., is a private, non-profit organization that works toward native Hawaiian economic and social self-sufficiency. In 1978, Alu Like initiated a pilot project in conjunction with the Haleiwa Elementary School, the Department of Education Central District, and the Wai'alua Community Parent's Group. The project focused on teaching basics to all students through Hawaiian cultural concepts. Alu Like reports that "the impact has been significant, and the District has incorporated the concept into its regular program at Haleiwa and is utilizing the teaching materials elsewhere in the District." 37/

Other Alu Like educational programs include video presentations for classrooms. Presentations on Ohana in the Family and Ohana in the Classroom at one elementary school are "attempts to encourage the use of cultural approaches in learning which improve

classroom management and facilitate learning for Hawaiian and non-Hawaiian students alike." 38/

Organizations such as the Hawaiian Civic Club of Honolulu are also involved in educational activities. The Honolulu Club's Scholarship Fund, which is "considerable for its small membership, has aided hundreds of Hawaiian youth in the completion of undergraduate and graduate work." 39/

Another organization that submitted comments on educational activities to the Commission is the Kahanahou Hawaiian Foundation. The Kahanahou cultural division has, since 1969, "included year-round ethnic schools teaching Hawaiian language, history and traditions, native arts and crafts, sacred literature and dance, ancient implement and instrument making. And, although some classes are opened to the general public, the continuing thrust has been on the education and training of our own (Hawaiian) people, and the advancement and preservation of our native culture." 40/

No list of educational programs would be complete without mention of the Kamehameha Schools. As noted above, the Kamehameha School was established in 1887 by the Bernice Pauahi Bishop Estate. The original purpose of the trust set up by Mrs. Bishop's estate was to maintain schools specifically for those students with native Hawaiian blood. Besides the schools themselves, the school also sponsors camps and an extension education division. According to one comment received by the Commission, "in the 1980's the Schools have a student body of 2,800 and a part-time number of 9,000 students and now may be servicing about 25 percent of the eligible native Hawaiians with its present capacity and curriculum." 41/

E. NATIVE HAWAIIAN PARTICIPATION IN THE EDUCATIONAL COMMUNITY

The Native Hawaiians Study Commission received detailed information on the ethnic composition of the educational workforce from the Office of Hawaiian Affairs during its public hearings in January, 1982. 42/ This information is summarized below, followed by a brief discussion of the University of Hawaii system.

Educational Officers

The category "educational officers" includes senior management, curriculum, staff and program specialists, principals, and vice principals. The data from 1977 to 1980 show that for each year covered, the proportion of part-Hawaiians appointed to educational officer positions exceeds the part-Hawaiian proportion that applied for those positions. (See Table 45. V) For example, in 1980, of all persons who applied for educational officer positions, 13 percent were part-Hawaiians. Of those who were actually appointed, 15.3 percent were part-Hawaiians. Part-Hawaiians were the only ethnic group for which this was true in 1980. The 15.3 percent who were appointed is comparable to the part-Hawaiian proportion of the State population, 17.9 percent.

No full-Hawaiians have applied for educational officer positions since 1978, when they accounted for 0.1 percent of the applicants. One full-Hawaiian was appointed in 1977, however, and full-Hawaiians then had a 0.6 percent share of all appointments.

The total ethnic composition of the educational officer workforce is illustrated in Table 46. In 1980, there were no full-Hawaiians, and part-Hawaiians accounted for 6.5 percent of the total.

jV All tables appear at the end of the chapter.

Instructional Personnel

The percentage of part-Hawaiians and full-Hawaiians qualified to be considered for instructional positions (teachers, librarians, etc.) has been declining since 1977. As a result, it is not surprising that the percentage actually hired has also declined. In 1977, the proportion of full- and part-Hawaiians in the qualified labor pool was 5 percent; that proportion was 3.7 percent in 1980. The proportion of full- and part-Hawaiians hired was 6.6 percent in 1977 and 4.7 percent in 1980.

Despite the decline in the qualified labor pool, the percentage of full- and part-Hawaiians in the teacher workforce remained the same from 1977 to 1980—0.3 and 6.7 percent, respectively. (See Table 47.) The proportion of full- and part-Hawaiians employed as teachers in 1980 (4.7 percent) exceeded their proportion in the qualified labor pool (3.7 percent).

University of Hawaii

The Commission obtained figures from the Vice President's office at the University of Hawaii on native Hawaiians in the University system. ^{43/} Student enrollment in the entire University of Hawaii system in the Fall of 1982 was 46,562. Of this number, 3,944 (or 8.5 percent) identified themselves as native Hawaiians. ^{44/} There were not as many native Hawaiian professors relative to the entire faculty. In the Fall of 1982, there were 3,387 professors in the University of Hawaii system. Only 90, or 2.7 percent, were of native Hawaiian descent.

The small number of native Hawaiian students at the University of Hawaii may have a direct impact on the number of native Hawaiians in the educational workforce reported in the previous

section. According to the Hawaii Department of Education, the subject of the relative lack of native Hawaiians in the educational workforce is:

...far more complex than simply implying that Hawaiians or others have been systematically excluded. Family attitudes and influential teachers generally have a major influence on how many youngsters eventually become teachers and, subsequently, educational officers. There have been so few Hawaiian and part-Hawaiian students matriculating from the public school system to the University in the past decades that it is no surprise that there are few teachers and educational officers of Hawaiian ancestry. When teachers were really needed by a rapidly expanding school system in the 1960's, local interest was not enough to fill the positions needed so the Department had to recruit teachers from the Mainland. That would have been a perfect time for more Hawaiians to have been hired into the system but the interest was not there in that "pre-renaissance" era. ^{45/}

EDUCATION

TABLES

TABLE 45

PROPORTIONAL APPLICANT POOL AND APPOINTMENTS TO EDUCATIONAL OFFICER

Ethnic Group	Vacancies by Ethnicity							
	1977		1978		1979		1980	
	% Appli- cants	% Appoint- ments	% Appli- cants	% Appoint- ments	% Appli- cants	% Appoint- ments	% Appli- cants	% Appoint- ments
Black		0.6	0.1	^	0.1	--	0.1	
Filipino		2.9	3.2	4.7	2.9	2.3	2.6	1.5
Chinese		8.7	9.0	7.6	8.2	7.0	10.6	6.6
Hawaiian		0.6	0.1	—	—	—	—	
Korean		3.5	4.0	3.6	3.8	1.5	4.3	2.2
Part-Hawaiian		7.0	7.3	7.6	7.0	10.8	13.0	15.3
Puerto Rican		0.6	0.1	0.6	0.2	0.8	0.3	0.7
Samoan				—	—	—	—	
White		13.9	5.6	9.4	8.9	10.8	15.7	11.0
Japanese		59.8	69.0	65.3	67.2	65.3	50.4	59.8
Mixed		1.2	1.2	0.6	1.2	1.5	1.0	2.9
Others		1.2	0.4	0.6	0.5	--	1.9	
Percentages		100*	100%	100%	100%	100%	100%	100%
Totals		(172)	(5,680)	(170)	(2,922)	(130)	(1,071)	(137)

Source: A. Leiomalama Solomon, "Cross-Cultural Conflict between Hawaiians and Americans," Testimony prepared for the Native Hawaiians Study Commission, Hilo, Hawaii (January 12, 1982), Appendix, p. 3.

TABLE 46

ETHNIC COMPOSITION OF EDUCATIONAL OFFICER WORKFORCE (Percentage)

Ethnic Group	DATE			
	06/77	06/78	06/79	06/80
Black	0.2	0.2	--	--
Filipino	3.1	3.3	3.6	3.4
Chinese	9.7	9.4	9.3	9.0
Hawaiian	0.2			
Korean	2.2	2.6	2.4	2.4
Part-Hawaiian	5.3	5.4	6.6	6.5
Puerto Rican	0.2	3.2	0.2	0.2
Samoan				
White	11.6	11.7	10.9	10.4
Japanese	65.9	65.6	65.0	66.4
Mixed	1.4	1.3	1.7	1.5
Others	0.3	0.3	0.3	0.2
Total (%)	100%	100%	100%	100%
Total'	(639)	(608)	(389)	(613)

TABLE 47

ETHNIC COMPOSITION OF TEACHER WORKFORCE 1977-1980 (Percentage)

Ethnic Group	DATE			
	06/77	06/78	06/79	06/80
Black	0.3	0.3	0.4	0.3
Filipino	2.4	2.5	2.0	2.7
Chinese	8.5	8.4	8.2	8.2
Hawaiian	0.3	0.3	0.3	0.3
Korean	1.2	1.2	1.2	1.2
Part-Hawaiian	6.7	6.7	6.7	6.7
Puerto Rican	0.1	0.1	0.1	
Samoan	0.2	0.2	0.1	0.1
White	17.4	17.2	16.9	17.1
Japanese	59.1	59.3	59.6	59.5
Mixed	3.3	3.4	3.5	3.5
Others	0.5	0.4	0.4	0.4
Total (%)	100%	100%	100%	100%
Total	(9,145)	(9,148)	(9,121)	(9,167)

EDUCATION

NOTES

1/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), 106. (Hereinafter referred to as "Kuykendall, Volume I.")

2/ A comment received by the Commission from Violet Ku'ulei Ihara suggests that the Royal School was founded at the request of Kamehameha III. This may very well be true even though the works consulted here (including Fuchs, Daws, Liliuokalani, and Kuykendall) do not so state.

J/ Lawrence H. Fuchs, Hawaii Pono: A Social History (New York: Harcourt, Brace & World, Inc., 1961), p. 264.

4/ Kuykendall, Volume I, p. 360. For more on the Hawaiian language, see "Language" section in chapter on "Native Hawaiian Culture," below.

5/ Andrew W. Lind, Hawaii's People, 3rd ed. (Honolulu: University of Hawaii Press, 1967), p. 87.

6/ Kuykendall, Volume I, p. 360.

J/ Fuchs, p. 264.

8/ Ibid., p. 265.

9/ Ibid., p. 264.

10/ Ibid., pp. 265-266. Comments by Haunani-Kay Trask, et al., state that this exclusionary policy was "white supremacist" (p. 9). Fuchs states that: "When twenty-six Chinese boys applied in 1896, the trustees of Punahou, unwilling to adopt an extreme racist policy, were pleased to point to a new rule that no pupil could be admitted who was 'incapable of using the English language as a medium of instruction,' and quick to argue the advantages of the new free high school

established in Honolulu only the year before. Punahou would remain exclusive, but never again exclusively haole. A few Orientals--though only a token--would be admitted" (p. 266).

U./ Fuchs, p. 268.

12/ Comment received from Robert C. Schmitt, p. 2.

13/ Fuchs, pp. 271-272.

14/ Ibid., p. 272.

15/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, from Polynesian Kingdom to American Commonwealth (New York: Prentice-Hall, Inc., 1948), p. 246.

16/ Comment received from Violet Ku'ulei Ihara, p. 2.

12/ Fuchs, p. 274.

18/ Ibid., p. 275.

19/ Ibid., p. 279.

20/ Ibid.

3.1/ Ibid., p. 283.

22/ A comment received from Violet Ku'ulei Ihara states that: "Criticisms on education are one-sided. Where are the opinions of teachers in the field, administrators, parents, retirees'..." (p. 2) The Commission did receive comments on this section from the Superintendent of the Hawaii Department of Education, and these comments are included at the end of this section.

23/ Dr. A. Ijelomalairta Solomon, Office of Hawaiian Affairs, Co-Chairperson, Education Committee, "Cross-Cultural Conflict Between Hawaiians

and Americans," Written testimony submitted to the Native Hawaiians Study Commission, Hilo, Hawaii (January 12, 1982), p. 1.

24/ Comment received from Uonnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 2.

25/ State of Hawaii, Department of Education, Office of Instructional Services/General Education Branch, Hawaiian Studies Program Guide (Draft) March 1981, p. 1-1.

26/ Comments received from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 1.

27/ One comment received by the Commission (from Pill Kama) pointed out that the Hawaiian language was a mandatory subject from 1919 to 1975 in Hawaii's schools but that the law was "effectively ignored" (p. 1).

28/ Hawaii State Constitution, Article X, Section 4.

29/ Hawaiian Studies Program Guide, p. II-1.

30/ Ibid., p. II-3.

31/ Comment received from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 1.

32/ Ibid.

33/ Robert Lokomaika'Iokalani Snakenberg, Written testimony submitted to the Native Hawaiians Study Commission, Kahalu'u, Oahu (January 14, 1982), p. 3.

34/ Dixie Padello, Testimony Presented to the Joint Public Hearing of the House and Senate Committees on Education, (Honolulu, July 31, 1982), p. 1.

2V Ibid., p. 2.

36/ Malie Mossman, Written testimony submitted to the Native Hawaiians Study Commission, Honolulu, Hawaii (January 15, 1982), p. 1.

37/ Winona Rubin, Testimony Presented to the Joint Public Hearing of the House and Senate Committees on Education (Honolulu, July 31, 1982), p. 2.

38/ Ibid.

39/ Claire Hughes Ho, Hawaiian Civic Club of Honolulu, Testimony Presented to the Native Hawaiians Study Commission (Honolulu, January 15, 1982), p. 1.

40/ Comment received from Kenneth C. "Keneke" Chan, Kahanahou Hawaiian Foundation, p. 1.

41/ Comment by Louis Aaaid, p. 24.

42/ Solomon, "Cross-Cultural Conflict between Hawaiians and Americans," Appendix.

43/ See comment by Haunani-Kay Trask, et al., who says that: "Hawaiians are clearly underrepresented in both faculty and student ranks" (p. 9).

44/ A study conducted by the University of Hawaii ("Report in Response to H.R. 509 Requesting the University of Hawaii to Study the Underrepresentation of Ethnic Groups in the Student Population of the University System," November 1981) may explain, to some extent, this apparent underrepresentation. The University study was conducted on the Fall 1980 student population, utilizing computer reports of the University's Student

Information System that provide data on the ethnic background of students. The study found that:

...Hawaiians and Filipinos are...underrepresented in the applicant pool as well as the student population close to or above their proportional representation in the applicant pool. The only ethnic group significantly below the applicant pool prediction is Caucasian, and this is likely due to the fact that the majority of mainland applicants are Caucasians, and non-resident applicants are significantly less likely than residents to actually enroll. The important aspect of this comparison, however, is that it does not show any evidence of discrimination or bias against Hawaiians or Filipinos in the admissions process. These ethnic groups are underrepresented in the student population primarily because a smaller proportion of their members apply for admission than is the case for other groups. The root causes of this must be sought in social conditions and individual attitudes that are operative prior to the potential college experience...significant gains in representation can only be expected if potential students are reached in their pre-college years (page 2, emphasis in original).

45/ Comment from Donnis H. Thompson, Superintendent, State of Hawaii Department of Education, p. 2. This comment also reflects the results of the study documented in footnote 44, above.

Housing

A. INTRODUCTION

The cost and availability of housing are problems encountered by all U.S. citizens today. The first part of this chapter examines state-wide data on housing in Hawaii. It also compares specific housing characteristics and costs for the major ethnic groups in Hawaii. Since some unique features in the housing situation for native Hawaiians have resulted from the Hawaiian Home Lands program, this chapter will also look at these in detail.

A word about some of the data used in this chapter is necessary. All of the 1980 housing statistics for different ethnic groups in the following section were obtained from a special tabulation of the 1980 Census of the Population that the U.S. Bureau of the Census performed for the Native Hawaiians Study Commission. Sources for other data are noted in the text. 1/

B. HOUSING CHARACTERISTICS

Availability

The State of Hawaii reported that in 1981 there were 343,000 housing units in Hawaii. This compares with 217,000 units in 1970. There were also 80,000 condominium units at the end of 1980 and 26,000 military and public housing units. 2/

The physical limitations of an island community will, of course, have an impact on the overall availability of housing. The high population density in Hawaii, particularly on Oahu, is also a factor. In 1980, there were 163.8 people per square mile of land area in Hawaii. This density is comparable to that in California (151.4) and about two and one-half times the population density

for the United States as a whole (64). 2/ The de facto population density on the island of Oahu, however, was 1,386.8 per square mile. 1/

The State reports that housing has been in relatively short supply throughout the decade of the 1970's. 5/ Table 48 shows that the 1980 home-owner vacancy rate for Hawaii was 1.4, compared to 1.8 for the United States as a whole. The rental vacancy rates were 10.3 for Hawaii and 7.1 for the United States. 6/ (All tables are at the end of the chapter.)

Cost

The cost of housing is high in Hawaii compared to that in the United States as a whole. The median value of a house in Hawaii is two and one-half times greater than the national median value. (See Table 49.) Per capita income for all persons in the United States and in Hawaii, while Hawaii is higher, are not much different. In 1980, the personal income, per capita, was \$10,101 in Hawaii and \$9,521 for the United States as a whole. 7/

Data from the 1980 Census allow comparisons of the median value of owner-occupied housing units (non-condominium) in Hawaii for the major ethnic groups. (See Table 50.) The native Hawaiian group of owners has the lowest median value of all groups (\$92,800), while the greatest values were reported by the Chinese (\$137,900) and White (\$134,500) groups.

Median rents paid in Hawaii and in the United States as a whole also differed considerably. Table 51 compares the median contract rents paid in 1970 and 1980 in the United States and in Hawaii. It shows that

the median contract rent in Hawaii was \$271 in 1980, compared to \$198 for the United States. Table 52 shows that in Hawaii, the median contract rent for native Hawaiians was \$254, compared to \$207 for Filipinos, \$326 for Whites, and \$271 for the all races group.

Ownership

One result of the high cost of housing in Hawaii is that more people rent. A comparison with total U.S. data shows that 59.7 percent of housing units were owner-occupied for the United States as a whole in 1980, compared to 45.8 percent for Hawaii. On the other hand, 42.8 percent of the housing units in Hawaii were occupied by renters in 1980, compared to only 33 percent in the United States as a whole. 8/

U.S. Census data for 1980 also allow the comparison of owners versus renters by household for Hawaii's ethnic groups. (See Table 53.) The great variation among ethnic groups is striking. Over two-thirds of Chinese and Japanese households are owner-occupied. Filipinos and native Hawaiians are split almost equally between owners and renters, close to the "all races" group average. In the White group, only 43 percent of the households are owner-occupied, which is nine percent less than the "all races" group average.

The Native Hawaiians Study Commission received housing data specifically for native Hawaiians from several Alu Like Island Centers in January 1982. The information on ownership and renting indicates that on the island of Hawaii, 58 percent of the native Hawaiians own homes, while 42 percent rent or lease. Comparable figures for other islands are: Kauai--38 percent own, 62 percent rent; Molokai--73 percent own, 27 percent rent; and Lanai--38 percent own and 62 percent rent. The data for Hawaii and Molokai indicate a

ratio of ownership to rentals close to (or better than, in the case of Molokai) the U.S. average. This probably indicates that the relative cost of owning a home is lower than the State average in the areas where native Hawaiians live.

Other Housing Characteristics

The Bureau of the Census collects other information on specific housing characteristics. Data from the 1980 Census for Hawaii obtained by the Commission allows comparison across ethnic groups of the median number of persons per housing unit, the median number of rooms per unit, and the existence of plumbing facilities. (See Table 54.)

The median number of rooms per unit in Hawaii does not differ greatly among the ethnic groups, particularly for owner-occupied units. There is greater variation among groups when one compares the median number of persons living in each housing unit. Native Hawaiians and Filipinos both have more persons per room (3.53 and 3.95, respectively) than the other groups and the "all races" average (2.82).

Another indicator that is often used to determine type and quality of housing is the extent to which plumbing facilities are available. Table 55 shows these figures for Hawaii's ethnic groups. Although all groups show a very high percentage of complete plumbing facilities for the exclusive use of a single household, the incidence of complete facilities in single-family Filipino domiciles is lower than the others. The incidence of complete facilities in native Hawaiian domiciles is slightly lower than that for other groups (except the Filipino group), and native Hawaiian and Filipino households have similar incidences of partial plumbing facilities.

C. HOMESTEAD HOUSING

Background

The Hawaiian Homes Commission Act of 1920 was enacted by the U.S. Congress to "rehabilitate" native Hawaiians through a government-sponsored homesteading program.[^] For the purposes of the Hawaiian Homes Commission Act, "native Hawaiians" are defined as descendants of not less than one-half-part blood of races that inhabited the Hawaiian Islands prior to 1778. This definition is in contrast to that appearing in Public Law 96-565, which created the Native Hawaiians Study Commission: "any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778." 10/

The program was originally intended to encourage native Hawaiians to "return to the soil" and take up farming and ranching. This goal has never been fully achieved, however. An amendment to the Act in 1923 allowed residential lots of one-half acre or more with a loan limit of \$1,000 for the construction of a house. The demand for residential lots has far exceeded the demand for agricultural and pastoral lots ever since.

The Department of Hawaiian Home Lands (DHHL), which is an executive department of the State of Hawaii, administers the Act. The Department derives its funds from seven revolving funds and eight special funds established in the State treasury. They are used to support operating expenses, loan capitalization, and construction projects.

^{*}/ For a complete review of the homestead program, see Part II, chapter entitled "Review of Hawaiian Homes Commission Programs."

Present Demand

Homestead leases are awarded for residential, agricultural, and ranching uses. However, the vast majority of applications are for residential lots.

There are presently over 7,000 applicants of 50 percent or greater native Hawaiian blood quantum on the waiting list for homesteads. Of these, 6,360, or 87 percent, are waiting for residential lots on the island of Oahu. 11/ Given the current high interest rates and housing costs in the private sector, the Chairman of the Hawaiian Homes Commission expects this demand to "increase dramatically." 12/

DHHL Residential Program

Service Area

There are now approximately 2,700 homestead homes in the DHHL residential program, located on about one percent of the total acreage controlled by the DHHL as homestead land. 13/ The Department estimates that it services some 3,000 families, or a population of 18,000. Table 56 summarizes the homestead lease data by island.

Homes Constructed

Approximately 1,305 new homes have been constructed for homesteaders since 1976. This is an average of 200 homes per year, compared to an annual average of less than 25 during the period from 1950 to 1975. 14/ In 1982, 230 additional homes were scheduled to be constructed on Oahu. The tentative goal of DHHL is to develop an additional 710 residential lots by 1987. 15/

The emphasis in the residential program has been placed on the subdivision concept, under which single family residences are built on all of the islands. The sizes of

individual residential lots range from 7,500 square feet on Oahu to one acre on Molokai. 16/

Cost and Program Financing

The greatest problem encountered by the DHHL in its residential program is lack of funds. The DHHL estimates that it costs about \$75,000 to place a native Hawaiian family on a residential homestead. The State of Hawaii, through the DHHL, provides the site development and design for residential lots at no cost to the homesteader. These infrastructure improvements include roads, sewers, water, electrical lines, streetlights, and sidewalks. These site improvements cost about \$35,000 per unit, and constructing a house costs another \$40,000. Here again, the State bears the cost of financing low interest loans or guaranteed loans. VJJ DHHL estimates that it will require \$477 million to satisfy the present residential waiting list of 6,360 homestead applicants. 18/

The approximate cost of a home constructed on homestead lands is considerably less than the average cost of home construction in Hawaii in general. Because interest rates are low, the monthly payments by homesteaders are also lower than for others in the State. However, these facts do not take into account the quality of homestead housing. Many homesteaders complain about sub-standard quality.

Since 1975, the State of Hawaii has provided the homesteading program over \$40 million in general obligation bond monies for offsite improvements and loan capitalization. However, this infusion of State funds is not likely to continue because the State Constitution limits its authority to incur debt.

Loans

The DHHL is authorized to make loans from any revolving loan fund to lessees for the following purposes:

- (1) The repair, maintenance, purchase, or erection of dwellings on Hawaiian home lands, and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl, and farm equipment; and
- (3) Otherwise assisting in the development of tracts, farm and ranch operations;
- (4) The cost of:
 - (a) Breaking up, planting and cultivating land, and harvesting crops;
 - (b) Purchase of seeds, fertilizers, feeds, insecticides, medicines and chemicals for disease and pest control for animals and crops, and related supplies required for farm and ranch operations;
 - (c) The erection of fences and other permanent improvements for farm or ranch purposes;
 - (d) The expense of marketing; and
- (5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by said lessees. 19/

Homesteaders are usually unable to secure loans from traditional lending institutions because they lack the usual collateral required for such Loans. The reason for this is that they cannot mortgage the lands they lease. Consequently, the DHHL attempts to fill in the gap by offering low interest loans. For residential lots, loans are made for two purposes: to construct new homes, and to replace old and dilapidated homes. Since 1975, the State of Hawaii has allotted \$14 million for loans for these types. 20/

The DHHL also assists homesteaders in arranging other financing. It provides guarantees to assist homesteaders in securing loans from other lending sources such as the Farmer's Home Administration and the (State) Hawaii Housing Authority. The Farmer's Home Administration, through its Section 502 Program, had provided loans in excess of \$6 million over several years prior to 1981. 21/

At present, the Department has approximately 1,700 outstanding direct loans; totalling about \$28 million. It has also guaranteed approximately 650 loans totalling over \$12 million to date. Table 57 summarizes the financing for houses constructed with or without DHHL support during 1980-81.

Because they are lessees and not owners, homesteaders also have difficulty in obtaining conventional loans for home repair and improvements. However, DHHL also responds to this need. Table 58 shows the DHHL home repairs program funding for 1980-1981. DHHL financed 20 home repairs and improvements (16 percent of the total) at a cost of \$153,000 (26 percent). Lessees personally financed 106 home repairs and improvements (84 percent) at a cost of \$445,000 (74 percent).

The 230 homes that the DHHL will construct on Oahu during 1982 will be financed by loans from the State of Hawaii (\$7.7 million for 190 loans)

and the Farmer's Home Administration (\$1.6 million for 40 loans). Interest rates for these loans will range from 8 and 3/4 to 13 percent. 22/

Federal Housing Programs

"Native Hawaiians," as defined in Title III of the Public Law (96-565) setting up the Native Hawaiians Study Commission, are eligible to benefit from the U.S. Department of Housing and Urban Development (HUD) programs in the same fashion and no differently from any other U.S. citizen. However, there are impediments to the use of HUD programs for "Native Hawaiians" on Hawaiian Home Lands.

The HUD San Francisco Regional Office of Program Planning and Evaluation wrote a working paper that discusses these impediments. In summary, it states that:

Up to the present time, the Hawaiian Homes Commission has not participated in the various HUD housing and community development programs, nor have individual native Hawaiians been able to qualify for insured loans under HUD's single-family insured programs if their potential home was to be located on Hawaiian Home Land.

According to HUD's Honolulu Area Office, there are a number of problems which seem to inhibit HUD's program delivery to native Hawaiians seeking to establish residential homesteads on the Hawaiian Home Lands. These problems result from HUD program and statutory regulations which are in apparent conflict with the Hawaiian Homes Commission Act legislation. They may be categorized as follows:

- Civil Rights Act and HUD Equal Opportunity Regulations, which conflict with Hawaiian Homes

Act eligibility requirements
and are inappropriate for
application in the State of
Hawaii;

FHA Single Family Insured
Program Regulations on
marketability and transfer
of leasehold interest
conflict with HHCA
regulations restricting
marketability and transfer
of leasehold to native
Hawaiians exclusively?

PHA Administered Multifamily
Programs regulations require
an administrative agency
such as a Public Housing
Authority (PHA) to be
present before multifamily
programs can be implemented,
and HHC Act is unclear
regarding multi-unit
development. 23/

HOUSING

TABLES

TABLE 46
VACANCY RATE
1980

	Homeowner	Rental
Hawaii	1.4	10.3
United States	1.8	7.1

Source: U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States: 1981 (Washington, D.C.: U.S. Government Printing Office), p. 762.

TABLE 49
MEDIAN VALUE/NON-CONDOMINIUM
(SPECIFIED OWNER, DOLLARS)

	1970	1980
Hawaii	35,100	118,100
United States	17,000	47,200

Source: Data for 1970, U.S. Department of Commerce, Bureau of the Census, State and Metropolitan Area Data Book, 1979, Statistical Abstract Supplement, p. 76. Data for 1980, Statistical Abstract of the United States: 1981, p. 762.

TABLE 50
MEDIAN VALUE OWNER-OCCUPIED HOUSING UNITS
(NON-CONDOMINIUM), 1980 (Dollars)

All races	118,100
White	134,500
Japanese	115,600
Chinese	137,900
Filipino	99,900
Hawaiian */	92,800

a combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 51
MEDIAN CONTRACT RENT
(SPECIFIED RENTER, DOLLARS)
(Per Month)

	1970	1980
Hawaii	120	271
United States	89	198

Source: For 1970, State and Metropolitan Area Data Book, 1979, p. 76. For 1980, Statistical Abstract of the United States: 1981, p. 762.

TABLE 52
MEDIAN CONTRACT RENT
(DOLLARS, PER MONTH), 1980

All races	271
White	326
Japanese	229
Chinese	250
Filipino	207
Hawaiian */	254

V 1980 U.S. Census data combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 53
OCCUPIED HOUSING UNITS
1960 (PERCENT)

Ethnic Group	Owner-Occupied	Renters
All Races	51.7	46.7
White	42.7	57.3
Japanese	68.8	31.2
Chinese	69.3	30.6
Filipino	49.8	50.1
Hawaiian */	49.6	50.1

V 1980 U.S. Census data combined the Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1960, Special Tabulation.

TABLE 54
HOUSING CHARACTERISTIC

Ethnic Group	MEDIAN ROOMS PER UNIT			PERSONS PER UNIT		
	Total	Owner-occupied	Renter-occupied	Total	Owner-occupied	Renter-occupied
All races	4.6	5.3	3.7	2.82	3.13	2.48
White	4.6	5.4	4.0	2.40	2.47	2.35
Japanese	4.8	5.4	3.3	2.74	3.10	2.05
Chinese	4.5	5.2	2.9	2.85	3.10	2.27
Filipino	4.3	5.0	3.5	3.95	4.47	3.38
Hawaiian */	4.4	5.2	3.6	3.53	3.94	3.12

*/ U.S. Census data combined Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 55

PLUMBING FACILITIES BY HOUSEHOLD (Percent), 1980

Ethnic Group	Complete plumbing for exclusive use	Complete plumbing but used by another household	LACKING COMPLETE PLUMBING FOR EXCLUSIVE USE	
			Some but not all plumbing facilities	No plumbing facilities
All races	97.8	0.9	0.9	0.4
White	98.0	0.7	0.3	0.5
Japanese	98.6	0.6	0.6	0.2
Chinese	98.5	1.1	0.3	0.1
Filipino	95.7	1.8	1.7	0.7
Hawaiian */	97.4	0.6	1.5	0.5

*/ U.S. Census data combined Hawaiian and part-Hawaiian categories.

Source: U.S. Bureau of the Census, Census of the Population: 1980, Special Tabulation.

TABLE 56

SUMMARY OF HOMESTEAD LEASES BY ISLAND, AS OF JUNE 30, 1981

ISLAND	RESIDENTIAL RES. ONLY	FARM w/RES.	FARM ONLY	RANCH </ RES.	RANCH ONLY	At FAJSLV
<u>HAWAII</u>						
ICawaihae	7					7
KeauXaha	323					323
Panaewa/WaiaXea	142		56			203
Waimea	107		27	15	44	193
SUBTOTAL	579		83	15	44	726
<u>KAUAI</u>						
Anahola	137		1			138
Kekaha (Puu Opae)	50				2	52
SUBTOTAL	187		1		2	190
<u>MAUI</u>						
Paukukalo	89					89
SUBTOTAL	89					89
<u>ECLOKA;</u>						
Hcoiehua	40	176	26			247
Kalamajla	5	42	12			60
	44					44
-'ne Alii	27					27
l^axiloloa						2
SUBTOTAL	116	218	38			380
<u>OAHU</u>						
-oai-a^ei						2
NanAkuli	660					660
Far axolea	320					320
Waianae	153					153
Waimanalc	514					514
SUBTOTAL	1,647	1	1			1,649
<u>STATEWIDE</u>						
TOTAL	2,618	224	123	17	52	3,034

Source: Department of Hawaiian Home Lands, Annual Report, 1980-1981, (Honolulu: Department of Hawaiian Home Lands, 1981), p. 9.

TABLE 57

HOUSING PROGRAM: 1980-1981

PROJECT	ISLAND	RESIDENTIAL SINGLE FAMILY HOMES			FUNDING			CONSTRUCT 10*	
		NEW	REPLACE- MENT	TOTAL	DHHL	LESSEE	TOTAL	START	COW.
Miscellaneous Housing									
Keaukaha Housing	Hawaii	25	1	26	\$ 825,000 (25)	\$ 24,950	\$849,950	02/81	12/81
Kslamaula	Molokai		1	1	33,000 (1)	-	33,000	06/81	12/11
Nanakuli	Oahu	1	8	9	261,000 (8)	46,730	307,730	08/80	12/81
Papakolea/Kewalo	Oahu		7	7	195,000 (6)	75^590	270,590	06/80	12/81
TOTALS		26	17	43 1/	\$1,314,000	\$147,270	\$1,461,270		

*/ Of 43 homes, 40 financed by DHHL and 3 financed by lessee themselves) in 11 towns, the lessee provided supplemental funds beyond \$33,000 ceiling.

Source: Department of Hawaiian Home Lands, Annual Report, 1980-1981, p. 43.

TABLE 55
RESIDENTIAL SINGLE FAMILY HOMES, 1980-1981

FUNDING	NUMBER	COST
DHHL	20	\$153,000
Less: cc	106	\$445,000
Total	126	\$596,000
Source: Department of Hawaiian Home Lands, <u>Annual Report, 1980-1981</u> , p. 43.		

HOUSING

NOTES

1/ A couple of words of caution are necessary about the data used in this chapter. First, as noted in the chapter on "Demographics," the Census data for 1980 included both part-Hawainans and full-Hawaiians in the category "Hawaiian" and because of the data collection system, the number of native Hawaiians in this category is lower than the number in the State of Hawaii population data. Second, the unique homesteading program for native Hawaiians of 50 percent blood quantum and the housing programs of the DHHL may affect the statistics presented here. According to comments received from the Chairman of the Hawaii Department of Hawaiian Home Lands (DHHL):

Another factor which affects the Housing situation for Hawaiians is the existence of DHHL's housing program. There are about 2,900 leases with residences. Assuming an average household size of 5.0 persons, this amounts to 14,500 persons residing on Hawaiian Home Lands or 8.2% of the total native Hawaiian and Hawaiian population of 175,000 [according to the State of Hawaii population data]. This will affect statistics on Hawaiians cited in the [Commission's] report, for example, number and value of owner-occupied housing units and housing characteristics. If you deduct the number of DHHL-developed residences from these statistics, you will find that the housing situation for Hawaiians is more critical (pp. 1-2).

2/ State of Hawaii, Data Book 1981, A Statistical Abstract (Honolulu: State Department of Planning and

Economic Development, November 1981), p. 473.

3/ Data for California and U.S. from U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States: 1981 (Washington, D. C.: U.S. Government Printing Office, 1981) p. 11. Data for Hawaii from Hawaii Data Book 1981, p. 17. Hawaii data suggested in comments received *tf.xu* Hawaii Dept. of Social Services and Housing.

4/ Data Book 1981, p. 17.

5/ Data Book 1981, p. 47 J.

6/ Comments received from Robert C. Schmitt point out that the rental vacancy rate shown for Hawaii in Table 48, "is very misleading, since all vacant rental units held for transient occupancy are included in the rate" (p. 2). Including "tourist-type," shared ownership or time-sharing condominiums in the vacancy rate "make rental vacancies appear higher and at prices generally above comparable long-term rental units." (Comment from Hawaii Dept. of Social Services and Housing.)

2/ Statistical Abstract of the United States: 1981, p. 429.

{3/ Ibid., p. 762. These data may be misleading; see footnote 6 above.

9/ Testimony submitted to the Native Hawaiians Study Commission by: Rachel Kamekana (Molokai, January 10, 1982); Winifred Takoma Hualani Lum (Hawaii, January 12, 1982); Nathan Kahikolu Kalama (Kauai, January 13, 1982).

10/ For an explanation of the definition of "native Hawaiian" in P.L. 96-565, see above, pp. 36-7.

11/ State of Hawaii, Annual Report, Department of Hawaiian Home Lands, 1980-1981, p. 10.

12/ Georgiana K. Padeken, Chairman, Hawaiian Homes Commission, Testimony prepared for the Native Hawaiians Study Commission (January 9, 1982), p. 15.

It/ Ibid.

14/ Ibid.

15/ See Part II, of this report, chapter entitled, "Review of Hawaiian Homes Commission Programs," p. 389.

16/ Ibid.

17/ Padeken testimony, p. 15.

18/ Ibid., p. 16.

19/ Department of Hawaiian Home Lands, Title 10 Administrative Rules, Sec. 10-3-42 (effective July 30, 1981).

20/ ' Padeken testimony, p. 17.

21/ U.S. Department of Housing and Urban Development, Region IX, "Working Paper on Feasibility of Using HUD Programs on Hawaiian Homelands" (San Francisco: Office of Program Planning and Evaluation, June 1981), p. 5.

22/ Part II, chapter entitled "Review of Hawaiian Homes Commission Programs," p. 389.

23/ HUD "Working Paper," p. 2.

Ancient History To The Reciprocity Treaty

A. ANCIENT HAWAII

The origin of the native settlers of the Hawaiian Islands has not been definitively determined. \/ While "comparative ethnology, linguistics, and archaeology leave little doubt that Hawaiians were East Polynesian in origin," 2/ scholars do not agree on the origin, timing of the initial settlement, and the number of periods of migration.

Excavations on the island of Hawaii indicate to some that "the first significant settlement of the islands was by people with a cultural assemblage similar to that of archaic East Polynesia and that this settlement occurred sometime prior to A.D. 400." 3/ The island from whence these settlers originated, according to this scholar, has yet to be determined. Other scholars have concluded that: "Early dispersal [from the Marquesas Islands] to the Society Islands, Hawaii, and Easter Island probably took place between A.D. 650 and 800..." 4/ The population and culture of these early settlers developed "largely isolated from changes in other areas of Polynesia." 5/ There is, however, an oral tradition in Hawaii of a period of two-way voyaging between Hawaii and places to the south after this period of isolation. With the use of genealogies for time reckoning, "scholars have estimated that this voyaging would have occurred sometime between A.D. 950 and 1350 if it did in fact take place." 6/ This second migration is said to have had a significant impact on Hawaii, particularly in the area of new religious rites and symbols. 7/

After this period, again according to Hawaiian tradition, there was "no contact with other areas of Polynesia for some twenty generations prior to European contact," 0/ Throughout this period, meanwhile, the Hawaiians were developing complex social, cultural, and political systems.

Every aspect of Hawaiian life was carried out in accordance with deeply implanted religious beliefs. Important events in each individual's life were commemorated with prayers and feasts honoring the person and the family gods. Significant events in everyday life began and ended with appropriate rituals, including house building, canoe making, fishing, and farming. Gods were invoked for every purpose from warfare to sports tournaments. 9/

Besides the great gods of Hawaii (by the time of the missionaries there were four: Kane, Ku, Lono, and Kanaloa), there was an infinite number of subordinate gods descended from the family line of one or another of the major deities. These gods were worshiped by particular families or by those who pursued special occupations. All forms of nature were thought of as bodily manifestations of spirit forces. Some Hawaiians worshiped their gods in the form of images, while others worshiped without any concrete form. 10/

There was a kapu, or taboo, system that was closely intertwined with this religion, as well as with the governmental and social organization of Hawaii. The word kapu means a prohibition or restriction. The kapu system was used to regulate every aspect of ancient Hawaiian life of

all classes of society and, according to one historian, "insured the subordination of the lower to the higher." 11/ Another author explains the meaning of kapu as follows:

In its fundamental meaning tapu [kapu] as a word was used primarily as an adjective and as such signified that which was psychically dangerous, hence restricted, forbidden, set apart, to be avoided, because: (a) divine, therefore requiring isolation for its own sake from both the common and the corrupt; (b) corrupt, hence dangerous to the common and the divine, therefore requiring isolation from both for their sakes. 12/

Everything associated with the gods was sacred and there were many kapu surrounding priests and anything else related to the gods. Chiefs were believed to be descended from the gods and were surrounded by a great number of kapu, depending on their rank and, hence, degree of sacredness. The best known of the kapu that affected all classes was the prohibition against men and women eating together. Women were also forbidden to eat certain foods such as pork, and certain types of bananas, coconuts, and fish. 13/

The social system of the islands consisted basically of the king, followed by the ali'i (chiefs) of various degrees, kahuna (priests/ advisors), and the maka'ainana (commoners). There was also a slave class, the kauwa, below the maka'ainana, but little is known about it. 14/ The king was regarded as sacred and held the power of life and death over his subjects. His executive duties included warfare, questions of state, and overseeing the performance of religious rites. 15/

The king and ali'i of the highest rank were protected by the strictest of kapu, in order to preserve their

mana (divine power) and the beneficence of the gods, upon which the entire kingdom depended for its prosperity. Great care was taken to* secure noble offspring with the purest genealogy and thus ensure the continuation of the dynasty and the good favor of the gods. A suitable partner for a chief of the highest rank was his full-blooded sister. The child of such a union would be a "chief of the highest rank, a ninau pi'o, so sacred that all who came into his presence must prostrate themselves." 16/ For this reason, the genealogies of the kings were carefully preserved by their descendants to determine the purity of the bloodline of both partners. 17/

The political system of the islands consisted of small kingdoms under ali'i, with four main groupings: Hawaii, Maui, Oahu, and Kauai. Competing ali'i waged wars against each other, and, as a result, boundaries advanced and retreated according to the ability and ambition of their sovereigns. 18/ There was much discussion in the comments received by the Commission about whether the ancient land system could be termed "feudal." 19/ Authors disagree on the subject. William Russ states that "a feudal regime prevailed," 20/ and describes the relationships among the various classes in feudal terms. Lawrence Fuchs says that: "The religious, family, and property systems of feudal Hawaii and feudal Europe were different, but there were many parallels between the two." 21/

Regardless of the term employed, written descriptions of the system are similar. The following is from Jon Chinen, a noted Hawaiian land expert, who does not use the word "feudal:"

When Kamehameha The Great brought all the Hawaiian Islands under his control at the beginning of the Eighteenth Century, he simply followed the land system that had existed within the Islands from ancient

times. After selecting the choicest lands for his personal use, the king distributed the rest among his warrior chiefs, who had assisted in his conquests. These warrior chiefs, after retaining certain parcels of land for themselves, reallocated the remaining lands to the inferior chiefs, who in turn reallocated portions of their lands to their own followers. These reallocations of lands continued down the scale to the lowest tenants, the common farmers who actually tilled the soil.

All of these allotments of lands, from the warrior chiefs down to the commoners, were on a revocable basis. What the superior gave, he was able to take away at pleasure. Thus, there was no security of land ownership under the ancient Hawaiian land system. 22/

There is one significant difference between the Hawaiian land system and European feudal systems. The periodic upheavals that resulted in control of land passing to the conquering ali'i affected the latter much more than the commoners since: "the maka'ainana were the fixed residents of the land; the chiefs were the ones who moved from place to place." 23/ The maka'ainana could, if they were displeased with the way the chief treated them, move to the lands of another chief. They were bound to serve the chiefs, but not any particular chief. Malo reports that the "people made war against bad kings in old times" and overthrew chiefs who continually mistreated them. 24/

The Commission also received consents disputing the statement that the maka'ainana lived in an "intolerable" condition. 25/ Here again, authorities disagree. David Maio, a Hawaiian writing in the 1830's, was of the opinion that:

The condition of the common people was that of subjection to the chiefs, compelled to do their heavy tasks, burdened and oppressed, some even to death. The life of the people was one of patient endurance, of yielding to the chiefs to purchase their favor...It was the maka'ainana also who did all the work on the land; yet all they produced from the soil belonged to the chiefs. 26/

Liliuokalani (Hawaii's last monarch), on the other hand, had a very different view of the ancient system:

...it has been at times asserted by foreigners that the abundance of the chief was procured by the poverty of his followers. To any person at all familiar, either by experience or from trustworthy tradition, with the daily life of the Hawaiian people fifty years ago, nothing could be more incorrect than such assumption. The chief whose retainers were in poverty or want would have felt, not only their sufferings, but, further, his own disgrace. As was then customary with the Hawaiian chiefs, my father was surrounded by hundreds of his own people, all of whom looked to him, and never in vain, for sustenance. He lived in a large grass house surrounded by smaller ones, which were the homes of those the most closely connected with his service. There was food enough and to spare for every one. And this was equally true of all his people, however distant from his personal care. For the chief always appointed some man of ability as his agent or

overseer. This officer apportioned the lands to each Hawaiian, and on these allotments were raised the taro, the potatoes, the pigs, and the chickens which constituted the living of the family; even the forests, which furnished the material from which was made the tapa cloth, were apportioned to the women in like manner. It is true that no one of the common people could mortgage or sell his land, but the wisdom of this limitation is abundantly proved by the homeless condition of the Hawaiians at the present day. Rent, eviction of tenants, as understood in other lands, were unknown; but each retainer of any chief contributed in the productions of his holdings to the support of the chief's table. 27/

The early inhabitants of Hawaii developed an economic system that was, by necessity, self-sufficient. Hawaiians lived off the abundance of land and the sea, harvesting and catching only what they needed to satisfy their immediate needs. The basic land division of the islands for landholding purposes was the ahupua'a. The ideal ahupua'a extended from the sea to the mountain. Within each ahupua'a, commoners engaged in the activities necessary to support themselves and the chiefs. The lowlands were used for cultivation of taro and bananas, the sea for fishing, and the forests in the mountains supplied bark for cloth and bird feathers for ornaments. 28/

In agriculture, a fairly sophisticated system of irrigation was developed to bring the large amounts of water necessary to grow taro to the dry lands. Periodically, droughts would occur, forcing the people to survive on roots and ferns.

The sea provided an important source of livelihood and sustenance. The Hawaiians were expert fishermen and skillful navigators. As with agriculture, strict kapu control limited the amount of fish caught and the seasons during which they could be caught, creating an efficient conservation scheme.

Other occupations necessary to supply the needs of the culture included house-builders, canoe-builders, and bird-catchers (who collected feathers for the magnificent Hawaiian capes, cloaks, and helmets). 29/

B. ISOLATION IS SHATTERED?.

The long isolation of the Hawaiian islands ended with the arrival of Captain James Cook of the British^{rt} Navy. Captain Cook was on his third exploratory voyage to the South Pacific, travelling from the Society Islands to the northwest coast of America, when he sighted Oahu and Kauai on January 18, 1778. He christened the island group the Sandwich Islands, in honor of his benefactor, the Earl of Sandwich.

On January 19, the two ships under Cook's command, the Resolution & T. A. the Discovery, landed on Kauai and traded bits of iron (precious on the islands) for foodstuffs. Thus began the trade between Hawaiians and ships stopping at the islands to rest and replenish that would continue for generations.

Cook and his crew were enthusiastically received by the natives. At first they were somewhat confused at the great respect and awe with which the natives, even the king and chiefs, beheld Captain Cook. When the two ships left Kauai and landed at Niihau, the natives were just as impressed with the ships and just as interested in trading, especially for iron.

Cook continued his voyage north, searching for a sea passage from the Pacific to the Atlantic Ocean. After eight months of a frustrating and unsuccessful search, Cook returned to winter in the islands that had been so friendly during his last stopover. The ships made stops at Maui and Hawaii where they were visited by the kings of those islands, each with their chiefs, bearing gifts for Captain Cook. Word had been received from Kauai and Niihau about the wonders of the ships and their occupants.

It was during this stopover that the ship's crew realized that the special treatment received by Captain Cook from the natives was more than just respect for a superior technology. In fact, Captain Cook was thought by the natives to be Lono, the god of the makahiki harvest and of agriculture. This mistaken identity is easily understood. The symbol for Lono that appeared on his banner "consisted of a tall pole and cross bar...decorated with large sheets of white kapa (or cloth)." 30/ The similarity to the rigging of a ship, which the natives had never seen before, must have been considered more than coincidental.

As the ships were leaving the island of Hawaii, the foremast of the Resolution was damaged. Cook returned to Kealahou Bay on the Kona Coast of Hawaii to make the necessary repairs. While there, some altercation occurred between the natives and the crew of the ships. As a result, one of the ship's cutters was taken. Captain Cook went ashore on February 14, 1779, with the intention of holding the king, Kalaniopuu, hostage on his ship pending the return of the boat. When the natives advanced to protect the king, a battle broke out and Cook was slain.

How could Cook be killed by those who considered him a god? The timing of this last visit has an important bearing on the explanation. Mid-February is the end of the makahiki celebration, with which Lono was associated. During the makahiki, the image of Lono "was carried all around the island, stopping at the boundary of each district (ahupua'a) to receive the taxes." 31/ For warrior chiefs, the makahiki season, with its sports and other pastimes, was only a breathing space to gather strength for the important business of politics and dedicating state temples once again to the war god, Ku. So they were not overly impressed by the presence of Lono. Besides, by the end of this second visit one historian speculates that 32/ "chiefs and commoners alike had had time enough to see far more humanity than divinity among Cook's men." 33/ The same historian explains what happened in this way:

It was not the Hawaiians as a people who deified Cook, but the priests of Lono. It was not the Hawaiians as a people who killed him, but the chiefs and their fighting men, devotees of Ku, the war god, acting as protectors of their ruler, Kalaniopuu, against the incursions of a god who might very well not be a god, and whose period of ascendancy was in any case drawing to an end. Cook died in a distorted realization of the symbolic conflict that marked the close of the makahiki season. 34/

After the death of Cook, the Resolution and the Discovery departed and several years passed before

another ship stopped at the islands. After 1786, however, the fur trade began to develop along the northwest coast of America, and more and more ships came to stop at the islands.

The earliest American contact with the islands appears to be in 1789. In that year Captain Robert Gray, commanding a small Boston trading craft, the Columbia, stopped at the islands on his way to China. By 1800, the trans-Pacific fur trade was almost completely monopolized by New England ships, and the number of American craft stopping in Hawaii increased accordingly. 35/

C. TRANSFORMATION AND CHANGE (1796-1825)

The arrival of foreigners caused changes in the economy of Hawaii and accelerated political and social transformations already under way. For the natives, these changes were profound. One author writes:

Despite the unification of the islands, the period of Kamehameha's rule was, for the Hawaiian people, one of disintegration, owing to decimation from war, the infiltration of Western commercial practices, the avarice of the Chiefs and priests, the spread of haole diseases, and, perhaps most important, the breakdown of the Hawaiian religion. 36/

Political Unification--Kamehameha I

The last quarter of the eighteenth century found all the islands of the group caught in the midst of bitter civil wars. Rival chiefs fought each other to gain control of the entire group, a feat never before accomplished.

The great King Kamehameha I finally succeeded in subduing all of the

islands except Kauai and Niihau in 1796. The latter two islands were ceded without a battle in 1810. Even today it is a source of pride for the residents of Kauai that their island was not militarily conquered by Kamehameha.

Several reasons are given for the success of Kamehameha in the face of so many other failures to unite the islands. Among them are the presence of foreigners and their aid in the form of both guns and advice, and the feudalistic character of the Hawaiian society in which loyalties were not static. However, probably the most important reason was the personality and the ability of Kamehameha himself.

22/

At the conclusion of the civil wars, the islands prospered as commoners were free to return to agricultural pursuits. Kamehameha, as had all conquering kings before him, distributed his lands among the all'i and maintained the basic social and kapu systems.

Economic Changes

The arrival of foreigners brought drastic changes in the economic and material system of the native inhabitants. In the first part of the nineteenth century, Hawaii developed from a basic subsistence economy into a trading center. New products were introduced and Hawaiians traded their produce to acquire them. Ports like Honolulu on Oahu and Lahaina on Maui were built up to handle the trade.

At first, it was the fur trade that caused ships to winter and replenish in Hawaii on their way to and from the Orient. This economic phase was followed by the sandalwood trade from about 1810 to 1830. In the 1820's, the whaling industry replaced sandalwood as the chief commercial activity and reached its zenith from 1840 to 1860.

The growth of trade with foreigners, as the number of ships stopping at the islands increased, created a market economy alongside the traditional subsistence economy. Because the feudal character of the society continued for the natives, the ali'i made new demands on the maka'ainana to service this trade. The most extreme example of this occurred in the sandalwood trade. Hundreds of commoners were forced to gather the fragrant wood for the ali'i to trade with the foreigners. The results of this subjugation included the practical extinction of sandalwood, the neglect of agriculture, and the worsening of the health of the natives, already weakened from diseases introduced by the foreigners. 38/

The Kapu System Falls */

More important than the political and economic changes occurring in the first part of the 1800's was the religious and social significance of the breaking of the kapu system after the death of Kamehameha I in 1819. In that year his son, Liholiho, succeeded him to the throne as Kamehameha II. The new king would not rule alone, however. The dowager queen, Kaahumanu, became the kuhina nui (premier) and exercised substantial authority in running the government.

Although she exercised substantial power, Kaahumanu was still barred from exercising it to the fullest because of her sex. The kapu barring women from the luakini heiau, where one author states that political and religious decisions were made, were very strict. Therefore, soon after Kamehameha died, Kaahumanu began urging Liholiho to abolish the kapu system altogether. 39/

*/ See also chapter below, entitled "Native Hawaiian Religion," pages 232 to 234.

The new king hesitated at first, but he eventually acquiesced to the daring plan of the kuhina nui. The breaking of the kapu system, a truly revolutionary move, was symbolized by ai noa or "free eating"—the king eating with women, breaking the strict kapu against men and women eating together.

The erosion of belief by Hawaiians in the kapu system had begun years before. It is reported by some historians that Kaahumanu herself, along with numerous other women, had begun to break the onerous kapu against them years before. Despite the kapu forbidding it, women had been swimming out to the ships, risking death to do so. The existence of foreigners also served to weaken belief in the kapu system. The ali'i themselves "often had trouble deciding where kapu began and ended in connection with [foreigners]." 40/ Then again, the ali'i may have been convinced by the fact that foreigners did not observe kapu of "the ineffectiveness of the taboos, and, observing the superiority of haole cannon over Hawaiian clubs, of haole ships over native canoes,...began to doubt the power of their ancient gods." 41/

The decision to make such a radical departure from tradition was made by a "handful of chiefs. The commoners, as usual, followed where their ali'i led." 42/ Although they were probably relieved that the more onerous religious restrictions had been lifted, many did not abandon the old faith completely. When Liholiho ordered all the heiau (worship places) destroyed, some Hawaiians salvaged images of their gods. There was some resistance to the breaking of the kapu system on the part of ali'i who were champions of the gods, and a revolt broke out. However, the king succeeded in putting the revolt down in December 1819.

The elimination of the kapu did not change existing societal relations:

The fact that the chiefs had tested the patience of the gods did not cost them the support of the commoners;...The fall of the kapu...was an incomplete revolution. It left relations between chiefs and commoners more or less as they had been, but changed relations between chiefs, freeing each of them to try his skill at amassing and using political power in new ways. 43/

Arrival of Missionaries

The first group of American missionaries was sent by the American Board of Commissioners for Foreign Missions, an interdenominational body whose members were primarily Presbyterian and Congregational. 44/ This first mission consisted of four Hawaiians who had been educated at the Foreign Hission School, two ordained ministers (Hiram Bingham of Vermont and Asa Thurston of Massachusetts), and several lay specialists (a farmer, a printer, two teachers, and a physician). The group was instructed to take a broad view of its mission, "to aim at nothing short of covering the islands with 'fruitful fields and pleasant dwellings, and schools and churches.'" 45/

The Hawaii that the missionaries saw when they arrived off the coast of the island of Hawaii on March 30, 1820, was much changed from the Hawaii first viewed by Captain Cook in 1778. The Hawaiian Islands and people had been irrevocably changed by contact with traders, explorers, and foreign residents. Demoralization was one result of this contact. The Hawaiian social order had been transformed--kapu had been abolished, idols destroyed, and the authority of the priests was thrown in question. The timing of the arrival of the missionaries was auspicious. Acceptance was assured when the powerful kuhina nui,

Kaahumanu, supported the missionary endeavor.

The austere New England missionaries introduced totally different mores into Hawaiian society, compounding the confusion and disruption resulting from the economic, political, and social changes discussed above. Two conflicting views are represented by Hawaiian and missionary thinking:

The Hawaiians believed life was to be lived here and now; the men from colder climes insisted that life on earth was merely preparation for everlasting life beyond. 46/ Even in this life, the Hawaiian was not usually trying to prove his virtue, or improve his status; to the New England missionaries, life was a continuous struggle for moral and material self-improvement to receive God's grace. To the Hawaiian, the sharing of food, hut, and woman came naturally; the New Englanders maintained a stern sense of privacy concerning property and person. Sex to Polynesians was pure joy; to these haoles, a grim and burdensome necessity. Children born in or out of wedlock received the affection of the Hawaiians, to Bingham and his friends, bastards were conceived in sin. 47/

The role of the missionaries in Hawaii continues to be a complex and controversial issue. Many native Hawaiians still bear hostile feelings against these people who "stole th*ir land." 48/ Indeed, the acquisitions of the missionaries and their descendants in Hawaii became extensive. When they first arrive--the missionaries were prohibited from owning any land. This policy was reversed in the 1840's to counteract the "homeward current" of missionaries who had been there for several years and felt it was time to return to the

United States to educate their children. 49/ The future impact of this was significant:

A strong and aggressive foreign element, mainly American, purloined political power from the Kanakas [natives], and made itself wealthy by entering business, trade, and commerce. Although most of them were no longer missionaries, they were called the "Missionary Party"—in derision--by the natives who saw themselves being progressively relegated to the rear. The numerically inferior, but culturally superior, Americans became not only the leading businessmen but also the chief politicians and governing officials. Royal officers after the 1850's seldom bore Hawaiian names. 50/

This domination continued into the twentieth century, particularly in business. Another author notes that: "By 1935, exactly one-third of the directors and officers of the forty-five sugar plantations and factors in Hawaii were direct descendants of or related by marriage to the original missionary families of the Islands." 51/

There is another side of this story, however. The missionaries did accomplish more than their own self-aggrandizement. For example, they "set up the first printing press west of the Rockies, developed the Hawaiian alphabet, established schools throughout the Islands, printed textbooks, translated the Bible into Hawaiian, and promoted constitutional government under the Kingdom." 52/ The primary goal of the missionaries was to preach and convert, but much time was spent in the beginning teaching and transcribing the Hawaiian language. Their success in education can be seen in the large number of Hawaiians enrolled in schools and the high literacy rates recorded. Whether

or not this record of activity was of benefit to the native Hawaiians is difficult to say. Fuch states that:

The missionaries did have a tremendous impact, and by speeding the process of social change, they contributed to the psychological demoralization of the Hawaiians. The Hawaiian language, dance, and art were degraded. The land, property, political and religious systems were under constant attack...fHowever,] [even without the missionaries, it is unthinkable that Hawaiian culture and people could have withstood the sudden impact of Western civilization. Indeed, the missionaries often helped arrest some of the decay. 53/

The traders and explorers, who had come to consider the islands of Hawaii their personal paradise, did not appreciate the missionaries' zeal in teaching the natives traditional New England mores. As more natives, and particularly the ali 'i, embraced the new faith, more forceful attempts were made to control the debauchery of the sailors by proscribing their activities. The kapu most detested by the sailors was the one placed on women to keep them from the ships. The conflict arising from this clash of desires resulted in the first formal laws of the kingdom, promulgated by the king (see below).

Sailors were not the only group with whom the missionaries did not see eye to eye. In 1827, French Catholic missionaries arrived at Honolulu. The Protestant missionaries eventually influenced the chiefs to expel the Catholic priests. Nevertheless, they persisted in their attempts to establish a mission. Native converts and priests alike continued to suffer persecution until 1839. This fact was one of the primary reasons that the Hawaiian government would have problems in its foreign relations with France for years to come.

Foreign Policy

With a growing foreign population, it became necessary for Hawaiian kings to construct a "foreign policy" for the first time. Kamehameha I considered himself and his kingdom to be under the protection of Great Britain, a view also held by the king's successor, Kamehameha II. As will be seen below, there developed among the great powers a continuous rivalry to assert their rights and influence in the island kingdom.

The king and his chiefs felt threatened by the riotous behavior of the sailors and the demands, mainly for land, of other foreigners. To solidify Hawaii's standing against these encroachments, it was felt that the backing of Great Britain was necessary. Therefore, Kamehameha II travelled to Great Britain to meet with King George IV to discuss the possibility of a British protectorate for Hawaii. Unfortunately, a measles epidemic broke out in London and both Kamehameha II and his wife died of the disease in 1824. The meeting with King George never occurred.

D. THE REIGN OF KAMEHAMEHA III (1825-1854)

The reign of Kamehameha III was the longest in Hawaiian history—from 1825 to 1854. Many changes occurred during this time: the establishment of a system of laws, and, eventually, a constitutional government; formal relationships with foreign governments; land reform; and commercial, social, and educational developments.

Creation of a System of Laws

Kauikeaouli, younger brother of Kamehameha II, was a minor when he succeeded to the throne of Hawaii after the death of his brother in London. The kingdom was still

governed by the powerful Kaahumanu until her death in 1832.

The first laws appeared in the kingdom before the death of Kamehameha II, made necessary by the increasing problems involved with reconciling the newly-acquired Christian principles of the natives with the unruly behavior of the sailors in the port areas. The earliest printed laws were the "Notices" of 1822 on disturbing the peace. In 1827, three laws were adopted against murder, theft, and adultery.

During the regency of Kaahumanu, there had been a general tightening of laws and restrictions placed on both natives and foreigners. After her death in 1832, the missionaries worried that, without her powerful support, many of their gains in promoting what they considered a Christian nation would disintegrate. They were not wrong. The king, at eighteen, had no sympathy for the new religion. In his rebellion against the puritanical laws imposed during the regency of Kaahumanu, the king abrogated all laws except those against theft and murder. He embarked on a "kind of inventive guerrilla war on Christian morality." 54/ The commoners followed his example and the missionaries despaired as the moral laws they had worked so hard to have accepted were ignored.

One author attributes this at-.-.:.*? of the king to cultural and political reasons:

In the revival of the hula and ancient games we recognize elements of the racial culture struggling for expression after a long period of forced retirement. There was also during these two years (1833 and 1834) a protracted struggle between the king and the older chiefs resulting from the decision of the king to terminate

the regency and from what looks like an attempt on his part to regain for the crown as much as possible of the power which had gradually passed into the hands of the council of chiefs. 55/

The king's rebellion came to an end in June, 1834. 56/ At that time, Kamehameha III retired from actively governing the kingdom and allowed the new kuhina nui, his half-sister Kinau, and the chiefs to run the government, as they had before the death of Kaahumanu.

Meanwhile, the problems inherent in governing a foreign population that frequently called upon warships to back up their claims continued to plague the ruling chiefs. The majority of the claims against the government by foreigners dealt with land and property rights. Unfamiliar with Western property rights and laws, the chiefs decided that it would be necessary to establish more formal laws and government in the kingdom to answer these claims.

To begin this process, a request was made to the United States in 1836 by the chiefs for a teacher of economics and political science. When no suitable teacher could be found, William Richards, a missionary, became "chaplain, teacher and translator" to the king in 1838. 57/ This is the beginning of the formal involvement of missionaries in the government of the Hawaiian kingdom. During the 1840's more missionaries formally joined the king's cabinet: the physician Gerrit P. Judd; Lorrin Andrews, former principal of Lahainaluna; and Richard Armstrong, pastor of Kawaiahao Church in Honolulu. Missionaries who joined the government were required to break formal connection with the American Board of Commissioners for Foreign Missions.

Other white men found their way into the government from diverse backgrounds: John Ricord became

attorney general; William Little Lee became chief justice of the Hawaiian supreme court while still in his twenties; Robert C. Wyllie served as foreign minister for twenty years. The numbers and influence of these men in the government grew. By the end of 1844, there were fourteen white men working for the government. This number grew to forty-eight by 1851—twenty-five Americans, twenty-one Englishmen, one Frenchman, and one German. Each foreigner in the government had to sign an oath of allegiance to the king as a condition of employment. 58/

Once Richards began to advise the king and the chiefs, "it became clear that the government could not be remade to suit foreigners without bringing in revolutionary changes in the relationship between chiefs and commoners." 59/ As a first step in 1839 the king announced a policy of religious toleration (relieving pressure on the Catholics). In the same year, the king proclaimed the Declaration of Rights and Laws, a sort of civil code (called the "Hawaiian Magna Carta"). This document defined and secured for the first time the rights of the commoners who, prior to that time, had had no rights, but were subservient to the ali'i. This was the first result of the decision by the king and chiefs to codify the laws of the kingdom.

Prior to the Constitution of 1840, Hawaii's form of government was difficult to define because it was constantly changing. During the reign of Kamehameha I, it was a feudal aristocracy. During the reign of Kamehameha II and the minority of Kamehameha III, the importance of the office of the kuhina nui was enhanced and the chiefs began to encroach on the authority of the king. From their beginning as an advisory council, the chiefs eventually came to have legislative power. 60/

After deliberation by the chiefs and the king's advisors, a constitution was signed by the king and kuhina nui in 1840. The Constitution of 1840 put in writing for the first time a plan of the government and a description of the powers and duties of various officials within the government. In brief, the constitution provided that:

- The king and the kuhina nui together wielded supreme executive authority.
- Four governors, subject to the king and kuhina nui, would have charge of matters of government not assigned to other officials.
- The lawmaking power was lodged in a legislative body consisting of two branches: a council of chiefs, including the king and kuhina nui (later called house of nobles), and a representative body chosen by the people.
- A supreme court was created to be composed of the king, kuhina nui, and four other judges appointed by the lower branch of the legislature.

Three Organic Acts adopted from 1845 to 1847 elaborated on the constitution. They set up an administrative and judicial system of the Anglo-American type. The first act defined the organization of the executive branch. The second defined the functions of the five executive departments, including an article that established a Board of Commissioners to Quiet Land Titles. The third organized the judiciary.

Through these Organic Acts, the administrative and judicial systems developed more toward the Anglo-American style advocated by the

foreigners holding positions in the government. As the number of these foreigners in the government increased, protests were made to the king by native Hawaiians. In 1845, a petition was sent to the king from Lahaina asking him to dismiss all naturalized foreigners he had appointed as officers of the kingdom. 61/ The petition was not acted upon.

At the same time, the land system was undergoing drastic changes from the previous system. The Great Mahele of 1848 divided land in the kingdom into two parts--land belonging to the king and land belonging to the konohiki, or chiefs. The next day, after the last mahele (division) with the konohiki, the king divided his land again in two parts with the larger part designated as "government land" under the control of the legislative council. The smaller part was known as the "Crown Lands" and belonged to the king. At about the same time, kuleana were awarded in fee simple to native Hawaiian tenants.*

By 1851 the Constitution of 1840 was out of date, given the numerous developments in the government system, since that time. A new constitution was approved by the legislature in 1852. The powers of Government were divided into executive, legislative, and judicial branches. The king was declared the "Supreme Executive Magistrate," although his powers were somewhat limited by the kuhina nui. The privy council continued to play an important role. Ministers were appointed by the king, as were governors. Legislative power was vested in the king, the house of nobles, and the house of representatives, each with veto powers over the others.

*/ For a more complete explanation of the land system changes, see Part II, "Land Laws and Land Relationships."

In order to understand future constitutional activity of the kingdom, it is important here to point out the differences between constitutions of the Hawaiian Kingdom and of the United States. ^{62/} Unlike the system in the United States, the Hawaiian monarch was believed to have had the right to promulgate and abrogate constitutions, since the original constitution was granted by the king and not by "We the people." ^{63/} One Hawaiian writer states that: "By proposing the action of the constitution of 1852 the king set a precedent that he could, with the consent of the legislature, change the constitution." ^{64/}

Relationships with Foreign Governments

These early years of the reign of Kamehameha III saw increasing problems with foreigners. The government, particularly its white members, struggled to achieve an aura of gravity that would command the respect of the foreigners on the islands. Calling upon warships to back up the claims of foreign citizenry continued unabated, however. The ability of the kingdom to survive on its own became increasingly questionable. David Malo wrote at this time that "such has always been the case with large countries, the small ones have been eaten up." Evil, he wrote, was at the door, ready to "come in and bite us." ^{65/} The treaties the king had already signed with foreign governments were disadvantageous to Hawaii and did little to protect the sovereignty of the kingdom.

Relations with the French were at a particularly low ebb. Besides the religious persecution of Catholics in Hawaii, the passage of an act in 1838 prohibiting importation and purchase of distilled liquors and imposing a duty of \$1/gallon, on imported wines was particularly irksome. The problem came to head in July 1839. The

commander of a French frigate, Captain Laplace, threatened to use force if the king did not accede to several demands made by the French in Hawaii. To avoid bloodshed, the king signed a convention with the French (known as the "Laplace Convention") and announced a policy of religious toleration.

The convention the king was forced to sign contained two clauses that circumscribed the power of the king:

- Frenchmen accused of "any crime whatever" would be judged by a jury composed of foreigners, proposed by the French consul; and
- French merchandise was not to be prohibited ~~nor~~ pay a higher duty than 5 percent ad valorem. ^{66/}

To prevent foreign governments from taking further advantage of Hawaii, the king and his council decided that more formal relationships should be established with foreign governments. To accomplish this, a delegation was sent by the Hawaiian Government in 1842 to negotiate for formal recognition and new treaties with the United States, Great Britain, and France, to replace the existing informal and disadvantageous conventions. The delegation was composed of Sir George Simpson (Governor of the Hudson's Bay Company), William Richards, and Timothy Haalilio (a Hawaiian in the Government).

The mission succeeded in the United States. The first formal recognition of Hawaii's independence was in the form of a document given to the Hawaiian envoys by U.S. Secretary of State Daniel Webster on December 30, 1842. The document stated that the United States was more interested in Hawaii than any other nation and that "no power ought either to take

possession of the islands as a conquest, or for the purpose of colonization, and that no power ought to seek for any undue control over the existing Government, or any exclusive privileges or preferences in matters of commerce.^{M 67/} The document was sent to Great Britain and France and became known as the "Tyler Doctrine," uttered by the then-President John Tyler.

Having successfully completed their negotiation in the United States, the king's representatives left for Europe to continue their quest for formal recognition. Before they could complete negotiations for recognition in Europe, however, the "Paulet Affair" intervened.

Lord Paulet, captain of the British frigate Carysfort, was sent to Honolulu to protect British interests as a result of complaints--mainly about land--by the acting British consul in Honolulu, Alexander Simpson. Paulet made demands on the Hawaiian government and threatened to fire upon Honolulu if they were not met.

To avoid conflict, the king made a provisional cession of the islands to Great Britain on February 25, 1843. Until the end of July, the Hawaiian Islands were under the British flag. When it was informed of what Paulet had done, the British Government disavowed Paulet's act and sent Rear Admiral Richard Thomas to restore Hawaiian sovereignty, which he did on July 31, 1843.

After this episode was resolved, the Hawaiian delegation continued their European negotiations. Finally, on November 11, 1843, a joint declaration was signed in London by which the Queen of Great Britain and the King of France recognized the independence of the Sandwich (Hawaiian) Islands. The United States refused to sign the declaration on the grounds that it was contrary to America's policy of avoiding entangling alliances. Instead, the United States stood by the Tyler Doctrine.

Despite this formal recognition of independence, inequitable treaties were still a problem for Hawaii. In 1844, the British presented the Hawaiian Government with a convention with objectionable articles similar to those of the Laplace Convention of 1839. The government signed the convention but wrote to the head of the British foreign office seeking modifications. New treaties were signed with Britain and France in 1846, still with objectionable articles on trade preferences and the composition of juries.

In the mid-1840's and 1850's Hawaii was finally able to achieve equitable treaties. In 1846 Hawaii signed a satisfactory treaty with Denmark that did not contain the restrictive clauses of the British and French treaties. Eventually, even Britain and the United States relaxed their discriminatory attitudes. By the 1840's, the articles of arrangement with the United States, which had first been negotiated in 1826, had ceased to be regarded as a valid treaty. A new treaty satisfactory to the Hawaiian Government was signed in 1849 and remained in effect until the annexation. The American treaty served as the basis for a new, more equitable treaty with Great Britain, signed in 1851. In turn, this treaty was the basis for treaties with Sweden and Norway in 1852.

Thus Hawaii progressed toward more equitable treaty relations. France was an exception, since it continued to insist upon articles objectionable to the Hawaiian Government. Moreover, most-favored-nation clauses enabled other nations to claim the benefits of the restrictive clauses in the French treaty.

Trade and Annexation

Economic development in the late 1840's and early 1850's foreshadowed the dominant role the United States

would play in economic and political matters in Hawaii through the rest of the century. The latter years of the reign of Kamehameha III saw an increase in trade between Hawaii and the West Coast of the North American continent. The primary impetus was the acquisition of California and Oregon by the United States, the discovery of gold in California, and the subsequent influx of population requiring supplies more easily obtained from Hawaii than from the U.S. eastern seaboard.

This expansion of the United States to the Pacific engendered an "exuberant expansionism," and convinced many that "it was the 'manifest destiny' of the United States to overspread the whole North American continent and the adjacent islands."

68/ Kuykendall notes that this expansionism would have a significant impact on Hawaii. Specifically, it gave birth in the United States to the idea that Hawaii should be annexed to the American Union, and aroused apprehension in Hawaii as to the possible effect of "this onflowing and seemingly resistless tide upon the destiny of the little island kingdom."

⁶ //

The sugar industry progressed in Hawaii, stimulated by the new markets on the U.S. West Coast. One problem with this market, however, was the high U.S. tariff wall and the necessity to compete with low-cost sugars from Manila and China. Labor supply became a problem as the sugar industry grew concurrently with the decline in the native Hawaiian population. Approximately 200 Chinese contract laborers were brought in for the first time to alleviate the shortage during 1852.

Trade goods were not the only commodity some Hawaiians thought might be travelling between California and Hawaii. Rumors abounded that groups of filibusterers were poised in San Francisco ready to descend upon Hawaii

and attempt to overthrow the government.

Other troubles at this time also put the political stability of the monarchy in doubt again. The French menaced once more, sending warships to Hawaii. Then a smallpox epidemic broke out. Partially as a result of the way the epidemic was handled, there was a political upheaval in 1853 and one of the king's ministers, Gerritt Judd, was dismissed.

During this upheaval the topic of annexation to the United States came to the fore. Some viewed annexation as "Manifest Destiny;" others considered it the means to ensure that the islands did not fall into the hands of Great Britain or France; everyone knew that the economy of the islands would benefit if the U.S. tariff on sugar could be eliminated.

70/

The king, beset by internal squabbles, annexationists, and external pressures, began to despair of the future. Secretly, he sent a proclamation to the United States Commissioner requesting assistance in case Hawaii were attacked. The proclamation said, in part, that the king and kuhina nui:

Hereby proclaim as our Royal will and pleasure, that all our Islands, and all our rights as sovereign over them, are from the date hereof, placed under the protection and safeguards of the United States of America until some arrangements can be made to place our said relations with France upon a footing compatible with my rights as an independent sovereign,...or if such arrangements should be found impracticable, then it is our wish and pleasure that the protection aforesaid under the United States of America be perpetual. 71/

The U.S. Commissioner and members of the king's government drew up a document setting forth alternative plans for the United States to save Hawaii from the danger of filibustering or threats from foreign governments. In order of preference, these were:

- A joint protectorate by the United States, Great Britain, and France;
- A protectorate under the United States and Great Britain;
- A protectorate by the United States alone;
- If no protectorate could be arranged, resignation of sovereignty to the United States. 72/

After communicating these developments to Washington, however, the United States Commissioner was informed by the U.S. Secretary of State that he was not to give countenance to "any idea or expectation that the islands will become annexed to the United States." 73/

All of these negotiations came to a halt without being resolved. Rumors of filibustering proved untrue, relations with France improved somewhat, and Kamehameha III died on December 15, 1854. His successor, Prince Alexander Liholiho, did not reopen the discussions and supporters of annexation in Hawaii gave up their agitation for the time being. However, interest had been piqued in the United States by these developments. Fear that France would take over the Hawaiian Islands had stimulated talk of annexation, particularly in California.

E. THE REIGNS OF KAMEHAMEHA IV AND V (1854-1872)

Politics and Sugar

Prince Alexander Liholiho, nephew and heir of Kamehameha III, ascended the throne as Kamehameha IV on December 1854. His reign lasted until his death in 1863. This Hawaiian monarch had very different ideas about relations with foreign governments, in general, and with the United States, in particular.

In the foreign realm, the policy of the government of Kamehameha IV consisted of three parts:

- 1) To substitute for the pending annexation project a treaty of reciprocity between the United States and Hawaii;
- 2) To get a satisfactory treaty with France and place the relations between the two countries on a cordial footing; and
- 3) To obtain a joint guarantee of Hawaii's independence by the great maritime powers, Great Britain, France, the United States, and possibly Russia, by means of a tripartite or quadripartite treaty.

21/

Of the three parts of this policy, only the second met with some success. A new treaty between Hawaii and France was ratified in 1858 and, although still not satisfactory, the treaty was "in some important respects an improvement over the old one." 75/

One of the first steps taken in pursuit of the foreign policy goals of Kamehameha IV was to break off all negotiations for annexation to the

United States. 76/ In general, the reign of Kamehameha IV marked the beginning of the turning away from American influence and toward a closer relationship with England. This relationship was symbolized by the introduction of the Anglican Church into Hawaii by the king and his wife, Keen Enma. 77/ The king and the chiefs feared that the great preponderance of American interests (particularly missionary interests) in Hawaii would lead to the overthrow of the monarchy, annexation, and the eventual extinction of the Hawaiian race. 78/ The close call with annexation in the waning years of the reign of Kamehameha III (which Alexander Liholiho had opposed, as prince and heir apparent) confirmed this suspicion.

Meanwhile, these years were years of economic transition. Whaling declined as the primary industry, while the sugar industry grew dramatically. After the California gold rush, the sugar industry went into a depression in Hawaii. However, the U.S. Civil War provided the necessary boost in the market to make Hawaiian sugar the primary export of the islands. Another factor in the increase in output at this time were improvements in mills, machinery, and production methods.

The plantation agency system developed to promote the industry. The system, which was set up by the larger business houses in Honolulu, provided capital to and served as centralized agents for individual plantations. The larger of these establishments would eventually consolidate into the "Big Five" sugar factors (agents).

The problem of labor supply became acute, spurred by the growth of the agriculture industry and the continued decline in the native population. 79/ More Chinese laborers were brought in, but this was not a popular policy, particularly among native Hawaiians. The first Japanese laborers were brought to Hawaii in 1868. In 1869,

Hawaiians held meetings during which several resolutions were passed against further importation of Chinese contract labor and expressing the opinion that "the government should bring here the people—men, women and children—of a cognate race with ourselves, as laborers, and to increase the population of our group." 80/

In 1871, a treaty of friendship and commerce was concluded with Japan. The treaty contained provisions that "the Hawaiian Government expected to open the way for an extensive immigration of Japanese laborers to Hawaii." 81/ This goal was not reached until after many years of negotiation, however.

The continued growth of the sugar industry depended on the existence of an accessible market. For this reason, the question of annexation was still alive in the minds of sugar planters, who were most interested in getting out from under the heavy import duties imposed upon them by the U.S. Government. The Hawaiian Government proposed an alternative—a reciprocity treaty with the United States to permit U.S. and Hawaiian goods to be exchanged free of duty. An emissary was sent to Washington to negotiate such a treaty but it did not pass the U.S. Senate. The Hawaiian sugar industry was afforded some relief, however, when the U.S. tariff was lowered in 1859. In late 1866 the reciprocity treaty was once more brought forward, but it was again defeated in the U.S. Congress.

One of the reasons for the defeat of the treaty, according to Kuykendall, was the mission of Zephaniah S. Spalding. He was sent to Hawaii in late 1868 by U.S. Secretary of State Seward 82/ "to observe and report to Seward on the situation in the islands and the probable effect of the reciprocity treaty that was then pending in the Senate." 83/ According to Kuykendall, Spalding was "strongly opposed to the reciprocity treaty, and was in favor of annexation, which he thought would be hastened by rejection

of the treaty." ^{84/} Spalding's report probably had some, although not major, influence on the treaty's rejection by the U.S. Congress. ^{85/}

Plight of the People

As a result of the constitutional developments described above, native Hawaiian men had the right to vote for the members of the kingdom's house of representatives. They did not, however, share in the growing prosperity of the kingdom.

The native population continued its precipitous decline. Liholiho singled out the problem of the decrease in the native population in his speech opening the legislature in 1855. He suggested a two-fold attack on the problem: reduction in loss caused by disease, and encouragement of Polynesian immigrants to reinforce and reinvigorate the Hawaiian stock. The latter plan was eventually accomplished through labor immigration, although it was not always to the satisfaction of the native Hawaiians, as noted above.

To improve the economic well-being of the native Hawaiians, efforts were made by Kings Kamehameha IV and V to interest them in the growing agricultural industry. Some native Hawaiians did grow potatoes, but the potato as a cash crop did not survive long. The Native Hawaiian Agricultural Society was set up in 1856, but it was not very successful in encouraging greater production from Hawaiians. Growing sugar required large-scale operations and was monopolized by Americans. The native Hawaiians did not share the white man's view of the future in terms of profit and loss, and the result was that the native population existed on the fringes of the impending economic boom.

Constitutional Change

On the death of Liholiho on November 30, 1863, his older brother (Prince Lot) succeeded to the throne as Kamehameha V. Unlike his predecessor, Kamehameha V did not take the oath to uphold the kingdom's constitution, promulgated in 1852.

Even during the reign of Liholiho, the king and his advisors had attempted to amend the Constitution of 1852. The most objectionable features of the latter included the existence of the office of the kuhina nui, the power of the privy council, universal male suffrage, and the absence of property qualifications for members of the House of Representatives.

King Kamehameha V believed that the Constitution of 1852 was far in advance of the needs of the people, and he called a convention to draft a new constitution. When the convention deadlocked on the question of property qualifications, the king adjourned the convention, abrogated the old constitution and promulgated a new one a week later. The principal changes embodied in the Constitution of 1864 were:

- The office of kuhina nui was abolished;
- The powers of the privy council were curtailed, while the administrative powers of the king and cabinet were strengthened;
- The nobles and people's representatives would sit together as the legislative assembly; and
- There would be property qualifications for the representatives and property and educational qualifications for voters.

As noted above, the power of the king to unilaterally abrogate the constitution was accepted by native Hawaiians. Of the action of Kamehameha V, Li'ioukalani says:

I, -as -already been seen that the right of life and death was unchallenged; that whatever it may be in other countries, as late as an epoch thirty years in the past [i.e., mid-1860's] it belonged to the highest chief of the Hawaiian people...Let it be repeated: the promulgation of a new constitution, adapted to the needs of the times and the demands of the people, has been an indisputable prerogative of the Hawaiian monarchy. 86/

2. LUNALILO (1873-1874)

Kamehameha V died in December 1872 without naming a successor. On his deathbed he asked the High Chiefess Bernice Pauahi (Mrs. Charles R. Bishop) to be his successor, but she declined. As provided for in the constitution, the national legislature was responsible for choosing the new monarch. An informal popular vote was held and the result was a large majority for Lunalilo, a cousin of Kamehameha V (the other contender was David Kalakaua). The legislature confirmed the election.

The kingdom that Lunalilo took over was encountering severe economic difficulties. The islands' economy became more and more dependent upon the United States as the sugar industry continued to expand. The reciprocity treaty became more important with the serious financial depression in Hawaii in 1872. Talk of annexation surfaced, but the weight of

public opinion, even among the haole population, was against it. The king and legislature submitted for U.S. review the idea of a reciprocity treaty in return for the cession of Pearl Harbor. Some of the king's advisors had told him that this would make passage of the treaty much more probable. There was a public outcry against such a scheme by the native population, however, and the latter proposal was withdrawn.

Meanwhile, the U.S. Government was ascertaining the military importance of the Hawaiian Islands in general and Pearl Harbor in particular. Early in 1873 Major General John M. Schofield, commander of the United States Army Military Division of the Pacific, and Brevet Brigadier General B. S. Alexander, a lieutenant colonel in the Corps of Engineers, arrived in Honolulu. 87/ Ostensibly on a vacation trip, the secret purpose of the men's visit was to report to U.S. Secretary of War W. W. Belknap on the "defensive capabilities of the different ports and their commercial facilities." 88/ The report, which was made public twenty years later, "emphasized the value of Pearl Harbor and discussed the means of making it available for naval and commercial purposes." 89/

In the political realm, Lunalilo did succeed in having some amendments to the Constitution of 1864 adopted, including the repeal of the property qualifications for voters. Other policies were not as popular, however. The continuing public health problem with leprosy resulted in strict enforcement of the law sending lepers to Molokai—in two years over 500 lepers were sent to facilities there that were already over-extended. This policy caused the government to lose much popular support.

Lunalilo died of pulmonary tuberculosis in February 1874 after barely a year on the throne. He became the first Hawaiian monarch to leave his property to a benevolent institution--the Lunalilo Home for poor, destitute, and infirm people of Hawaiian blood.

Since Lunalilo died without an heir, the legislature once again had to choose a king. David Kalakaua was elected after a campaign in which he was opposed by Queen Emma, the widow of Kamehameha IV. This election changed the line of succession from the Kamehameha line to the Kalakaua line.

G. THE RECIPROCITY TREATY (1875)

King Kalakaua was in favor of a reciprocity treaty. Shortly after he assumed the throne, he travelled to the United States as a "good-will" ambassador to promote its passage. Some credit the eventual passage of the treaty to the favorable impression he made. Of this trip, Liliuokalani says:

Yielding to the wishes of those residents of his domain who were from American or missionary stock, my brother [Kalakaua] had organized the negotiation of a treaty of closer alliance or reciprocity with the United States...The result of this visit is well known. It secured that for which the planters had gained endorsement of the king, it resulted in the reciprocity treaty of January 30, 1875. 90/

Liliuokalani states that support for the treaty was not unanimous in Hawaii. Some protested that it would "put in peril the independence of our nation." 91/

The reciprocity treaty finally passed the U.S. Congress and was signed in mid-1875 without the clause on Pearl Harbor. It went into effect in 1876. The treaty was renewed in

1887 with a clause giving the U.S. Government exclusive right to use Pearl Harbor, and this treaty remained in effect until June 1890.

The 1876 treaty provided that unrefined sugar, rice, and almost all other Hawaiian products would be admitted to the United States free of duties. In return, a long list of American products and manufactured goods were admitted into Hawaii. The treaty also provided that, as long as it was in effect, Hawaii could not offer the same kind of treaty to any other nation.

The primary effect of the treaty was a tremendous upsurge in the sugar industry. Records show that in 1875, before the treaty was in effect, 25 million pounds of sugar were exported. By 1890, that amount had increased ten-fold--250 million pounds of sugar were exported. 92/

Since sugar cane requires large amounts of water, extensive irrigation was begun, with an assured market, more capital was available to make such improvements. The agency (or factor) system became more important, because it offered a centralized system to sell and ship crops, finance new ventures, and purchase equipment needed by plantations. With the growth in output, the need for labor also increased. More than 55,000 immigrant laborers were brought to Hawaii between 1877 and 1890. Approximately one-half of these were Chinese. Others were Japanese, Portuguese, and European. 93/

However, the most significant consequence of the reciprocity treaty was the development of powerful economic ties between Hawaii and the United States. These economic ties then intensified the political consequences of the treaty. Russ believes that:

The political consequences of this reciprocity agreement cannot be overestimated. When Hawaii was finally annexed in 1898, practically everybody

agreed that the first real step
had been reciprocity, **that is**
to say, economic annexation. 94/

The events that took **place from**
1875 to 1898, when Hawaii **was annexed**
to the United States, **are reviewed** in
Part II, "Diplomatic and **Congressional**
History: From Monarchy **to Statehood,**"
below.

ANCIENT HISTORY TO THE RECIPROCITY TREATY

W This section on the origin of ancient Hawaiian settlers was revised as a result of suggestions for the use of additional sources by Violet Ku'ulei Ihara of the Bishop Museum, Honolulu.

2/ H. David Tuggle, "Hawaii", in The Prehistory of Polynesia, Jesse D. Jennings, editor (Cambridge, Massachusetts: Harvard University Press, 1979), p. 189.

y Ibid.

4/ Yosihiko H. Sinoto, "The Marquesas," in The Prehistory of Polynesia, p. 131.

5/ Tuggle, p. 189.

6/ Ibid.

y ibid»

S_ ' Ibid., p. 171.

9/ Donald Kilolani Mitchell, "Religious Beliefs and Practices," from Resource Units in Hawaiian Culture (Honolulu: The Kamehameha Schools, 1982), p. 1.

10/ Martha Warren Beckwith, Hawaiian Mythology (Honolulu: University of Hawaii Press, 1970), p. 81.

YJ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation (Honolulu: University of Hawaii Press, 1968), p. 8. Hereinafter referred to as "Kuykendall Volume I."

12/ E. S. C. Handy, Polynesian Religion (Honolulu: Bernice P. Bishop Museum Bulletin 34, 1927), quoted in Kuykendall, Volume I, p. 8.

13/ Mitchell, p. 35. Elaboration of explanation of kapu system added a the suggestion of Violet Ku'ulei Ihara.

14/ Kuykendall, Volume I, p. 9*; Change suggested by Violet Ku'ulei Ihara.

15/ The Commission received several comments from individuals on the issue of genealogy, royal succession, and differing claims to the former Hawaiian throne. (See, for example, comments by Rory Soares Toomey, Ralph L. Heidenreich, Victoria Mews, Beatrice Kulia-Ika-Nuu Anderson, and George T. H. Pai.) One comment notes that: "...it would be inappropriate for the [Native Hawaiians Study Commission] to attempt to resolve the issue of royal succession" (Beatrice Kulia-Ika-Nuu Anderson). The Commission agrees; it is outside the purview of the Commission's mandate to issue an authoritative statement on the differing claims to the former Hawaiian throne. The Commission's Report does not specifically address the issue of succession. Any statements that may seem incidentally to relate to this issue are not meant to address or prejudice any current claims.

J_6/ David Malo, Hawaiian Antiquities (Mooolelo Hawaii) (Honolulu: Bishop Museum Press, 1951), p. 80.

17/ Ibid., p. 80.

18/ Thomas Marshall Spaulding, The Crown Lands of Hawaii, University of Hawaii Occasional Papers, No. 1 (Honolulu: University of Hawaii, October 10, 1923), p. 3. This article was submitted as a comment and can be

rid in the Appendix. A comment received from John J. Hall states that: "Boundaries never changed, even after contact. Ahupua'a remained stationary, only alii moved...If warfare was as extensive as historians r---rt, the environment would show the effects and the literature does not sjppport such a situation." The quotation from Spaulding refers to boundaries pertaining to land under a particular chief and not to boundary changes of particular ahupua'a.

19/ For example, Congressman Daniel Akaka says that the Commission's early history of Hawaii "relies far too heavily on a comparison with the feudal structure such as it existed in Europe during the Middle Ages." Comments by the Office of Hawaiian Affairs note that: "It is important to note that the concept of fee-simple ownership of the land was unknown to Hawaiians. The alii...did not own the land..., they merely managed the land and other resources." Haunani-Kay Trask states that calling the Hawaiian system feudal, "is a false rendering of the Hawaiian land tenure system which did not include the following feudal structures--obligatory military service; bondage to the land; ownership by the kings and chiefs." [Emphasis in the original.]

20/ William Adam Russ, Jr., The Hawaiian Revolution (1893-1894) " (Gettysburg, Pa.: Times and News Publishing Co., 1959), p. 30.

21/ Lawrence H. Fuchs, Hawaii PCIJ: A Social History (New York: Harcourt, Brace and World, Inc., 1961), p. 6.

22/ Jon J. Chinen, Original Land Titles in Hawaii (Honolulu: Jon J. Chinen, 1961), p. 7.

. V Malo, p. 88.

24/ Ibid, p. 85.

25/ See Draft Report of Findings, Native Hawaiians Study Commission, p. 107. Comments received from Haunani-Kay Trask, et al, state that: "Hawaiian commoners enjoyed more rights to the land in precontact Hawaii than under the private property system brought by the West." In another comment, Kawaipuna Prejean states that: "Our Alii was unlike the slave masters of Europe who expected the citizens of the soil to do all the work and keep the royalty in its opulence. The Chiefs of old, before falling victim to germ warfare deliberately introduced by the invaders to decimate the race, toiled in the earth with the Makaainana or citizens of the soil" (pp. 1-2). See also, Haunani-Kay Trask, "An Historical Over-view of Hawaii: Pre-Contact to the Present," a paper prepared at the direction of and funded by the Office of Hawaiian Affairs. This paper is reproduced in full in the Appendix of this Report.

26/ David Malo, quoted in Kuykendall, Volume I, p. 9.

27/ Liliuokalani, Hawaii's Story by Hawaii's Queen (Rutland, Vermont: Charles E. Tuttle Company, 1964), p. 3.

28/ Chinen, Original Land Titles in Hawaii, p. 52. On various aspects of daily life, see also paper by Haunani-Kay Trask, "An Historical Overview of Hawaii."

29/ Kuykendall, Volume I, p. 9.

30/ Mitchell, p. 8.

31/ Kuykencall, Volume I, p. 8. Added as a result of comments received from Violet Ku'uilei Ihara. See also chapter below on "Native Hawaiian Religion," page 231.

32/ That the following quote is the author's speculation was pointed out by Violet Ku'ulei Ihara.

33/ Gavan Daws, Shoal of Time: A History of the Hawaiian Islands (New York: The MacMillan Company, 1968), p. 26.

34/ Ibid., p. 27.

35/ Merze Tate, The United States and the Hawaiian Kingdom: A Political History (New Haven: Yale University Press, 1965), p. 1.

36/ Fuchs, p. 7,

37/ Kuykendall, Volume I, p. 29.

, 38/ Ralph S. Kuykendall and A. Grove Day, Hawaii: A History, from Polynesian Kingdom to American Commonwealth (New York: Prentice-Hall, Inc., 1948), p. 43.

39/ Daws, p. 56.

40/ Ibid., p. 57.

41/ Fuchs, p. 9.

42/ Daws, p. 59.

43/ Ibid., pp. 59-60.

44/ Kuykendall, Volume I, p. 100.

45/ Daws, p. 62.

46/ It was pointed out in a comment from Violet Ku'ulei Ihara that, contrary to what this quotation implies, "Hawaiians did prepare for spiritual hereafter." See also, the chapter below on "Native Hawaiian Religion," page 227.

47/ Fuchs, p. 9.

48/ Comments from Haunani-Kay Trask, et al, state the following: "While it is true that the missionaries were prohibited from acquiring land while they were members

of the American Board of Commissioners for Foreign Missions, they in fact began to acquire land in enormous quantities after they left the mission. Here, the bias towards the missionaries is extreme in this section for two reasons: they are removed of responsibility for bringing diseases and cultural degradation that hastened the decline of Hawaiians, and they are elevated to the point of actually appearing as redeemers of the people. The facts, however, are otherwise. Missionaries are responsible for taking land, bringing death and disease, and for imposing a foreign religion which severed the Hawaiians' relationship to the earth. They are the harbingers of colonialism in Hawaii, and their descendants controlled most of the sugar plantations—the Big Five corporations of Castle and Cooke, Alexander and Baldwin, and C. Brewer all had missionary connections. Moreover, there needs to be a discussion of the role of missionary-descended individuals in the overthrow of the monarchy, and particularly in the creation and functioning of the Provisional Government."

The text of the report has been revised by the Commission in an attempt to address Trask's concerns. As to the missionaries "bringing death and disease," most authors place the blame for this on the foreigners who arrived in Hawaii prior to the missionaries. For example, Fuchs states that: "Between Cook's visit and the arrival of the first missionary band from New England, disease, war, and famine had taken nearly half of the population...Until the arrival of nine missionary doctors forty-two years after Cook's discovery, the natives were without protection against the new diseases" (Fuchs, p. 13).

49/ Kuykendall and Day, p. 77.

50/ Russ, The Hawaiian Revolution, p. 3.

- 51/ Fuchs, p. 249.
- 52/ Ibid., p. 12.
- 53/ Ibid., pp. 12-13.
- 54 laws, p. 92. A fuller discussion of this period can be found in Daws, pp. 91-93, and Kuykendall, Volume I, pp. 133-136. This section was rewritten to correct the "Western bias" of the Draft Report noted by Congressman Daniel Akaka.
- 55 ' Kuykendall, Volume I, pp. 134-135.
- 56/ Revised as a result of connects from Congressman Daniel Akaka.
- 57/ Kuykendall, Volume I, p. 154.
- 58/ Daws, p. 108.
- 59/ Ibid., p. 107.
- 60/ Kuykendall, Volume I, p. 157.
- 61/ Ibid., p. 259.
- 62/ Comment received from John M. Agard, submitting publication by Louis K. Agard, Jr., entitled The Sandalwood Trees; Politics and Hope.
- 63/ Ibid., p. 9.
- 64/ Ibid.
- 65/ Quoted in Daws, p. 111.
- 66/ Kuykendall, Volume I, p. 166.
- 67/ Ibid., p. 194.
- 68/ Kuykendall, Volume I, p. 383. Discussion of U.S. expansionism included as a result of comments by Haunani-Kay Trask, et al.
- 69/ Kuykendall, Volume I, pp. 383-384.
- 70/ Daws, p. 147.
- 71/ Kuykendall, Volume I, p. 402.
- 72/ Ibid., p. 403.
- 73/ Ibid., p. 406.
- 74/ Ralph S. Kuykendall, The Hawaiian Kingdom, Volume II, 1854-1874, Twenty Critical Years (Honolulu: University of Hawaii Press, 1966), p. 38. Hereinafter referred to as "Kuykendall, Volume II."
- 75/ Kuykendall, Volume II, p. 54.
- 76/ Ibid., p. 38.
- 77/ Kuykendall and Day, p. 105.
- 78/ Kuykendall, Volume II, p. 36.
- 79/ Comment by Louis Agard, p. 16, says that: "Contrary to many reports, native Hawaiians did not leave the field work. As late as 1869, several plantations employed all native Hawaiian labor. By 1870, while the native population was declining, there was a tremendous expansion of sugar production from two million to 20 million pounds annually. The demand for increased production and with it for increased labor, was so great that the labor had to come from outside the kingdom."
- 80/ Kuykendall, Volume II, p. 190.
- 81/ Ibid., p. 236. See also publication by Louis Agard, p. 15.
- 82/ Discussion of Spalding added at suggestion of comment by Alexander H. Raymond, who says: "...Secretary of State William H. Seward sent Secret Agent Z. S. Spalding to Hawaii with personal instructions to investigate

ways and means to acquire Hawaii through annexation...Using his inside knowledge of exactly how far the U.S. was willing to go in order to obtain sovereignty over the Native Kingdom, Mr. Spalding later became one of the richest plantation owners in Hawaii by speculating on sugar increases and purchasing land from bankrupt natives."

83/ Kuykendall, Volume II, p. 216.

84/ Ibid., p. 217.

85/ Ibid., p. 223. Kuykendall ascribes more importance to the correspondence of a Captain Reynolds, commanding officer of an American warship anchored off Hawaii during reciprocity discussions in the kingdom's legislature.

86/ Liliuokalani, pp. 20-21. See comment by Louis Agard, p. 9, where he says: "Based on the precedents, the small band of foreigners acting as the 'Committee of Safety' had no authority to intervene when Queen Liliuokalani proposed a new constitution which she later retracted."

87/ Discussion of Schofield mission inserted as a result of comment by Kawaipuna Prejean, p. 5.

88/ Belknap to Schofield, confidential, June 24, 1872, War Dept. Records, quoted in Kuykendall, Volume H, p. 248.

89/ Kuykendall, Volume II, p. 248. Kuykendall also speculates on the reasons for the mission at that particular time: "...the only obvious special circumstances that might have called it forth were the strained relations between the United States and Great Britain and the current

interest of the United States in the development of steamship lines across the Pacific" (Ibid., p. 249, footnote).

90/ Liliuokalani's views on reciprocity added in response to a comment from Congressman Daniel Akaka that "it would be interesting to review and contrast the comments of Queen Liliuokalani regarding that Treaty and the motivation of the planters."

91/ Liliuokalani, p. 55.

92/ Kuykendall and Day, p. 152.

93/ Ibid., p. 156.

94/ Russ, The Hawaiian Revolution, p. 12.

Native Hawaiian Culture

A. INTRODUCTION

The culture of native Hawaiians is manifested in many facets of daily life. One of the most important for any culture is language. The Commission was fortunate to have an expert on the Hawaiian language write that section for the Commission's Report. The second section of this chapter discusses culture in a different context—historic preservation.

Another important aspect of the lives of ancient and even present-day native Hawaiians is the religion as practiced prior to the coming of the American missionaries. The next chapter contains information on the native Hawaiian religion, also written by a foremost expert in the subject.

B. THE HAWAIIAN LANGUAGE _V

Introduction I/

Anthropologists and cultural experts recognize the crucial role played by language in identifying people. Language demonstrates the uniqueness of a people, carrying with it centuries of shared experience,

literature, history, traditions and reinforcing these through daily use.

A unique Polynesian language restricted to the Hawaiian Islands is inextricably tied to the definition and identity of the Hawaiian people. The language is in fact known to the world by the same name as the people themselves—Hawaiian. However, it terms itself 'olelo Hawai'i', or Hawai'i language, thus like the English terra recognizing the indigenous status of the language unique to these islands.

There is no mention of the origin of the Hawaiian language in the oral traditions. The words of the progenitors, Papa and Wakea, are recorded in Hawaiian and it is assumed that the existence of a separate Hawaiian language is as old as the existence of the Hawaiian people. Although composed of many small communities and four primary geographical divisions, the ancient inhabitants were able to make a distinction between their own language and languages existing outside the traditional boundaries of Hawai'i. The sense of ethnicity is recorded in the chant of Kualii, in which a pre-European voyager from the island

V The following section is a complete reproduction of the paper prepared by Larry L. Kimura, entitled "Language Section of Native Hawaiians Study Commission Report" (February, 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Mr. Kimura is an instructor in Hawaiian Language, Department of Ir.do-Pacific Languages, at the University of Hawaii, Manoa campus. Minor editorial changes have been made to conform to the Final Report's format, and the footnotes have been renumbered. Except for these changes,

(cont'd) Mr. Kimura's paper appears as submitted by OHA and is otherwise unchanged. The spelling of Hawaiian words as they appeared in the original paper has also been retained, even though the spelling of some words differs from that used in the remainder of this Report. The references used by Mr. Kimura appear in the "List of References," marked with a "[2]". OHA subsequently sent supplementary information on the Hawaiian language to the Commission, also from Mr. Kimura, and this material is included in the Appendix of this Report.

of O'ahu describes Kahiki, a term used for all lands outside of Hawai'i:

Ua 'ike ho'i au la Kahiki
He moku leo paha'oha'o wale
Kahiki

••*

'A'ohe o Kahiki kanaka
Ho'okahi o Kahiki kanaka - he
Haole 2/

I have seen Kahiki
Kahiki is an island with a
puzzling language

Kahiki has no people
Except for one kind - foreigners

Many Hawaiian */ families trace part of their ancestry to voyagers from these foreign lands called Kahiki. Regular sound correspondence between k_ in Hawaiian with t in other Polynesian languages supports an identification of at least one Kahiki with Tahiti. Linguistic analysis of Hawaiian supports a theory that the lanoua-7e has its closest relatives in the Marquesas, Society, and other island groups of French Polynesia, some two thousand miles to the south. There still remains a certain amount of mutual intelligibility between Hawaiian and other Eastern Polynesian languages such as Tahitian, Cook Islands Maori, and New Zealand Maori, as shown in Table 59. "All tables appear at the end of the chapter).

The similarity among Polynesian languages has been overemphasized by casual observers who have erroneously claimed that Hawaiian and other

*/ Mr. Kimura uses the term "Hawaiian" in the same way that "native Hawaiian" is used in the majority of this Report; that is, to signify those persons who have any amount of the blood of those who inhabited the Hawaiian Islands prior to 1778.

Polynesian^ ill speak but "dialects" of a single lar.quaoe. _i/ Linguists general.'/ accept distinct languages /as opposed to dialects) as hav:r/i more than 7u percent of their basic vocabulary as cognate. Hawaiian shares 56 percent of its basic vocabulary with Marquesan and only 46 percent with Tahitian, the two languages most closely related to Hawaiian, according to linuists. Given the independent status of the Hawaiian lanauage, it is notable that Hawaiians and other Polynesians in th< independent nations of the South Pacific readily recognize the relationship among their languages and put much emphasis on this even in official government business between Hawai'i and their countries.

Unlike New Zealand Maori and Marquesan, whicr, exhibit a number of rather different dialects, differences within Hawaiian are quite minor and were probably never much greater than today. The lack of major dialect differentiation within Hawaiian can be attributed in part to the lack of stable groupings of people, -such a : tribes or clans, m the traditional political system. Ir. pre-contact times, there was continuous interchange among the various line^^e3 across the whole island chain and constant redefinition of political boundaries across districts and islands. Tradition mentions an individual from the island of Hawai'i named Kalaunuiohua who nearly-succeeded in conquering the '-ntir'³ island chain at one time. _4/ Usually, however, Maui controlled the neighboring islands of Moloka'i, Laha'i, and Kaho'olawe, with Hawai'i and O'ahu as separate units, and Kaua'i control hng neighboring Ni'ihau. The greatest contrasts in speech within Hawaiian are between

the most isolated parts of the Kaua'i kingdom (for example, Ni'ihau), the Maui kingdom (for example, the Kaupo area), and the Hawai'i kingdom (for example, the Puna district). The differences are primarily in the pronunciation of the consonants - vrbolized with k, l and w, intonation, speed of speech, and small differences in vocabulary. There are no significant grammatical differences. The standard dialect taught in schools is that of O'ahu, the site of the capital. Table 60 gives examples of differences among the different areas. 5/

The Cultural Importance of Hawaiian

In the introduction, reference was made to the inseparable identity between all peoples and their languages, and the extreme importance of language as the bearer of the culture, history, and traditions of a people. This in itself is more than sufficient reason for the Hawaiian language to be valued above all else in the cultural context. In comparing Hawaiian culture with other cultures, however, is there any reason that language might be judged relatively more important or less important in a Hawaiian cultural context? Given the current weak status of the Hawaiian language it is unfortunate that the Hawaiian culture is in the top percentage of the world's cultures stressing the importance of language.

It is appropriate here that a few examples of the Hawaiian language in action be given to illustrate the three basic features that make language such an important factor of Hawaiian culture: (1) the necessity of language to human activity in order to identify it as human or, in a narrower perspective, Hawaiian; (2) the importance of subtlety, personality, and detail, that is,

nicety in expression; and (3) the power of the word.

Human Activity

An example of the importance of language in human activity is best illustrated in the area of music and dance. Many cultures of the world (for example, Plains American Indian, European folk cultures, and classical European culture) emphasize dance and music with only instrumental accompaniment or minimal use of words (such as war and social dances of the Sioux, the polka and jig of Europe, and classical ballet). Such art forms appear simple in a Hawaiian context. Hawaiian culture placed great emphasis on language as the means of human artistic development. An example of this exists in the nl'au kani and 'ukeke (instruments using the mouth as a sound box). Words are formed in the mouth and echoed out with the vibrations of the instrument. Even the nose flute is designed to free the mouth for the formation of words, but since it is almost impossible to form words and play the nose flute at the same time, a custom of using note combinations to stand for words between initiates is associated with the instrument. These extreme examples illustrate the importance given by people to language (the ultimate human characteristic) in the Hawaiian culture.

Subtlety, Personality and Detail

A further complicating factor in Hawaiian culture is that subtlety and personalization are highly favored. This leads to the use of symbolism and veiled references in ordinary speech as a device for emphasizing a point without blatant bragging, criticism, or questioning. The use of symbolism and veiled reference is especially

evident in the poetry utilized in the chants that are used in everything from ordinary greetings to the recitation of genealogies. Subtlety and personalization are further accomplished in chant by using special grammatical and pronunciation complications that make the message even less flat or blatant. 6/

Intense personalization of the language in itself has led to a proliferation of very specific terms, especially relating to natural beauty, which lends itself well to Hawaiian poetry. An extreme example is seventeen individual names for various winds of tiny Haiawa Valley on the island of Moloka'i, in comparison to the North American continent as a whole, for which far less names are generally known by English speakers. There are, of course, many other wind names throughout the Hawaiian Islands, detailed rain descriptions, special seas, colors, and so on, as shown in Table 61.

Hawaiian attention to terms for life forms has impressed biologists in that it is based on the same principles invented for biological taxonomy by the Swede, Linnaeus (for example, ulua aukea, *Caranx ignobilis*; ulua 'ele'ele, *Caranx melampygus*). Hawaiian terminology goes even beyond the requirements of modern biology with special terms for different sizes of fish, recognizing four growth stages for some fish and fewer for others (for example, pua'ama, "mullet under a finger length;" kahaha, "mullet about eight inches long;" 'ama'ama, "mullet about twelve inches long;" anae, "mullet over a foot long").

The Power of Words

From a Hawaiian viewpoint, the factor that gives the Hawaiian language its most important cultural function is the philosophy of power in the Hawaiian word itself. This philosophy is codified in the saying i ka 'olelo ke ola; i ka 'olelo ka make, or (approximately) "language

contains the power of life and death. In a Western context this concept might be understated using as an example the psychiatrist's method of encouraging patients to articulate a problem in order to confirm its existence.

The basis of the Hawaiian concept is the belief that saying the word gives power to cause the action. For example, to say "I wish you good health" will actually help a person to recover, while an expressed wish for death could actually cause it. Furthermore, a homonym or simile retains some of the power of the original word to influence events. Thus the word ola (good health, life), its partial homonyms like 'olani (I am warm in the sun), and a poetic reference to it like kau i ka puaaneane (rest upon the flowering of the faint breath of life, that is, old age) can all be symbolically helpful. The power of the word is increased by the seriousness and preciousness of the form in which it is offered, such as in a chant or formal speech.

The philosophy of the power of the word is developed to such an extent in traditional Hawaiian culture that there exists a contest of wits called ho'opapa in which poetic references, partial homonyms, and vocabulary knowledge are used in chant between two contestants to increase their individual powers and decrease the powers of the opponent. The loser of such a contest can theoretically submit his life to the winner. Although ho'opapa is an extreme application of the Hawaiian philosophy of the power of words, the concept permeates Hawaiian culture. 7, The choice of negative words in songs and names is widely commented upon among talented speakers of Hawaiian. One can take a single word, name, or phrase and develop a speech around it by complicated play with connotations. Word power is even prominent in a custom of randomly choosing verses from the Bible and interpreting these through the form of the words therein.

This Hawaiian use of the examination of words to strengthen a thought is often misinterpreted by Westerners who think that the description of the word itself is the point rather than how the word is used to make a point, give a feeling, etc. An example of this is the word 'ohana, meaning "family." Since the word 'ohana has the sound hana (work) in it, the speaker in traditional Hawaiian usage believes that the family should work together, and uses the connection of both words to emphasize a point that 'ohana should hana together. Each spoken affirmation of familial relationship then also affirms the willingness to work together. A Western thinker listening might seize upon the connection between 'ohana and hana made by the speaker and prominently proclaim that one word derives from the other. Such a Western thinker would then tend to disapprove of other interpretations of the word 'ohana or even call ignorant a person who used the similarity in sound between 'ohana and aloha (love) to emphasize love in a family. The traditional Hawaiian who connected 'ohana and hana in the first place, however, would likely accept the connection between aloha and 'ohana as well as hana and 'ohana because he is thinking in terms of the power of the word 'ohana, and such positive associations provide greater power. This is not to say that Westerners cannot understand the concept of word power, or Hawaiians the concept of historical derivation of words, but confusion over which concept is used has resulted in calling Hawaiians inconsistent and calling folk etymologists and Westerners dumb. 8/

An excerpt from an interview of a Hawaiian speaker on the radio 9/ goes as follows:

Interviewer: (L. Kimura)

No hea 'oe?

(Where are you from?)

Interviewee: (K. Kaleiheana)

No Hanalei o Kaua'i au. Ma laila l kanu 'ia au ko'u 'iewe, aka 'o Kalihi ko'u 'aina i hanai 'ia ai.

(I belong to Hanalei of Kaua'i. 10/ It is there that my placenta was buried, but Kalihi is the land where I was raised.)

The interview shows both the Hawaiian attention to detail in immediately identifying two locations, even though the speaker was taken to the second location soon after birth. The reference to the first location in Hanalei shows the typical Hawaiian pride in an ancestral homeland and emphasizes this with reference to traditional Hawaiian practice involving the placenta of a newborn child. This causes a Hawaiian-speaking listener to recall poetic usages relating to the placenta and navel cord of babies as connecting ascending and descending generations in a family homeland. The reference to the area in which she was raised, Kalihi, expresses a neighborhood pride common to all people.

Such an exchange would, of course, sound silly in English and the associated poetic connections to the placenta would be lost. Hawaiians do not speak this way in English because it cannot be done properly in that medium, an example of losing the power of words if translated.

A slightly more poetic example involves the funeral of Princess Ka'iulani reported in a Hawaiian newspaper under the headline Eo ia Hawai'i Moku o Keawe ("Hawai'i Isle of Keawe Supersedes All"). 11/ The

island of Hawai'i is so commended because of the floral tribute brought by Henry West, a member of the Hilo branch of the Hui Aloha 'Aina. Mr. West and his fellow members gathered from their forests:

...na klhene pua lehua, na
'oowili lei hala o
•Upeloa, a me ka maile kupaoa o
Pana'ewa.

...woven leaf bundles of lehua
blossoms, coils of hala wreaths
from 'Upeloa, and the strongly
fragrant maile of Pana'ewa.

These Mr. West presented at the casket of the princess in Honolulu with a chant announcing that he had been sent on board the KIna'u (interisland ship) to represent the people in his home district. The poetry of his chant is not recorded, but the poetry of the flowers remains for us to see how he used the concept of word power. The Hawaiian word hala (pandanus) also means to pass, a Hawaiian reference to death or closure, and the presentation of this lei is consistent with the Hawaiian custom of urging a corpse to depart and join other departed family members. 12/ The fact that the hala came from a place called 'Upeloa is significant, not because it is the location of a famous grove of hala trees, but because the name contains the sound 'upe (tears of grief welling up even into the nasal passages), which expresses the deep emotion of the people of Hilo regarding the beloved princess' death. The connection with Hilo is specifically detailed by the maile vine from the Pana'ewa forest outside Hilo, which is renowned throughout the islands for its particularly strong, sweet scent. The fragrance of the maile is especially apropos because the presence of spirits and departed souls is often associated with fragrances.

Literally, lehua blossoms are emblematic of the island of Hawai'i, where Hilo is located, expressing pride and concern of the island. Figuratively, lehua refers to youth, beauty, and warrior. Ka'iulani was only in her late twenties when she died, an international beauty who use her European education to further restoration of Queen Lili'uokalani's throne through connections in London, New York, and Washington. In the eye of the people of Hilo she was like a fallen lehua, beautiful, young or warrior, who had ventured out amongst the enemy on behalf of her people.

The selection also uses a place name in Hawaiian poetic thinking. Hawaiian place names are probably one of the first truly Hawaiian things that strikes a visitor to Hawai'i. The abundance of Hawaiian place names is only a hint of their actual number, for there are literally many places where individual boulders are named. Place names are used as displays of wit to express a great deal in a few words, and they are extremely common in Hawaiian poetry and traditional sayings. Perhaps the reason that place names have such evocative power in the Hawaiian language is the emphasis on homeland or aloha 'aina (love of land, patriotism, pride of place) in the culture. There are several words used to describe a person descended from generations of a family living in an individual location (kupa, kama'aina, papa, 'oiwi) while English has only "native," which, rather than expressing pride, can carry negative connotations. To traditional Hawaiians, place names are considered kupa (natives) themselves. Place names are like esteemed grandparents linking people to their home, personal past, and their history.

Hawaiian personal names share *tmnf* features with place names in Hawaiian culture and language since personal names require a specific and distinct

marking from ordinary words in sentences. Personal names often incorporate ancestral place names and contain references to family history. Without a knowledge of Hawaiian language, remaining within the traditional concept of word power, poetic Hawaiian names cannot be understood or properly pronounced, thus diminishing the power of the names and the person. Compared to Hawaiian culture, American culture puts snail emphasis on names. In fact, many Americans treat their own names with little respect, abbreviating them until they seem to lack dignity (for example. Deborah-Debby-Deb, Randolph-Randy-Ran). In a Western sense, reaction to Hawaiian names has been to develop a folk myth that Hawaiian names are poetic, while the beauty of "large-storage-gourd," "the-name-of-the-father's people," "the-casket-of-the-ali'i" is not appreciated because of a lack of understanding of the poetic images, history, and traditions specific to the Hawaiian people.

The result of the difference between Western and Hawaiian treatment of names has been generally one-sided, that is, negative toward the Hawaiian. Unless one considers negative, the Hawaiian tendency to call Deborah, Deborah rather than Deb, which is the name she is usually called by her family in Oregon. Hawaiian names, on the other hand, are abused in their spoken form by English speakers, even in the face of Hawaiian protest, as has been the case with media usage of "Kal" for Kalaniana'ole and "Molahkay" for Moloka 'i. It has been shown, in fact, that with minimum effort English speakers can pronounce Hawaiian words, since close approximations of all the sounds of Hawaiian are found in English, including the 'okina or glottal stop.

Abusive pronunciation of Hawaiian names is humiliating from any viewpoint, but, from a cultural viewpoint, it weakens the name carrier due to the negative influence on the power of the word.

Ironically, some younger Hawaiians deliberately mispronounce or allow mispronunciation of their own personal, family, and place names in order to avoid embarrassing English speakers. From a traditional viewpoint, this attitude is most destructive. Western ignorance of Hawaiian culture is another problem, since English speakers cannot understand the culture without the language and yet inquire into the "meaning" of a name. The best approach in such a situation is simply to say that the name is a special family one, and leave it at that, rather than try to make "large-storage-gourd" sound poetic to non-speakers of Hawaiian who cannot properly appreciate the name without the language.

Place names also fare poorly, since Westerners often want to change the original name of a place to something with a more romantic translation (in the Western view), instead of preserving the history of the place. Attempts are constantly made to change place names, which causes suffering to those families who are rooted in the locations of proposed name changes. Such families believe in the old traditions and to eliminate the name damages the power of the word. For these reasons, Hawaiians protest changes to place names, which far too often are for the convenience of non-speakers of Hawaiian. Hawaiians then bear the risk of being labeled radical, even though without these names the culture as expressed in Henry West's tribute associated with 'Uploa and Pana'ewa cannot live.

Our last simple illustration (from the record Na Leo Hawai'i Kahiko 13/)

comes from a prayer to Laka, the goddess of the hula, a deity still invoked by many practitioners of Hawaiian dance. 14/

•O Laka "oe,
(*ou are Laka,)

'O ka wahine noho i ka lipo,
•Woman resting in the dark color,
[as in the deep sea or forest])

I ka uluwehi palai nei la e.
(In the lushness of the palai fern here.)

R ho'i. Ho'oulu 'ia.
(Return. Let there be growth/
inspiration.)

The first thing to note is that the prayer has words. From a traditional Hawaiian viewpoint, the Western concept of silent prayer denies the god-given human privilege of using words. The prayer is also chanted, which makes the words purposefully more subtle, thus very personal, a feature enhanced by the inclusion of extra sounds such as *Ya^* and *<^*. The language in this short excerpt is not much different from ordinary speech, except for the use of a passive in the last line, a feature that does not appear in the English translation, but which makes the language more formal from a Hawaiian perspective.

There is considerable use of word power in these lines, although the only obvious one in the above translation is the term ho'oulu meaning "to cause growth" and also poetically, "to inspire." Word power is also evident in the word uluwehi (lushness), which contains the sound *ulu* connected to ho'oulu. There is also the word noho (rest upon, sit), which is used in Hawaiian culture to refer to the inspiration of gods accomplished traditionally by their coming to *noho* upon one's shoulders

around the head *there one's essential humanity is located. The whole prayer* is further complicated by the act »1 wearing of *le*: (or wehi, "crnamei*," as in *uluwehi*! palai fern *uj* on '*<*-shoulders (the place of ins; Latics), on the head (the place of basic humanity), on the feet (the source)i the movement of the .knee), and on the hands (which will interact with the words of the dance, although not always in a direct and blatant one-to-one relationship). The palai is traditionally thought of as a form that Laka can assume and it grows in the dark lushness of the forest (that is, lipo). The lei actually brings the goddess into physical union with the dancer, not as a form of worship but as a joint effort of the dancer and a spirit member of the Hawaiian people 'Laka), to honor those *t i* whom the dance is being presented. All this symbol:er in Hawaiian thinking should help *and* strengthen the dancer, and will be greatest in a subtle chant, enabling the dancer to keep everything just under the surface for the dancer as well as the audience.

The three examples given above 're very simple ones because Hawaiian chants are very long and can contain hundreds of lines. There are also sagas with chanted dialogues, short stories, *and* books written in a European genre 'much like American? attempting Japanese haiku poetry in English), and of course many songs. Hawaiian love songs are especially interesting as there is strong emphasis on subtle description and personal response referring to places visited, occurrence of minor or major events, humorous occasions, ad infinitum. The song can be so personalized that only the composer and honored recipient can fully understand the camouflaged Meaning (kaona) of the song, although there is also a surface meaning that is poetic and enjoyable in itself.

The basic premise that a strong Hawaiian culture cannot continue without a strong Hawaiian language should be easily understood without analysis of complicated literature such as the Hawaiian chant of creation (the Kumulipo). It could be overwhelming to dwell on various nuances of Hawaiian literature, which might underestimate the human potential to learn the use of the Hawaiian language in its traditional context.

Hawaiian children should find it simple to learn the intricacies of Hawaiian poetic thought and expression, due to the essential continuation of a basic Hawaiian cultural personality among the majority of Hawaiian people who do not control the language. Furthermore, Hawaiians have traditionally believed that deceased friends and ancestors could assist poetic composition through dreams or visions.

Culture can be seen at two levels, base culture and aesthetic culture. The base culture includes the daily lifestyle, values, and personality of a people. The aesthetic culture includes ceremonies, philosophy, and literature, building upon the base culture foundation and legitimizing it to the people. Language generally unites the two. The features of Hawaiian aesthetic culture derive, then, from the same features that unite most of today's young English-speaking Hawaiians with older and previous generations. For example, in the area of language use, the attention to specific detail found in Hawaiian poetry and quotations from sayings is also evident in the normal conversation of Hawaiians. Local people often report a conversation by quoting exactly what someone said, when haole (foreign) people would give an approximation. (The conflict between these two strategies is often

irritating; to the Hawaiian because of lack of detail and accuracy, and to the haole because of anxiousness to get to the central point.) On the other hand, also as in Hawaiian poetry, local people value getting their own thoughts across with the least number of words, thus making an understanding of their personality a matter of subtlety and personal sensitivity on the part of the listener. Haole people, on the other hand, tend to say as much as they can with the hopes that their true personality or interests will be immediately perceived by the listener, in order to avoid any mistakes. The fact that most modern Hawaiians retain a strong Hawaiian base culture makes involvement in the traditional aesthetic culture a natural for them, once the full mechanics of the language are mastered.

The beneficial role of the aesthetic culture in supporting the base culture is also important to emphasize in the context of language. The aesthetic culture contains stories, sayings, and traditional customs—all of which reinforce values inherent in the base culture. Thus, base culture and aesthetic culture work together toward a cultural ideal. When a language that holds the key to the aesthetic culture of a people is replaced with a language foreign to their base culture, the result is damaging conflict between the traditional base culture and the new aesthetic culture. The base culture becomes redefined as an aberrant subculture within the culture of the replacement language, and the original people are faced with a choice of abandoning the base culture that represents their family and friends, or rejection of the ideals of the new aesthetic culture, which sets the means for acceptance and success in their daily society. Unfortunately,

this is what has happened in Hawai'i where the base culture associated with the Hawaiian language and practiced by most local students is interpreted in terms of an American-English aesthetic culture. The most common course in Hawai'i in recent years has been to reject the English-associated aesthetic culture that allows for the continuation of group loyalty. However, without the influence of Hawaiian aesthetic culture on their lives, even the ideals of the base culture weaken, and there is rejection of intellectual development, resulting in increased crime, and so forth, deplored by both Hawaiian and American culture.

Language not only plays an important part in the aesthetic culture that protects the lifestyle of a people by giving it status, it also ensures orderly change in culture as it adapts through time to new concepts and technologies. Since language documents within itself past changes and adaptations of a people, it legitimizes the concept of change, and shows that it can be accomplished within a traditional framework. Damaging rapid and radical change, however, is resisted by language since it carries with it old attitudes and concepts that will always continue to exert an influence on its speakers.

An example of how language maintenance has protected one well-known culture and adapted it successfully to the modern technological and highly-politicized world is the case of Japan. In Japan, the exclusive use of the indigenous language protected traditional customs and a base cultural feature emphasizing group consciousness, which has served the Japanese well both in the period previous to Western contact and in today's modern world. Features of Hawaiian base culture such as attention to detail, conciseness, and

group consciousness could serve the Hawaiian people well in today's technological world if they could be strengthened and given status by Hawaiian aesthetic culture.

In discussing the role of the Hawaiian language in Hawai'i, culture it is also well to remember that: American English is a vehicle of its own culture and that English words carry their own connotations and history. Whenever Hawaiian is translated into English, the English words used add cultural connotations to the idea conveyed, while eliminating intended connotations and meanings of the original Hawaiian. An example of this are the words ali'i and maka'ainana. The usual translations of these words in English are "king" and "commoner," respectively. In American fairy tales, an English king carries connotations of the European feudal system, the American historical rebellion against King George (American law still forbids titles), royal decadence, and a fascination with royalty, as shown by all the attention given the marriage of Prince Charles in the American popular press. In American English, the term commoner suggests the word "common," which is very negative in the language (for example, "How common!" or "a common drunk"), connotes the existence of strong socio-economic stratification and distance, and even some of the economic and racial separation that exists in America itself.

The Hawaiian terms alii'i and maka'ainana have completely different connotations and even meanings. From the traditional Hawaiian viewpoint the alii'i and maka'ainana are the same people and one family. Both the early traditional historians Male and Kamakau state that the alii'i and maka'ainana are one people descended from Papa and Wakea and that the alii'i came from within the maka'ainana. The

foremost traditional Hawaiian scholar of the twentieth century, Puku'i, 15/ records a Hawaiian proverb that explains how the position of ali'i was created from within the maka'ainana:

Kuneki na ku'auhau li'ili'i,
noho mai i lalo; ho'okahi no, 'o
ko ke ali'i ke pi'i i ka 'i'o.

(Let the lesser genealogies sit
below; that of the ali'i alone
should be raised up towards
significance.)

What this means is that the people put forth the flower of their families as their representative and de-emphasized the rest of the family to give added prominence to that representative. (Of course once their representative is recognized and admired, the status of everyone else is assured as well by genealogical connection.) The ali'i were the flower of the maka'ainana, within the ideals of both the base and aesthetic culture. The family relationship remains intact, although individuals maintain distances.

In Hawaiian base culture much emphasis is put on first-born children. In today's Hawaiian families the oldest child often has control over the younger children, and respect and even some authority is carried by the first-born child even into adulthood with respect to his or her younger siblings. The Hawaiian language itself always distinguishes older from younger sibling in its kinship terms. The importance of birth order even carries into the extended family, with the term used for a cousin depending on the relative age of the connecting parent. In their base culture, then, Hawaiians put much emphasis on birth order and the prestige of being first-born. The aesthetic culture supports this with special ceremonies for first-born

children and traditions of giving them special name songs, or similar special recognition.

Genealogies are made more prominent by including first-born children, and the person chosen to represent the people as ali'i is usually from the genealogy with the most first-born children and lineages in it. In a more traditional Hawaiian interpretation, then, ali'i and maka'ainana are kin terms with the ali'i representing the equivalent of kaikua'ana, "older sibling of the same sex or cousin related to one through an older sibling of one's parent." The grammar of the language itself strengthens the identification of ali'i and maka'ainana as kin terms, since they use the O-class possessive markers characteristic of the possession of kin. That is, the ali'i says ko'u maka'ainana, "my maka'ainana" (note the *o* of ko'u), and the maka'ainana says ko'u ali'i, "my ali'i." The use of the O-class possessive markers here contrasts with the use of A-class possessive markers used with ordinary material goods possessed by a person, and even hired hands, and spouses, who are treated as A-class and less intimately bound with one than O-class possessed items.

J!//

Even the rigid "taboos" (kapu) as described in English books on Hawaiian culture are not as the English language makes them appear. The kapu are actually associated with a lineage through an historical or legendary event, the emphasizing of which through ceremonial observation stresses the status of the lineage • (ali'i and maka'ainana as one). When the people (and even nature, as happens in the traditional context) recognize these kapu by lighting torches at day, sitting before an ali'i, allowing the ali'i to move only at night, or observing rainbows

arching at the approach of their ali 'i, the people gained status along with that of their ali 'i. The more extravagant the kapu, the greater the status for the whole group.

This is quite different from European culture, which sometimes described commoners and serfs as forced to grovel before royalty. In fact, when an ali 'i misused his or her powers and kapu responsibilities, he or she was removed by the group and replaced with another, a practice for which there is ample evidence and moral support in Hawaiian traditions. For all the ferocity reported on Hawaiian kapu in English books, little or no mention is made of the fact that the greatest defense against the kapu was the physical person of the ali 'i. The ali 'i was a pu'uhonua or "place of refuge and sanctuary" for those who inadvertently failed to maintain the kapu of the lineage. This concept is preserved in ordinary Hawaiian language in the word 'opuali'i, meaning to have the heart of an ali 'i or the ability to forgive some mistake.

Thus, the study of Hawaiian culture through the English language can be very damaging and just the two words, ali 'i and maka 'ainana, as interpreted through English-language Hawaiian culture textbooks, have caused problems for English-speaking Hawaiians. As mentioned earlier, the ali 'i and maka 'ainana are a single lineage with those descending from first-born children having higher status. Almost every Hawaiian has some connection to some first-born linkage in his background and thus every Hawaiian seems to have some ali 'i "blood." There are two reactions to this within the context of the English connotations of the English term "king:" overbearing haughtiness, or shame in association with a repressive group, both in direct conflict with the traditional Hawaiian view that the people are all one.

We see then that the replacement of Hawaiian with English can have (and has had) a tremendous negative impact on Hawaiian culture and thus the Hawaiian people:

- First, any aesthetic culture divorced from its language cannot exist, and this is especially true for Hawaiian culture in which such great importance is placed upon the intricate and subtle use of language.
- Second, although the base culture or the basic personality of the Hawaiian people can survive within the context of the replacement of English language, that Hawaiian base culture becomes redefined as a subculture and historic development will move toward a definition of negatives that contrast with ideals of both the indigenous aesthetic culture and the imposed aesthetic culture.
- Third, descriptions of the indigenous Hawaiian aesthetic culture and base culture through the medium of the imposed English language cannot absolutely transmit a full picture of Hawaiian culture. English inevitably implies Anglo-American culture in direct proportion to that part of Hawaiian culture that is lost in the description. This has a negative impact on Hawaiians, not only in the impressions gained by outsiders, but also in the self-impression gained by English-speaking Hawaiians using such descriptions.

History of the Hawaiian Language

Origin of the Language

What is technically, in English terminology, the prehistory of Hawaiian (that is, the period before the documentation of the language in writing) was touched on briefly in the first section. Linguists agree that Hawaiian is closely related to Eastern Polynesia, with a particularly strong link in the Southern Marquesas, and a secondary link in Tahiti, which may be explained by voyaging between the Hawaiian and Society Islands. The weakest linguistic link exists between Hawaiian and Western Polynesian languages, such as Samoan. Tongan and Niuean are considered the least closely related Polynesian relatives of the Hawaiian language.

Hawaiian tradition itself claims a local origin for man and thus his language, agreeing with linguists however, in ascribing some cultural influences to a period of voyaging. 17/ Anthropologists also support a theory of voyaging between Hawai'i and Central Eastern Polynesia, with some believing that voyaging started in Hawai'i and moved south (as does Thor Hyerdahl) and others that voyaging originated in Central/Eastern Polynesia (as does Dr. Kenneth Emory of the Bishop Museum and the majority of anthropologists now working in the Pacific). Some local religious denominations, such as the Church of Jesus Christ of the Latter Day Saints, ascribe to one theory or the other (in their case, Hawai'i is considered the original source); others, such as the Buddhists, have no teaching regarding the origin of voyaging between Hawai'i and the rest of Polynesia.

Phonology, Grammar, and Syntax

Despite disagreements on how Hawaiian is related to other Polynesian languages, it is clear that

the language has continued to expand and develop its own uniqueness. Hawaiian is typically Polynesian in an emphasis of vowel over consonant. The most noticeable phonological difference between Hawaiian and other Polynesian languages involves consonant correspondence, including the merger of some consonants, somewhat in the way that English differs from Romance languages in certain consonant correspondences (for example, Latin "pater" and English "father," Latin "ped-" and English "foot," Latin "mater" and English "mother"). (See Table 62).

Consonants are de-emphasized in Hawaiian, accentuating instead vowel distinctions and combinations. This vocalic nature gives Hawaiian a melodic character. Hawaiian speakers frequently refer to English in slang as namu, "grumbling," because of its comparatively harsh sound, and also as hiohio, "windlike or flatulence-like whistling," again because of its heavy use of consonants compared to Hawaiian.

In the area of grammar, most Polynesian languages have one or two definite articles. Hawaiian, however, has five: ka (regular singular definite article), ke (irregular singular definite article), kahi (diminutive singular definite article), na (regular plural definite article), and nahi (diminutive plural definite article). Hawaiian conversely uses a single verbal negative, 'a'ole (with pronunciation variants 'a'ale and 'ale, like the single English verbal negative iot with the pronunciation variant -n¹t), where Tahitian and New Zealand Maori utilize different negatives with different tenses.

In syntax, Hawaiian provides complex grammatical methods for emphasizing different points in a sentence, which in English are normally indicated by raising the voice level. Hawaiian has also

reduced the complexities of Polynesian morphology not found in European languages (for example, the loss of reciprocal verb forms and indefinite possessive pronouns, such as, respectively, Tongan--fekainga'aki, "be related to each other," and haku--"one of my"). Depending on whether one emphasizes consonants and morphology (as many earlier schools of American language scholars did) or vowels and syntax (as is becoming more popular in modern linguistics) Hawaiian at initial Western contact was either a simple or complex language. Like all Polynesian languages, however, Hawaiian has an elegant and pragmatically-balanced grammatical structure that eliminates many of the ambiguities of English. The pronominal, verbal, possessive, *and* demonstrative systems are particularly well-developed compared to English (as shown in Table 63). Dr. Samuel E. Elbert, one of the pioneers of Hawaiian and Polynesian linguistics, has even proposed that the pronunciation and structure of Hawaiian makes it a good candidate for a language of international communication like Esperanto.

Vocabulary and Written Form

The vocabulary of Hawaiian relating to traditional Hawaiian culture and the natural history of Hawai'i is extensive (over 25,000 words have been recorded in the Puku'i-Elbert dictionary). Contact with the rest of the world in 1778 created a need for an expanded vocabulary to describe new artifacts, technologies, diseases, and activities. The process of expanding vocabulary was already well established in the language and it was readily applied upon the arrival of the first Western ships. For example, ships were termed moku, a poetic term for a large exposed sea

rock or small island; guns became pu, a term referring to large trumpet shell horns; and 9/philii became known as kaokao, probably an analogy with hakaokao, a description of rotti::taro.

For some forty years Hawaiians rapidly developed vocabulary to describe new things with which they came into contact, by adapting traditional vocabulary and forming new terms to Hawaiian. Early vocabulary expansion was particularly great in matters relating to Western sailing vessels and technology. Hawaiian men were recruited in large numbers as crew members by visiting traders and whalers, with some commanding vessels for foreign owners as well as vessels acquired by the Hawaiian court.

It was not until forty-four years after the first Western contact that an attempt was made by Westerners to participate in the expansion of Hawaiian vocabulary. Calvinist missionaries from New England arrived in Hawai'i in 1820, with the altruistic intention of egotistically imposing their religion and culture on a people considered inferior and deprived, because of a religion and culture incomprehensible to Calvinists. It took approximately two years and the guidance of John Pickering's Essay on a Uniform Orthography for the Indian Languages of North America before the missionaries were able to start teaching Hawaiians a method of writing and reading their native language. The experimental orthography that they used was most stable in its use of five vowel symbols (a, e, i, o, and u) and the exclusion of the English consonantal symbols c, q, and x.

Hawaiian language possessed sounds for which there were no consonant symbols in the English language. The confusing result was frequent interchange of consonant symbols that

were as nearly similar to the sound as possible. For example, *X, Tj* and *d* were all used in the spelling of the word *Hilo* and three English-speaking listeners might have recorded the sound three different ways. The first sheets printed in the Hawaiian *ia-r-ia* or. January 7, 1822, used this confusing alphabet. However, it was released before confusion over the consonant symbols was resolved.

Reading and writing spread very rapidly in schools instituted by district *all'i* with Hawaiian teachers, *i! I* in *schooli* at the mission stations taught by missionaries. The early schools enrolled all ages, the majority of whom were adults. Great public examination festivals termed *ro'ike* further stimulated interest in learning the basic skills of reading and writing as well as some arithmetic and music. These *hS'ike* were times for villages and districts to show off personal finery and meet together, as well as display the skills acquired in the schools. By the late 1820's, spontaneous enthusiasm for learning had reached its peak when there were some 900 schools in the country, attended by forty to sixty thousand students. Only a tiny fraction of these schools was taught by the missionaries.

In the 1830's, once reading and writing had been mastered, enthusiasm for further schooling lessened somewhat among the adult Hawaiians. Missionaries, reinforced by several newly-arrived groups of fellow workers, concentrated their efforts on improved facilities, teacher training, and increased production of materials. The goals of the mission are well illustrated by the following excerpt from the instructions given by the American Board to the fifth party of missionaries in 1832:

Your mission...embraces a wide range of objects. Depending on divine grace, it aims at nothing less than making every Sandwich islander intelligent, holy, and happy. Its appropriate work will not, therefore, be fully accomplished, until every town and village is blessed with a school house and church, and these school houses are all well furnished with competent native masters, and all these churches with well instructed native preachers--until every inhabitant is taught to read, and is furnished with a Bible in the native tongue--until academies, with native preceptors, are established on all the principal islands; and the High School now existing on the island of Maui, has become a College with native professors--until the printing presses are owned and conducted by native publishers, and find employment for native authors, and, so employed pour forth treasures of theology, history, and every useful science, for supplying the native demand for public and private libraries; nor until Christianity is fully established as the religion of the island, and its benign influence has become paramount in every rank and class of the people.

For a time it appeared that these goals would be met. The high school referred to above is Lahainaluna boarding school, established on September 5, 1831, to train young Hawaiian men to become teachers and ministers. ^{18/} Students were soon studying such subjects as geography,

geometry, anatomy, music, trigonometry, Greek, English, Hawaiian language, and composition, all through the medium of Hawaiian language.

Lahainaluna was the cornerstone of the government department of education that developed in 1840 to coordinate schools of the kingdom. Lahainaluna supplied texts and periodicals through its press and trained native Hawaiian-speaking teachers. The school was also the primary source of many of the Hawaiian ministers, lawyers, politicians, and judges of the monarchy and later the Territory of Hawaii. Individuals educated in the better Hawaiian medium schools received broad exposure to Western knowledge, but within a generally Hawaiian context since almost all the teachers in the system were Hawaiians themselves. Hawaiian cultural topics appear to have been actively used as topics for compositions, and many Lahainaluna graduates became well-known writers on Hawaiian topics for the Hawaiian publications.

The great enthusiasm of the nineteenth and twentieth century Hawaiians for written literature in their own language has left today's Hawaiian people with a tremendous gift, although one that they cannot fully appreciate without an ability to read their ancestral language. In the some five hundred years between the Christianization of the English and their conquest by the Norman French, the Anglo-Saxons preserved very little literature relating to their pre-contact past. The most famous of these, the epic poem *Beowulf*, is somewhat comparable to Hawaii's *Kumulipo* preserved by Hawaiian writers, although one can find some Christian influence in *Beowulf*. While much of Old English poetry concerns Christian topics, Hawaiian writers generally chose traditional topics, shown not only in their great

interest in recording old chants but also in their own compositions. Historians of English are proud of the development of an early English prose tradition that consisted primarily of translations from well-known texts in Latin. Baugh states:

In the development of literature, prose generally comes late. Verse is more effective for oral delivery and more easily retained in the memory. It is therefore a rather remarkable fact, and one well worthy of note, that English possessed a considerable body of prose literature in the ninth century (Note: This is three hundred years after initial introduction of writing), at a time when most other modern languages in Europe had scarcely developed a literature in verse. v9/

It is surprising for students of the Hawaiian language to discover that English had no tradition of prose until the introduction of Christianity. Early Hawaiian writers recorded many long Hawaiian prose stories, some of the more famous are sagas of Pele and Hi'iaka, Kawelo, Kamapua'a, and La'ieikawai. Not satisfied with a single version, early Hawaiian writers sometimes wrote down regional or period variants of Hawaiian sagas. Like the newly literate Anglo-Saxons, the Hawaiians translated works from other languages into their own tongue, but there are also a number of original compositions, including several histories of the people and descriptions of foreign travel. Through their writings, these people preserved and created a body of written Hawaiian literature within approximately a one hundred-year span that is comparable

to the body of written Old English literature covering a period of about four times as long, with a much larger population.

The introduction of writing, and contact with a third culture, led to a strengthening of Hawai'i's culture through Hawaiian documentation of practices disapproved by the American Calvinists. 20/ The Hawaiian newspapers (some of which had come into existence before 1900) were the primary means through which traditional and Western culture were communicated to the adult population. Hawaiian traditions were serialized in the newspapers along with translations of famous European works, such as those of Shakespeare. The newspapers were avidly read by a population that was one of the most, if not the most literate of its time. Literacy in the United States was in fact considerably deficient in comparison to the Hawaiians of the nineteenth century.

Most of the Hawaiian population actually learned to read and write largely through their own efforts prior to the missionary translation of the Bible in 1839, and even before the missionaries had standardized the alphabet they would use in their mission. This standardization occurred in the mid-1820's when missionaries voted to end the confusion between consonant pairs such as k_ and t_, w_ and v, and b^ and D_. This vote resulted in a decision to represent all native Hawaiian words with the symbols a_, e_, i^, o_, u_, h_, k_, l, m_, n, p, w, and to use other symbols only in spelling words of non-native origin. This alphabet was subsequently used in all Protestant mission and government publications, and although challenged for a period by a Catholic practice of occasionally

using t^, v, and r_ to represent k, w, and l, respectively, the same set of symbols has survived until today. In making their final decision on their alphabet, the American missionaries closely copied the decisions made by English missionaries in the South Pacific, and like the English failed to establish standards for the marking of phonemic vowel length and glottal stop. Correcting this defect was the first task of modern students of the Hawaiian language.

The glottal stop, or 'okina', is a phonemic consonant of Hawaiian and the length of vowels is also a phonemic feature distinguishing words. 21/ Neither of these are especially unusual features in world languages. English historically had a long/short contrast in its vowels and contemporary American English has a glottal stop. (For example, the word button pronounced bu'n differs from the word bun in pronunciation only by the presence of a glottal stop in most American dialects.) The early American missionaries were only vaguely aware that words written identically were somehow pronounced differently, and they sometimes referred to the effect of the phonemic glottal stop and vowel length as "accent" or "euphony." By 1864, the missionary grammarian Alexander had noted the importance of both the 'okina' and vowel length, but he had difficulty in transcribing them and therefore made no attempt to use the symbols for them consistently in his writing.

Native Hawaiian speakers devised a method to indicate the presence of a long vowel, or 'okina', to eliminate the possibility of word ambiguity. A dash between consonants indicated a pronunciation including long vowels

(for example, ku-mu would spell kCmO, a type of fish, in contrast to kumu, "teacher"). A dash between vowels indicated a pronunciation including long vowels, an 'okina, or both (for example, pa-u would spell pa'u, "riding skirt," in contrast to pau, "finished"). An apostrophe between vowels indicated an 'okina (for example, ka'i would spell ka'i, "move in a procession," in contrast to kai, "sea"). 22/ These practices became more frequent in publications by Hawaiians as time went on, and the inaccuracy of the original spelling system lost some of its force. It was not until 1957, however, with the publication of the Puku'i-Elbert dictionary, that a systematic and accurate recording of long vowels and 'okina in the lexicon of Hawaiian occurred. The Puku'i-Elbert dictionary, now the standard reference for the Hawaiian language, marks the 'okina with a single open quote (also described as an inverted comma) and long vowels with a macron, following standard practice adopted previously in other parts of Polynesia. Table 64 illustrates some words always distinguished in Hawaiian pronunciation, but only consistently distinguished in Hawaiian writing since 1957.

The inclusion of the 'okina and kahako (macron) into the Hawaiian writing system improved the missionaries' original alphabet. Unfortunately, it arrived too late to impact a good number of old Hawaiian names and archaic terms. Hawaiians today can only guess at the correct pronunciation of these, due to the loss of authoritative knowledge prior to recordation in the improved spelling system. Hawaiians are also losing the pronunciation of words and even family names, since those who are knowledgeable about them are not taught to record them in the modern spoiling system.

Although the addition of the 'okina and the kahako have greatly improved the missionary orthography, much work remains to be done in the area of Hawaiian spelling. The missionaries established a basic alphabet, while questions of word divisions, capitalization, punctuation, and related matters were never adequately addressed. Standardization is still needed in these areas as the assignment of the 'okina and kahako has varied even within editions of the Puku'i-Elbert dictionary. The use of 'okina and kahako is becoming standard in published material today, although many older speakers are still more familiar with the unmarked missionary alphabet. Within the English language publications, the use of the 'okina and kahako is a sign of accuracy and positive respect towards Hawaiian culture. Unfortunately, many English speakers have a very poor attitude toward the importance of spelling Hawaiian words with anything resembling the care they give to the spelling of English, and this attitude has even rubbed off on many younger English-speaking Hawaiians. 23/

As the Hawaiian writing system expanded from the time of the first missionary contact, so too Hawaiian vocabulary has continued to expand. The Hawaiian medium schools served as a stimulus for the development of terminology useful in discussing topics such as biology and mathematics, while the civic life of Hawaiians resulted in a large body of vocabulary related to law and politics. The expanded vocabulary of Hawaiian included terms developed by Hawaiian newspapermen in reporting World War I and World War II, linguistic terminology developed in modern monolingual language classes at the University of Hawai'i at Hilo, and expanded terms for modern gadgetry developed by the Ni'ihau community.

Hawaiian language is handicapped today for lack of a strong Hawaiian-language media and an official language planning office (as exists in many other parts of the Pacific Basin) that can disseminate new vocabulary developments. The secular Hawaiian newspapers went out of business after World War II and neither the potential of radio nor of television has ever been fully applied toward benefiting the Hawaiian-speaking community. Without the dissemination of vocabulary, those speakers of Hawaiian still active today are linguistically deprived. The reason for this situation is the development of English dominance at the expense of Hawaiian.

The English dominance of Hawaiian parallels Norman French subjection of English between 1066 and 1200. Whether Hawaiian can be revived, as was English, after the current trial period is a matter of conjecture. At present, the language has a single native-speaking community of some 150 individuals located on the island of Ni'ihau. There are less than 2,000 native speakers, all above the age of 60, scattered throughout the other six inhabited islands, who must function within an English-speaking environment. Another one thousand or so English speakers are actively trying to learn Hawaiian. There are also many in the community who can understand some Hawaiian, but cannot speak it, and the majority of Hawaiians who speak a form of English heavily influenced by Hawaiian. The life and death of the Hawaiian language rests primarily with these people, but the success of their efforts to assure the life of their language depends in large part on the cessation of hostile and senseless measures emanating from the dominant English-speaking groups. Perhaps if the English speakers were more aware of how their own language almost

suffered death at the hands of the Normans, who considered English primitive and inferior, their attitudes and actions presently so detrimental to the survival of Hawaiian would change.

The Rise of English

Much of the early communication in Hawai'i between Hawaiians and foreigners from various linguistic groups was through a form of broken or simplified Hawaiian. This broken Hawaiian was carried by Hawaiian sailors aboard Western vessels and traces of it are found in Eskimo trading language and a Kamchatka trading language of the Asian Soviet Union. Simplified Hawaiian survived as a means of communicating with foreigners and gradually developed into what is called pidgin English, in the early twentieth century.

The existence of a form of broken Hawaiian is testimony of the cultural and linguistic strength of the language at the early period of contact with other cultures. From earliest contact, however, there were also Hawaiians who learned foreign languages by working around foreigners, especially aboard their vessels, and through extended stays in foreign ports. Hawaiians were reputed to be quick language learners and were hired to serve as interpreters in the Northwest coast of the North American continent. Bilingual Hawaiians were important to all the Hawaiian people as a direct means of understanding other cultures and introducing new ideas at home. One strength of the early Hawaiian government lay in the fact that there were a number of Hawaiians and assimilated Europeans who understood foreign languages and thinking well enough to assist the country in avoiding early loss of sovereignty.

From first contact with the West, the English language in both its British and American forms was the principle foreign tongue in Hawaii, although French, Spanish, and Russian were also present. The arrival of the American missionaries in 1820 brought a new future for the English language in Hawai'i beyond the simple use of conducting trade. The missionaries established a community of some permanence. They eventually disregarded, however, their own goals of teaching the community in the native tongue.

Although the missionaries espoused a new order among the early foreign residents, they could not envision themselves and their children as truly part of the community. Missionary children were not allowed to learn the Hawaiian language, missionaries maintained their own church congregations and schools, and even punished members for marrying into Hawaiian families. Thus the American missionaries and their families created the nucleus of the first permanent non-Hawaiian-speaking community in Hawai'i.

This English-speaking community at first derived its subsistence from religious and academic instruction of Hawaiians. These occupations, however, were supplanted by Hawaiians who were better able to communicate with fellow natives. Consequently, the American Board of Commissioners for Foreign Missions (ABCFM, which financed the Hawaiian mission) officially declared the Christianization of Hawai'i a success. This ended their support and contributions to the livelihood of the missionaries, their children, and their associates. Some missionaries returned to New England, others journeyed to other parts of the Pacific to continue their calling, but

many stayed in Hawai'i. Because the missionaries had remained aloof from the general English-speaking community, they became trapped by the remnants of their own arrogance when the ABCFM withdrew support. In order to continue in their accustomed lifestyle and survive as a separate group, they began to wrest control of the land from the Hawaiians. The missionaries started to come into conflict with the very principles that had originally inspired the ABCFM ministry.

Hawaiian culture stresses sympathy for individuals in need and the Hawaiian people had developed considerable aloha for the early altruistic efforts of the missionaries. The people expected ruling ali'i to care for the missionaries and their families according to Hawaiian culture, and the ali'i did so generously. Some missionaries were granted the use of large tracts of land and others were incorporated into government service (that is, the court) to utilize their expertise in dealing with foreigners and new concepts entering Hawai'i.

Incorporation of English-speaking members of the community into government service represented a departure from the earlier practice. As a result, in conflicting matters, the small groups of English speakers in government favored their own interests over that of the Hawaiian community.

They supported dismantling the Hawaiian common property ownership tradition, the repeal of the voting rights of Hawaiian women, and other similar programs that benefited their own linguistic community at the expense of the entire nation. The necessity existed because without such change, the English-speaking community could not expand in Hawai'i, and the

general American philosophy represented by these people **did not support** the thought of traditional **Hawaiian** political, economic, or linguistic systems. Those who had **been** incorporated into **government service** believed that the country owed them something, rather **than the other way** around. They made little **attempt to** use **Hawaiian in carrying out their** duties, and instead complained about the lack of English- **speaking** abilities of Hawaiians **who served with then** in government. **Again, there was** direct conflict -with the originally expressed goals of the mission to retain the indigenous **language, while** encouraging the indigenous **people to** develop a Western lifestyle. The insistence that English **was more** suited to high government **service and** recordkeeping (which it **actually was** not) removed much **authority from** Hawaiian control and opened **government** for a greater expansion **by the tiny** English-speaking community.

A situation thus **developed in which** Hawaiian was the language of the sovereign, low-order **government service and** the courts, **local church** systems, the public **education system, law enforcement, low-order internal** business, blue collar jobs, and the subsistence life of the **country** districts, while English **was the** language of high-paying, **upper-**administration jobs, **and big business.** **The Hawaiian reaction to this** development **was deep resentment** toward the English speakers (**who had** received their positions in the first place due to the largess of the nation) and a strong movement **to learn** English in order to **better compete** with the intrusive group.

Although the missionary-centered community had overstressed the importance of English **as a means to** maintain their power, the **importance** of developing English and **other**

foreign language skills in order to secure occupations dealing with the outside world soon became clear to Hawaiians. As early as 1839, even before the missionary community had organized its own English language school at Punahou, young ali'i were educated exclusively in English at a school designed for that purpose called the Chiefs' Children's School (new Royal Elementary). It was not until 1851, however, that a government-sponsored school in a medium other than Hawaiian was established. Even this school, the Honolulu Free School, catered primarily to mixed-blood children, many of whom already had exposure to foreign languages through one non-Hawaiian parent. By 1854, regular government schools taught through the medium of English were opened and began to compete with the Hawaiian medium schools for the Department of Education's attention. Several private schools enrolling Hawaiian students, and often employing British teachers, also appeared after mid-century. By the late 1880's, the government had sent academically-talented Hawaiian youth abroad to receive educations in England, Germany, Japan, and Italy.

Leadership within the Department of Education interpreted Hawaiian interest in learning English as indicative of a desire to abandon Hawaiian altogether. This coincided with the opinion of many younger individuals in the manifest destiny of Northern European races, the rising tide of Euro-American dominance, and the inferiority and ultimate doom of Asian and Pacific cultures. Suggestions to abandon Hawaiian language in favor of English came from the English-speaking community, but not all of them agreed with the idea. There were a few left who held to the original missionary ideals, as witnessed by Reverend Lorenzo Lyons'

entry in the missionary journal The Friend, September, 1878:

I've studied Hawaiian for 46 years but am by no means perfect...it is an interminable language...it is one of the oldest living languages of the earth, as some conjecture, and may well be classed among the best...the thought to displace it, or to doom it to oblivion by substituting the English language, ought not for a moment be indulged. Long live the grand old, sonorous, poetical Hawaiian language! 24/

Strong support from the English-speaking leadership of the Department of Education for the English medium schools had a negative financial impact on the Hawaiian medium schools and school teachers. Appropriations given the English medium schools were considerably higher, as were the salaries paid teachers in those schools. Loss of pupils to the better-supplied English medium schools resulted in loss of jobs for many Hawaiian teachers, and increased job opportunities for the English-speaking community.

Hawaiian interest in English was primarily economic. The period of greatest interest occurred during the reign of King Kalakaua (1874 to 1891). There was also at this time, however, a correspondingly high interest in restoring Hawaiian poetry, dance, and traditional culture among all Hawaiians, including Kalakaua. The expanding establishment of English medium schools intensified the study of English and foreign languages and took a serious toll on the Hawaiian language. The prestige of Hawaiian language diminished, as did teaching in Hawaiian, as a result of poor salaries and facilities associated

with Hawaiian schools. The English medium schools further removed Hawaiian vocabulary for technical and academic matters relating to the Western aspects of life in Hawai'i, hence employment alternatives. The schools affected the status of Hawaiian as a means for bringing different races together by removing the growing immigrant children population from an atmosphere in which their command of the national language could be improved. Hawaiian language lost an opportunity to act as a racial catalyst when the growing population of immigrant children was denied improvement in the national language. Also destructive was the direct exposure to Euro-American philosophy (in a way, propaganda) of that era, which proposed that non-Western peoples were inferior, further weakening confidence of Hawaiian children in themselves, their native language, and their culture.

To credit the English Schools of the monarchy, a good number of Hawaiians became bilingual and very fluent in an English that was characterized by a certain British flavor, due to a preference for the British by upper-class Hawaiians. This competence in a high-value, prestige dialect of English was exactly what the Hawaiians needed to regain control of the positions that had been overtaken by an English-speaking group claiming that they alone could serve the nation in this capacity. Further strengthening the Hawaiian speakers in this area was the group of talented Hawaiian youth who had been sent abroad to Japan, Italy, Germany, and England to be educated. They returned with broadened perspectives and languages to better serve Hawai'i in dealing with foreign nations. 25/

Growing Hawaiian competence in what the English-speaking community had

established as their own area of influence and control led to uneasiness and greater militancy and radicalism among the English speakers. It is significant that acts, such as the Bayonet Constitution of 1887 and the overthrow of the monarchy, came at times when the goals of an independent nation based on a Western model, as espoused by the original missionaries, were seriously being pursued by Hawaiians and deliberately being defrayed by the missionary community.

The Hawaiian movement to expand the people's economic and political control through skills in English and other foreign languages never saw fruition because whenever there was a threat of success, violence was used to prevent it. The establishment of English medium schools actually backfired on the Hawaiian people during the Republic when the English speakers legislated their personal biases that English should completely replace Hawaiian, and it became official policy to do away with the Hawaiian language completely. The few Hawaiian medium schools remaining at the time of the overthrow were abolished by law, and English became even more pervasive as its official status formed a means for English speakers to move into occupations, such as lower-civil service, that formerly required skill in Hawaiian rather than English. Long after annexation and well into the territorial period, increased erosion of the Hawaiian language and growth of an English-speaking population led not to an increase in the political, social, and economic position of Hawaiians, but to a decrease in these areas proportionate to the loss of skill in Hawaiian.

The government continued to use the language in all business that dealt with the general population, and Hawaiian was secure in the churches,

in its role as the lingua franca of the country even between non-Hawaiian residents of different language backgrounds. In 1888, when 84 percent of the nation's 8,770 school children were instructed through the medium of English, and only 15 percent received their education in Hawaiian, the vast majority of the children had Hawaiian as their dominant tongue. Over 75 percent of these children were of Hawaiian ancestry and certainly native speakers of Hawaiian. Queen Kapi'olani in that year is described by a personal servant as always speaking Hawaiian and requesting a translator when English was used. Another 20 percent of the school enrollment consisted of children of plantation workers of various non-English-speaking groups who were certainly familiar with some Hawaiian. Children of pure English and American ethnic parentage made up less than 5 percent of the entire school enrollment at the time and even in this group it is certain that some of them spoke Hawaiian. There are in fact haole plantation families with a history of children growing up speaking Hawaiian before English during the monarchical period. Hawaiian remained the normal vernacular of Hawal'i and the language of the street in Hawal'i until between 1910 and 1920, when it was replaced by pidgin English.

Hawaiian was still the dominant language in terms of numbers of speakers at the time of American annexation in 1898, despite official legislative policy replacing Hawaiian with English. Since Hawaiian was the language understood by the majority of the electorate and citizens of the new territory, it was the language used by politicians, including non-Hawaiians. The language was also used in the legislature, and a provision of the Organic Act (Section

44) requiring debates in the legislature to be in English resulted in the need for interpreters and translators for the Territorial House and Senate (until 1907) just to comply with the law for those legislators not fluent in English. The laws were disseminated to the general electorate through the Hawaiian press, and ballots remained in Hawaiian until the 1960's. At the beginning of the territorial period, English speakers in government not fluent in Hawaiian were often closed out of political discussion.

While the Hawaiian language was still quite strong in public life in the early days of the Territory, the main loss of language came through the school system, which attacked the language at its most vulnerable and important point, the children from Hawaiian-speaking homes. During the Republic and Territory, Hawaiian was strictly forbidden anywhere within school yards or buildings, and physical punishment for using it could be harsh. Teachers who were native speakers of Hawaiian (many were in the first three decades of the Territory) were threatened with dismissal for using Hawaiian in school. Some were even a bit leery of using Hawaiian place names in class. Teachers were sent to Hawaiian-speaking homes to reprimand parents for speaking Hawaiian to their children. Most subtle of all, but most effective, was a psychological approach emphasizing a European view of precontact Hawai'i as a simple world that alternated between paradise and hell; a world whose original language had no relevance as a first language in modern or future Hawai'i. The reference to Hawaiian as an obsolete language is especially audacious in light of modern use of Hawaiian to conduct monarchical business, the legislature, and other Western activities.

This psychological approach stems from an ideological belief in the superiority of the American ethnic group and its culture by the administration of the Department of Education. This department was controlled, not by the popularly-elected legislature, but by the appointed governor, who was part of the English-speaking community. The administrative bias against Hawaiian language was so powerful that the Department of Education effectively ignored both the letter and spirit of laws emanating from the legislature to ensure the survival of the Hawaiian language through the school system. The major laws referred to here are the act of 1919 requiring that Hawaiian be taught in high schools and teachers' colleges, and a 1935 provision requiring daily instruction in the language in schools serving Hawaiian Home areas. Both provisions were deleted from the law in 1968, but a new requirement was revived in the form of an amendment to the Hawai'i Constitution in 1978.

Resistance to English usage was steadfast in Hawaiian churches, where reading and writing Hawaiian language was incorporated into the Sunday school curriculum. It has only been in the past two decades that English services have predominated in many Hawaiian churches, and this has occurred primarily because most native-speaking Hawaiian ministers have died. While other Hawaiian churches go to considerable efforts to include Hawaiian readings, lessons, and hymns in the predominantly English services today, there are still congregations that conduct their services entirely in Hawaiian. Like the churches, Hawaiian benevolent organizations strictly maintain the Hawaiian language.

However, these organizations face extinction unless they begin to accommodate younger English-speaking Hawaiians.

The Hawaiian press also continued, in spite of the policy to replace it with English. In the initial years of the territory the press moved into new areas such as the printing of traditional stories and modern, locally-produced nonfiction about the history of folk heroes who defended Hawaiian sovereignty.

Hawaiian-language publications gradually decreased with the passing of readers who could understand the language. The last secular paper went out of business after World War II; and the last Hawaiian-language church periodical in the 1970's. There are still occasional Hawaiian columns in publications read primarily by Hawaiian*.

Hawaiian language groups occasionally publish newsletters and other material in Hawaiian. There is a weekly, one-hour radio talk show in the language (since 1973), and another weekly bilingual program featuring Hawaiian music. The most important response, and the one that is responsible for the existence of many of the native speakers of Hawaiian living today, was the refusal of many parents and grandparents to speak English to their children in spite of discouragement by teachers. In many cases families refused to allow children to speak any English to them at all, because they believed that Hawaiians should speak to one another in their own language. This attitude was especially strong when individuals raised during the monarchy were dominant in the territory, and it has not died out entirely. There still exist some very few individuals on the major islands who raise their children to speak Hawaiian at home, as well as the residents of Ni'ihau, who speak only Hawaiian.

In response to the move to replace the Hawaiian language with English, organized grassroots efforts specifically directed towards strengthening the Hawaiian language and culture appeared under the American administration. A Hawaiian Language League based on the Gaelic League was organized in the 1930's, and a Hawaiian language school was also organized. In the 1950's, Lalani Hawaiian Village was created for the purpose of teaching Hawaiian language and culture. Ulu Nau Village was created in the 1960's with a similar goal. Both attempts met with an early demise. The 1970's saw the creation of the 'Ahahui 'Olelo Hawai'i, an organization established through assistance from the Kanehameha Schools to promote the Hawaiian language. This group is still actively pursuing its goal.

Hawaiian language then, continues the fight to survive. There is considerable resiliency among those involved with the language. The effort to continue and strengthen the language has a solid core of support in the general population, among the Hawaiians as well as non-Hawaiians.

26/

Hawaiian would certainly have remained the first language of the majority of the native Hawaiian population and a likely number of locally-born non-Hawaiians if it were not for the rigorously pursued policy of the territorial administration to replace Hawaiian with English. The efforts of early local legislators to ensure the language's survival through legislative support would certainly have been more successful with a fair-minded administration. A reversal of the trend towards English medium schools might have even occurred around 1920 once the formation of the Hawaiian Language League showed that Hawaiians were

awarf> and anxious to participate in a worldwide language revival movement. As history developed, however, the schools eliminated their language from the lives of several generations of Hawaiians.

The Role of Pidgin

In the previous section, a form of broken Hawaiian used with foreigners is described. This language, which originated before the missionaries established the English-speaking community in Hawai'i, has as its descendant, "pidgin," the language that has been used in an attempt to fill the void caused by the eradication of Hawaiian. The replacement is hardly equal to Hawaiian in the realm of aesthetic culture, but it serves well the primary role of any language in the base culture*, the identification of a people as a unique and cohesive entity, with continuity of basic family values.

Pidgin as we know it today is termed "Hawai'i Creole English" by linguists who have shown great interest in its development as proof of the language-generating ability of the brain in filling a language void. Pidgin, like Hawaiian at the time of annexation, is identified with locals; that is, people whose primary cultural identification is with Hawai'i. **This** includes all Hawaiians and the majority of plantation descendants, but not the descendants of the original English-speaking community. The term is not truly racial, since "local" includes descendants of Portuguese, Russian, Scandinavian, and German plantation laborers, as well as the Japanese, Chinese, Filipino, Okinawan, Puerto Rican, Gilbertese, and other ethnic groups that were brought to Hawai'i to supplement the Hawaiian group.

Besides the primary cultural identification, there is also a class identification, growing out of the

fact that the English speakers tended (and still tend) to hold better-payin' and more prestigious jobs. Linguistically, pidgin is a full and complicated language, but sociologically it is identified by negatives—that is, not being North American English. There are certainly many differences between the local pidgin and North American English. These include:

- Pronunciation (for example, pronouncing rotten as raten rather than the general American ra'n);
- Intonation (for example, the use of the question intonation of the Hawaiian language rather than of English);
- Vocabulary (for example, using soda for American pop, and funny kind for American weird);
- Stress (that is, following the Hawaiian rule of penultimate stress rather than an American tendency towards antepenultimate stress, as in local strawberry versus American strawberry); and
- Grammar (for example, use of the Hawaiian caique "Long time, I never go," where American English would use "I haven't gone for a long time.")

The examples below give further illustration of the nature of pidgin, showing the strong Hawaiian language origins of pidgin, combined with the genius for language creation exhibited by the children who first made it their own language.

I no more money.
(I don't have any money.)

You go cone on your pickup.
(Come in your pickup.)

John guys like help.
(John and his friends want to help.)

Funny kind this fish.
(This fish is unusual.)

The wahine stay hapai.
(The lady is pregnant.)

Pidgin was not spoken as a first and native language by anyone until about 1910. Much of the popular English press and initial study of the language in the 1930s attributed it to a simple mixture of English and the languages spoken on the plantations. This simplistic explanation cannot explain the strong Hawaiian flavor of the language in terms of grammar, intonation, stress, and vocabulary, when Hawaiians were such a tiny minority in the plantation work force. Recent research ^{27/} has shown what even the haole plantation owners of the monarchy period recorded: that broken Hawaiian, not broken English, was the language of the plantations; and pidgin was originally a form of Hawaiian. Broken Hawaiian was used not only on the plantations, but to speak with anyone who had a poor command of Hawaiian, including haole residents of Hawai'i. There were of course many non-Hawaiians who spoke Hawaiian well during the monarchy through the turn of the century, and there were even non-Hawaiians who spoke Hawaiian better than their ancestral languages, because Hawaiian was the language of the community in which they were raised. The broken or pidgin language was quite common, however, due to the great influx of immigrants with the rise of the sugar industry.

At the turn of the century, English and Hawaiian words started to become interchanged more frequently in pidgin and, as the twentieth century progressed, English vocabulary came to

predominate. Much of the structure and pronunciation of the basic broken Hawaiian remained, along with much Hawaiian vocabulary, some of it restricted to use in broken Hawaiian (for example, kaukau--"food", "eat," versus normal Hawaiian mea'ai--"food," and 'ai-- "eat"). About 1910, children started to use this language among themselves, and developed greater strength in it than they had in their parents' languages or the proper English language that was taught in school. This process, termed creolization, involved all Hawaiian children (except those of Ni'ihau) by 1920, as well as the children of the immigrant plantation workers. ^{28/} Creolization resulted in a pidgin that grew more complex in its grammar, sound system, speed of delivery, and ingenuity of slang.

Creolization of pidgin was the perfect tool for local children to resist the campaign to force them to speak English. Pidgin is English, and yet it really is not. Thus, the children were able to comply with the heavy campaign to make English the language of the territory and still not truly cooperate with what Hawaiians saw as persecution of their own language, nor identify linguistically with the haole group who were viewed as more concerned with their own power than with the rest of the population on human terms.

Pidgin is also Hawaiian, and yet not really Hawaiian. This also suited the children. The identity with Hawai'i and the Hawaiian people was a very positive thing not only for the Hawaiian children themselves, but also for the immigrant children who saw themselves as different from their foreign parents. The fact that the language was not really Hawaiian was important in that it distanced Hawaiian and immigrant child alike from the picture of a primitive stone age race doomed to die, which was

presented in the school system in accordance with the ideology espoused by the English speakers controlling the department.

The development of pidgin assured the cultural survival of Hawaiians and those who chose to identify with them as locals, when the only alternative seemed to be to completely give up a cohesive Hawaiian identity that relied on the existence of a unifying language. Pidgin assured a Hawaiian identity, but it was used against local people by the English speakers in the same way that Hawaiian had been. Individuals were chosen for jobs based on their skills in English, not pidgin, although the majority of those with whom one might deal in the position might speak pidgin. Just as had been done earlier in distinguishing between English language schools and Hawaiian language schools during the monarchy, government English Standard schools for those speaking Standard English were established during the 1920's by the territorial government for those who aspired to higher positions. (See chapter on "Education," above). Entrance to these schools was by a test of English ability. Very few Hawaiians could pass the test, and it was even more difficult for most plantation children, whose parents had absolutely no formal contact with English. Most of those who passed were the more middle-class Americans who had migrated to Hawai'i to fill new white collar jobs in the territory when these were vacated by the Hawaiian speakers. The older, more well-to-do American families, however, sent their children to the prestigious private schools.

Although the development of pidgin saved the Hawaiian identity from eradication, the replacement of Hawaiian with pidgin added fuel to the

philosophy that things Hawaiian are primitive and have no place in the modern world. Without a knowledge of Hawaiian, students cannot examine Hawaiian literature and records of modern Hawaiians functioning within their own indigenous language and culture. Their knowledge of themselves had to be filtered through an English viewpoint, which is strongly prejudiced towards itself and against Hawaiian culture. Thus, pidgin cuts Hawaiians off from their ancestral roots and aesthetic culture, along with the adaptive tradition to technological society that is also their heritage.

Pidgin also handicaps local children's social standing, because it is viewed as an inferior version of English. Hawaiian can never be viewed as an inferior form of English and to speak Hawaiian using English rules is to speak inferior Hawaiian. Because it is its own full language, Hawaiian determines its own boundaries and contains its own gradations of language use within itself. There is no anomaly to having an opera in Hawaiian, formal debates in Hawaiian, written literature in Hawaiian, or high church services in Hawaiian, and all of these have been done in the language. There is even a certain preference for Hawaiian over English for the ceremonial opening of the legislature or new buildings, for example. Pidgin would never be seriously used in today's social context for any of these purposes. The only time that pidgin is consciously used in print or on stage is for a comical effect; otherwise listeners interpret it as speaking down to them.

Pidgin puts local people at the bottom of the English-language status structure, which is somewhat ironic in view of the fact that English itself

has a pidgin-like history. 29/ This status has nothing to do with the structure of the language, which is in some ways more intricate than Standard English (particularly in its tense structure), but with its historical connection with broken English. Since the position of one's language in the hierarchy of English dialects affects the impression one gives in both the educational and employment fields, pidgin labels its speakers as unqualified, no matter what their intellect. Also, since the pidgin culture is a subculture of the larger American English-speaking culture, its members generally accept the status hierarchy and apply it themselves! An amazing example of this is the fact that as Hawaiian-speaking ministers die off, Hawaiian congregations are replacing them, not from their own pidgin-speaking ranks, but with mainland, Standard American English speakers. Thus, the replacement of Hawaiian with pidgin has taken Hawaiians (except those of Ni'ihau) to the final point of loss of control over themselves, which first occurred when the decision was made that members of the English-speaking missionary community would be appropriate in high government service, performing duties formerly handled by members of the Hawaiian-speaking community.

Present thinking in Hawai'i is that elimination of pidgin in favor of Standard American English will solve many educational and occupational problems for local people. The history of what has happened with the replacement of Hawaiian by English does not support this thinking. The worst scenario (with the elimination of this last true linguistic unifying factor of Hawaiians) is that Hawaiians would be considered completely assimilated and the term "Hawaiian"

would be applied to anyone resident or born in Hawai'i. This would open up the loss of rights that accompany the Hawaiian identity, and the dispersal of Hawaiians for economic reasons from their traditional homeland to lower economic areas on the North American continent.

Even if it were desirable to replace pidgin with American English (because of the fact that any slight non-North American feature can be used to label a person a speaker of "pidgin"), it will never be completely possible to eliminate the local sound, and the accompanying negative reaction it evinces in speakers of Standard American English. Just as it will never be possible for New Yorkers to all sound like Texans, it will never be possible for all local people to speak like Nebraskans, for the simple reason of demographics. Another reason that pidgin cannot be replaced altogether by Standard American English is that it carries a very positive and highly-valued association with the local Hawai'i identity. For non-Hawaiian, immigrant-descended "locals," whose ancestors may have spoken good Hawaiian and who certainly spoke the broken plantation language, abandonment of pidgin is a possibility if they wish to give up their local identity. Most do not, and there is ample evidence for non-Hawaiian locals emphasizing their localness over their own ethnic background, as well as over any identity with Standard American English.

For Hawaiians, however, localness is included in their Hawaiian blood and appearance. They have no choice of becoming a Japanese-American or Filipino-American (versus a local Hawai'i-Japanese or a local Hawai'i-Filipino), with an identity that does not include Hawai'i. A Hawaiian must always be identified

with Hawai'i and even emigration will not change that. A consequence of this obligatory local identification that Hawaiians carry is a stronger attachment to pidgin among Hawaiians than among other ethnic groups. This attachment has been observed by linguists who have noticed an increase rather than a decrease of pidgin features in the speech of Hawaiians in recent years.

One of the ironies of pidgin is that the present pidgin-speaking generation is often observed as speaking poorer English than the native Hawaiian speakers educated in English at the turn of the century. It has also been observed that with all the exposure of modern-day Hawaiians to Standard English on television, newspapers, and in the American school system, citizens of small Pacific Island nations preserving their indigenous languages often speak better English than the "civilized" Hawaiians. Something is clearly wrong when the Hawaiian language has been sacrificed in the name of the English language and instead of a great leap forward in terms of benefits in English, there appears to be a regression.

One explanation for this situation is the fact that the Hawaiian-speaking Hawaiians and indigenous language-conserving Pacific Islanders look upon learning English in a different way than pidgin speakers do. For speakers of full Polynesian languages, learning English is simply a skill. For the pidgin speaker, learning Standard English represents a threat to his identity and the identity of the group, because that identity is maintained by not using Standard English pronunciation, vocabulary, intonation, and so forth.

A second explanation for the impressive English of Hawaiians of the

monarchy period and citizens of several modern South Pacific nations is that the British English favored by them for their schools has greater status than the American English taught in contemporary Hawai'i schools. Although not generally considered by educators in Hawai'i, American English has less prestige than British English internationally, and although the difference in status is not as great as between pidgin and Standard English, the added status of British English can make a South Pacific Islander of equal intelligence to an ordinary American appear more intelligent, even to other Americans. For the same reasons that pidgin speakers feel attached to their dialect of English, American speakers are attached to their dialect of English and have not adopted the higher status British form of the language. Speakers of Hawaiian during the monarchy had no allegiance to any dialect of English, be it American, British, or Australian. It was only natural for them to feel that if they were going to learn the English language, they should learn the dialect that would give them the most prestige, and therefore serve them the best. From that point of view, their choice of British English as their dialect of English was a logical one.

Perhaps the strangest feature of the replacement of Hawaiian with pidgin is how it has been reflected in Hawaiian behavior. This feature really has nothing to do with pidgin per se, but with the image of Hawaiians as depicted through the medium of English. In an attempt to assert their distinct identity from the English speakers, some Hawaiians have consciously or subconsciously tried to live up to what the English-language literature describes

as "Hawaiian," and also be the opposite of what English-language literature describes as "American." Neither of these things really has anything to do with what is a Hawaiian view of Hawaiian-ness, which, of course, is recorded in Hawaiian. This method of self-identification has caused great trauma in the Hawaiian community because the English-speaking community and media immediately recognize it as "Hawaiian" by their own definition, even when it is in direct conflict with traditional Hawaiian values.

The negative features of pidgin and lack of status are obvious. The fact that pidgin is most decried by the English-speaking group should serve as notice that eliminating pidgin in favor of Standard American English would probably not be in the best interests of the Hawaiian people. The positive features of pidgin must always be recognized: maintenance of the unity and identity of Hawaiians in the face of the elimination of the ancestral tongue for so many; and a means for continuing in large part the traditional base culture of the Hawaiian people referred to above, for which purpose Standard English is not overly-well suited.

Creolization of pidgin was really the only solution that local children had in order to retain that distinct and primary Hawaiian cultural identity within the context of compulsory education in English. This education deprived them of a full Hawaiian language education, and even deprived them of time with their families, important in developing full control of the entire spectrum of the Hawaiian language. The same forces that created pidgin initially are presently with us, and work against ever replacing it with Standard American English, or even making such a replacement in the best interest of Hawaiians. What then is the alternative? The revival of Hawaiian as a primary language for local people

is a natural proposal for anyone at all familiar with the achievements of Hawaiians in their own language and with similar situations in other parts of the world where language revival had made a considerable difference in people's lives. 30/

C. HISTORIC PRESERVATION

Introduction

Title I of the National Historic Preservation Act of 1966 authorizes the Secretary of the Interior to expand and maintain a National Register of Historic Places "composed of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture."

Historic preservation is basically a citizen, not a government, movement. Action by the private sector is supported, not initiated, in Hawaii by the County, State, and Federal Governments. The Hawaii State Historic Preservation Plan defines the roles of these respective sectors in the following way:

Private Sector: Increasing numbers of people from all walks of life are beginning to realize that action is needed to protect the rapidly diminishing treasure of historic resources and that private efforts are often the most cost-effective.

County Governments: Counties are the level of government where the average citizen can most effectively be involved in the decision-making process. It is through the County government that community preservation priorities can be voiced and action best tailored to those priorities can be initiated.

State Government; The lead agencies in the State of Hawaii for historic preservation are the Department of Land and Natural Resources, the Department of Accounting and General Services, the Department of Education, and the University of Hawaii.

Federal Government; The primary role of the Federal Government in historic preservation is one of guidance and assistance. Guidance is provided in the form of setting criteria for evaluating resources, and in determining the requirement for grant programs. Assistance is in the form of grants, technical assistance, and leadership in the formation of policy and standards for historic preservation. The two federal agencies primarily responsible for historic preservation are the Department of the Interior and the Advisory Council on Historic Preservation, an independent agency of the Executive Branch. 32/

Federal Government Involvement

The Federal Government greatly influences the administration of State and local historic preservation programs. Part of the duties of the Hawaii State Historic Preservation Officer, who is appointed by the Governor to serve as a liaison to the Federal Government, is to coordinate these diverse Federal activities.

Federal involvement in the State and local management of historic preservation programs can be summarized as follows;

- Identification and evaluation; survey programs (Historic American Buildings

Survey, Historic American Engineering Record); availability of grants for State, local, or private surveys; National Register and National Historic Landmark programs; and requirements for Federal projects to undertake surveys and authorization to Use funds for that purpose (Archeology and Historic Preservation Act of 1974, Department of Transportation acta).

- Protection: requirement that any activity on Federal land or? licensed, funded, or certified by the Federal Government must be reviewed by the Advisory Council for adverse effects (National Environmental Policy Act, National Historic Preservation Act of 1966, as amended).
- Preservation and enhancement: National Parks; authorization to transfer surplus property to State or local government for historic preservation purposes; availability of technical services on preservation technology; tax incentives; and availability of grants and loans.
- Overall planning and administration: availability of grants for planning; requirement to have a State Historic Preservation Officer (by mandate of National . Historic Preservation Act of 1966); and national policies embodied primarily in the National Historic Preservation Act of 1966 and Historic Sites Act of 1953. 33/

State Historic Preservation Plan

The State Historic Preservation Plan of the State of Hawaii was prepared as one of twelve functional plans detailing the overall Hawaii State Plan. Based on the priorities of the Hawaii State Plan, the following are the priorities identified for historic preservation in Hawaii:

1. Develop a comprehensive inventory of historic properties, including areas possessing rural character and lifestyle.
2. Identify from the inventory those areas that are "critical."
3. Develop protective mechanisms so that urban development can either be directed away from critical areas or mitigating measures can be imposed to minimize negative impacts.
4. Develop a program to preserve and enhance the significant historic properties, especially those along the shoreline.
5. Particular emphasis should be given to rehabilitation of existing areas; this action serves a double function in terms of directing urban growth to existing areas and preserving historic properties. 34/

The State Historic Preservation Plan discusses six major activities within historic preservation: the collection and conservation of

records; the collection and conservation of oral histories; the collection and conservation of artifacts; the perpetuation of traditional arts and skills; the preservation of archeological and historic properties; and the presentation of information to the public. The Plan sets forth policies, proposes implementation measures, **and** identifies problem areas for each of these activities.

Federal and State Registers

Because of its importance in protecting native Hawaiian archeological and historic sites, this section focuses on State and Federal activities related to the National Register of Historic Places. 35/ The National Register of Historic Places was designed to be a planning tool. It is an authoritative guide to be used by Federal, State, and local governments, as well as by private groups and citizens, to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment.

There are several effects of being listed in the National Register. Included in these effects are the following:

Listing in the National Register makes property owners eligible to be considered for Federal grants-in-aid for historic preservation;

If a property is listed, certain provisions in tax laws encourage the preservation of depreciable historic structures by allowing favorable tax treatments for rehabilitation; and

- Other tax provisions discourage destruction of historic buildings by eliminating certain otherwise available Federal tax provisions both for demolition of historic structures and for new construction on the site of demolished historic buildings.

The National Register listing does not always prevent a federal activity from adversely impacting an historic property. It does require, however, that serious consideration be given to the impact and that it be fully justified before beginning the activity.

The State of Hawaii also has a Hawaii Register. The Hawaii Register is a planning tool that assists in the assessment of the impact of any action, be it public or private, on historic properties located in the State. Likewise, Hawaii Register listing does not prevent an activity from adversely affecting an historic property, but it does require that some consideration of the impact be taken before the action occurs. In addition to the State Register, there are also several evaluative lists that exist on the county level in Hawaii.

Criteria for Evaluation

The criteria for evaluation are used: to evaluate properties for nomination to the National Register; by the National Park Service in reviewing nominations; and for evaluating National Register eligibility of properties. The criteria are:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites,

buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

- (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) that are associated with the lives of persons significant in our past; or
- (c) that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) that have yielded, or may be likely to yield, information important in prehistory or history. 36/

These criteria emphasize the "tangible" aspects of historical sites such as buildings and objects, rather than the "intangible" aspects of culture. The significance of this distinction is particularly important for protection of historical religious sites. Unless there is some tangible structure (a heiau, for example), such sites are not usually considered eligible for inclusion in the National Register. In order to be eligible, these sites must be documented as

having historical cultural, political, or religious value. Sites having current or contemporary religious value are not deemed eligible for protection.

This is, of course, a difficult distinction to make. In the case of native Hawaiians, the situation is complicated even more because of the necessity of scholarly documentation of historical value. The oral tradition in transmitting Hawaiian culture and history means that documentation is more often contained in chants and legends handed down orally, than in scholarly works of historians.

The State of Hawaii has additional criteria used by the Review Board in evaluating properties for listing in the Hawaii Register. These criteria are:

- 1) Structures and sites closely related to events, ideas, groups, persons, or cultural patterns that have contributed significantly to Hawaii's history or to the broad patterns of the Pacific area or national history;
- 2) Structures that embody characteristics valuable for the study of a period, style, method of construction, an architectural curiosity or picturesque work, representative structures of a master builder, designer, or architect, or eastern or western styles adapted to Hawaii's climate or way of life;
- 3) Districts, large or small, comprising an ensemble of structures or features that individually may not have a particular merit but

collectively have significant historical, cultural, or architectural or environmental importance;

- 4) Objects associated with significant events, persons, ideas or that are valuable for high artistic merit or as a study specimen of a period, style or method of construction, or a notable representative work of a master craftsman or designer;
- 5) Properties that have yielded, or are likely to yield, information in prehistory or history;
- 6) Quality, of which integrity is the essence. Integrity is composite derived from original workmanship, original location and intangible elements of feelings and association;
- 7) Environmental impact, the preservation of this site, structure, district or object significantly enhances the environmental quality of the State;
- 8) Social, educational, and recreation value of the site, structure, district, or object preserved, presented or interpreted contributes significantly to understanding and enjoying Hawaii, the Pacific area or the nation's history and culture. 37/

Processes for Nomination

A property can be added to the National Register through one of five processes:

- 1) Those Acts of Congress and Executive orders that create historic areas of the National Park System administered by the National Park Service, all or portions of which may be determined to be of historic significance consistent with the intent of Congress;
- 2) Properties declared by the Secretary of the Interior to be of national significance and designated as National Historic Landmarks;
- 3) Nominations prepared under approved State Historic Preservation Programs, submitted by the State Historic Preservation officer and approved by the National Park Service (the nominations may be generated by the State Historic Preservation Program itself, or by any citizen or group within the State that wishes to make a nomination);
- 4) Nominations from any person or local government (only if such property is located in a State with no approved State Historic Preservation Program) approved by the National Park Service; and
- 5) Nominations of Federal properties prepared by Federal agencies, submitted by the Federal Preservation Officer, and approved by the National Park Service.

The most relevant process for the purposes of the Native Hawaiians Study Commission are those involving the State Historic Preservation Programs and Federal agencies.

On the State level, the State Historic Preservation Plan details the implementation of the registration process in Hawaii and recent problems in that process:

The Registration of Hawaii's historic properties commenced in 1971 when the Hawaii Historic Places Review Board was formed. The Review Board is comprised of professionals in the fields of archaeology, history, architecture, sociology and Hawaiiana...

In 1980, 579 sites were removed from the State Register because of a procedural error in notifying the property owners. Although the sites on State property have been placed back on the Register, very few privately owned sites have been resubmitted. Many extremely valuable archaeological sites are not on the Register because [the Department of Land and Natural Resources'] staff is limited in size, and the review of development projects is its highest priority. 38/

State Nomination Process: For any State, the State Historic Preservation Officer has the responsibility for making the first determination of which properties meet the criteria for evaluations. To ensure high professional standards, the National Park Service requires that each State

develop expertise in the disciplines of history, architectural history, archeology, and historical architecture, on the State staff and State Review Board. Nominations are prepared under the supervision of the State Historic Preservation Officer and his or her professional staff in accordance with the approved State historic preservation plan.

The State Historic Preservation Officer submits nominations to the State Review Board where they are reviewed and a recommendation concerning whether or not the property meets the National Register criteria for evaluation is made. The State Historic Preservation Officer again reviews the nomination after its consideration by the Review Board, signs it, and forwards it to the National Park Service.

As part of the nomination process, the State is required to notify in writing the property owner(s) of the State's intent to bring the nomination before the State Review Board. Upon notification, any owner or owners of a private property who wish to object to listing the property in the National Register can submit a statement to that effect to the State Historic Preservation Officer. If the sole owner of a property (or a majority of owners in the case of multiple ownership) object to the listing, the property will not be listed in the National Register. Rather, if the nomination is subsequently submitted by the State Historic Preservation Officer, the Keeper of the National Register will make only a determination of eligibility. Once the objection of the owners is lifted, the property will be automatically listed on the National Register.

Nomination may also be made by individuals and organizations by submitting an adequately documented National Register nomination form to the State Historic Preservation Officer (or Federal Preservation Officer). If the nomination form is in order and if the property appears to meet the National Register's criteria for evaluation, the nomination must be scheduled for presentation at the earliest possible State Review Board meeting. This scheduling must take into account, however, the State's established priorities for nomination.

Federal Agency Nomination Process;
The National Historic Preservation Act of 1966 requires each Federal agency to establish a program to locate, inventory, and nominate to the Secretary of the Interior all properties under the agency's ownership or control that appear to qualify for inclusion on the National Register. In addition, Executive Order 11593 provides that Federal agencies shall locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

Nomination forms are prepared under the supervision of the Federal Preservation Officer designated by the head of each Federal Agency. Completed nominations are submitted to the appropriate State Historic Preservation Officer for review and comment regarding the adequacy of the nomination, the significance of the property, and its eligibility for the National Register. The chief elected local officials of the county in which

the property is located are notified and given 45 days in which to comment.

After receiving the comments of the State Historic Preservation Officer and chief elected official, or if there has been no response within 45 days, the Federal Preservation Officer may approve the nomination and forward it to the Keeper of the National Register.

Determination of Eligibility: Many Federal agencies have not completed the inventory of all properties under their ownership that appear to qualify for inclusion on the National Register. In the absence of such inventories, and before any projects are undertaken that may harm possible historical sites, Federal agencies are required to request the opinion of the Secretary of the Interior regarding properties that may be eligible for inclusion on the Register. Thus, the Keeper of the National Register will make a "determination of eligibility" regarding such properties.

An important role in this process is played by the Advisory Council on Historic Preservation. The Council has regulations whose purpose is to protect properties included in, or eligible for inclusion in, the National Register. This protection is afforded through review and comment by the Council on Federal undertakings that affect such properties. The process of consultation is designed to ensure that alternatives to avoid or mitigate an adverse effect on a National Register or eligible property are adequately considered in the Federal agency's planning process. It should be noted, however, that ultimately the decision lies with the Federal agency on whether or not to change its plans.

Determination of eligibility does not constitute listing in the National Register. However, properties determined eligible receive the same governmental protection from harm and destruction as those on the Register. Private owners of property on the eligible list are not eligible for benefits such as grants, loans, or tax incentives that have listing on the National Register as a prerequisite. Determination of eligibility may be made with or without the request of the Federal agency involved.

After the determination, written notice is given to the Federal agency and the State Historic Preservation Officer. In addition, public notice of properties determined eligible is published in the Federal Register.

Differences in Review Processes: There are several differences between the review procedures for Federal and State/County projects. The Hawaii State Historic Preservation Plan summarizes them as follows:

- Differences in legal authority: Legal authority mandating review of federal projects stems primarily from Sec. 106 of the National Historic Preservation Act of 1966, Executive Order 11593, the National Environmental Policy Act, and Sec. 4F of the Department of Transportation Act of 1966. Legal authority mandating review of the State/County projects stems from Sec. 6E-8, [Hawaii Revised Statutes].
- Differences in reviewing agencies: The primary reviewing agencies for federal projects are the State Historic Preservation.

Officer and the Advisory Council on Historic Preservation. For State/County projects the reviewing agency is the Department of Land and Natural Resources.

- Differences in review procedures: There are two major differences. One difference between Federal and State/County review procedures is that Federal projects must consider effects to properties eligible for the National Register, as well as those already listed on the Register. The provision to consider eligibility is very important in that it requires an identification and evaluation of historic resources in unsurveyed areas. State/County projects must also consider unregistered properties; however, the determination of eligibility procedures are not formulated...The second major difference is the availability at the Federal level of a conflict resolution mechanism if there is disagreement over appropriate mitigative measures. The mechanism is the Advisory Council on Historic Preservation. There is authority already established at the State level to implement a similar advisory council to advise the governor when conflicts arise between State agencies (Sec. 6E-8); however, the provision has not been implemented. 39/

Acceptance on the National Register

Generally, the National Park Service relies on States and Federal agencies to identify historic properties for National Register listing. Because of the experience and ability of the States and Federal agencies in identifying and evaluating historic and cultural properties, the National Park Service will, in most instances, list nominations by States with approved State programs and by Federal agencies without substantive review. This acceptance requires that the Federal agency or State certify that the procedures for making nominations have been properly followed, the documentation is sufficient, and the nomination meets the National Register criteria for evaluation.

Appeals for Nomination

The Department of the Interior is in the process of establishing procedures for appealing nominations. Under these procedures, any person or local government may appeal to the Keeper of the National Register the failure or refusal of a nominating authority to nominate a property that they consider to meet the National Register criteria for evaluation.

An applicant seeking to have property nominated to the National Register may appeal directly to the Keeper under the following circumstances:

Where the applicant—

- 1) Disagrees with the decision of the State Historic Preservation

Officer or the Federal Preservation Officer not to submit an adequately-documented nomination form to the National Park Service after it has been processed by the State or Federal agency;

- 2) Disagrees with a decision of the State Historic Preservation Officer not to submit an adequately-documented nomination form to the State Review Board;
- 3) Believes **that** the **State** Historic Preservation Officer has not scheduled an adequately-documented nomination form for State Review Board consideration within a reasonable period of time consistent with the State's priorities for nominations.

The Keeper will respond in writing to the request within 30 days. The decision may:

- Deny the appeal;
- Recommend that the State Historic Preservation Office submit the nomination form to the State Review Board;
- Recommend that the State Historic Preservation Officer submit the nomination form to the State Review Board for consideration at an earlier date than scheduled;
- Provide notice that the Keeper will consider for listing a nomination form previously approved or disapproved by the State Review Board or a Federal agency nomination form.

Current Historic Preservation Issues

The preceding sections have concentrated on existing State and Federal laws on historic preservation. However, as pointed out in comments received by the Commission, 40/ there are numerous practical problems in the implementation and enforcement of these regulations.

Native Hawaiians are concerned about protection of ancient religious sites—a concern that was voiced to the Commission not only in the written comments cited above, but in public testimony before the Commission in January 1982. 41/ At the State level, a comment from Kenneth Chan notes that "the State Historic Preservation Plan has not even been adopted into law, and has in fact been shelved for the past three years. There is no comprehensive plan adopted and utilized by the State at this time." 42/

Another problem already mentioned above is the removal of 579 sites from the State Register because they were not properly registered. In addition, staffing and funding difficulties also plague the State's historic preservation program.

The problems of protecting historic sites of importance to native Hawaiians are not totally administrative, however. An even greater difficulty may be that criteria for eligibility as they now exist do not always address the religious and cultural significance of land regarded as sacred by native Hawaiians. According to one native Hawaiian:

The concerns of Hawaiians...are different from the concerns of archaeologists. We are trained in the Western scientific tradition. We see archaeological sites primarily as repositories of information. This is in

contrast to the view of
Hawaiians of archaeologic sites
as areas of cultural and
religious significance.
Insufficient concern is
exhibited at all levels of
government to the views and
opinions of Hawaiians about
archaeologic sites. The very
structure of the mechanisms
designed to protect sites which
meet Western criteria of signi-
ficance, neglect sites
significant to Hawaiians which
don't meet these criteria...
Sites without significant
research value or which do not
meet the historic criteria are
ineligible for protection [by
the National Register of
Historic Places]. A sacred site
of extreme importance to
Hawaiians may quite easily be
ineligible for protection.
Mechanisms must be designed to
protect sites of this type. 43/

The most publicized problem of
historic preservation in Hawaii,
however, involves the island of
Kahoolawe. 44/ The U.S. Navy
continues to utilize the island as a
target for bombing practice, even
though it is now listed on the
National Register of Historic Places.
Several years ago native Hawaiian
groups began protesting the bombing of
Kahoolawe because it is regarded as
sacred and contains numerous
archaeological sites. At present, the
U.S. Navy does allow native Hawaiian
groups access to the island on a
limited basis.

NATIVE HAWAIIAN CULTURE

TABLES

TABLE 59

A COMPARISON OF SOME WORDS IN HAWAIIAN AND OTHER EASTERN POLYNESIAN LANGUAGES

TAHITI ¹	C.I. MAORI	W.Z. MAORI
(46% cognate)	<60% cognate)	<50% cognate)
•aka	mats	•ata
aaika'i	•aita'i	aaltaki
wahine	vahine	va'ine
'ake	'ate	kete
pepeiao	tari'a	tarings
lar.i	ra'i	rangi
llaa	riaa	rin
Ui	auti	tai

V The high percentage of cognates between Cook Islands Maori and Hawaiian is not due to a mere close genetic relationship between the two languages*, as compared to say between Hawaiian and Tahiti an. This high percentage of cognates is due instead to a certain conservatism in retaining old vocabulary in both languages.

TABLE 60

A COMPARISON OF TERMS USED IN DIFFERENT PARTS OF BAKATI

O'ahu	Ni'ihau	Klpahulu	Puna	
kahakai	kahakai (kahatei)	kahakai	t.s.w..	'aaa abort
'ohua	piaia	'ehua	'•hue	'baby an-u fish'
vhi	<shi	palau	uhi	'yaa'
papaiao	papaiao	papaiao	papaiao	'ear'
pule	pule	pule (pure)	pule	'pray'
•akahiki	•akahiki (aakahlil)	•akahiki (aakahlil)	•akahiki	'year'
kal	kal (tai)	kai	kai	'•aaa'
wal	wai	wal	wal (vai)	'Meter'
l>ai>	'aiwa	'aiwa	'aiwa	'nine'
Celva)			Celva)	

V Where the pronunciation and spelling differ, the pronunciation is given in parenthesis.

TABLE 41

A SAMPLING OF SOME TERMS FOR RAIN IN LAKAIKAK

kilihune	light rain often with sun
nlulu	a shower, as often form* over the aa
oakoko	rain with a low lying rainbow in it
uahekili	large dropped rain
llilinoe	•oft rain, almost sust-like in density
ualanpili	heavy rain that lasts for days
lihau	rain that causes dew-like droplets on plants
kRMko o ke	poetic terms for rain (lit. adorn—nt of the deity)
akua	
lelahune	fine wind blown rain
ue'awa	cold dripping rain as found in the high volcano areas
ko'laws	light evening rain
llilani	unexpected rain from a clear sky in which it has been carried by breezes from the mountains

TABLE 62
A Comparison of the Native Phonemes of Hawaiian and Son*, Other Eastern Polynesian Languages

HAWAIIAN	TAHITIAN	SOUTHERN MARUZSAN	COOK IS. MAORI
	a	a	a
	e	•	e
	i	i	i
	o	o	o
	f	f	«
	h	h	t
	t	t	t
	r	i	r
	•	•	•
	i	ng	ng
n	n	n	D
p	p	p	p
v	v	t	v
i	•	•	k

Note: • represents the glottal stop while ng represents the velar nasal.

Note: the table compares only the symbols used to write the languages while other Polynesian languages, like Hawaiian, often have regional and positional variants for consonantal phonemes of the type illustrated for Hawaiian in Table 60. Table 62 includes only phonemes found in words of indigenous origin. Hawaiian and other Polynesian languages, like English, have increased their phoneme inventories through the borrowing of foreign words.

TABLE 63

Englnh Aeoguittee Mot
Existent in Hawaiian

1. ME ARE IN CHARGE OF HANDLING THE MONEY (announced
at • aetlnij)
ka kaua • ailm i kt kala. we • you (on«) and I
•a kakou * . . . ^ „ j^,, (nvjjai)
and I
•a ea-ta . . . a* • ha and I
•a amkov . . . «a • they and I
2. WHAT IS TOW NVKBER? (asked by a telephone operator)
Ha aha kou belu? your • the on* you
are calling froa
" kau nelu? your - the one you are
calling
1. I KILLED HIM (oonfesaad in court)
Ua pepehi au il la. kill • act with intent
Ua —ke 'o la la'u kill - siasply a conse-
quence, as in a
car accident
- PLEASE eJUNG KE THAT DOOUKEKI leaked of a secretary)
E lawe aai i kena oalapela. that • the one close
to you
• • • " kala • that - the one far free
you
* * " • ia * that • the one that we
discussed previously

TABLE 64

Words Distinguished by Vowel Length
and/or Presence of the 'Okina

has	fruit	e'a	fruit
hu'a	foe*	•a'e	dere
bus	envy	'a'a	type of lev*
		•a'a	penic-strieki
tutu	suspend	koe	werrior
ke'u	•y	ko'e	coral
kiu	your	koe	•pace
		ko'e	arid

NATIVE HAWAIIAN CULTURE

NOTES

_1/ I [Larry Kimura] would like to acknowledge the contributions of Dr. William H. Wilson, Assistant Professor of Hawaiian, University of Hawai'i at Hilo, to this paper. He and I assembled this paper after I was approached by the Office of Hawaiian Affairs to produce something for the Native Hawaiians Study Commission. We both regret that we did not have the time to make a more thorough contribution ("He wahi ma 'u nC na'e keia"). We are grateful to the Office of Hawaiian Affairs for their interest)a seeing that Hawaiian language cerns be addressed in some fashion .y the Commission.

2/ Haole originally meant any foreigner, and is clearly an old precontact word, since it occurs in old chants. Marquesan has a cognate, Hao'e, with a similar meaning. Captain Cook and even early Chinese visitors were termed haole. With the preponderance of foreigners of European descent, haole came to mean individuals of European cultures, and new terms came to be applied to the Chinese and other non-Western ethnic groups. As greater distinctions came to be made in European groups, haole was applied more and more to Americans, including American Blacks, termed haole 'ele'ele, "black haole." Today, haole is used in both Hawaiian and local English to refer to the mainstream American ethnic group and culture alone. It is not uncommon for local people to make statements like, "He isn't a haole, he's German" (or Italian, or English, etc.) in describing a person from Europe or an American citizen with a strong ethnic background. Similarly, it is not uncommon for persons who are not of

purely WASP [white, Anglo-Saxon, Protestant] background to be referred to as haole because of their cultural and linguistic background (Standard American English). Although some haole people new to Hawai'i immediately jump to the conclusion that haole is a derogatory term, it is not, and is used by haole raised in Hawai'i to describe themselves. English alternatives (white, Caucasian, and American) are all either too broad or too narrow. White is used for people who do not go to the beach; Caucasian includes local Portuguese and Europeans who differ culturally from the haole group; and American is used to refer to citizenship. The quoted passage is from Abraham Fornander, An Account of the Polynesian Race: Its Origins and Migrations (Rutland, Vermont and Tokyo: Charles E. Tuttle Company, 1969), p. 285.

3/ Note, for example that the outline given in the Draft Report of the Native Hawaiians Study Commission on language (p. 130) erroneously states that Hawaiian, Tahitian, Samoan, and Maori are dialects of one language called Proto Polynesian. This is equivalent to saying that English, German, Russian, and French are dialects of one language called Proto Indo-European. Although English speakers may recognize related words in European languages, they are not mutually intelligible dialects of the same language. Furthermore, Proto Indo-European, the ancestor of these European languages and many of those of India, ceased to be a unified single language in the far distant past. The same applied to Polynesian languages and Proto Polynesian.

4/ Fornander, pp. 67-68.

5/ It is a common claim of individuals who do not speak the Hawaiian language (and who are unfamiliar with Hawaiian as it is spoken today) that the pronunciation of the language was radically changed when it was committed to writing. This is not true. The language has continued to be pronounced in the same regional ways up to today, with any reduction in certain regional pronunciation habits due to the movement of people between islands, rather than the effect of the writing system. For speakers of Hawaiian in the nineteenth century who did not speak English, there was no way for them to know the symbolic value of the letters in English and, furthermore, people are usually not aware of the different pronunciations that they give phonemes (or letters in writing) in any language. An example from English is the phoneme t, which has variable pronunciations between dialects and even between different positions in words in the same dialect. In many North American dialects of English, t is pronounced like a d or Japanese jr between vowels, e.g., writer (ride^r); as a glottal stop before a vowel followed by n, e.g., button (ba'n); and as a simple t (with slight aspiration) at the beginning of a word, e.g., toad (tⁿo^ad). British and (local Hawai'i) English speakers have different patterns for pronouncing t and most speakers of the language do not notice their own pronunciations of the phoneme t. Similarly, it is often easier to imitate a dialect that is different from one's own than to tell exactly how it is different.

Just like English speakers, Hawaiian speakers are not usually aware of how they pronounce each letter in the written language, and regional pronunciations have continued.

For English speakers to assume that the form of the letters in the written Hawaiian alphabet would affect the native speakers' pronunciation of Hawaiian is as silly as expecting the same thing to have occurred in English where the values given to many letters are different from the usual usage in other European languages; e.g., & as in cat, e as in beet and late, etc.

6/ The lyrics to English songs and even English rhyming schemes appear very dull to traditional Hawaiian ears because they are so predictable and often overly repetitive. The most bothersome thing is the way in which English songs lay bare for any old stranger to hear and comment on the composer's (and honoree's) "undying love" (popular songs), "sexual arousal" (rock songs), "public love of Jesus" (gospel songs), etc.

2/ Lest one think that Hawaiian culture is the only one in which a fundamental concept can be applied to extremes, it should be pointed out that similar situations exist in American culture. The American concept of the power of law (that is, sentences of words set down by agreed-upon procedures) is very strong. If, for example, a confessed mass murderer is able to find even the tiniest loophole in the written law intended to punish his crime, he can go free even if he openly declares his intention to do more killings. Similarly, a law that required death for stealing a horse could theoretically result in the execution of someone who stole a horse in order to save someone else's life.

In Hawaiian culture, the extremes that resulted from full application of certain concepts (e.g., the elevation of the group's lineage through impressive kapu applied to the group's senior line) were tempered by the concept of aloha that allowed ali'i to

let violations pass. This occurred even during the late period of the monarchy when custom required the death of a child defiling an ali'i with urine unless the child belonged to the ali'i. A story is told of a turn of the century ali'i holding a child while visiting a country area and the child urinating on her. The immediate reaction of the ali'i was to claim the child as her own and then give it back to the parent "to raise for her" with a special commemorative name from the visit.

&/ An example of confusion between the Western concept of etymology and the Hawaiian concept of word power can be seen in the two volume set of Nana I Ke Kumu, one of the most important Hawaiian cultural resources in English, but edited with some English-speaking preconceptions. The author, the venerable and strongly traditional Mary K. Puku'i, applies the concept of word power to each term described in the volumes. This is firmly part of the Hawaiian tradition and is used beautifully to draw attention to different aspects of various Hawaiian practices. For example, the word 'ohana' (family) is related by Puku'i to the somewhat similar sounding 'oha' (side shoots of the taro). This she poetically develops into a beautiful expression of word power stressing the genealogical links of Hawaiian nuclear and extended families and the connection with Haloalaukapalili, a taro plant who was the older brother of the first Hawaiian in traditional genealogies. This explanation is a tribute to the poetic genius of Puku'i and not an etymology, as it is treated by the editor, or even a poetic image that has been recorded from other traditional Hawaiians. By presenting Puku'i's use of word power in such a way as to suggest that it is the same as etymology in the Western sense,

these influential volumes actually stifle the creative use of word power in Hawaiian culture. Thus, a native speaker of Hawaiian who wanted to use the word 'ohana' to strengthen the concept of working together with hana (work) could be subject to criticism for not knowing the "true" origin of the word 'ohana' as shown in Nana I Ke Kumu; this certainly not being the intention of the author.

Another unfortunate aspect of the editing in Nana I Ke Kumu is the spelling of the Hawaiian words. Rather than follow the spelling used in the Hawaiian Dictionary that Puku'i herself authored, the editor haphazardly spelled Hawaiian words, possibly because the spelling of words used together by Puku'i within the Hawaiian concept of word power differed subtly from each other, as in fact they do in pronunciation, e.g., 'ohana' and 'oha'. The unfortunate result of the sloppy spelling is that those who do not know the Hawaiian language well will try to pronounce words as they are written in the books, thus again weakening the Hawaiian language and culture.

There are numerous other cases especially involving place names, in which a Hawaiian speaker using the concept of word power has been interpreted as giving an etymological derivation, or worse yet an actual "correct" pronunciation of the name. An example is the pronunciation of the island Kaua'i in normal Hawaiian conversation by all native speakers of the language. It has been claimed as "correctly" pronounced Kau'ai (related to the word 'ai', "food") or Kau'aT (related to the word 'a'l', "neck") by individuals who assumed that a Hawaiian speaker making a point about the island using word power actually meant that these were pronunciations that had been used for generations by Hawaiian speakers.

9/ Tape of radio program 'Ka Leo Hawai'i," Catalog no. 24.65A, University of Hawaii, Manoa, Language Laboratory. [Mr. Kimura also submitted a tape recording and transcripts of Hawaiian language and interviews. The transcripts appear in the Appendix of this Report.]

10/ In Hawaiian you do not speak of coming from a place, but belonging to it, much as you belong to a family. The same word *no* (belong to) used to mean one is from a place is also used to say one "owns" land, as illustrated below:

No Hanalei 'o Kaleiheana.
(Kaleiheana is from Hanalei.)

belongs to - Hanalei - name
marker - Kaleiheana

No Kaleiheana 'o Hanalei.
(Kaleiheana "owns" Hanalei.)

belongs to - Kaleiheana - name
marker - Hanalei

The word *no* is technically a preposition in Hawaiian and there is no real word for "own." The word *no* is also one of a pair of prepositions, *na* being the other. Both these prepositions translate as "belonging to" in English. The preposition *na* is used for things that are more like disposable belongings such as tools, bowls, food, and even spouses. The preposition *no* is used for more intimate things that one cannot dispose of such as parts of one's body, one's name, one's parents, and things that envelope one like clothing. The contrast between the use of the two possessive prepositions *no* and *na* is part of a contrast between O-class or intimate and inalienable possessive terms and A-class or dominated alienable possessed terms. Then, the grammar of the language supports the contention

held by some that ownership of land similar to ownership of cattle in the Western sense is not a Hawaiian concept and is foreign to Hawaiian speakers. Conversely, however, the concept of land as inalienable, enveloping, and, even as kin, is foreign to American thinking.

11/ Ke Aloha 'Aina (March 18, 1899): 2.

12/ Hawaiian tradition requires that one release one's attachment to ». person who has died by urging him to pass on to join with others in the next world. One shows one's attachment, however, in recalling before the body shared experiences, joys, and sorrows, and even by chiding the person for leaving when so much remains to be done and enjoyed.

13/ Produced by the Bishop Museum, 1981.

14/ Almost all Hawaiians profess Christianity today and there is a strong Christian tradition in Hawai'i*. This is not to say that there have not continued to be individuals who have rejected Christianity in favor of traditional Hawaiian religion, from the time of the arrival of the missionaries until today. The Hawaiian Christian tradition, however, coexists and has been blended with traditional Hawaiian beliefs, much like Buddhism and Shintoism are blended in Japan. Christianity and traditional Hawaiian beliefs can coexist quite well because traditionally Hawaiians recognize, the spiritual world to consist of beings of human-like natures connected to man and nature by genealogical links. The Christian deity, however, is not genealogically linked to mankind in the Christian tradition, but is representative of ultimate perfection. Traditional Hawaiian spirituality then fits into a Christian Hawaiian life,

something like saints, angels, and deceased family members in heaven do in the European version of Christianity. (European versions of Christianity themselves take much from pre-Christian European cultural practices; the Christmas tree, Easter bunny, and Halloween are obvious examples, but more subtle influences also exist.) [See also, chapter below on "Native Hawaiian Religion."]

15/ E. S. Craighill Handy and Mary K. Puku'i, The Polynesian Family System in Ka'u, Hawaii (Rutland, Vermont: Charles E. Tuttle Company, 1972), p. 199.

16/ See Note 10, above.

•17/ According to Hawaiian tradition, all Hawaiian ali'i and maka'ainana descend through Haloa from Papa and Wakea who were superhuman/supernatural beings. Haloa was second-born after a miscarriage that developed into the taro plant, thus elevating the lineage of this staff of Hawaiian life above man himself, who derives his strength from the plant. Papa and Wakea also gave birth to the Hawaiian Islands before the birth of Haloa, thus making the Hawaiian people genetically-related to their land and subservient to it by Hawaiian concepts of ranking by birth. Significantly, the name of the first-born island, Hawai'i, is applied to all junior members of the family, giving ka pae'aina Hawai'i ("the Hawai'i cluster of lands" or Hawai'i in the sense of the archipelago) and ka po'e Hawai'i ("the Hawai'i people" or the Hawaiians).

Voyagers mentioned in precontact traditions include Pili, Pa'ao, 'Aukelenuia'lku and others who married into the original Hawai'i lineage. Of course, since Western and Eastern contact many other people have married into the Hawai'i lineage, but its unity has been maintained by

recognition of the common lineage at the same time that pride in the other contributing lineages is expressed.

18/ The history of education in most parts of the United States starts considerably later than in Hawai'i. Many people in Hawai'i take pride in noting that Lahainaluna is the first American high school established west of the Rocky Mountains, although this is technically incorrect since Lahainaluna was not politically under the flag of the United States until 1899. It cannot even be counted geographically American because Hawai'i is not geographically part of North or South America. The early establishment of secondary education in Hawai'i speaks well for the academic interests and capabilities of Hawaiians.

19/ Albert C. Baugh, A History of the English Language, 2d ed. (London: Routledge and Kegan Paul, Ltd., 1957), p. 80.

20/ Some have argued that the introduction of writing harmed the Hawaiian people, but there is little evidence to support such an idea and much that contradicts it. Many Hawaiian traditions would be lost today if there was no written Hawaiian language because non-Hawaiians wrote very little about Hawaiian culture, compared to the many writings in Hawaiian on the topic by Hawaiian speakers. The introduction of writing did not affect the native sounds of Hawaiian, and Hawaiian continues to be spoken by native speakers with the 'okina and kahako, although these were not regularly written for over one hundred years. (See also note 5 on the continuation of regional pronunciations of consonants.)

The only area in which writing *sic* have affected Hawaiian culture negatively is that it may have reduced the heavy dependency on

memorization that early visitors considered remarkable. It is also recorded, however, that many Hawaiians applied the traditional attitude towards memorization to reading, and memorized whole sections of books in the form of chants. It is still bad form in Hawaiian culture to hold a script before you when chanting, in the manner of sheet music in Western culture. Therefore, the tradition of using one's memory is still alive today even though writing exists as a means for preserving old chants. The greatest stumbling block to exercising the memory in reciting Hawaiian chants today is not writing, but the inability of chanters to speak Hawaiian.

21/ Mentally, long vowels appear to be actually two adjacent short vowels; e.g., <f is a written representation of what is mentally aa. We have evidence for the mental reality of double vowels in the occurrence of long vowels when a word with an initial short vowel is doubled; e.g., awa, "harbor," awawa, "valley." Hawaiians themselves writing in the nineteenth century sometimes wrote awawa as awaawa rather than awawa, as was standard missionary practice. The writing of awawa as awaawa, however, can lead to confusion with the missionary spelling of 'awa'awa (sour), because the missionary orthography does not indicate the 'okina.

22/ The use of the apostrophe to represent an 'okina appears to have grown out of a mistaken etymology in the Bible. In the Bible the elision of an a is indicated by an apostrophe; e.g., e ola ai (by which one is saved) is often written e ola'i in the Bible to indicate a pronunciation e_ olai in which one a has been elided. First-person singular possessive words like na'u (for me) were always written

with an apostrophe in the Bible, apparently based on an idea that they represent an elision (i.e., fj, "for," plus au, "I, me," gives na'u). The spelling of these common words with an apostrophe became fixed in Hawaiian speakers' minds and since the apostrophe was located in a place where an 'okina was pronounced in actual speech, the apostrophe came to be associated with the 'okina. As time went by, Hawaiian speakers came to use the apostrophe more and more to represent the 'okina and less and less to represent the predictable elision of a before another vowel.

23/ A lax attitude toward the spelling of Hawaiian words is commonly found among English speakers in Hawai'i and even among Hawaiian speakers who have attended only English medium schools. English speakers often brush aside criticism of their sloppy treatment of Hawaiian spelling in comparison with their insistence on high standards in English spelling with a remark that Hawaiian is an oral language and not a written one like English. This shows ignorance of both the histories of Hawaiian and English. Hawaiian speakers have a history of one of the world's highest literacy rates. English itself has a history of missionary introduction of the Latin alphabet to the British Isles. It is interesting to note that one of the most remote and least-Western-influenced part of Polynesia, the Kingdom of Tonga, is the area in Polynesia with the most careful spellers of an indigenous language. All signs, personal names, and reading material in Tonga is printed with the kahako and 'okina and school children use them consistently, properly, and as easily as any other part of the writing system, just as they are pronounced in the spoken language.

The way a person spells a language indicates his respect for it. Evidently Tongan respect their language more than many people visiting or living in Hawai'i respect Hawaiian.

24/ Among the missionaries in Hawai'i, Reverend Lyons was one who did become very close to the Hawaiian people. His translations of hymns into Hawaiian show an adaptation of Hawaiian poetic thinking and lack the grammatical errors found in the work of some of the other missionaries. His defense of the Hawaiian language is a tribute to his concern for the Hawaiian people and proof that there were some of the missionary group who were true to their higher ideals.

25/ The concept of sending students to different countries was especially apropos for a country such as Hawai'i with its geographic and cultural isolations from the sources of world power. The concept might have also been effectively applied internally by the establishment of a policy of having different schools taught through the medium of different foreign languages. Such a policy would not only have produced a population with increased ability to function within the international sphere, but would also have served to protect the position of the indigenous language, since graduates from different schools would share Hawaiian as their only common language. This policy could have been implemented in Hawai'i fairly early by encouraging the French Catholics to establish schools using French as alternatives to the American-sponsored schools. Later, when German and Japanese interests in Hawai'i became stronger, they too could have been encouraged to establish schools of this sort in the kingdom.

26/ At this point in Mr. Kimura's text, the following passage appears:

Despite this, it is still Department of Education policy to replace Hawaiian with English for the one remaining native-speaking group of children (on Ni'ihau). The children on this island are the target of this policy which many believed was being underscored by the current head of the Department of Education when she called for the formulation of a plan to "improve" education on the island. Ni'ihau children residing on the nearby island of Kaua'i are already targets of a federally financed SLEP program that specifically aims toward the replacement of Hawaiian with English.

It is included as a footnote because there was not time to receive a response from the head of the Department of Education prior to the Commission's printing deadline.

27/ Derek Bickerton and Carol Odo, General Phonology and Pidgin Syntax--Volume I of Three Volumes of Change and Variation in Hawaiian English, Final Report on National Science Foundation Grant No. GS-39748, Typescript (Honolulu: Social Sciences and Linguistics Institute, University of Hawaii, 1976). See, also, Derek Bickerton and William Wilson, "Pidgin Hawaiian," in Pidgin and Creole Languages: Essays in Memory of John E. Reinecke, ed. by Glenn Gilbert (in press).

28/ Hawaiian has not been the only target of language extermination in Hawai'i. There are no communities anywhere in Hawai'i outside Ni'ihau where children born in the islands grow up speaking a language other than some form of English as their strongest and primary tongue. This includes the native languages of such large immigrant groups as the

Japanese, Chinese, and Portuguese. Speakers of these other **languages** have the right, however, to return to **their** ancestral homes to cultivate **their** languages, a right not **available** to Hawaiians. The indigenous **nature** of Hawaiian has always been clear to ethnic groups other than **the** English speakers in Hawai'i, and non-Hawaiians have a history of supporting **and** learning Hawaiian, which is **one** reason for the relative strength of **the** language given the trying conditions it has had to endure.

29/ Anglo-Saxon, a language of complicated case endings and **verb** paradigms, lost these complications and much of its traditional vocabulary with subjugation of **the** English people by the Norman French in 1066. The invading French **used** their language in all areas of **prestige**, leaving Anglo-Saxon a despised language of the lower classes. Anglo-Saxon aesthetic culture did not fare well under the French **and** the weakening of the aesthetic **culture** resulted in a further lack of **support** for the base culture language. **When** the French influence finally **ended** and the English resumed control of **prestige** positions, the **language** that remained was a pidgin-like mixture of simplified Anglo-Saxon **structure** with an extensive French-derived vocabulary, changed in **pronunciation** from that used by the French. This once humble and despised **broken** language, however, has become quite respectable today as the English language and is used as a **means** of international communication. Hawai'i's pidgin is similar to English in that it derives from a simplified Hawaiian with a massive dose of foreign vocabulary and its **origins** lie in foreign domination of **the** Hawaiian people.

30/ A section on strengthening **the** Hawaiian language, also sent by **OHA**

and written by Larry Kimura, appears in the Appendix of this Report, along with information on legal aspects, transcriptions of Hawaiian interviews, and testimony presented before the Native Hawaiians Study Commission. These documents were sent to the Commission by **OHA** after the incorporation of the Mr. Kimura's "Language" paper into the Commission's Final Report.

31/ National Historic Preservation Act, as amended, Sec. 101.(a)(1)(A).

32/ State of Hawaii, Department of Land and Natural Resources, State Historic Preservation Plan, Technical Reference Document (Honolulu: Department of Land and Natural Resources, October 9, 1981), pp. 1-10-12.

33/ Ibid., pp. 11-35-36.

24/ Ibid., p. 11-11.

35/ Public Inquiries for copies of the National Register of Historic Places, or for information on the National Register, should be directed to:

Judy Bullock
National Register of Historic
Places
440 G St., N.W.
Room 115
Washington, D.C. 20240

36/ Federal Register, Vol. 46, No. 220 (November 16, 1981), p. 56189.

37/ State Historic Preservation Plan, pp. A-38-39.

!§/ Ibid.> P* H-43.

39/ Ibid., pp. 11-57-58.

40/ See comments from Kenneth C. "Keneke" Chan and John J. Hall.

41/ Glenn K. Nanod, Testimony
Presented to the Native **Hawaiians**
Study Commission, Kaunakakai, Molokai
(January 10, 1982).

42/ Comment from Kenneth C.
"Keneke" Chan, p. 2. Emphasis in
original.

43/ Glenn K. Nanod, Testimony,
pp. 2-3.

44/ For a further discussion of
Kahoolawe, see paper submitted to **the**
Commission by the Office of Hawaiian
Affairs entitled, "The Demise of the
Hawaiian Kingdom: Its Psycho-Cultural
Impact and Moral Legacy," written by
Ramon Lopez-Reyes (February 1983),
pages 17-19. This paper is reproduced
in full in the Appendix of this
Report.

Native Hawaiian Religion

A. APPROACH

In order to faithfully represent most modern-day native Hawaiians and their needs and concerns in this important area of native culture, this report will clarify with as much brevity as possible the aspirations of the Hawaiian people to effect respect for their dignity as native Hawaiians, Hawaiian Americans, and as thoughtful citizens of the world. It will concentrate on several main issues:

- 1) The ancient Hawaiian concept of the soul of man in relation to ancestral or controlling spiritual beings in nature, or beyond nature, during human life and in a spiritual afterlife.
- 2) The relationship between the community worship of the chiefs and priests as a ruling class, and family ('ohana) worship in ancient pre-contact (1778-1779) and post-conversion (1820-) times, continuing into fragmented private family religious observances today in association with introduced forms of worship, reflecting positive or negative identity changes.
- 3) Post-conversion Hawaiian conflict in native identity or crisis in self and group esteem, and its opposite, complete conversion without trauma to other world religions or philosophies; Hawaiian resiliency in adjusted personality and identity change.
- 4) The need felt by some emerging native Hawaiian groups to recover self-esteem as Hawaiians by pledging faith in ancient religious beliefs and customs beneficial to group identity through participation in a live, revitalized religious setting, requiring recovery of temple and other shrine sites designated as sacred, with the privilege or right to reenact pertinent rituals in ceremonies conducive to harmonious and inspired religious expression.
- 5) Summary of needs and concerns about Hawaiian religion with recommendations for improving religious expression as desired in the present multi-ethnic social setting.

JV The following chapter is a complete reproduction of the paper prepared by Rubellite K. Johnson, entitled, "Religion Section of Native Hawaiians Study Commission Report" (February 1983), written at the direction of and funded by the Office of Hawaiian Affairs. Rubellite Johnson is an Associate Professor in Hawaiian Language, Department of Indo-Pacific Languages, at the University of Hawaii, Manoa campus. Minor editorial changes have been made to conform to the Final Report's

(cont'd) format, and the footnotes have been redesignated, for the convenience of the reader. Also, information appended to Professor Johnson's paper does not appear in the text of this chapter, but can be found in the Appendix of this Report, referenced at the appropriate places in the text. Except for these changes, Professor Johnson's paper appears as sub-edited by OHA and is otherwise unchanged. References used by Professor Johnson appear in the "List of References" of this Report, marked by a "[3]."

B. BASIC RELIGIOUS CONCEPTS OF HUMAN
EXISTENCE IN LIFE AND AFTER DEATH

Life in Hawaiian [^]J thought is not restricted to human life in the concrete world felt and seen by the senses of the human body. The Hawaiian idea of the reality of life in the world supersedes the world that is seen and experienced by the material body, and enters into the life of the spirit that is beyond the physical senses of the body. This reality is perceived through the ability of the mind to either envision through the mind asleep or awake or to sense through other psychologically-conditioned awareness (through premonition, for example) that the total life of man involves the ability of the spirit through all of material

„fe to move back and forth between the world of the live physical senses and the world of the "extra" spiritual senses. Thus, the Hawaiian mind places greater reality on the life of the human individual in the spiritual realm, the present material life being regarded as ground for discipline of the spirit in preparation for the afterlife. Therefore, a human being, whether male or female, has spiritual origin, material birth, and spiritual eternity of complete unceasing existence—a personality composed of several layers of embodiment. These are:

- 1) The living material, corporeal body (kino) having life (ola) of the body;
- 2) The separable, second soul (kino wailua) that moves

V Professor Johnson uses the term "Hawaiian" to signify all Ha wa nans of native descent, similar to the terra "native Hawaiian," as used in this Report. (See definition above, page 37.)

during sleep causing dreams (moe 'uhane), with the consciousness inert (the kint wailua may also become "dis-embodied;" for example, the experience by some people of so-called "astral projection," when the personality wholly leaves the body and moves about with the consciousness intact, the corporeal body lies inert but alive);

- 3) The spirit that is the dormant body, which at death survives the body, that is, the 'uhane (The living human being as a foetus is not considered a "live" person until birth when the kino breathes (hanu) the "air" (ea) of the god(s), so that the material body quicken with the "spirit" (ea) of the universe in the "breath" (ha*) of the human being as it ingests the atmosphere (ea) of "god." Abortion of the non-breathing foetus is thus not considered deprivation of life inasmuch as "life" (ea) is a condition of the "spirit" (ea) and requires the ability to breathe (hs) in the god's breath. To be a full, living personality there must be corporeal life (ola), spiritual life ('uhane), the soul personality (kino wailua), and breath (ha). Survival of the 'uhane, however, is not dependent on breath (ha) nor the corporeal body (kino ola); it is intact and continues the existence of the person in another life.)

No Hawaiian has experienced how the spirit ('uhane) survives, inasmuch as all reports of a second life are the

results of experiences by the astral travel (wailua) of Hawaiian persons. Such experiences as related describe extraterrestrial journeys through known parts of the galaxy in the form of light, while the soul escapes from the tear ducts and returns through the toe. Other experiences of Hawaiian astral travels (wailua) are walks through familiar places, watching people in their daily doings, and then returning to the body; or, the astral travel (wailua) moves upward to a place of great light, only to find it is not ready to be allowed entry and must go back to the corporeal body (kino) to live out the corporeal existence. Persons who have had such experiences are often described by relatives as living a daily life of prayer and having an expectation of dying with no fear of passage from human life to death. Stories told by persons having had these experiences usually fortify strong Hawaiian faith in the reality of an afterlife and tend to also assist in conversion to both Western and Eastern forms of world religion without any loss of faith in the older religious beliefs. Where there has been no experience of this kind, there is conversion accompanied usually by rejection of the older religious beliefs and total absorption of the family into the adopted norms.

One must regard these beliefs and experiences in the life of the soul as a social condition that allowed the Hawaiian a margin of belief in similar ideas voiced in other sacred works and foreign forms of religion that were not inconsistent with native Hawaiian beliefs. Thus, prophecy based on visions and dreams is accepted practice, whether found in native Hawaiian or foreign religions, and dream interpretation in the Bible as practiced by the prophet Daniel on the dream of Nebuchadnezzar is given wide credence. Hawaiian attitudes of belief in dream interpretation,

however, vary between dreams or visions considered "prophetic" and those that are brushed aside as rubbish. Dreams with prophetic value contain symbols of wide application in meaning among Hawaiians, and visions that are seen when the conscious mind is fully alert receive the most credence. In the same context, experiences of an extrasensory nature perceived by more than one individual at the same time are given more credence than the same perceived by only one individual. Dreams visualized while the disembodiment (kino wailua) is moving around but the conscious mind is asleep are therefore called moe 'uhane (spirit sleep). Visions beheld while fully alert are called aka-ku (shadow-standing, or shadow substance).

For each Hawaiian individual a lifetime of collected experiences of this nature, whether by himself or by other family members, continues a record of the spiritual life as witnessed psychologically. Hawaiians do not doubt others' experience but are also equipped to recognize when these states are injurious to mental health and to separate true prophetic visions or dreams from hallucinations and defective, abnormal perceptions. The criteria of evaluation is difficult to determine and needs research, study, and clarification. Hawaiians are sensitive, however, to being called "superstitious" so far as these areas of belief are concerned, and denials of acceptance when these experiences are offered bring either deep-seated resentment or open anger. This may be one of the pitfalls of religion, that it requires belief and acceptance without proof or demonstrability, and the Hawaiians in being converted to other religions have never required proof or demanded demonstration of the efficacy, for example, of Christian beliefs. As with other converts the world over, the Hawaiian people take the

resurrection of Christ as demonstrable by the written record of the gospel and effect their belief strictly by faith. The Hawaiian Christian is therefore more primarily affiliated with his church, and so far as his native Hawaiian beliefs are concerned, simply keeps them separate as it suits him, or as in other cases, will work them into home rituals combining Christian and Hawaiian forms of worship with no fear that they may be violating either tradition.

Animism and Animatism as Primary Facets of Hawaiian Religious Belief

Animism is the belief in spirits, and as we have demonstrated, Hawaiian religion rests upon a basic belief in "spirits and the spirit world. These spirits ('uhane) are also the gods (akua) in the ranking hierarchy of guardian gods ('aumakua) who protect the family from harm and who answer all kinds of trouble calls from their family ('ohana) patrons. Thus a patron deity is an akua when called upon by a group of workers, but when turned to by the family for help is called an 'aumakua. Both the akua as "gods" and the 'aumakua as "ancestral guardian gods" are 'uhane (spirits).

we can classify these spirit gods as ancestral spirits ('aumakua) ranging from the recent deified departed dead in the family, or the ancestral spirit gods (akua) who have never known mortal existence except in instances when they occupy human bodies for visits to earth and who are true spirits, or those who are god-like in that they have never experienced human death. These immortal spirits are those, then, with the greatest supernatural power (mana), and as they are called upon through prayer and ritual, they impart their mana to human beings. Men receive more of this power than women do, and chiefs more than commoners.

Mana is the "animating" force in all life forms and in all forms of universal energy. Since the source of this power is from the spiritual to the material world, it follows that the material world flows from the spiritual into concrete being, and nu is the conduit of its intelligent, cognitive thought, whereby understanding or knowledge of its existence perseveres through corporeal life and back again into spiritual life. Thus Hawaiian religion evinces a dependence between belief in spiritual entity ('uhane) residing in man and ancestral gods ('akua, 'aumakua), in man as living god (kupua or "demigod"), and belief in the psycho-dynamic force of life-energy and power existing in a direct flow to all of creation; that is, animism and animatism; man's life and all life in the creation being but a manifestation of the animating force of spiritual energy and power.

Inasmuch as nature is, however, both animate and inanimate, it can be asked how inanimate nature demonstrates, in its dormancy, spiritual energy, and how Hawaiian belief in mana as residual, in all of creation's forms, handles the resolution between animation and in-animation? It is simple. "Life," in Hawaiian thought, is not restricted to animated, corporeal life (ola), because "life" as emerging invigoration is spirit (ea) in both inanimate and animate forms. Mana is either dormant and residual in the inanimate forms of life or energy (if we see mana as "potential" energy) and also dynamic and active in the animate forms of life (or "kinetic" energy). Light is not living (ola), but it is a manifestation of the great akua god Kane-ka-'onohi-o-ka-la (Kane-eyeball-of-the-sun). So light is masculine, and an expression of mana as it emanates from the sunlight to man on earth for his use. Light as the inner

light of intelligence in man is thus "daylight intestines" or that gut-feeling reaction that prompts enlightenment (na'auao) and the mana of enlightenment in man's wisdom and intelligent use of power. In this context, **therefore, mana is inherited** by mankind from the gods, as both are spiritual ('uhane) and **therefore** in constant contact **between birth and death; that is, mana is transferable.**

In being thus transferable, it can be either increased by function or decreased by dysfunction, so that mana has quantity in indefinite amount of flow, and if it is not maintained it is diminished. Therefore, mana can also be acquired by intelligent use and need not be inherited, necessarily, in a direct conduit between gods (akua) and men as chiefs (ali'i). The common man (kanaka maoli) or woman (wahine) is born with intelligence (akamai) and with intelligent use of akamai and na'auao (wisdom) acquires skill (no'eau), thus increasing mana in possessing all three: akamai, na'auao and no'eau. Thus, inherited mana as possessed by chiefs in the kupua (demigod) role as gods incarnate, through which they rank higher than the kanaka maoli, does not guarantee superior rank as automatic privilege in the afterlife. **Mana as power and as a "good" in itself, as possessed by gods or by men, is a force that does not inhibit the free will of mankind to produce either "good" (maika'i) or "evil" ('ino), as evil doing takes as much intelligence and power as doing good requires.**

So, it also follows that in Hawaiian ethics mana in productive or destructive use by man in daily existence does not automatically will him into good acts. Therefore, it is not mana that places the spirit of man into favorable circumstances in the afterlife by virtue of rank. No spirit ('uhane) of man or woman ascends into the spiritual life

guaranteed into eternity except by pono, which means duty/ responsibility, justice, and righteousness. Without pono no good life for mankind either on earth or beyond earth develops. Thus, in ancient Hawaiian society, history records the lives of good and bad kings, of good and bad spirits, in order to demonstrate what pono is and how it is achieved through the intelligent use of mana in all positive attributes of the total activity of man. Thus, mana can be diminished by negative transference, and in order to be vital must be maintained and kept moving positively through every activity of the economic, political, social, aesthetic, and religious life of ancient Hawaii.

The discussion can continue here indefinitely into volumes of analysis, but suffice it here to define mana as the three-fold manifestation of power with its regional source in the spiritual world, or the world of neither birth nor death, and its perceptive function in the visible, material world as:

- 1) The source mana, that is, supernatural power of sacred spiritual beings (akua, 'aumakua, 'uhane), as seen abstractly in their manifold inanimate forms of natural energy (potential, kinetic), or concretely in their manifold animate forms of corporeal life.
- 2) The mana of human beings, inherited or acquired, by either direct descent from the gods, as chiefs (ali'i), or by intelligent, wise, or just and productive use for the good life (pono).

- 3) The residual mana of sacred objects wrought by human intelligence as used in everyday economic life and in sacred shrine and temple rituals•

This leads the discussion of Hawaiian religion from this point into two directions: (1) toward an understanding of the forms of the gods (akua, 'aumakua) as manifestations of mana in life's forms, inanimate and animate, or as their kinolau, that is, "many forms;" and (2) toward an understanding of the use of political power as the mana, or authority of chiefs to effect maintenance of this mana so as to keep it increasing for mankind's use and to prevent its decreasing from his grasp. This leads, then, ultimately to an understanding of how mana is retained as a result of the discreet use of kanawli, secular law, and kapu, sacred law, to inhibit negative transference or loss of available or necessary mana for retention of human mana as political or economic power.

C. RELATIONSHIP BETWEEN COMMUNITY WORSHIP OF THE RULING CLASS AND THE PRACTICE OF FAMILY WORSHIP

This section will explore the relationship between the community worship of the chiefs and priests as a ruling class, and the practice of family ('ohana) worship in ancient pre-contact times (that is, before Captain Cook, 1778-1779), and post-contact times to post-conversion times (1620, arrival of American missionaries from New England), with fragmented continuation of aboriginal religious practices in family worship patterns today associated with introduced forms of worship. In order to handle this topic, it will be necessary to divide the discussion that follows into three sub-topics:

- 1) Variability in observed patterns of worship between classes, that is, as between chiefs and priests as one group, and commoners as another, or between men on one hand and women on another, or between followers or "true believers" on one hand, and resisters or "deviants" on another;
- 2) The overthrow of the kapu system in 1819 effecting defeat of the community worship of the chiefs and priests, without destruction of the active family practice of 'ohana worship persisting in family customs in the present society? and
- 3) The unifying effect of the kinolau concept of akua and 'aumakua identification in symbolic forms, abstract or concrete, linking community worship of the chiefs and priests on one hand to the family 'ohana religion on the other.

This discussion will then lead to the next section, which explores changes in the Hawaiian psyche, or duplicity of religious practice with or without harmful effects to personality and identity of the Hawaiian individual as a member of native Hawaiian or Hawaiian American society; and the duality of allegiance to traditional Hawaiian and to American (Christian) religion.

Variability in Worship Patterns

In the earliest account written by native Hawaiian scholars called the Mo'olelo Hawaii, for which principal authorship is often credited to David Malo (not exempting however other

Lahainaluna scholars such as Samuel M. Kamakau, John Papa I'i, Boaz Mahune, and Timothy Keawe'iwi) the following account is given:

The manner of worship of the kings and chiefs was different from that of the common people. When the commoners performed religious services they uttered their prayers themselves, without the assistance of a priest or of a kahu-akua. But when the king or an ali'i worshipped, the priest or the keeper of the idol uttered the prayers, while the ali'i only moved his lips and did not utter the prayers to their gods. 1/

It is expedient here to recognize that "assistance of a priest or a kahu-akua" is the key phrase underscoring the role of the organized priesthood in the formalized "community" organization of "national" worship by chiefs. While worship of the gods by commoners was directed toward the identical akua 'aumakua, the role of the priests (if they assisted the commoners in simpler rites on family shrines at all) was outside their official governmental capacity. The political aspect of the chiefs and priests' religion can be seen in that the community system of religion sustained the authority of the chief as an authority granted by the akua in lineal descent from the akua, with the chief as a divine ambodiraent of the akua in the world.

Thus, there were two systems of religion in ancient Hawaii: one set in which commoners and chiefs worshipped the gods and where the rules of order were maintained by the priestly orders of Ku and Lono; another in which men and women worshipped the same gods as family guardians in everyday ceremonies, or as patron deities by occupational groups*. The society did not exempt

the men from the established community worship of the great akua gods on the sacrificial temple (luakini), but it exempted the women. Chiefesses worshipped at the Hale o Papa temple (heiau) when services were held at the heiau dedicated to Ku (one of the major gods). All women in the society observed the tabus on silence, eating, and cohabitation when worship periods were in effect on the major temples.

The year was organized into the major ritual seasons by the Lono priesthood who kept the calendar computations accurate by marking the solstices, equinoxes, turning of the Milky Way during the months of the year, and by adjusting the ecliptic to the sidereal cycle of the Pleiades from one November sighting in the east, at first rise after the first new moon, to another November. Heiau attendance by males in the community was compelled for eight months of the year, divided into seventy-two days per year, nine per month. The required attendance was relaxed during the four-month makahiki season of Lono-i-ka-makahiki, when taxes were collected and the first-fruits ceremonies enacted in honor of the god Lono-i-ka-makahiki. This makahiki season took place in the first quarter of the Hawaiian year, between the autumn equinox and the winter solstice, ending when the Pleiades came to zenith culmination. Exactly ninety days, or three Hawaiian months, could be computed between the first sighting of the Pleiades in November and the end of the quarter called ke au o Makali'i, the quarter season of the Pleiades year. These ninety days equalled one-quarter of the ecliptic, or the passage of the sun from one equinox to one solstice.

All of this was coordinated into a lunar calendar so that the nine tabu days called the la kapu kauila were spaced out through the moon's synodic cycle of 29.5 nights per month (mahina). During the waxing of the

moon, the kauila days were assigned first to Kli; at the rounding of the moon to Hua; and at the waning of the moon to Kanaloa, Kane/ and Lono, in that order.

Services to Ku on the human sacrifice or "war" heiau were confined to the period between the spring equinox and the summer solstice, between April and June. Human sacrifices were restricted to luakini ceremonies on the heiau po'okanaka (human sacrifice) or heiau kaua (war temple), dedicated to Kū as patron deity of warrior chiefs. The quantity of human sacrifices varies in accounts from three to as many as twenty-six for building or consecrating the luakini po'okanaka. Since criminals who broke the kapu akua supplied the sacrificial numbers, and since these ceremonies only took place when the community went to war or when the ruling chief sickened and died from sorcery, the impression is allowed that people were not being carried off to the execution altars every year, but it would seem that the chiefs and priests kept note of who in the community skipped the services or disturbed the peace. This does not rule out the likelihood that chiefs could revenge themselves easily upon their opposition. So, it is interesting once again to note how the society provided the escape hatch: first, in the form of the pu'uhonua "cities of refuge" dedicated to Lono, wherein criminals were granted full mercy from violations of the kapu akua that brought the death penalty in judgment upon them; and again in the right of any man to remove himself and his family from his ali'i and move out of his constituent 'ohana to any other district or island beyond the reach of revengeful overlords. What of those, however, who knowingly stayed and accepted their lot, unless taken unawares by the priests? From several accounts (particularly that of the penitent behavior of men in

Kamehameha's army who were sacrifice* before the Battle of Nu'uano in the heiau Papa'ena'ena on O'ahu) it would seem that compliance was consistent with religious beliefs, that proper restitution was owing to society and the 'aumakua by willingness to admit wrongdoing and to suffer punishment in order to reach eternal existence as living spirit, absolved finally of crime.

Overthrow of the Kapu System in 1819

Within six months after the death of Kamehameha the Great in May of 1819, the chiefesses Keopuolani and Ka'ahumanu, surviving wives of Kamehameha I, publicly ate with the young chiefs Liholiho (then Kamehameha II) and his younger brother Kaiuikaeouli (not yet Kamehameha III), in defiance of the 'ai kapu, or sacred law against men and women eating together. This act of the chiefesses and young chiefs ushered in the 'ai noa, or "free eating," that eliminated the death penalty for criminal infractions by breakers of this law through execution on the heiau as human sacrifices.

This was not the first breach by the ali'i in customary law requiring capital punishment for breaking of the kapu akua. Human sacrifice as the moe-pu'u custom, a kind of "self-immolation," was required of the chief's closest companions in life as demonstration of loyalty to a king upon his death. It placed the strain of heroism on the ali'i to demonstrate to their peers and to their subjects that they were not afraid to die for their lords, although practicality would demand these heroic actions from those ranks nearest the king in age or those who had seen many wars, defeats and victories, with him. If none, however, volunteered within specific allowances of time, then the moe-pu'u death companions were forcibly taken from the community at will. In

addition, if they were not found within the allowed time, the number of moe-pu'u required also increased. The first "freeing" of these "death" laws was a request by Kamehameha I that the aoe-pu'u custom not be observed when he died.

In 1819, moreover, breaking of the 'ai kapu by Keopuolani and Ka'ahumanu did not eliminate human sacrifice requirements entirely, for there were other kapu akua of capital punishment equally enforceable. What they especially achieved was freedom for women to eat with the men and to eat what the men could eat in formerly prohibited places. The Russian visitor Lisianski, writing aboard the Neva (1804-1806), mentioned that he observed that men could visit the women while they ate in the hale 'aina but did not partake of the food they ate, while women never went near the men's hale mua where they were not allowed. He also observed that men and women ate together outside the houses while they fished and farmed as husbands and wives, but never ate taro or poi from the same dish. He also observed that the house in which the women ate, or the hale 'aina by day, was the sleeping house at night (hale moe). 2/ It is known that the houses of sleeping were places where men and women came together to be with their families, that is to say, the hale moe was noa, "free," from tabu.

The sanctity of the hale mua was due to its being the shrine (unu) of the god Lono in the Ipu o Lono image. The hale mua was called a "shrine of Lono" (uno o Lono) due to the presence of the "gourd" (Ipu) in the men's eating house. The 'alana sacrifice, by which the men ate of offerings placed for the god in the Ipu of Lono, suspended in a net (koko), was ritually made here before eating of food. The presence of women may be considered as providing a conduit for negative transference of mana from the

male gods away from male participants. The same kind of inhibition is recognized in the situating of the women's menstrual house (hale pe'a) away from the community of "normal" women and men. Men were not allowed in or near the hale pe'a, and were prohibited from cohabitation with menstruating women, as such acts reduced availability of mana.

This duality of separation in the social sphere of kapu akua is rooted in the male/female dualism of the religion that metaphysically assigned to portions of the universe either male or female identity, as in Chinese yin/yang opposition. Male/female dualism was a tenet of ancient religion defining the male sphere of action as distinct from the female. V

The overthrow of the kapu system by native Hawaiian society was the most significant departure, then, effecting culture change in religion and politics after contact with Europeans between 1778 and 1819. (Note that this is still within the pre-conversion period.) It was a significant alteration in attitude as belief or faith in the efficacy of mana of the great male akua gods to influence positive outcome in human spheres of power and action from a supportive spiritual source.

So-called "deviant" behavior in the pre-contact period by commoners, while the kapu system was in force, constituted capital offenses against both the akua and the community, so that chiefs and priests enforced the penalty as required by a system established in traditional custom through belief of the entire society in the akua gods. Pre-contact deviant behavior by the 'aia' (ungodly) against the kapu system is documented: "But there were people who had no god, and who worshipped nothing; these atheists were called 'aia.'" 4/

These "atheists" ('aia) in the pre-contact society are defined as

"ungodly, irreligious, wicked, careless of observing taboos" and who "led others astray." 5/ They represent a recurrent, steady percentage of the population discontent with the status quo. This "radical fringe," already existing in marginal Hawaiian society before the arrival of Captain Cook, could only have increased during the time of massive annexation of territory by Kamehameha I that obliterated traditional claims of titled chiefs to their lands and gods, both of which Kamehameha attached to his domain. Disaffection with conquest is evident in reported rebellions and retaliations by rival chiefs until they, and their families too, were dispossessed or brought under the Kamehameha administration.

The increase in numbers of conquered "deviants" were being influenced as well by the mere proximity of deviant, although natural, examples of European behavior operating out of range of akua controls with no negative results as expected. Cultural deviation by the ali'i class from ordained akua authority, established in native religion by force of kapu akua, as a ripened revolt (while not military in character) became in 1819 open refutation by the chiefesses in publicly defying the efficacy of godly mana. This action by the ali'i is not to be misconstrued as violent overthrow, but rather as a reasoned movement toward -liberation of both the ali'i and maka'ainana classes from restrictions on human pleasure. (Note that restrictions on sex as plural or extramarital relations were absent. Post-conversion introduction of the Mosaic code of Biblical laws on adultery became a headache for Hawaiians.)

The chiefesses, however, could not have succeeded without support of the priesthood. The priests had charge of and professional obligation toward interpretation of the law for the ali'i, and such power was not given to

ruling chiefs. In a sensitive analysis of the overthrow of the kapu system as a result of "culture fatigue," anthropologist Kroeber correctly identifies High Priest Hewahewa as the real force behind the whole overthrow, jj/ What motive drove this high priest to completely dismantle his "courts of justice" (the heiau with powers over life and death) by renouncing the authority of his public office? Nothing so liberating in bringing the law itself to justice has ever been seen on earth since, paving the way for easy conversion of Hawaiians to Christianity in 1820.

Unifying Effect of the Kinolau Concept

This section discusses the unifying effect of the kinolau concept of the akua and 'aumakua (that is, multiple symbolic forms of gods) in the religious practice of the chiefs and priests on one hand, and the commoners on the other. It is expedient for discussion of the kinolau concept to return to Malo's description of the difference between the manner of worship of chiefs/priests versus commoners as a primary factor of distinction, rather than in the objects of worship, that is, the gods worshipped in common by both systems. To quote Malo:

The names of the male deities worshipped by the Hawaiians, whether chiefs or common people, were Ku, Lono, Kane, and Kanaloa; and the various gods worshipped by the people and the ali'i were named after them. T/

There was and still is an inherent and consistent agreement in the symbolism of identity linking through the kinolau of the akua the "national" manner of worship, or customs carried on closer to home or in places of daily, economic occupation. A pervasive system of multiple symbolic

forms (kinolau) as manifestations of the akua/'aumakua reaches into associations of multiple ancestral ties through common genealogies and, thusly, to other related 'aumakua.

For example, if someone has a dream of a man with webbed feet coming on a canoe and wearing a red malo (loincloth), that personality is Kanaka-o-Kai (Man-of-the-sea), an 'aumakua of Moloka'i families who also takes the form of a shark god. If one has a dream of a man in a red malo standing by a clear pool of fresh water, that personality is the god Kane as giver of the wai ola "water of life" (that is, procreative male fluidi drinking water, sea water as the source of man's beginnings, human blood). As the 'aumakua Kanaka-o-kai is also Kanaka'aukai (Man-who-swims/sails by sea), persons with the name "'Aukai" are also associated with the migration hero 'Aukele-nui-aiku. Since 'Aukele married the older sister of the volcano goddess (Pele), Na"-maka-o-Kaha'i (The-eyes-of-Kaha'i), in the land of Ka-la-ke'e (Ra'iatea, Borabora, Pele's home), the name 'Aukai is related to Pele's parental ancestor, Kane-hoa-lani. As Pele in variant genealogies is given two fathers (po'olua, "two heads"), Ku and Kane, there are two parental lineages, but major maternal descent is from the goddess Haumea, who is called also Papa-hanau-moku (Papa-giving-birth-to-islands) and Walinu'u. Haumea (or Papa) married four gods (Ku, Kane, Kanaloa, and Wakea). As Haumea joined with Ku, both she and KQ share the breadfruit tree as kinolau bodies. When Haumea as Papa-hanau-moku joins with Wakea, she is the mother of Ho'oh5ku-ka-lani, who in turn is mother of the taro stalk, Haloa.

Haloa (Long-stalk), or the lauloa species of taro, is the symbolic representation of a large extended family of chiefs and commoners descended from Papa and wakea. Ha is

the taro stalk replanted as the huli, or conn and root cutting that regrows the starchy stem; loa (long) means that the ha is enduring. Until the 'oha forms, or the new shoot from the parent stem, the ha stalk is continually replanted as the same individual, so "long" (loa) not only in stalk (ha) but also in living "breath" (ha). A subtle understanding is found here in how Hawaiians view the character of the taro stalk, as it must come up from below water to "breathe," analogous to the human need to breathe out of water and in air (ea, "spirit"). From the joint symbolism involved comes an analogy to the extended family ('ohana). The taro conn is a kinolau of the god Kane, and the lu'au leaves, of Lono. When the Hawaiian family sits down to dinner, and the calabash of taro poi is set before them, a rule of good manners is that no one while eating Haloa should talk expectantly of the future, as "Haloa says no," meaning it is rude to speak before the ancestral staple while eating one's own words, so nothing comes of prophecy.

How does knowing the kinolau bodies of the four-fold godhead help to understand the Hawaiian concept of deity in the "real" and in the "spirit" worlds? The following kinolau outlines for each of the major gods present the holistic view of akua so as to divide the animate and inanimate nature of akua into their proper spheres of control and how they themselves are governed to provide for the daily life of mankind.

1. Symbolization of god Ku:

- a. As god of forest and rain, patronized by canoe-makers and builders of the luakini (po'okanaka type) human sacrifice temples:

Ku-moku-hali'i: Ku-spreading over land.

Ku-pulupulu: Ku-of-the-under-growth (pulupulu), fern down/used In tinder, fire-making; equated sometimes with Lata, ancestor of the menehune people; hence, with Ku-ka-ohi'a-laka, -In-the-lehua-tree, god of the hula dance, and god in the haku-ohi'a Image on the Ku heiau.

KQ-o-lono-wao: KQ-of-the-deep-forest (wao, uninhabited by human beings).

KQ-a-lana-wao, Ku-aela-na-wao: (Variant of KSi-o-lono-wao, one of the gods of the canoe)•

Ku-ka-ohi¹a-laka: Ku-of-the-ohi'a-laka tree (the lehua tree; see Ku-pulupulu, above).

KQ-ka-'ie'ie: Ku-of-the-wild-pandanus vine (Freycinetla scandens)•

Ku-mauna: Ku-of-the-mountain.

Ku-holoholo-pali: Ku-sliding-down-steeps (God of canoe-hauling over cliffs).

Ku-pepeiao-loa/Ku-pepeiao-poko: Ku-of-long-ears/Ku-of-short-ears; gods of the pepeiao or "ears" .of the canoe interior, used as handles for hauling and later for sea supports.

Ku-pa'ai-ke'e: Ku-adzing-out-the-canoe (Ku-in-the-reversible adz) .

b. KQ as god of husbandry; patronized by farmers.

Ku-ka-o'o: Ku-of-the-digging-stlck.

Ku-kulia: Ku-of-dry-farming.

Ku-ke-olowalu: Ku-of-wet-farming.

Ku-'ula-uka: Ku-of-the-abundance-of-uplands.

c. KQ as god of fishing; patronized by fishermen.

Ku-'ula-kai: Ku-of-the-abundance-of-the-sea; "red" things in the sea symbolized "abundance" of the sea; sacred to Ku.

d. Ku as god of war and sorcery; patronized by warriors/chiefs.

Ku-nui-akea: Ku-the-supr erne-god.

Ku-ka'ili-moku: Ku-snatcher-of-land; war god of Hawaii, cared for by Liloa, handed down to 'Umi and inherited by Kamehameha from Ka-lani-opu'u; war god of the 'Uni-Kamehameha line of kings of the Mahi clan of Kohala-Hamakua district.

Ku-ke-oloewa: Ku-the-supporter, god of the Maui kings; captured by Kamehameha the Great.

Ku-ho'one'enu'u: Ku-pulling-together-the-earth; god of Pakaka temple of Oahu chiefs and their war god; captured by Kamehameha.

Ku-waha-ilo: Ku-maggot-mouth> god who received human sacrifices, symbolized as the tongue; kinolau bodies in whirlwind, earthquake, caterpillar, blood; mo'o reptile with "flashing eyes and thrusting tongue."

e. 105 as god of healing/invoked with the goddess Hina in Ku and Hina worship.

Ku symbolizes the east point of the compass. Hina, as the moon, symbolizes the west.

f. Ku as god of sorcery*

Ku-koa'e: Ku-tropic-bird; the Ku-koa'e shrine was erected by a chief for the deification into an aumakua after death; also for circumcision rites for young chiefs.

g. Ku of bird-catching; patronized by bird-snarers.

Ku-huluhulu-raanu: Ku-bird-feathers; god of bird-snarers, bird-limers, and all who did featherwork.

h. Ku gods as chiefs' gods:

Ku-

Kunnaka-iki: Ku-sroall-eyes

Ku-maka-nui: Ku-big-eyes

Ku-makela

Ku-tnaka'aka'a

Ku-holoholo-kaua: Ku-run-wars

Ku-koa: Ku-warrior/courage

Ku-nui-akea: KQ-of-wide-expanse
(the highest form and rank of Ku
as war god)

Ku-ka'ili'moku: Ku-snatcher-of-land

Ku-waha-ilo-o-ka-puni: Ku-maggot-mouth-of-overcoming

i. Ku symbolization summary:

- 1) Fibrous pulupulu of fern, used in fire-making and for stuffing mummified corpses; pulupulu, as of coconut sennit, for rope and cordage to wind adz blade

to handle (a form of K'U) ,
and for lashing canoe parts
and house timbers.

- 2) 'Ie'ie pandanus vine, used as rope for tying the tops of the felled trees and for girdling the tree before cutting; red spathe of the flower is a phallic symbol of Ku as male god.

- 3) The adz, as used in sacred ceremonies on the Ku temple and for cutting wood and adzing out canoes; the primary "tool" form of Ku as used by carpenters.

- 4) Coconut tree as proceeding out of the head of the eel, a form of Ku, related to the caterpillar (Kumuhea, son of Ku), worm (ilo, as worm of corruption, i.e., Ku-waha-ilo; ilo, as sprouting shoot of the coconut), sea cucumber, eel; coconut tree provides the materials for making sennit, also provides the drinking nut, has many uses for survival on the ocean and on land.

- 5) Breadfruit tree, wood and flower (as the husband of Haumea, goddess in the breadfruit tree).

- 6) Upright stem of the ti plant (Cordyline terminalis); or "uprightness" (ku) of solid plant stems and hardwood trees or shrubs, particularly as used in making canoes and building houses.

2. Symbolization of the god Lono
(partial):

- As god of rain:
- Lono-nui-akea: Lono-of-wide-expanse.
- Lono-nui-noho-i-ka-wai:
(Great-Lono-dwelling-in-water.
- 1) Visible in cloud and storm phenomena: Thunder; rain-clouds; "Blood-red rainfall" (uakoko) as flood after storm; rainbow (uakoko); Lightning (maka'Ilohilohi, "flashing eyes").
 - 2) Heard as sound of thunder (Lono), thus the verb ho'olono, "to hear."
- b. As god of the agricultural year:
- Lono-i-ka-makahiki:
Lono-in-the-year; Lono-in-the-first-fruits-season
- 1) God of first fruits, **tax**-collecting, sports, in **the** makahiki season.
 - (a) Major forms: Ipu o Lono (gourd, hue, ipu); (sweet potato, 'uala)

Ipu o Lono image in hale mua (unu o Lo 10)
 - 2) God of the ahu-pua'a image.
 - (a) The boar incarnation of Lono as Kamapua'a the hog demigod (kupua). Represented as a pig's head carved from kukui wood.
 - (b) As the medicine god:

Lono-puha: Lono-of-abscess
- (c) Plant forms of Kamapua'a, as medicinal kinolau of Lono:
- kuki; Aleurites moluccana
- ama'uma'u fern: Sadleria spp.
- hala: Pandanus odoratissimus
- uhaloa: Waltheria americana
- kukae-pua'a grass: Digitalis pruriens
- (Pua'a) olomea: Perrottetia sandwicensis
- hapu'u fern: Cibotium spp.
- lu'au leaf: Colocasis esculenta
- hinu pua'a banana: Muscaceae spp. (black)
- limu lipu'upu'u: Valonia utricularia
- ki (ti): Cordyline terminalis
- 3) Images of Lono-i-ka-makahiki (other than Ipu o Lono gourd image)

Lono-makua (makahiki standard): Lono-father

Called the akua loa: (long god, carried around the island);

akua poko: (short god, carried inland).

c. As god of fire-making:

Lono-pele, Lono-tnakua:
Lono-in-lava-flow, Lono-
Father.

1) In firesticks, the 'aunaki
(grooved, light wood);
'aulima (held in the land,
hard wood) (Polynesian
fire-plow method).

2) Lono-pele, Lono-makua:
names of the volcano
goddess; Pele god of
fire-making.

a. Other kinolau of the god Lono.

1) "Pig-fish" forms of
Kamapua'a/Lono:

humuhumu-nukunuku-a-pua'a:
Rhinecanthus aculeatus

humuhumu: all trigger-
fishes

kumu: Upeneus prophyreus,
goatfish

'ohua palemo: young of
uhu, parrotfish

paulu: surgeonfish

pawalu: oilfish (*Ruvet-
tus pretiosus*)

2) Sacred black color:
hiwa, hiwahiwa (as of
sacrificial pig)*

Shiny black color: hinu,
hinuhinu (as of sacri-
ficial banana).

3) Lono-muku: Lono-cut-off
(as moon phases, dark
night)

Another name for Hina-
hanai-a-ka-malama, goddess
of the moon.

3. Symbolization of the god Kane:

a. Atmospheric and geophysical
phenomena:

1) Kane-nui-akea: sky

2) Kane-ka-'onohi-o'ka-la:
sun

3) Kane-i-ka-hoku-lani: star

4) Kane-hekili: thunder

Kane-i-ka-leo-lono-nui

Kane-i-ka-leo-lono-iki

Kane-i-ka-leo-'ula-nui

5) Kane-wawahi-lani

Kane-uila-ma(ka)-ke-ha-'i-
ka-lani: lightning

Kane-i-ka-poha(ku)-ka•a:
hailstones

6) Kane-i-ka-punohu-'ula:
red rainbow

Kane-i-ke-anuenue:
rainbow

Ke-ao-popolo-hua-mea-a-
Kane: purple
thunderhead

7) Kane-i-ke-pili: cloud-
burst, atmosphere

Kane-i-ka-ua: rain

Kane-i-ke-ao-lani:
heavenly cloud

Kane-i-ke-ao-luna: upper
clouds

Kane-i-ke-ao-lewa-lalo:
lower clouds

Kane-i-ka-maka-o-ka-opua:
tips of the horizon
clouds

KSne-i-ka-pua-lena:
yellow cloud

- 8) Kane-i-ka-pa-kolonahe: In
the gentle breeze

Kane-i-ke-aheahe-malie: in
the calm breeze

Kane-i-ka-makani-iki: in
the slight wind

Kane-i-ka-makani-nui: in
the great wind

Kane-i-ka-puahiohio: in
the whirlwind

Kane-i-ke-kiu: in the Kiu
wind (sharp point)

- 9) Kane-i-ke-ahi: fire

Kane-i-ka-'ohu: mist

Kane-i-ka-noe: mist

Kane-i-ka-uahi (-nui,
iki): smoke

Kane-i-ke-aka: shadow

Kane-i-ke-aka-o-Kapolei;
shadow-of-Kapo-lei

- 10) Kane-hulihia (i-Kahiki):
overturning of Kahiki
(earthquake)

b. Water

Kane-i-ka-pahu'a-nui: great
thrust

Kane-i-ka-pahu-wai (nui, iki):
water

Kane-i-ka-wai-ola: (Ka-wai-ola-a-

Kane, the healing waters of Kane;
fresh water).

c. Agriculture

Kane-pua'a: pig

d. Reef, coral

Kane-kokala: coral

Kane-i-ke-kokala-loa: reef

Kane-i-ke-kokala-lu-honua:
shaking coral

Kane-i-ke-kokala-ku-honua:
steadfast coral

Kane-i-ke-kokala-kiu: sharp-
pointed coral

Kane-i-ke-kokala-ahe: wafted
coral

e. Directions (movement, stationary position).

Kine-i-ka-holoholo-uka: to run
upland

K5ne-i-ka-holoholo-kai: to run
towards the sea; short travel
(running, sailing)

Klne-i-ka-holo-nui: great travel

Kane-noho-uka: living upland

Kane-noho-kai: living by the sea

Kane-halo-luna: to look upward

Kane-halo-lalo: to look downward

Kane-halo-lewa-lalo: to look in
the lower spaces of the
atmosphere

f. Land formations.

Kane-noho-pali-luni: dwelling in
the upper cliff

Kane-noho-pali-lalo: dwelling in
the lower cliff

g. Plants.

Kane-i-ka-ho'opuakea: pale
flower

Kane-i-ka-pua-lalahua: seed-
scattering flower

Kane-i-kamaile: Alyxia olivae-
formis

Kane-i-ka-palai: Microlepi setosa

Kane-i-ka-ei'ie: Freycinetla
arborea

Kane-i-ka-pua-lehua: Metrosideros
inacropus

Kane-i-ka-pualena: yellow flower

Kane-i-ka-'olapa: Cheirodendron
spp.

Kane-i-ka-halapepe: Dracaena
(Pleomele) aurea

Kane-i-ke-kalo: Colocasia
esculenta

Kane-i-ke-ko: Saccharum
officinarum

Kane-'ohe: Graminae bambusa

Kane-i-ka-'awa: Piper methysticum

(pua-kala): spiny poppy (kala,
'to forgive')

(limu-kala): seaweed, Sargassum
spp.

h. Birds.

Ka-pueo-kahi: lone owl (bird of
Kamehameha IV)

Ka-pueo-makalulu: owl of peace
("still eyes")

i. Procreation, fertility.

Pohaku-o-Ka''he: stone-of-Kane
pillar as fertility shrine

4. Symbolization of the god Kanaloa.

a. God of the sea.

octopus, as symbol of the
eight-eyed, or eight-legged
wind compass rayfish
whale, propoise, whale ivory
coral (with Kane)

b. Plant forms.

banana fiber, as used in cordage
('awe'awe, plantain).

uhaloa (Waltheria americana), with
Kamapua'a/Lono

black 'awa ('awa hiwa), with
Kane.

c. Other

sunlight and white color (with
Kane)

To summarize the discussion of
kinolau symbolism, although more
thorough analysis is really needed,
suffice it to say that a significant
number are staple plants, or basic,
necessary food plants: taro (Kane,
Lono, Haloa); sweet potato (Lono);
breadfruit (Ku, Haumea); cane (Kane).
Another group are medicine and narco-
tic plants; 'uhaloa (Lono, Kanaloa);
ti plant (Ku, Lono); kala (Lono); or
fiber plants: coconut (Ku); banana,
plaintain (Kanaloa); fern down as
stuffing for embalming the dead or for
fire-naking (Ku-pulupulu, Lono-makua).
A very important group are hardwood
plants and trees used in making
weapons, implements, and in general
building of houses, canoes, or carving
of images, all forms of Ku. Others

are plants used in constructing parts of the temple, as fencing or thatching: lama (Lono); loulu pais

D. POST-CONVERSION HAWAIIAN CONFLICT IN NATIVE IDENTITY

This section discusses post-conversion Hawaiian conflict in native identity, or crisis in self and group esteem, reflecting positive or negative personality or Identity changes; or, the opposite, Hawaiian steadfastness in tradition with resiliency in adjusted or modified personality and identity change. As we contemplate the first Hawaiian "Christians", the names of several powerfully influential people come into view, including Henry 'Opukahaia and David Halo.

Henry 'Opukahaia, or Obookiah, was a young boy when war took the lives of his parents and baby brother and made him a captive in the household of his captor⁸. He endured the stay until other men threw his aunt off a cliff into the sea. He stole away on a ship with Captain Brintnall "from New York." In 'Opukahaia's own words he tells what it was like to feel abandoned in the society of the 1790's:

At death of my parents...I was with them; I saw them killed with a bayonet--and with them my little brother, not more than two or three months old. So that I was left alone without father and mother in this wilderness world. Poor boy, thought I within myself, after they were gone, are there any father or mother of mine at home that I may go and find them at home? No, poor boy am I. And while I was at play with other children--after we had made an end of playing, they return to their parents--but I was returned into tears;--for I have no home,

neither father nor mother. I was now brought away from my home to strange place and thought of nothing more but want of father and mother, and to cry day and night.

While I was with my uncle, for some time I began to think about leaving that country to go to some other part of the world. I did not care where I shall go to. I thought to myself if I should get away, and go to some other country, probably, I may find some comfort, more than to live there without father and mother...

...the captain made some inquiry to see if we were willing to come to America; and soon I made a motion with my head that I was willing to go. This man was very agreeable, and his kindness much delighted my heart, as if I was his own son, and he was my own father. Thus I still continue thankful for his kindness toward me.

...As soon as my uncle heard that I was going to leave him, he shut me up in a room, for he was not willing to let me go. While I was in the room, my old grandmother coming in asked me what was my notion of leaving them, and go with people whom I know not. I told her it is better for me to go than to stay there. She said if I should leave then I shall not see them any more. I told her that I shall come back in a few months, if I live. Her eyes were filled with tears. She said I was a very foolish boy. ^{8/}

This moving personal account written in fluent English by a native Hawaiian scholar while in New England training to return as a missionary to the Hawaiian people, tells a certain truth about the character of the Hawaiian people at the time of European contact. When 'Opukahaia

died in 1818, the American Board of Commissioners for Foreign Missions sent the First Company instead, men like Hiram Bingham, Asa Thurston, and Elisha Loomis. He was converted completely to Christianity and by the time of death had mastered English and Latin, common arithmetic, geometry, and was learning Hebrew. Because of the strength and fervor of 'Opukahaia's determination to bring Christianity to Hawaii, the mission felt obliged to undertake forming the First Company and sent it out in 'Opukahaia's place. One of 'Opukahaia's letters frames this frustrated commitment:

I hope the Lord will send the Gospel to the Heathen land where the words of the Savior never yet had been. Poor people worship the wood, and stone, and shark, and almost everything [as] their gods; the Bible is not there, and heaven and hell they do not know about it. I yet in this country and no father and no mother. But God is friend if I will do his will, and not my own will. 9/

David Malo, born in 1793, commenced his studies for Christian ministry at 30 years of age. He spent the previous 30 years immersed in ancient culture preparing for the priesthood. Converted in 1823 in Lahaina, he began writing the Mo'olelo Hawaii (Hawaiian Antiquities), a historical description of ancient mores, after 1831, in the company of other illustrious Hawaiian peers at Lahainaluna Seminary. Before his death in 1853, Malo finished other writings that have been lost. Had he not written the Mo'olelo Hawaii, all that has been included about ancient religion in this Report would never have been available. Although converted, Malo still accepted the task of writing about the past he had come to reject.

Malo cannot be fully appreciated, however, by reading his written work without assessing his lifetime as a period of immense cultural upheaval:

- 1) The conquest of Oahu by Kamehameha in 1795 (Malo was two years old);
- 2) The ceding of Kaua'i to Kamehameha by Kaumuali'i in 1810 (Malo was seventeen);
- 3) The death of Kamehameha I in 1819 and overthrow of the kapu system in the same year (Malo was twenty-six);
- 4) The arrival of the First Company of American missionaries in 1820 (Malo was twenty-seven);
- 5) The conversion of Malo at Lahaina in 1823 (Malo was thirty); William Ellis arrived in Hawaii with Tahitian converts who spoke fluent English;
- 6) Malo entered Lahainaluna Seminary in 1831 (he was thirty-eight when he commenced his studies); 10/ [See footnote for explanation of curriculum at Lahainaluna Seminary.]
- 7) The first printing press at Lahainaluna Seminary published the first Hawaiian language newspaper, Ka Lama Hawaii (The Hawaiian Torch) in 1834 (Malo was forty-one);
- 8) The Hawaiian Magna Carta, or Declaration of Rights, was promulgated by Kamehameha III in 1839 (Malo was forty-six);

- 9) The first constitution setting up a constitutional monarchy was promulgated by Kamehameha III in 1840 (Malo was forty-seven);
- 10) The first partitioning of land in the Great Mahele took place in 1848 (Malo was fifty-five);
- 11) The Kuleana Act of 1850 gave the maka'ainana title in fee to land (Malo was fifty-seven);
- 12) Kamehameha III died in 1854; Malo was already dead in 1853 at the age of 60.

The list of critical events does not include the difficulties experienced by the fledgling kingdom with foreign nations between 1793 and 1853. During this period Kamehameha III witnessed the civil war on Kaua'i in 1824 (death of Liholiho in England); the struggle between the clergy of Protestant (American) and Catholic (French) missions, until 1839, when freedom of religion became a constitutional guarantee; the Lord George Paulet episode in 1843 by which the king temporarily ceded the government to Britain; restoration of sovereignty to the Hawaiian monarchy by Admiral Thomas in 1843; and the smallpox epidemic, 1853.

It would seem then that in 1853-1854 two great Hawaiian representatives of the post-conversion period of immense change in Hawaiian life and society died: David Malo and Kauikeaouli (Kamehameha III). Their attitudes were interesting contrasts. Malo, destined for the Hawaiian priesthood, followed that career out by switching allegiance in the mid-stream of life away from the Hawaiian akua to the Akua Mana Loa, Jehovah of the Old Testament and the "Perfect Spirit" (akua Hemolele), or "Father:

(Makua) of the New Testament." By the end of his life he had become too disillusioned by the knowledge that foreigners would be arriving in such sufficiently larger numbers to eventually overwhelm Hawaiians:

Malo was one of that class to whom the prophetic vision of the oncoming tide of invasion--peaceful though it was to be--was destined to overflow his native land and supplant in a measure its indigenous population was acutely painful and not to be contemplated with any degree of philosophic calm; and this in spite of the fact that he fully recognized the immense physical, moral and intellectual benefits that had accrued and were still further to accrue to him and his people from the coming of that man to his shores. And this sentiment, which was like a division of councils in his nature, controlled many of his actions during his life, and decided the place of his burial after death. 11/

In order to escape the "tide of invasion," Malo requested burial atop Mount Ball high above Lahainaluna Seminary.

By contrast, Kauikeaouli, although king, never submitted to conversion to Christianity and never became a member of the established Protestant Church at Kawaiaha'o in Honolulu, although he attended services. What would Henry 'Opukahaia say if he had lived to be a bold instigator of such changes wrought by two living Hawaiian personalities, Hawaiian priest and ruling chief, after the 1819 overthrow of the kapu system that propelled them into changed roles of diminished authority and power? This is the background against which to evaluate the search today by Hawaiians for traditional values in the culture that got away from them.

E. PRESENT-DAY SEARCH FOR TRADITIONAL VALUES

In 1979, the Humanities Conference addressed these issues of concern and need among Hawaiians in a panel discussion on: "Can the Humanities Help the Search for Traditional Hawaiian Values?" Since then the Office of Hawaiian Affairs has become a reality, but at that time the community was groping for answers to some of these questions:

Do humanities scholars know what values motivated ancient Hawaiian society and to what extent they are now present in the contemporary Hawaiian society? Moreover, if they do know what they were and are, are such values proper for present-day Hawaiian society with its multi-ethnic composition? Or, rather, if they are worth recovering, should they be applied to present-day social aims to promote inter-ethnic understanding or to be strictly applied toward the Hawaiian Renaissance? If so, how shall they be applied and who shall determine the effective means of implementation?

Let us assume that traditional Hawaiian values are worth knowing by humanities scholars and worth recovering by both the general public and the Hawaiian people themselves. What questions would then be posed? If it should be assumed that the people of Hawaii and the Hawaiians in particular wish to recover certain traditional values, does this imply that they genuinely feel something of tremendous value has been lost to all of society that was formerly unique to the aboriginal group? What then do they wish to recover for the sake of all and also what, in more

specific terms, ought to be recovered for the sake of the Hawaiian people? Whose responsibility would it then be to determine those differences in value choices and under what conditions? Would it be largely a question for an open society to contemplate or is it one in which the role of the Hawaiian group may assert priority in basic decision-making? If the latter, in what role would the humanities scholars then find themselves if they have not yet ascertained what their present state of actual knowledge of Hawaiian values is, and if it is sufficiently reliable enough when used to augment or to modify any determination effected chiefly through the means of political, rather than intellectual or economic process? 12/

Since the Humanities Conference of 1979, when these questions were first offered for consideration, the Office of Hawaiian Affairs (OHA) has been mandated by the State Constitution, with full community support and legislative backing, precisely to give Hawaiians priority in decision-making on issues directly affecting their lives now and in the approaching future.

The need for research into the area of indigenous Hawaiian cultural values, including those of ethics and religion, has become a primary requirement in OHA's program for cultural recovery. Most Hawaiians are unsure of what the true, dependable, and trustworthy models are and if they are suited to their present needs and conditions, while some feel they need to be simply recognized, esteemed, and respected not just for what they are but who they are, the last living remnant of the original inhabitants of this place. What can others learn about cultural extinction as it

rapidly lunges forward in the wake of replacement by values inimical, in many ways, to those of extended families in large kind groups? What can silent temples be made to reveal of Hawaiian knowledge if probed, and probed with understanding? What values, if any, exist there for Hawaiians to realize how their families and ancestors of old fared under kind or ruthless power figures?

The issue of Kaho'olawe looms large in the minds of young and old alike, but the issue remains a divisive polarization of opinion between young Hawaiians who wish the Navy to stop bombing long enough to allow them to set up religious practices in accordance with present law, and older Hawaiians who see no need to recover it from the United States Navy. Common ground or agreement between them may be found, perhaps, in the realization of scientific interest and curiosity about existing archaeological sites on that island.

OHA states in its 1982 report the view that: "The Hawaiian religion was the first aspect of our culture to be suppressed. It is today the least understood dimension of the culture. As we shed light on religious and ceremonial practices, we will choose more freely how we live our lives."

There is no doubt in anyone's mind that much can be gained in combing recorded but untranslated Hawaiian documents for history on such sites that have been wasting away through neglect, due to lack of funds to study them more fully. The value, especially for young Hawaiian people, in involving themselves in careful, patient study as such is that it generates enthusiasm for authentic history. 13/

F. RECOMMENDATIONS */

From all appearances the OHA cultural plan under the State of Hawaii for implementation of action gather, record, and to make available information desired by the Hawaiian community about traditional values a religion and ethics, or rites and ceremonies, seems to be on solid ground.

In the same direction one major private corporation, American Factor has begun to seriously consider building, within a live native Hawaiian village setting, a functioning heiau kilolani, or astronomical temple than, among other things, will feature alignment to the celestial equator/ecliptic coordinate system, which is known to have been used by ancient Hawaiian priests in computing the sidereal and tropical calendar.

In the same context, astrophysicists and geographers have been drawn to the Pacific, Hawaii included, to continue research into potential archaeoastronomic sites in the Oceanic and Southeast Asian area. Within the last few years, some of this work has reached publication. 14/

Along these lines of inquiry, local, national, and international interest in the Pacific archaeo- and ethno-astronomy may perhaps grow, with concomitant interest in the aboriginal religious institutions that raised, as in Hawaii, temples to celestial and spiritual understanding. One never knows how much human progress there is in this mustard seed of genuine hope.

*/ NOTE: These recommendations are reproduced directly from Professor Johnson's paper, and do not necessarily reflect the views of the Native Hawaiians Study Commission. (See "Conclusions and Recommendations," above.)

NATIVE HAWAIIAN RELIGION

NOTES

1/ David Malo, Hawaiian Antiquities (Moololo Hawaii) (Honolulu: Bernice P. Bishop Museum, Special Publication 2, 1951), Second Edition, translated by Dr. Nathaniel b. Emerson (1898), p. 82.

2/ Urey Lisianski, Voyage Round the World in the Years 1803, 1804, 1805, and 1806, Bibliotheca Australiana No. 42 (New York: Da Capo Press, 1968), pp. 84, 87, 120, and 127.

3/ See Rubellite K. Johnson, Kumulipo, Hawaiian Hymn of Creation, Volume I (Honolulu: Topgallant Publishing Co., Ltd., 1981); pp. 145-14 to 145-19 of this volume were included in Professor Johnson's paper and are appended to this Report, in the Appendix containing the written comments received by the Native Hawaiians Study Commission.

4/ Malo, p. 82.

b/ Mary Kawena Pukui and Samuel H. Elbert, Hawaiian Dictionary (Honolulu: University of Hawaii Press, 1971), p. 9.

6/ See A. I. Kroeber, Anthropology: Culture Patterns and Processes (New York: First Harbinger books, 1963). Pages 211-213 were included in Professor Johnson's paper and are appended to this Report, in the Appendix containing the written comments received by the Native Hawaiians Study Commission, as pages 145-21 to 145-22.

7/ Malo, p. 81.

8/ Henry Opukahaia, Memoirs of Henry Obookiah, A Native of Owhyhee, and a Member of the Foreign Mission

School; Who Died at Cornwall, Connecticut February 17, 1818, Aged 26 Years, edited by Edwin Dwight (Honolulu: Published on the 150th Anniversary of his death, 1968), p. 7.

9/ Ibid., p. 28, Letter from Andover, dated December 15, 1812.

10/ The following paragraphs of Professor Johnson's paper appeared in her original paper at this point in text:

It is important here to realize what the curriculum was like at Lahainaluna Seminary between 1831 and 1850. The curriculum included the "hard" sciences and higher mathematics (geometry, trigonometry, navigation), geography (Biblical and world), anatomy, grammar in Hawaiian and English, and not purely religious subjects. The texts used were produced in Hawaiian at the school by translating from English and other language texts, but it is the calibre of the Hawaiian technical texts that astound present-day scientists. Evaluation of the Anahonua (Land Surveying) text in Hawaiian, as written by the Rev. Ephraim Clark, has been evaluated by Dr. E. Dixon Stroup, oceanographer (Hawaii Institute of Geophysics, University of Hawaii). Below is a facsimile of his evaluation:

The Manual of Navigation is the last major division of Ke Anahonua, published in Hawaiian at Lahainaluna in 1834. It is the most technically advanced section in a book which begins with the basic definitions of geometry ("point," "line," and "plane"). The methods described include both dead reckoning and celestial navigation

as used by western navigators in the 1830's (and, in fact, into the early 1900's). While there is no input of Polynesian navigation, a lot is revealed about the surprisingly high academic level of instruction at Lahainaluna in these early days. It is clear from the text, and in many illustrative navigational problems and exercises, that the students were required to have ability in the following areas:

Basic geography (world wide).

Astronomical concepts (orbits and relative distances of moon, sun, planets, and fixed stars; the thin atmosphere of earth in empty space,- curvature of the earth and its effect on the horizon; refraction of light, etc.).

Worldwide time and its relation to the earth's rotation.

Use of a sextant (at least in principle) and drawing instruments (in practice).

Abstract concepts, such as comparison of real observations with those which might be made by a hypothetical observer at the center of the Earth.

Use of mathematical tables of various sorts (familiarity with log tables) and the use of logarithms in working numerical problems--(Note: This was introduced with no explanation in the text). Trigonometry and the use of tables of trig functions. Use of a log-scale ruler (like a slide rule without the slide) in working problems. Working out of quite complex problems, involving many steps. (As an example, the following quote is part of the instructions for working up Lunar Observations:

"From Table XIV, extract the logarithm equal to the parallax and it is written in two columns. Write down the cosecant of the Lunar altitude below the second (column), and the cosecant of the solar altitude under the first, and the sine of the corrected distance under the first, and the tangent of the corrected distance under the second. Add these two columns (discarding the interval 20), then look for the logarithms in Table XIV, where the two arcs are written. If the first arc is greater than the second, subtract the excess from the corrected distance; however, if the second arc is greater than the first, add the excess to the corrected distance; and if the corrected distance is greater than 90° then subtract the sum of the two arcs from the corrected distance; this the true distance.")

Comments of the Translation: My main reaction is admiration for the way that they were able so successfully to put pretty heavy technical material into Hawaiian, along with numerical examples. This is a Manual, not just a simplified introduction to the subject. I know I would have a hard time trying to put a lot of this across in English, to college freshmen today!

It's also clear that they had a high opinion of the ability of their students, or they wouldn't have taken (what must have been) the very great trouble of printing all this complex stuff, with numerical tables and examples of computations. (Setting the type by hand--wow!)

The text is also an excellent illustration of the general principle that, for translation of technical material, the translator had better

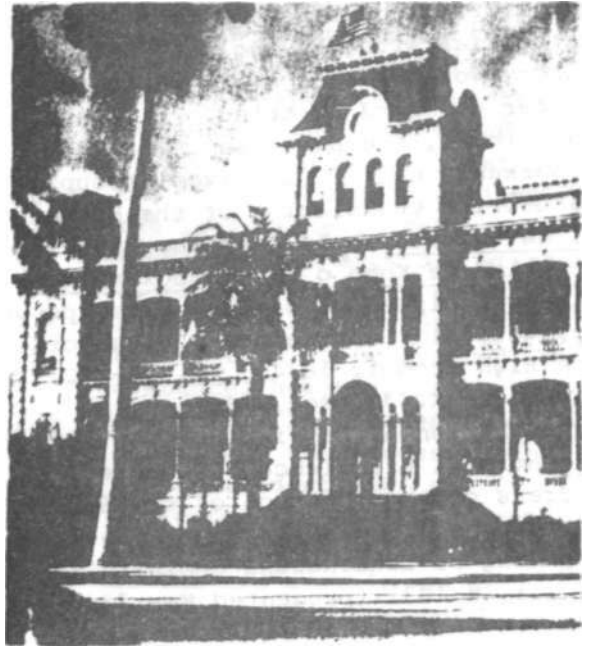
have some technical background in the area, besides knowledge of Hawaiian. Would someone not a navigator or cartographer know that "na hakina meridiana" should translate as "meridional parts" and nothing else? Or that "alanuiho: ua" should be "ecliptic?" Or "h.na **"dip?"** "Holo liilaumania," "plane sailing?" The text is full of these; a translator unfamiliar with the English terminology would make a botch of it no matter how hard he tried. With such background, the Hawaiian reads with remarkable ease. (E. Dixon Stroup, Manuscript translation of the Manual of Navigation in Ke Anahonua, section entitled Ke Kumu o Ka Holoholomoku (the principles of sailing in ships or navigation) (Lahainaluna: Press of the High School, 1834), pp. 83-122; in Rubellite K. Johnson, "The Contribution of Lahainaluna to Educational Excellence," Keynote Address on the occasion of **the Sesquicentennial Celebration** of the founding of Lahainaluna Seminary in Hawaii in 1831 (presented **May 23**, 1981).

11/ Dr. Nathaniel B. Emerson, in Malo, p. xiii.

12/ Rubellite K. Johnson, "Can the Humanities Help the Search for traditional Hawaiian Values," Hawaii Committee for the Humanities Newsletter (May, 1979), pp. 1-7; in Cultural Pluralism and the Humanities, Proceedings of the 1979 Humanities Conference, panel entitled: "The Hawaiian Renaissance and the Humanities" (Honolulu: Chaminade University, April 14, 1979).

13/ See two pieces appended to this Report in the Appendix containing the written comments received by the Native Hawaiians Study Commission: an article on the study of Ku'ilioloha Heiau, by young students (Hawaii Coastal Zone News, Vol. 4, No. 10 (February, 1980)); and the Office of Hawaiian Affairs' program for Hawaiian religion (First Draft, 1982).

14/ See, Armando Da Silva and Rubellite K. Johnson, "Ahu a 'Umi Heiau, a Native Hawaiian Astronomical and Directional Register," in Ethnoastronomy and Archaeoastronomy in the American Tropics, edited by Anthony F. Aveni and Gary Urton, Annals of the New York Academy of Sciences, Vol. 385 (May 14, 1982): pp. 313-331. This study appears in the Appendix of this Report.



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XI

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Iolani Palace.

Part II

Federal, State, And Local Relationships



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King David Kalakaua (center) was accompanied by Governor Dominis, Chief Justice Allen, U.S. Minister Pierce, and Governor Kapena on their journey to Washington, D.C. to negotiate terms of the 1875 Reciprocity Treaty with the United States.

Land Laws And Relationships

This chapter outlines the history of laws governing land ownership in Hawaii, and considers the special problems that native Hawaiians perceive related to the land ownership history.

A. HISTORY OF LAND OWNERSHIP LAWS

Traditional Land Tenure 1/

When Captain Cook arrived in Hawaii in 1778, the country had a complex land tenure system, similar to a European feudal system, 2/ that supported a dense population. Whole portions of islands were controlled by high chiefs (ali'i). An important landholding unit was an ahupua'a, controlled by a chief. The ahupua'a ranged in size from 100 to 100,000 acres, generally with natural boundaries running from mountain tops down ridges to the sea, "enabling the chief of the ahupua'a and his followers to obtain fish and seaweeds at the seashore, taro, bananas, and sweet potatoes from the lowlands, and forest products from the mountains. However, more often than not, an ahupua'a failed to extend to either the mountain or the seashore, being cut off from one or the other by the odd shapes of other ahupua'a." 3/

The ahupua'a was divided into ili. Subchiefs and land agents (konohiki) controlled smaller units of land. Ili kupona were another type of ili, and were completely independent of the ahupua'a in which they were situated. The chief of the ili kupona paid tribute directly to the king. Commoners (maka'ainana, or people of the land) worked the land for the benefit of the chief. Commoners had their own plots, and had gathering rights and fishing rights 4/ on those ahupua'a lands that were not

cultivated. 5/ Landholdings were revocable at the will of the chief. At the death of a high chief, his successor could redistribute his lands among the low chiefs; the lands were not necessarily given to the decedent's heirs. Warfare erupted among chiefs over land rights and resulted in reassignment of control over land. These changes affected neither the land boundaries nor the common farmers. The maka'ainana generally stayed on the same land even though the ali'i controlling the land changed. However, common farmers were not bound to a specific piece of land and could leave the ahupua'a if they were unhappy with their landlords. This distinction from European patterns may have made the chiefs more sympathetic landlords than their European counterparts, because of their need to keep an available workforce. 6/

It is important to emphasize that the concept of fee-simple ownership of the land was unknown to Hawaiians. ^/ The high chiefs did not own the land—they merely managed the land and other resources: "From a religious viewpoint, the ali'i nui [high chief] was a person of divine power. Yet his authority was not a personal authority. It was, instead, a power channeled through him by the gods. In relation to the land and natural resources, he was analogous to a trustee." 7/ The ancient land system thus stands in stark contrast to Western concepts of private ownership:

^/ This paragraph added from comments of the Office of Hawaiian Affairs; edited to avoid duplication.

The ali'i nui...himself enjoyed no absolute ownership of all the land. The ali'i nui was a trustee of all the people within an island or some other larger district. The konohiki also maintained a similar tentative position because the maka'ainana were free to leave the ahupua'a if they were unhappy with a particular chieftain...or konohiki. In short, the members throughout the political hierarchy shared a mutual dependence in sustaining their subsistence way of life...j\$/

However, the land itself was viewed as belonging not to one individual but to the gods. All the people, including the ali'i, merely administered the land for the benefit of the gods and society as a whole.

The system, therefore, had no analogy to ownership in fee simple absolute. 9/ The high chief had significant power: "the king was over all the people; he was the supreme executive, so long, however, as he did right!" 10/ The native Hawaiians believed that the power of the high chief was divine power, channeled through him by the gods, and that he was a trustee of the land and other resources on behalf of the gods. 11/ This concept continued down through the political hierarchy.

Transition Period: 1778 to 1846

The arrival of westerners altered socio-economic patterns in Hawaii. By 1795, King Kamehameha I had expanded his rule to all of Hawaii except the island of Kauai, in part by use of European arms. An aristocratic class developed, which had to be serviced by the Hawaiian economy. Further, the activity of port communities and demands of the sandalwood trade drew the tanners from the land. The new focus away from subsistence coincided with the spread of Western diseases

and worsened the lot of the commoners. Agriculture suffered as a result. Traditional notions of responsibility to chiefs were disrupted, and an oppressive tax system was installed. 12/ The result, however, was greater control by the king and greater stability in landholding. 13/

In 1819, Kamehameha II became king, and with the Dowager Queen Kaahumanu as regent, ruled until 1825. He decided not to disrupt the holdings of his predecessor's subchiefs. Foreigners wanted to codify this new stability in landholdings. 14/ Therefore, when Kamehameha III became king at age 12, the council of chiefs, with some advice from an English frigate captain, persuaded him to adopt a formal policy allowing chiefs to keep their land upon the king's death. This policy was known as the Law of 1825. During this time as well, westerners were given lands by the king or chiefs, so that they entered the Hawaiian landholding pattern. 15/ When the sandalwood trade collapsed from overharvesting, these westerners turned to large-scale plantation crops as a focus for economic activity. 16/

In 1839, Kamehameha III set forth, a Declaration of Rights providing that: "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." 17/ In 1840, a written constitution was adopted. It attempted to adjust land rights to reflect the new relationships described above. It was designed as a final attempt to preserve the traditional land system and to keep native Hawaiians in their homes rather than migrating to the developing port areas of Honolulu and Lahaina. The constitution, and laws enacted pursuant to it, announced tenants' rights for the first time and lowered

labor taxes. Native Hawaiians who had already left their land were given the opportunity to return by applying for any uncultivated lands. The Constitution of 1840 also provided that the king could lose no land without his consent—an effort to deal with the fear of alienation of land to foreigners. However, the constitution provided that property already held by foreigners would not be reclaimed by the crown—an effort to avoid conflict with foreigners. 18/

The Constitution of 1840 did not totally put to rest land disputes—problems and episodes continued. In 1841, the king announced a plan to allow island governors to enter into 50-year leases with foreigners. 19/ As stated below, a large number of lands were conveyed to foreigners. In 1843, in part because of a lease dispute, the British warship Carysfort entered Honolulu, and its captain took over the government for five months. 20/ Although Britain repudiated the captain's action, the episode was a clear mark of problems to come.

The Great Mahele

Because of the increasing pressure for change in the land tenure system, in 1845 the legislature provided for, and the king established, a Board of Land Commissioners. 21/ The Commission was charged to conduct "the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior to the passage of this act..." 22/ Existing land law was to be the basis for its conclusions, including "native usages in regard to landed tenures." 23/ The Commission had five members, of whom two were native Hawaiians, one half-Hawaiian, and two westerners. 24/

The Commission first examined 1/ of the lots in Honolulu and Lahaina,

since this land was already outside the traditional feudal scheme. 25/ In determining who was entitled to land in conveying plots, the Commission stated that it found "no native rights of occupancy in this plot." Based on those awards, the Minister of the Interior was authorized to issue fee patents. A number of land disputes within the foreign community were thus resolved. 26/

The next step was the adoption by the Commission in 1846 of "Principles," ratified by the legislature. The Commission's goal was "total defeudalization and partition of undivided interests." 27/ The Principles stated:

If the King be disposed voluntarily to yield to the tenant a portion of what practice has given himself, he most assuredly has a right to do it; and should the King allow to the landlord one-third, to the tenant one-third and retain one-third himself, he, according to the uniform opinion of the witnesses, would injure no one unless himself;...According to this principle, a tract of land now in the hands of landlord and occupied by tenants, if all parts of it were equally valuable, might be divided into three equal parts... 28/

In fact, no action was taken on this recommendation, and it was not adopted as a way to implement the division. 29/ The king and chiefs did not intend to divide the land in thirds with the tenants. 30/ The statement that the land was divided into three parts—one part to the king, one part to the chiefs, and one part to the common people—is wholly erroneous. 31/

Therefore, how to fulfill the Principles was debated at length. On December 18, 1847, a formulation drafted by westerner Justice William Lee was adopted by the king and chiefs

in Privy Council. ^{32/} Under this formulation, lands of the king were distinguished between those he held as king and his private lands. He was to retain all his private lands, with a right in his tenants "to a fee simple title to one-third of the lands possessed and cultivated by them" whenever the king or tenants desired. ^{33/} The remaining land in the kingdom was to be divided into thirds: one-third to the Hawaiian government, one-third to the chiefs and konohiki, one-third to the tenant farmers. ^{34/} If he paid the government, a chief or konohiki could also retain his proportional share of the one-third which was to go to the government; that is, to get the land patent, the chief had to pay the government either with mopey or with one-third of the land to which he sought title. ^{35/}

The Great Mahele—or division—was conducted from January 27 to March 7, 1848. Interests were written in the Mahele Book. The king quit-claimed his interest in specific ahupua'a and ili under the control of 245 chiefs and konohiki, and the chiefs in turn quit-claimed to the king their interests in the balance of the divided lands, which became the king's private lands, subject to the commoners' claims. ^{36/}

At the end of the process, the king "set apart forever to the chiefs and people of my kingdom" approximately 1.5 million acres (the Government lands) and kept for himself, his heirs, and successors approximately one million acres (the Crown lands). The remaining 1.5 million acres were awarded to the chiefs, "reserving the rights of the people." ^{37/} The division was affirmed by legislation. ^{38/}

To defeudalize the land totally, the Commission also had to divide the interests of the common people. By an 1850 Act, each tenant was allowed to apply for his own kuleana. Such land could come from the Crown lands, from

the Government lands, or from the other 1.5 million acres of the kingdom. A kuleana could include only land that was actually cultivated plus a house lot of one-quarter acre. The tenant had to prove his claim by 1854 and pay survey costs. In fact, commoners received fewer than 30,000 acres under this Act. ^{39/} Only 26 percent of the adult male native population received these lands. ^{40/}

Several further statutes completed the transition to a modern landholding system. ^{41/} An Act of 1846 authorized government land sales approved by the king and Privy Council; by May 1, 1850, the government had sold over 27,000 acres under these laws. The Kuleana Act discussed above also provided that portions of government land be set aside in lots of sizes ranging from one to fifty acres for purchase by natives who did not qualify for kuleana rights. The minimum price was 50 cents an acre.

By 1852, foreigners held thousands of acres of land in Hawaii. Western property concepts, which native Hawaiians did not understand because of the historic land tenure system, would facilitate westerners in taking over Hawaiian-owned lands during the next decades. ^{42/} Many lands were sold. Debts to westerners were often paid in land. Those landowners who attempted large-scale farming were unable to manage cash plantations, and lost property through foreclosure. ^{43/} Government lands also came into western hands through sales. ^{44/}

Kuleana lands were also conveyed to westerners. Many kuleana rights were lost through harassment by illegal diversion of water and foraging cattle from large ranches. Furthermore, some kuleana rights were forfeited because, without the gathering and foraging rights that had formerly been provided, the kuleana could not accord their owners subsistence. Kuleana that were leased to westerners were often not returned, as natural

landmarks disappeared when they became part of plantations. Kuleana were also lost to larger surrounding land-holders by invocation of the doctrine of adverse possession. 45/ Some kuleana lands were simply sold.

The king's lands were freely sold by Xmgs. Because of particular problems with these lands, including the debts of the monarchs, the Act of January 3, 1865, designated the king's lands as Crown lands and declared them inalienable, to descend to the heirs and successors of the Hawaiian crown forever. 46/

The 1890 census revealed the extent to which these forces had put land in the hands of westerners. Of a population of near 90,000, fewer than 5,000 owned land. The relatively small number of Americans and Europeans owned over one million acres. Although three out of four landowners were native Hawaiian, three out of four acres belonging to private owners were held by westerners. 47/

B. SPECIFIC PROPERTY OWNERSHIP QUESTIONS

A number of specific questions about property ownership and use that may affect native Hawaiian interests arose at the hearings of the Native Hawaiians Study Commission in January, 1982. To assure a comprehensive study, this section will identify and discuss those issues.

Statia of Water and Fishpond Rights under Hawaiian Law

For the most part, waters in Hawaii are treated no differently than waters elsewhere in the United States—that is, navigable waters cannot be privately owned. In McBryde Sugar Co., Ltd. v. Robinson, 54 Haw. 174, 187

(1973), the Supreme Court of Hawaii held that "the ownership of water in natural watercourses, streams, and rivers remained in the people of Hawaii for their common good." In so ruling, the court rejected a long line of cases suggesting that all waters were owned by the holder of the ahupua'a. The Supreme Court's conclusion followed naturally from the fact that at least as early as 1842, interference with navigation was precluded by statute (Laws of 1842, Ch. XXVII, Statute Regulations Respecting Ships, Vessels, and Harbors (Fundamental Law, pp. 80-89)), and hence, by implication, a superior right of the sovereign over commerce and navigation was recognized.

Hawaiian law did, however, accord special protection to the right to raise and capture fish. Two categories of waters, sea fisheries and fishponds, have historically been treated as part of the land. The situation with respect to sea fisheries has changed from feudal times, but fishponds continue to be treated as fast land. The early regime has been described as follows:

Kuapa Pond, with other Hawaiian fishponds, have always been considered to be private property by landowners and by the Hawaiian government. Most fishponds were built behind barrier beaches, such as Kuapa Pond, or immediately seaward of the land controlled by the ali'i, or chiefs. By imposing tabu on the taking of fish from a pond, the chief alone determined the allotment, if any, of fish,, just as he distributed the other crops among his sub-chiefs, land agents, and vassals. The fishpond was thus an integral part of the Hawaiian feudal system. Chiefs

gave land, including its fishponds, to sub-chiefs, or took it away at will. Any fishponds in conquered chiefdoms became the personal property of the conquering high chief and were treated in the same manner the high chief treated all newly subjugated lands and appurtenances. The commoner had no absolute right to fish in the ponds, nor in the sector of ocean adjacent to the chief's land—all of such rights were vested in the chiefs and ultimately in the king, alone.

In 1848, King Kamehameha III pronounced the Great Mahele, or national land distribution. Any fishponds therein were allotted as part or inholding of the ahupua'a • (a land/water unit). Titles to fishponds were recognized to the same extent and in the same manner as rights were recognized in fast land. (United States v. Kaiser Aetna, 408 F. Supp. 42 (D. Haw. 1976), rev'd 584 F. 2d 378 (9th Cir. 1978), rev'd, 444 U.S. 164 (1979).)

The correctness of description is confirmed by the fact that the Board of Commissioners to Quiet Land Titles routinely included fishponds within its land awards or patents under the Great Mahele, notwithstanding the fact that the Board was concerned solely with landed property. (See Haw. Att'y. Gen. Op. No. 1689, at 460 (1939).) So far as can be determined, fishponds retain their status as private property today.

The situation with respect to sea fisheries changed, however, upon passage of the Organic Act in 1900. In that Act, Congress repealed all prior rights in sea water fisheries by providing that "all fisheries in the sea waters of the Territory...not included in any fish pond or artificial enclosures shall be free to

all citizens...subject...to vested rights" (48 U.S.C. § 506).

Procedures were established to compensate those people who had vested rights in sea fisheries; if those procedures were not followed within three years, however, even rights to sea fisheries were lost.

Thus, fishponds remain privately owned today, while fisheries remain in private ownership only to the extent that the owners followed the proper procedures to obtain recognition of their rights. In all other respects, waters in Hawaii are treated the same as in the rest of the United States.

Concern was also expressed at the hearings about the rights to use of water. 48/ People in Hawaii have the right to use water under a series of rules unique to Hawaii and closely related to ancient Hawaiian land law. A landowner has present right to use the amount of water used at the time of the award of the land under the ancient landholding system. These are called "appurtenant" rights. In addition, persons receiving land rights from the king (either ili or ahupua'a), called konohiki rights, have the right to water for those lands equal to those of the king.

Under Hawaiian law, further rights to surface water, called "prescriptive rights," can be established, and once they are established, they also are appurtenant to the land on which the water is used. To establish a prescriptive right, certain tests, including actual, open, notorious, continuous, and hostile use for ten years under claim of right, must be met. Finally, by State statutes passed in the mid-19th century, people on lands to which the landlords have taken fee simple title have the right to drinking water and running water. On such lands, the springs, running water, and roads are free to all, except as to wells and water courses provided by individuals for their own use. These can *lie* considered native

tenant rights. 49/ Disputes over water rights can be resolved in a proceeding in State courts, according to procedures set out in Hawaiian statutes. 50/

Geothermal and Mineral Rights

The only Hawaiian State statutes relating to minerals are a strip mining law and a law providing for mineral leases on State-owned land. At least some of the patents that were issued by the kingdom of Hawaii retained the mineral rights in the government and these mineral rights are today owned by the State of Hawaii.

No State statute mentions geothermal development or geothermal rights. Native Hawaiians do appear to be concerned about geothermal development sociologically, however. Trie Puna Hui Ohana, an organization of the Puna Hawaiian community, has 'indertaken an extensive assessment of the potential social and cultural impact of geothermal development on the "aboriginal" Hawaiians of Lower Puna on the island of Hawaii. 51/ The report states:

Early Hawaiians used the steam emanating from fissures along the rift zone for cooking and geothermally heated water ponds for bathing. Though exploratory drilling had begun in the 1960's in Puna, the first successful well wasn't discovered until 1976. Designated HGP-A (Hawaii Geothermal Project-Abbott), the well was one of the hottest in the world (675°), high pressured (555 psi), and relatively chemically benign. The successful well represented a new era of alternative energy for the State of Hawaii. For the community of Puna, the geothermal

success introduced a developmental element for which it had not been prepared. 52/

The report evaluates a survey of attitudes among Lower Puna's native Hawaiian leaders. These leaders felt that the development of geothermal resources in the area would increase the in-migration to the area and result in major cultural changes. It was felt that socio-economic impacts of a growing Caucasian population would increase during geothermal development. Respondents felt that Caucasians would control the economic benefits of geothermal development, and that, unless native Hawaiians "help themselves or develop fruitful relationships with the developer, Hawaiians' benefits will be very limited at best." 53/

Other concerns included changes in interpersonal relationships, changes in the apparent transfer of political and social power from the local Japanese political establishment to the Caucasians, and a possible effect on native Hawaiians' relationship to nature, to people, and to the supernatural. Finally, native Hawaiian leaders and elders of Lower Puna believed that population and economic growth in connection with geothermal development continues to be a serious threat to the preservation of the native Hawaiian culture as it exists in Lower Puna. They "also believe that the culture can be preserved if families will learn the concepts well and pass it on to their descendants." 54/

Despite distrust of geothermal, development, however, the community seems to have approved it with strong reservations. Of special concern is the manner in which surplus energy is used. The study concludes that "continued dialogue between newcomers and long time residents may promote a better understanding of

economic growth consistent with concerns over environmental and social/cultural preservation." 55/ These findings suggest that to accommodate the concerns of native Hawaiians, geothermal development should be undertaken only after education and consultation with the native Hawaiians themselves.

Kuleana Land Rights

In 1850, two years after the enactment of the Great Mahele, an act was passed allowing Hawaiian native commoners to acquire fee title to the land that they had "really cultivated" under the feudal system, plus a household lot of no more than one-quarter acre. 56/ These parcels, called kuleana, could come from the lands retained by the king as Crown lands, or from Government lands, or from the lands granted to the chiefs under the Great Mahele. The commoner could receive fee title to his kuleana only if he proved his claim to the Hawaii Land Commission and paid the costs of a survey. As a result of the Kuleana Act, 8,000 commoners acquired title to land, but the holdings of these commoners totalled fewer than 30,000 acres, or less than one percent of the land.

Several reasons have been given for the failure of the commoners to acquire more land under the Kuleana Act. 57/ One is that most commoners could not afford to pay for the survey work; another is that they feared reprisals from the ali'i if they applied. A third suggested reason is that commoners could obtain title only to land they "actually cultivated." Under the previous system the commoners were entitled to use not only the land they actually cultivated but also were entitled to use common lands for growing crops and for pasturing—a right not preserved under the Kuleana Act. The "actually

cultivated" lands were insufficient support the commoner and thus, the Kuleana Act meant little to him. On comment received by the Commission states that native Hawaiians also did not apply because some did not think application necessary or were unaware of the Act. Thus, the effect of the Kuleana Act, in conjunction with the Great Mahele, was the same as the enactment of the enclosure laws in England—fee title to the common land passed to the chiefs, and the commoners did not acquire sufficient lands to support themselves.

An act of the legislature barred establishment of any kuleana claims not proved by 1854. Therefore, establishment of kuleana rights is not an issue today. However, observers have suggested that full use of many kuleana is presently disrupted by three major legal obstacles: fractionated ownership, inadequate access, and adverse possession. 58/

Fractionated ownership of many kuleana plots arises from the effects of intestate succession (passing of the property without a will). Parcels may, therefore, have a number of joint owners, with no clear responsibility for taxes or improvements. Possible remedies include one joint owner buying the interests of the others, partitioning of the kuleana, or putting title in a mutually-owned corporation, trust, or partnership with responsibility to ensure payment of taxes and land improvements.

Inadequate access is a problem for some kuleana because they are surrounded by large plantations and developments. Hawaiian law provides for easements by necessity when they are "reasonably necessary"—other access is difficult or expensive. The 1850 statute itself also provides for access. Therefore, legal tools exist for establishing better access to kuleana.

Finally, many kuleana plots have been claimed by persons other than the original grantee and his heirs by adverse possession. Adverse possession is a legal principle that permits a person who has occupied the land for a statutory period in an open, hostile, notorious, and exclusive manner to claim title to that land. In Hawaii, the statutory period from 1870 until 1898 was 20 years; in 1898 it was reduced to 10 years. In 1973, it was changed back to 20 years (7A Hawaii Rev. Stats. §657-31). A 1978 law limits adverse possession for rights that mature in 1978 or thereafter to claims for real property under five acres, and to claimants who have not asserted a similar defense within the last 20 years (7A Haw. Rev. Stats. §657-31.5).

Large landholders primarily have used adverse possession to absorb the enclosed kuleana of native Hawaiians. Native Hawaiians have been less able to use the doctrine to secure lands for themselves. One reason is that if a native Hawaiian remained on cultivated lands after 1850 but did not perfect kuleana rights, his tenancy was considered permissive rather than adverse, so he could not claim the land by adverse possession. To avoid problems in the future, kuleana owners could register their lands to prevent them from being taken by adverse possession, 59/ or could seek some reform in the adverse possession laws in the State. 60/ Adverse possession cannot be claimed for lands owned by the State or by the United States.

Adverse Possession

Adverse possession has been considered a problem for native Hawaiians in continuing kuleana land rights. (See discussion in the preceding section.) The benefits of the doctrine for native Hawaiians are

shown in a recent decision by a Circuit Court in Hawaii. That case uses the principle to benefit smaller landholders against a large company and to help in dividing undivided common ownership interests. 61/ Every state has developed a law on adverse possession. It has been suggested that in Hawaii the concept developed because larger land owners wanted a means to increase their holdings by engulfing smaller plots owned by native Hawaiians. 62/

Genealogical Searches

During the hearings, some concern was expressed about the difficulty and expense of undertaking genealogical research in order to establish qualifications for land that must be owned by those of native Hawaiian ancestry. Three circumstances related to land ownership could give rise to the need for such research: establishing a legal interest in land that may be recognized by courts in Hawaii today; 63/ qualification under the Hawaiian Home Lands program, which provides land to those of 50 percent or more native Hawaiian blood; and qualification under legislation, if any, which could in the future be passed to compensate native Hawaiians for their land claims. Such research may be expensive; in addition, without a central site for relevant materials, the research can be difficult indeed. The State or the Office of Hawaiian Affairs may be undertaking to resolve some of these problems. 64/

LAND LAWS AND LAND RELATIONSHIPS

NOTES

1/ An excellent description of ancient land tenure is contained in Jon Chinen, The Great Mahele (Honolulu: University Press of Hawaii, 1958). One commenter, Haunani-Kay Trask, thought that the presentation in this section was so biased and inaccurate that she re-wrote it. The Commission does not adopt her alternate language, which appears in full in the Appendix of this report.

2/ Some commenters suggested that a comparison to European feudal systems leads to oversimplification. The comparison is used throughout the literature on Hawaiian tenure, however. (See also above, p. 148.)

3/ Chinen, The Great Mahele, p. 3.

4/ Change suggested by comments received from the Office of Hawaiian Affairs (OHA).

5/ This paragraph is based on Jon Chinen, The Great Mahele, and on Neil M. Levy, "Native Hawaiian Land Rights," 63 Cal. Law Review 848 (1975), pp. 848-9, and Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim (OHA), pp. 1-2. See also, for general background, Ralph Kuykendall, The Hawaiian Kingdom, Vol. I, 1778-1854, "Chapter IV: The Land Revolution." One commenter submitted another helpful article: Thomas Marshall Spaulding, "The Crown Lands of Hawaii" (Univ. of Hawaii, Oct. 10, 1923).

6/ Ibid.

7/ MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim, p. 3.

8/ Hawaii State Dept. of Budget and Finance, Land and Water Resource Management in Hawaii (Honolulu: Hawaii Institute for Management and Analysis in Government, 1978), p. 148.

9/ Levy, p. 879; MacKenzie, p. 3.

10/ David Malo, Hawaiian Antiquities (Mooolelo Hawaii) (Honolulu: Bishop Museum Press, 1951), p. 53; quoted in MacKenzie, p. 3."

11/ MacKenzie, p. 3.

12/ Levy, p. 850.

13/ MacKenzie, pp. 4-5.

14/ Levy, p. 850; MacKenzie, p. 5.

15/ Ibid.

16/ Ibid.

17/ As quoted in Kuykendall, The Hawaiian Kingdom, 1778-1854, p. 271.

18/ See generally, Levy, pp. 851-2; MacKenzie, pp. 5-7.

19/ MacKenzie, p. 7.

20/ Levy, pp. 852-853, MacKenzie, p. 7.

- 21/ Levy, p. 853.
- 22/ Ibid., quoting Hawaiian Statute of 1845.
- 23/ Ibid.
- 24/ Levy, p. 853; MacKenzie, p. 8.
- 25/ Ibid.
- 26/ Ibid.
- 27/ Levy, p. 854.
- 28/ Levy, p. 854, quoting Hawaiian Statute of 1896.
- 29/ Chinen, p. 15; Kuykendall, p. 282.
- 30/ Kuykendall, p. 282.
- 31/ Ibid.
- 32/ Levy, p. 854; MacKenzie, p. 8.
- 33/ Ibid., quoting Rules adopted by Privy Council.
- 34/ Levy, p. 854; MacKenzie, p. 8.
- 35/ Ibid.
- 36/ Levy, p. 855; MacKenzie, p. 9.
- 37/ Ibid.
- 38/ The division was approved by legislation. Act of June 7, 1848, referred to in Levy, p. 855. Comments received from OHA suggest that: "The Mahele of 1848 and conversion to a fee simple system did not entirely do away with this trust concept" that the king held the lands in trust for the gods and society as a whole.
- 39/ Levy, pp. 855-6; MacKenzie, pp. 10-11.
- 40/ MacKenzie, p. 10. Comments received from John Agard presented an informative discussion of kuleana rights and claims.
- 41/ Levy, p. 857; MacKenzie, pp. 11-12.
- 42/ Levy, p. 857.
- 43/ MacKenzie, p. 13.
- AAJ Ibid.
- 45/ Levy, p. 861.
- 46/ MacKenzie, pp. 13-14.
- 47/ Ibid., pp. 14-15.
- 48/ One commenter stressed the importance of water rights in modern Hawaii, in part because of the problems that development can cause in terms of short water supplies.
- 49/ II Hutchins, Water Rights Laws...The Nineteen Western States, pp. 177-178 (1974). Suggested by comments received from Congressman Daniel Akaka.
- 50/ The material for this paragraph is drawn from Clark, Water and Water Rights, Vol. 5, 1 433, which has an extensive discussion of Hawaiian water laws.
- 51/ Puna Hui Ohana, Assessment of Geothermal Development Impact on Aboriginal Hawaiians, prepared for U.S. Department of Energy, Contract No. DE-PC03-79ET27133 (Feb. 1, 1982).
- 52/ Ibid., p. 10.
- 5J/ Ibid., p. 119.

bAJ Ibid., pp. 119-121.

55/ Ibid., p. 122.

56/ Act of August 6, 1850, \ 1 (1850) Hawaii Laws 202 in 2 Revised Laws 1925 at 2141. See discussion above.

57/ See Levy, p. 861; MacKenzie, p. 11.

58/ An extended discussion is set forth in Levy, pp. 867-870. Congressman Daniel Akaka comments that the analysis presented here of the problems inherent in settling title to kuleana lands suggests that the problems are easily solved. As a substantive review of this section of the report and the authorities on which it relies shows, they are indeed difficult to solve. One commenter suggests that the right to exercise kuleana rights did not terminate in 1855. The comment is simply in error. See Chinen, The Great Mahele, pp. 30-31, which states that the Land Commission that granted deeds to such lands dissolved on March 31, 1855.

59/ See Levy, p. 870, citing a suggestion of Chief Justice William Richardson of the Hawaii Supreme Court.

60/ Such reform might include permitting adverse possession claims only if the claimant has entered the land "in good faith." Such a bill was passed by the Hawaii legislature in 1973, but vetoed by the governor. See Levy, p. 870.

61/ The extensive opinion is in Ranch, Inc. v. Joseph Ahsing, et. al.. Civil No. 1878, Findings of Fact and Conclusions of Law (Circuit Court of the Second Circuit, State of Hawaii, **May** 12, 1982).

62/ Previous two sentences suggested in comments received from Congressman Daniel Akaka.

63/ Addition suggested in comments received from Congressman Daniel Akaka.

64/ Many records in the native Hawaiian language are available but are not easily accessible as a resource.

Diplomatic And Congressional History:

From Monarchy To Statehood

A full review of the history of the relations of the United States with Hawaii and the native Hawaiians is necessary for an evaluation of Hawaiian native claims. In Part I of this Report, that relationship is traced from ancient times to 1875. This chapter continues the story and has four parts. First, it sets forth the history of United States-Hawaiian relations from 1875 through 1893. Second, it provides an analysis of the causes of the fall of the monarchy and annexation. Because this section is particularly sensitive and crucial to this study, the Commissioners have determined that review by a professional historian with qualifications in the relevant historical period is essential. Therefore, the section on United States-Hawaiian relations between 1893 and 1900 has been prepared by William Dudley, Chief of Research in the Historical Research Branch of the Naval Historical Center, and Lt. Donna Nelson of his staff. The Naval Historical Research Branch works primarily on research requests from all sources concerning U.S. Navy history from the eighteenth into the twentieth centuries. The Branch edits and publishes multi-volume series and other works on Naval history with particular emphasis on the eighteenth and nineteenth centuries. The research staff, well-regarded in the field, assists scholars and the public by providing information and reviewing manuscripts. The Branch has an extensive library of naval and diplomatic history, and the researchers are careful, objective historians.

The third part of this chapter further analyzes annexation and compares the annexation process for Hawaii with those of other territories. The fourth part outlines the history of Hawaii's admission to statehood,

and compares Hawaii's admission to the Union to that of other selected states.

A. UNITED STATES-HAWAII RELATIONSHIPS AND TREATIES, 1875 to 1893

The history of Hawaii and its relationship to the United States from ancient times to 1875 is set forth in Part I of this report (pages 147 to 167). The period from 1875 to 1893 was extremely important and eventful in the formulation of a relationship between the United States and Hawaii. During this span of time, turmoil occurred in Hawaiian politics concerning that relationship, which resulted in violent protests as well as a written treaty and agreement that cemented the bond between the two countries. The period also marked the end of an era as Hawaii moved from a royal monarchy to a republican form of government. One of the most important events occurred early in this period—the signing of the Reciprocity Treaty of 1875 between the United States and the Kingdom of Hawaii.

1875 Reciprocity Treaty

Certain pre-1875 events affected the reign of King Kalakaua, which encompassed the period from 1874 to 1891. A reciprocal trade treaty between the United States and Hawaii:

...had been agitated at intervals for almost thirty years. In 1855, Judge Lee had secured endorsement of such a treaty in Washington, only to have it defeated in the Senate by Louisiana sugar planters. Kamehameha IV and his successor had favored it only as a lesser evil than annexation to the United States. 1/

King Kalakaua's predecessor, Lunalilo, had also been urged to negotiate a treaty of reciprocity by influential members of the sugar planters and non-native whites, as well as by cabinet members urging closer bonds to the United States. Lunalilo had originally agreed to introduce such a treaty in the name of the Hawaiians, in return for the support of these people. He backed down, however, when native elements and white pro-Hawaiians, such as American Walter Murray Gibson, urged him to do so. 2/ The main reason for this change in Lunalilo's policy was the issue of the lease or cession of Pearl River [Harbor] to the United States.

When Lunalilo died in 1874, the pro-reciprocity factions (also known as the Missionary Party and "kingmakers") became convinced that Kalakaua would support their cause. After public statements of goodwill toward each other,

...there were further secret conferences between Kalakaua and the "kingmakers" at which both sides gave pledges. It was agreed that in return for their support of money and influence he would permit them to name his cabinet officers, and that he would go personally to Washington to ask for the reciprocity treaty in the name of the Hawaiian people. They in turn would not seek to lease Pearl River to the United States. 3/

King Kalakaua's rule of Hawaii was thus secured with the backing of non-native and pro-reciprocity factions. He ran in a plebiscite against Queen Emma, his chief rival for power. When the legislature confirmed his victory in that plebiscite, rioting broke out by the "Hawaii for Hawaiians" supporters of

Queen Emma. The king quelled the riot with the aid of military personnel from both American and British ships harboring in Hawaiian waters at the time. The king then moved to win back the support of those who had been supporting Queen Emma, the majority of whom were on Oahu, by touring the Islands and calling for a revitalization of the native population and spirit. With this accomplished, Kalakaua turned to the matter of a reciprocity treaty with the United States. The king realized even without the urging of his erstwhile secret backers, that "if Hawaii were to survive economically as a nation, the tariffs and discrimination against Hawaiian sugar and coffee must swiftly be removed." 4/ These "levies had strangled Hawaii's American market--had virtually closed this main and most essential pool for exports." 5/

Kalakaua sought and obtained Hawaiian legislative approval of a reciprocity treaty in 1874. He then "appointed Chief Justice E. H. Allen, former United States Consul to Hawaii, and the Honorable H. A. P. Carter, island-born American, as special Commissioners to Washington to prepare the way for a visit by His Majesty to the capital." 6/ Shortly afterwards "Kalakaua, the first king ever to visit the United States, was received as a guest of the nation by President Grant and all the members of Congress." 1/

Although the king (and prospects for a treaty) were greeted amiably, one man, Claus Spreckels, a California sugarbeet grower, singlehandedly "organized Western opposition and enlisted the support of Southern sugarcane planters and Eastern refiners in tabling the treaty." 8/ As a result of this action, Hawaii's trade slowed to a standstill and a national depression began as sugar planters slowed or stopped their shipments, hoping that the taxes on their products sent to the United

States would soon be lifted. Relief was relatively slow in coming/ but: "after a year, upon President Grant's insistence, the treaty got to the Senate floor, and.*Spreckels himself appeared to lobby against it...the Senate went into executive session. At the secret meeting, Secretary of State Hamilton Fish's special clause was read, which he was inserting in the treaty--and which would eventually tie Hawaii to the United States." 9/

This special clause, which is found in Article 4 of the Reciprocity Treaty, stated:

It is agreed, on the part of his Hawaiian Majesty, that so long as this treaty shall remain in force he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power...10/

In a report of the Committee on Ways and Means of the House of Representatives, "the majority frankly conceded that the main reason why the treaty should be ratified by the United States was on account of the danger of British absorption of the islands." 11/ Senator John T. Morgan of Alabama confessed as well that the treaty had political implications: "The Hawaiian treaty was negotiated for the purpose of securing political control of those islands, making them industrially and commercially, a part of the United States" 12/ as well as preventing any other power from acquiring a foothold on them.

Evidently Kalakaua had not been (or at least claimed he had not been) aware that this clause would be a part of the treaty. When the British Commissioner to Hawaii complained to the king about these exclusive rights,

Kalakaua answered: "...how can I answer you about something which I have neither read nor approved?" 13/ The king, however, eventually did agree to this clause and the "treaty was approved by both the United States and Hawaiian governments in mid-1875. In August of the following year, Hawaii learned that Congress had passed the legislation necessary to put the treaty into operation. About the only Americans in the islands who were displeased...were those who believed in annexation." 14/ Pro-annexationists were concerned that the reciprocity treaty would delay annexation.

American Advisors' Influence

Several Americans and other foreigners became close advisors to the king at about this time. Claus Spreckels (who had opposed the treaty) was one of them. He saw opportunity even in his defeat and "arrived in Hawaii aboard the vessel which brought the news that the treaty had finally been approved in Washington. With his money and relentless drive Spreckels soon became the most powerful sugar man in Hawaii." Spreckels also had other interests, such as banking:

Once Kalakaua was in his debt he was also in his grasp, and Claus Spreckels was so important to the king that anyone who opposed his various deals, including cabinet members, was soon out of office. Eventually his hold on the government and business community was broken...15/

However, Spreckels remained a force in Hawaii, for many years. By 1884, he was known as "the other king* of the Hawaiian Islands." 16/

Other private Americans, such as Walter Gibson, advised and swayed the king. 17/ Gibson, however, was

pro-Hawaii to an extreme that eventually almost cost him his life at the hands of planter backers (as well as bringing the king's reign to the brink of disaster). Through intermediaries, while the king was in the United States, and again upon his return to Hawaii (during an era of prosperity brought on by the Reciprocity Treaty), Gibson had proposed the building of an empire for the king and Hawaii. Gibson told Kalakaua, "Hawaii should be the hub of the Polynesian kingdom. Sire, you are standing today on the very threshold of the door marked 'Qnperor of Oceanal'" 18/ Although this project was delayed for the time being, it remained in the king's mind, refreshed often by his advisors.

To increase his influence in persuading the king to implement Hawaiian programs, Gibson needed to enter politics. In 1878, he sought a seat in the Hawaiian House of Representatives and won at the head of the King's Party. His election was despised by the 'kingmakers,* but hailed by the native Hawaiians whom he won to his side by his speeches of nationalism and proposals for their benefit. Almost immediately, Gibson suggested that the special favors granted to the United States under the 1875 Reciprocity Treaty be granted to Great Britain as well: "The matter of first importance to us is that the kingdom perpetuate its cordial relations with all other nations so as to guard its independence." 19/ The United States Minister to Hawaii, General J. M. Comly, "on intimate terms with the planters...at their request, reported to Washington that Gibson was a troublemaker and a dangerous man with great influence over the natives." 20/ Gibson, however, survived these threats to his tenure and became the "closest confidant of the king...In 1882, Kalakaua named Gibson as premier of the nation. For nine years this

controversial figure would dominate both king and government." 21/

Celso Caesar Moreno, an Italian-American, also played a short, but critical, role in advising Kalakaua. The king had met Moreno while in the United States seeking support for the Reciprocity Treaty. Moreno had charmed the king with talk of a Polynesian empire, much like the one proposed by Walter Gibson. Moreno arrived in Hawaii in November 1879, while Gibson was away. He represented both the American government's interest for a trans-Pacific cable and the China Merchant's Steam Navigation Company's request to open commercial relations. Kalakaua was so enchanted with his visitor's reacquaintance and the revival of empire dreams that he asked Moreno to "resign your commission with this Hing Sing and become my foreign minister."¹ 22/ The king also granted the Chinese company the subsidy it needed to establish commercial relations with Hawaii, but asked that Moreno keep his cabinet position secret until elections two months hence, when he would make th appointment public. On Gibson's return to Hawaii he recognized Moreno, but did not inform the king of his views on him. Moreno and Gibson then agreed to work toward the policy of establishing a Polynesian kingdom.

The main obstacle to this goal was the passage of "a ten-million dollar loan to finance the king's army and navy." 23/ This loan proposal brought an uproar from the planter lobby, which, through Representative Castle, charged "as surely as you vote for this measure, you hasten the end of the king's rule. We taxpayers will express our resentment in a concrete manner." 24/ Claus Spreckels also appeared at this time at the assembly and through his persuasive powers, supported by Castle, "headed off the very likely passage of the \$10,000,000 loan; among the king's loyal Hawaiians, there were too many in Spreckels' employ." 25/

Shortly afterward the king told Gibson of his intentions to make Momono premier and foreign minister. Gibson seemed to be amenable to this idea, but he was actually furious and started a campaign through the newspapers to dislodge Moreno. Raising the ire of the planters, Gibson fueled a fire that resulted in Moreno and the king calling for Hawaiians to throw out or kill the planter sympathizers and foreign interest groups on the islands. 26/

As the threat of violence increased, the king had second thoughts and met with the United States minister, General J. M. Comly, who told him: "Unless Moreno is discharged, the diplomatic corps has agreed to ask their governments to send warships and intercede to protect the lives and property of their nationals." 27/ Faced with the possibility of war, intrusion on his sovereignty and:

...worried by public calumny, facing an angry and agitated American minister, Kalakaua at last caught the message. Reluctantly he dismissed Moreno. In appointing a new cabinet, the king again liberally sprinkled it with faithful and dependable Americans, and he retained the indispensable Gibson. 28/

Events Leading to Cabinet Government, 1881 to 1887

Before this confrontation had barely passed, it was announced at a January 11, 1881, meeting of the cabinet that the king planned to make a world trip. The purpose of this trip was "to explore ways by which peoples from other countries could be brought to Hawaii to help reverse the population decline." 29/ Among the people Kalakaua took with him, at the insistence of the planter lobby, were Charles H. Judd and William N. Armstrong, a former New York lawyer.

who the king named "Commissioner of Immigration for the expedition." 30/

Word of the expedition caused concern to United States Secretary of State James G. Blaine, who feared that Kalakaua's taste for spending and need for funds might cause him to **11 part of his kingdom to a foreign country. 31/ Blaine wrote "to the American ministers in the countries the king intended to visit telling them to watch the activities of Kalakaua closely, and Instructed them to Inform any foreign power to which the king might offer to sell a portion of his kingdom that such a transfer would not be allowed by the United State*." 32/ While visiting Italy, the king was met by the ousted Moreno. Armstrong and Judd discovered that Moreno was attempting "to get all the European countries to guarantee (the) independence of the Hawaiian Kingdom." Armstrong and Judd "warned the countries that any such action would be looked upon by America as an interference in her sphere of influence." 33/

The fears of a land sale were unrealized; the king never raised the subject on his tour. Instead, while the king admired other countries' wealth and cultures, Armstrong pushed the planters' view that only laborers were wanted in Hawaii, not a migration. The Advertiser, a pro-Hawaiian newspaper, commented: "[h]e is obviously endeavoring to hinder any migration except that of cheap plantation labor although his instructions from the king are that he is to bring families for repopulating the Islands." 34/ This point seemed to have been verified when, during the king's trip, ships arrived in Hawaii carrying "Chinese immigrants Armstrong had arranged as consignment for plantation labor;" 35/ those immigrants were found to be carrying smallpox. Even though the ships flew the yellow flag, "Board of Health President H. A. P. Carter, yielding to pressure by merchants and planters,

permitted all passengers to land." 36/
The resulting epidemic left 282 native
and non-native Uawaiians dead. 37/

Shortly after Kalakaua returned to
Hawaii, efforts were again undertaken
by the planter lobby to eliminate
Gibson from Hawaiian politics. These
actions included a suit for libel
against Gibson by William Armstrong
for writing a letter published in a
newspaper accusing Armstrong of
"treason to the state." 38/ When this
failed, efforts were made to defeat
Gibson in the election of 1882.
Complaints were made against his plans
to finance projects like the comple-
tion of the royal palace, literary and
cultural monuments to Hawaii, and
free school education. These attacks
did not succeed, either.

At this same time the Reciprocity
Treaty of 1875 was nearing the end of
its seven-year life. The Sugar
Planter Association sent a draft of a
new treaty to William Lowthian Green,
Minister of Foreign Affairs, with a
clause that Pearl River be ceded to
the United States. Green objected to
this proposal, stating: "I do not
believe that the proposal is a sound
one...The United States had made no
demand for [Pearl River]...they wish
only that no other power should
control it and that is what we all
want." 39/

Green's response infuriated the
Association, which secretly decided to
depose him. To effect this decision,
the Association ~~chos~~>> t) implement a
plan, discussed a* the time of the
1882 elections, that would entice
Walter Gibson to their side. The
proposal has been described as
follows:

The planters would tell the king
to dismiss his Cabinet and make
Gibson Premier and Minister of
Foreign Affairs. Then under a
ruling already established by
themselves making appointment of
the rest of the Cabinet by the

premier mandatory, Gibson was to
permit the planters to name his
colleagues—thus assuring planter
control of the Government. 40/

Gibson, however, informed the king
of the plan, and the king in turn
secretly slipped this information to
Green. Green, to aid the king,
resigned, allowing Gibson to be named
by the king "prime minister of ail the
realm." 41/ Gibson immediately naced
persons suitable to himself and the
king to the cabinet. William Green
wrote later: "in a most remarkable
circumstance...Gibson has been lifted
into the highest political position in
the Kingdom by the exertions of his
bitterest opponents." 42/ With this
accomplished, the question of the
Reciprocity Treaty was allowed to rest
for the time, and the treaty was
neither extended nor abrogated: "As
to the renewal of that treaty, after
seven years the king seemed to be
growing indifferent if not directly
hostile." 43/

Financial matters became Gibson's
and Hawaii's biggest problem. The
planter lobby complained of the monies
being used for Hawaiian cultural
programs while the treasury remained
low and business interests took a back
seat. Each appropriation brought
renewed protests from the opposition.
Representative Aholo, representing -he
king's interests, "reminded that those
same men had been made millionaires by
the treaty secured by His Majesty:
'And now they object to him enjoying
any of the money l'" 44/ Even with the
planters* tax money, the treasury
could not replenish itself fast
enough. Gibson turned to borrowing
and "once again Claus Spreckels,
already holding Kalakaua captive in
debt, offered...a loan of \$2,000,000."
45/

Through all of his dealings with
the king, Spreckels had begun to move
toward the Hawaiian viewpoint on

issues, due to his huge financial investments and dependence on the kingdom. This alarmed the sugar planters* They had been able in 1884 to bypass Spreckels' virtual monopoly on handling their sugar exports as "some of them marketed their sugar independently in the United States and, finding they could do so successfully, all were eager to break with him." 46/ In 1883, Premier Gibson had also promised Spreckels the monopoly on transporting Chinese immigrants—a monopoly that had already been promised to an American firm. Sanford Dole, in a December 1883 meeting of soon-to-be reformists, discussed renewal of the reciprocity treaty. He stated that Gibson's act of giving Spreckels a monopoly on transporting immigrants was "likely to endanger Hawaii's treaty relations with the United States at a crucial time." 47/

Attacks on Gibson's policies continued so unceasingly that he became "the sole issue of the 1886 legislative campaign." 48/ At this time "the king had at last wearied of domination by Claus Spreckels, the Opposition effected an alliance with the king and his party, and expressed distrust in the existing Cabinet." 49/ Spreckels¹ hold over the king was thus finally broken, despite Gibson's protests. Two cabinets were dismissed and replaced with Gibson still as premier. Reform members had been voted into the Assembly in 1886, including Lorrin A. Thurston, who would play a major role in the formation of a republic.

Cabinet Government Formed

The reformers regarded themselves as a "morally righteous group" who finally took action against the king and Gibson for two main reasons: their attempt to create an empire, and the king's action on opium licenses. Concern focused on the "attempt to establish an Empire of Polynesia, with

Kalakaua as ruler;" and on the fact that the king was "accepting money for the license to import opium from two different individuals." 50/ Although the opium license problem had far less world impact than the matter of creating a Polynesian empire, it raised the ire of the reformers from the start. Several of the reformists had gone home from the legislature on private business, whereupon "the Royalists seized the reins and by a bare majority passed an opium license bill which was signed by the king in spite of outspoken public protests." 51/ The problem was compounded when it was learned that the king had evidently accepted money for the license from more than one individual.

The other event that brought the reformers to action was the attempt to implement Gibson's dream for the king of creating a Polynesian empire. This dream had been given fresh impetus after the king's world tour, where he saw that his European fellow sovereigns had expansionist dreams as well. As a result:

In 1880 a resolution was passed in the legislature which created a Royal Hawaiian Commissioner to represent the government to the peoples of Polynesia. Three years later the government sent copies of a policy statement to twenty-six nations stating that the various islands of Polynesia should be allowed to govern themselves and not be annexed by any major power. 52/

Although most nations disregarded this statement, Kalakaua decided in 1887 to implement his dream by sending a delegation to Samoa with the responsibility of "forming a political confederation." 53/ Germany was at the same time in the process of making Samoa a colony. When Bismarck learned of Hawaii's confederation, he sent angry messages to Washington demanding

that Hawaii not interfere. The U.S. State Department took action and "Kalakaua was ordered to cease and desist from all inflammatory acts in other territories." 54/

The damage to Kalakaua had been done. The opposition had had enough of his conduct and his over-spending. The Hawaiian League was formed in December 1886, consisting of reformers and part-Hawaiians. The goals of this secret opposition group were divergent; "the conservative members simply wanted to force Gibson out of office, while the radicals wanted to overthrow the monarchy and establish a republic or seek annexation to the United States." 55/ The membership, numbering about 400, was led by ruling officers called the "Committee of Thirteen." These leaders included Sanford Dole, Lorrin Thurston, W. R. Castle, and others who "announced, in Honolulu's newspapers, that it [the Hawaiian League] intended to dethrone Kalakaua--and that it had the armed might to do so." 56/

Events Leading to the 1887 Constitution 57/

The Hawaiian League acquired the Honolulu Rifles as a military ally in 1887. The Honolulu Rifles company:

...was organized in the spring of 1884 by a group of men reported to be "interested in the formation of a semi-military and social organization." It had the approval of the cabinet and of Kalakaua, who suggested the name for the company, and it became one of the recognized volunteer military companies of the kingdom. It was an all-haole company, and made its first public appearance on April 26, 1885...The early enthusiasm [for it] soon waned and the Rifles

attained relatively little prominence or importance until after Volney V. Ashford was elected captain on July 28, 1886. 58/

The Rifles went through various reorganizations and added members to their totals so that "at the end of June [1887], therefore, when the political crisis came to a head, the Honolulu Rifles consisted of a battalion of three companies commanded by Lieutenant Colonel Volney V. Ashford." 59/ Ashford, with his decided military bent and one of the Hawaiian League's future radicals, was a Canadian who came to Hawaii about the beginning of 1885.

It is impossible to ascertain the exact date that the Honolulu Rifles joined the Hawaiian League as their military ally. What is known is that Volney Ashford was their commander when the alliance occurred. Sanford Dole, an original member of the Hawaiian League, described the Rifles and their alliance with the League as follows: "A military organization of volunteers, young men of Honolulu, in several companies, a growth from the original Honolulu Rifles, was won to the support of the league, the commander, Colonel V. V. Ashford, becoming an enthusiastic advocate of its plans." 60/ Kuykendall states that: "in all probability it was not a mere coincidence that the rapid expansion of the Honolulu Rifles occurred simultaneously with that of the Hawaiian League." 61/

Because the Hawaiian League was a secret organization, its origins and early history can only be found in papers of its original members, who played an active part in the League. There are only three published accounts of the League, and "these accounts were written long after the events which they describe; Dole's in 1916, Ashford's in 1919, and

Thurston's in the period 1926-1930." 62/ The objective of the league,

...as stated in section two of its constitution, was "constitutional, representative Government, in fact as well as in form, in the Hawaiian Islands, by all necessary means." Within the League there developed a radical wing and a conservative wing. The radicals favored abolition of the monarchy and the setting up of a republic; some of them wished to go further and seek annexation to the United States. The conservatives, on the other hand, favored retention of the monarchy, but wanted a change of ministry and a drastic revision of the constitution of the kingdom; for them a republic was a last resort, in case the king refused to agree to the reforms demanded. 63/

With respect to the issue of annexation, "Volney V. Ashford, not a very reliable witness, wrote to Commissioner H. H. Blount on March 8, 1893: 'The plan of the movement of 1887...embraced the establishment of an independent republic, with the view to ultimate annexation to the United States.'" 64/ But S. B. Dole, in a letter of December 23, 1893, to Minister A. S. Willis, said that the revolution of 1887 "was not an annexation movement in any sense, but tended toward an independent republic, but when it had the monarchy in its power, conservative councils prevailed..." 65/

At a later time, W. R. Castle wrote,

There was a very strong element in the league determined to bring

about annexation to the United States, but prior to the mass meeting which finally resulted in a revolution. •.this annexation element after a long and very bitter discussion, was defeated and the Hawaiians, meaning thereby those of Hawaiian birth, parentage and affiliation, procured a promise on the part of the league that its attempts would be confined to a reformed Hawaiian government, under sufficient guaranties to insure responsible and safe government." 66/

More important than these statements, however, is that the "strong support given to the 1887 movement by the British residents of Hawaii is good evidence that the idea of annexation was not a major factor in it." 67/

As noted previously, the opposition to the policies and actions of Kalakaua and his cabinet under Gibson motivated the formation of the Hawaiian League. The abhorrence of and opposition to Gibson and his policies is nowhere more evident than when the Hawaiian League's committee drafted and sent a set of resolutions to Kalakaua. The first resolution called for the dismissal of his present cabinet and the second specifically called for Walter M. Gibson's "dismiss[al] from each and every office held by him under the Government." 68/

The absence of any direct American involvement in the events that led to the Constitution of 1887 is fairly well documented. The management and control of the Hawaiian League was vested in a "Committee of Thirteen," whose exact make-up "was a fairly well-guarded secret; it is known however, that there were occasional changes in its composition." 69/ It

appears that American nationals (that is, "American expatriates") comprised only a small part of the membership of the Committee of Thirteen since: 70/ "The feeling of dissatisfaction with the government and the desire for a change was shared by haoles of all nationalities and by some native Hawaiians." 71/ The editors of major newspapers in opposition to Kalakaua were largely British nationals. With respect to petitions that nationals sent to the American and British Ministers, there appears to be "no reason to believe that any of the governments appealed to would have ventured to interfere in the internal politics of Hawaii." 72/

H. A. P. Carter, the Hawaiian Minister in Washington, held a meeting with U.S. Secretary of State Bayard on July 6, 1887, in the United States. Carter told Bayard that:

...the state of affairs In Hawaii was very critical, and he wished to know what would be the action of the commander of the United States vessels that might go there, or the action of the U.S. Minister, in case the other foreign powers were to land forces for the purpose of protecting their citizens against what he called "the mob" ...that if that was done, Major Wodehouse, British Minister,... who is an aggressive man, would no doubt move promptly to the defense of his people...••

I [Bayard] said it was simply impossible for me to tell; that I could give no information upon a purely supposititious case...73/

Apparent American opposition (at least on the part of the U.S. Minister in Hawaii) is revealed in a letter written by Carter's son, Charles, to Bayard in 1894. He states:

In June, 1887, my father...came to...Michigan, to attend my graduation...He was compelled to leave in the midst of the festivities because...he learned that it was the intention of the United States Government to send the warship Adams to Honolulu to protect the late King Kalakaua and his government from the anticipated Revolution predicted in the then latest despatches and he further told me that in consequence of his assurances to you, that the revolution was being conducted by his friends and would be in the best interests of Hawaii, that the orders to [U.S.] Minister Merrill and the warships at Honolulu were not to interfere with those conducting the revolt ...I have since learned from those [in] Honolulu that up to a short time before the revolt [was] consummated, Minister Merrill was indifferent if not hostile to the party of reform, but at the last moment changed in his expressions and did not interpose as had been feared...74/

Already confronted with considerable opposition to its financial policies and its "Oceania supremacy" aspirations (also known as the "Samoan policy"), in 1887, the Gibson Administration confronted an additional problem--rumors of bribery and graft concerning the granting of licenses to import opium. The Hawaiian Gazette, on May 17, 1887, printed a synopsis of twelve affidavits, including one by T. Aki, a Chinese rice-planter who failed to receive a license, even though a "present" of \$75,000 had been given to the king. 75/ British Commissioner Wodehouse had informed his government five weeks earlier about these charges

and stated "the truth of which...no one hardly doubts...Great indignation is felt at the transaction." 76/

Wrxiehouse had written even earlier:

• In view of the widespread and deeply seated feeling of dissatisfaction, amounting almost to hostility, with the manner in which the Government of this country is now carried on, it seems to me that a crisis must arrive before long." 77/

Against this backdrop, U.S. Minister Merrill forwarded, on May 31, a complete set of the affidavits of Aki and others to the Secretary of State in Washington. Minister Merrill also reported:

public feeling has been intense against the King while the daily press has been outspoken in denouncing the King, the Ministry and nearly all officials throughout the Kingdom. Among the people, foreign residents especially, there has been aroused a feeling that a change must soon occur from the highest to lowest official. Of late I have heard it remarked that no change would be satisfactory unless it was one deposing the King, changing the Constitution and adopting a republican form of government.

!§/

Merrill wrote shortly afterwards though that he had "quietly counseled [to Americans] moderation and the adoption of peaceful measures as the best method of bringing about a proper administration of affairs." 79/

On June 27, 1887, the day before Kalakaua dismissed his cabinet in hopes of heading off further trouble with the opposition, he made a request to see American Minister Merrill. Kalakaua proceeded to explain to the

minister that he had sent for him, "to ask your advice, unofficially but as a friend, concerning the present political situation and I desire you to acquaint me with your ideas of the cause of excitement and what is best to be done." 80/ In his report back to Washington, Merrill stated that:

I at once informed him that there were loud complaints against the manner in which the public funds were being expended, that instead of being expended on necessary internal improvements, such as dredging the harbor, repairing roads and bridges, they were being expend'd in the purchase and repair of a training ship and equipping her for an unnecessary expedition, the sending of a Mission to Samoa and maintaining unnecessary agents in foreign countries.

I also informed him that from my observation, of late, there was great unanimity in the demand for the removal of his present Cabinet and the substitution of men well known in the Community and in whom the people had confidence, that there was much complaint among the people on account of the belief which was prevalent that His Majesty interfered with the actions of his Cabinet in all matters directly or indirectly affecting the revenues—especially in political elections, appointments and Legislative action, therefore there was much unanimity among the taxpayers that the Cabinet should be left to act independently and made responsible to the people direct.

I informed him that I believed the retention of the present Ministry was daily intensifying the people and that, since he had

frankly asked my opinion, I thought it was better for many reasons to heed the voice of the people especially those who were paying the taxes, had accumulated wealth in the country and were directly interested.

In fact, I conversed with him for about one hour upon the foregoing and kindred subjects to which he listened with much apparent interest and when I rose to leave he remarked that it was now about 11 o'clock and that I would hear of changes in the Cabinet within 12 hours*

On the following morning, June 28th I received information that Mr. Gibson and all the cabinet had resigned. 81/

From the above it can be seen that Kalakaua specifically called for the meeting with American Minister Merrill to ask for his advice. Nothing in the dispatch would indicate that Kalakaua asked for more than this, or that the American minister had demanded that Kalakaua change his cabinet officials.

Of this change in the cabinet, Kuykendall writes that: "Apparently the king and Gibson believed, or at least hoped, that a change of ministry, including the latter's removal from the government, would be enough of a concession to quiet the clamor for reform." 82/ However, this belief was not correct, a Hawaiian newspaper wrote:

...We are not in the humor to accept any compromise that will allow an opening for a reproduction in the future of what we have had too much of in the past. A real, complete, thorough change...is what the intelligence and respectability of the country want...Moreover, there must be a

positive and undeniable guarantee of its continuance. The king must be prepared to take his own proper place, and be content to reign without ruling. We want capable, responsible Ministers, not irresponsible clerks. 83/

Reports that the king was attempting to form a coalition cabinet with W. L. Green and had called out the Honolulu Rifles to protect government buildings, generated still more opposition against him. The result was a public meeting of the king's opponents on June 30. L. A. Thurston read a set of resolutions prepared by the Committee of Thirteen of the Hawaiian League that included the commitment "to the policy of securing a new constitution," as well as calling for the dismissal of Gibson and the cabinet. 84/ The Committee of Thirteen presented these resolutions to the king, requesting a reply within 24 hours. 85/

On the morning of July 1st, Colonel Ashford and the Honolulu Rifles seized a shipment of arms sent to Hawaii, thinking they were intended for the king. Later that same morning, "after the firearms seizure, Lieutenant Colonel Volney Ashford, with a squad of the Honolulu Rifles, went to Gibson's residence, took him and his son-in-law Fred Hayselden into custody...[and] threats to hang Gibson were made by Lieutenant Ashford and other noisy radicals, but any such purpose was promptly vetoed by the executive committee of the Hawaiian League." 86/ These actions by the Honolulu Rifles indicate that during the evening of June 30 and the morning of July 1, 1887, the "control of the city of Honolulu was in the hands of the Honolulu Rifles who were acting theoretically, but not always in fact, under the direction of the executive committee of the Hawaiian League." 87/

With these events of the morning of July 1 in mind, Kalakaua called for a meeting of the foreign national ministers. American Minister Merrill wrote the following about this meeting:

About twelve o'clock...His Majesty sent for the British, French, Portuguese and Japanese Commissioners and myself to meet *him* at the Palace.

When all had assembled His Majesty, evidently being much alarmed, stated that an armed force had recently arrested a late member of his Cabinet, Mr. Gibson, and as armed men were patrolling the streets, and not knowing what the next act might be, he desired to place the control of the affairs of the kingdom in our hands.

This offer we informed him could not be accepted and it was the desire of all the representatives of other powers that he should maintain himself in authority and as he informed us that he had agreed to the wishes of the people, expressed at the Mass Meeting the day previous, and would shortly so inform the Committee in writing, we advised him to at once authorize Mr. Green, if he was the person selected, to form a Ministry when it was believed affairs would assume a quiet attitude. We immediately retired and, passing down to the central portion of the city, assured the people that the King had acceded to their request and was now forming a Ministry with Mr. Green as Premier and no necessity for further excitement existed. 88/

From the above quoted dispatch it appears evident why the foreign ministers, including Merrill, did not

want to accept Kalakaua's offer of "placing control of the Kingdom in our hands." The ministers, including Merrill, wanted Kalakaua to stay in authority and were convinced there was every reason to believe things would quiet down since he had agreed to the resolutions of the committee of the Hawaiian League. 89/

Kalakaua, after this meeting, signed and sent his acceptance of the resolutions to the committee. W. L. Green then sent, and the king accepted, a list of cabinet ministers that included W. L. Green, Godfrey Brown, Lorrin A. Thurston, and Clarence W. Ashford. American Minister Merrill wrote that all, except Thurston, were of British origin, and the "principal American merchants...generally coincide in the opinion that the present Ministers are satisfactory, and favorable to the welfare of this kingdom." 90/ Merrill's dispatch concerning the approval by the American merchants of the cabinet is especially noteworthy, since it was well known that the British wanted Hawaii to remain independent and not be annexed to the United States.

The Constitution of 1887 was not actually completed and signed by Kalakaua until July 6. The "new constitution, drawn by the committee and never submitted to the people, was handed to the king and he signed it." 91/ The "bayonet constitution," as it was known (written mainly by Lorrin A. Thurston 92/), made the king more of a ceremonial leader and effectively ended much of the monarchy's power. This was "summed up in the three words" that changed Article 31 of the prevailing 1864 Constitution from "To the King belongs the Executive Power" to the new constitution Article 31 which read "To the King and the Cabinet belongs the Executive power." 93/ The new constitution also incorporated property and income

requirements to vote and hold office that effectively brought control of the government within the sphere of the planters and merchants and: "In return for this drastic housecleaning, [Kalakaua] was allowed to keep his job as king." 94/

In defending the actions of the reformers in forcing the king's hand, Attorney General C. W. Ashford stated:

If the New Constitution had been submitted to the Legislature it would simply mean that at the end of two years the king would say "This does not suit me," and kill it by absolute veto. There was only one way to proceed, and that was to arbitrarily force the King into giving us a better form of government. 95/

Reciprocity Treaty Renewal-1887

While the reformers had been in the process of revolt, the commander of the armed wing of the revolutionaries (the Honolulu Rifles), Volney Ashford, "had been selected by the Gibson administration to go to Canada to negotiate a reciprocal trade agreement with that country." 96/ This occurred only days before the reformers took over and raised questions as to whether Ashford had pocketed some of his commission pay for protection money for the king. Because of the timing, it is not clear whether the government had seriously intended to make such a treaty with Canada.

With regard to the Reciprocity Treaty between Hawaii and the United States on the other hand:

Between 1883 and 1887, the reciprocity treaty had neither been terminated nor renewed by the United States. The Senate had, at first, been in [the] mood

to scrap it, but the State Department, worried over Britain's and Germany's high interest in the Pacific, had insisted on keeping the vacuou* treaty alive. Suddenly now, after Kalakaua had been ignobly driven to the corner, the United States asked for the renewal of the agreement. This time it formally demanded cession of Pearl Harbor to the United States. This time-insistently prodded by the reform cabinet-the chastened and worried king signed a new and changed state document. 97/

Prior to approval of this agreement, Secretary of State Blaine had instructed U.S. Minister Comly (in 1881) that the American Government would not permit the transfer of Hawaiian territory or sovereignty to any European power. 98/ This was followed in 1884 by a resolution from the U.S. Senate Committee on Foreign Relations that not only advised the President to extend the reciprocity treaty, but also suggested that Hawaii should be requested to permit the establishment of a "naval station for the United States in the vicinity of Honolulu." 99/ Despite this attitude on the part of the Senate, "the supplementary convention with Hawaii was not agreed to by the Senate during the continuance of President Arthur's term of office." 100/

Again on April 14, 1886, the Senate Committee on Foreign Relations made a favorable report on the supplementary treaty of December 6, 1884. 101/ The Committee also recommended an amendment that would give the United States the right to establish a naval base at Pearl Harbor. Of this recommendation one author says:

There was little doubt that members of the Senate Committee on Foreign Relations were anxious to forestall any attempt by a European Power to secure some means of control over Hawaii. The cession of Pearl Harbor as a naval station would definitely place the United States in a position of dominance in the islands, and this very fact accounted for the reluctance of the Hawaiian Government to make a favorable response to this Senate suggestion. 102/

This concern in the United States about foreign influence was exacerbated in late 1886 by rumors that Hawaii was going to float a \$2 million loan, negotiated in England, that would "pledge the public revenues of the Hawaiian Kingdom as a collateral security for that loan." 103/ The United States felt this would interfere with their preferred rights gained under the 1875 Treaty. This situation, along with hints received of attempts to negotiate a treaty between Hawaii and Canada, was enough for the United States Senate to approve a new treaty of reciprocity with Hawaii on January 10, 1887. The king quickly approved it after the reformists' revolt.

Cas. i uet Government and Attempts to
Regain Powers of the Monarchy,
1887 to 1891 104/

The remaining years prior to the establishment of a Provisional Government in 1893 were marked with sporadic attempts by the native Hawaiians to regain some measure of their power:

The men who carried through the Revolution of 1887 thought they had, in the constitution of

that year, formulated the conditions under which monarchy could continue to exist in the Hawaiian islands...But the Hawaiian monarchy did not willingly accept the role assigned to it by the Constitution of 1887. It wanted the sovereign to be not merely a glamorous symbol of the power of the nation but the actual repository and wielder of that power as he had been in earlier years. The conflict between these two concepts of government is the most important feature of the history of the remaining years of the kingdom. 105/

Under Article 80 of the new constitution of 1887, elections were required to be held within ninety days for nobles and representatives. A campaign preceded the election, which was to be held on September 12, 1887. Meetings were held by the opposition in which objections were raised to the suffrage provisions of the constitution (Articles 59 and 62), which excluded all persons of Asiatic birth from the privilege of voting. A Hawaiian lawyer, J. M. Poepoe, a leader of the native Hawaiians, also objected to the suffrage provisions and suggested a petition to the king. 106/

Resolutions were adopted a short time later by the opposition (that is, the natives) requesting that "the new Constitution be abrogated, and the old one reestablished; that all volunteer companies be forthwith disbanded and that all the arms and ammunition in possession of citizens be taken away from them." 107/ In response to these resolutions, the king replied: "the new constitution (his constitution) was better than the old and that it enlarged rather than curtailed the civil rights of the people." 108/ The king was later reported to have made

a speech in which he spoke "at some length regarding the changes that had lately taken place, advising the natives to go to the proper offices and take the oath to support the new Constitution and thereby qualify themselves to vote." 109/

The reformist (i.e., government) party won the election, and it "was clear that many of the native Hawaiians, especially on the outside islands, had voted for the reform candidates." 110/ It was noted, however, that on Oahu and in Honolulu there was strong native population opposition and that "it was the votes of foreigners, including the Portuguese, enfranchised by the new constitution, that gave the Reform Party its decisive victory." 111/

The reformers proceeded to either repeal or enact laws that further eroded the power of the king. However, Kalakaua still retained the power to veto legislation under the Constitution of 1887 and after the elections of 1887 promptly proceeded to veto five bills. One of these was "an act relating to the military forces of the kingdom (providing for a salaried brigadier general as commanding general, and transferring general supervision of the military from the minister of foreign affairs to the minister of the interior)." 112/ The Minister of Foreign Affairs at the time was Godfray Brown, a friend of the king who had tried to disband the Honolulu Rifles and change relations between the cabinet and the king, in the king's favor. The enactment of this law was "understood to be a slap at Minister Brown." 113/ Princess Liliuokalani wrote in her diary on November 14, 1887, that: "John [her husband] and I discussed on the weakness of everyone. The King, the Court, the city wants to get rid of the Rifles and yet do not dare to. How laughable." 114/

The veto power used by Kalakaua was questioned by the legislature and a

resolution was passed on December 12, 1887, that circumvented the king's vetoes. The resolution stated that the enactments "do go upon their usual and ordinary course, becoming law at the expiration of ten days from the date of presentation to the king." 115/ Thus, the five bills became laws. However, Kalakaua took his case to the Hawaiian Supreme Court and in a test case heard on February 2, 1888, by a decision of 4-to-1 the judges sustained the king's right to veto legislative acts "in pursuance of the power given him by the Constitution," which is "a personal one and does not require the advice and consent of the Cabinet." 116/

During this same period, suggestions arose that Kalakaua should abdicate in favor of his sister, Princess Liliuokalani, because of the sharp conflict between Kalakaua and his cabinet. The suggestion recurred, according to American Minister Merrill, in conversations the latter had with Ministers L. A. Thurston and Brown. Merrill reported to Bayard that Minister Brown had told him "the subject of the abdication of the King in favor of H.R.H. Princess Liliuokalani...was spoken of..." 117/ On December 20 and 23, 1887, Princess Liliuokalani was asked about the subject of taking the throne by members of the cabinet. Her answer to them, which she wrote in her diary was: "if it was particularly necessary if the King abdicated I would—if [the King] was doing wrong—I would but not till then. In the evening went and told the King." 118/

Accounts of this whole incident vary. According to Kuykendall:

The account of this episode by Liliuokalani in her book Hawaii's Story by Hawaii's Queen, pp- 186-189, is obviously quite inaccurate. The account by Thurston in his

Memoirs of the Hawaiian Revolution, pp. 175-179, points out some of the discrepancies between Liliuokalani's diary and her book; but he makes no mention of the discussion within the cabinet and implies that there was none. 119/

Political accommodation was achieved, however, and the differences between the king and cabinet were ended for the time being with the appointment of Jonathan Austin to replace Godfrey Brown as Minister of Foreign Affairs and the appointment of Sanford Dole to the Supreme Court. 120/

However, the idea that Liliuokalani should take over grew because native Hawaiians and their friends considered the king far too submissive in the face of the demands of the reformers. 121/ Liliuokalani held meetings with her supporters and in 1888 wrote in her diary:

[January 16:] W. comes to W. on matter of importances--I advise them to use only respectful words and no threats but to explain the situation to him [the king] how everything and the state of the country might be changed should he abdicate if only for a year, then he should take the reigns [sic] again, and reign peaceably the rest of his life. W. and W. went to the King and after explanations he told them he would think it over...[January 17:] W. told me the result of their proposition to the King--he said wait a while--I said yes, then wait. 122/

Further information concerning this event can be found in the records of

the cabinet, where Thurston, on January 18, reported "information as to a native secret society organized with a view to removing the King and putting Mrs. Dominie [Liliuokalani] in his place." 123/ The minister of foreign affairs, however, assured the king "of "the support of the Cabinet against any effort to unseat him" if the king would abide by the cabinet and its advice. To this the king agreed, "but requested that no publicity be given to the matter, and to this the cabinet agreed." 124/

The king's expressed willingness to abide by the cabinet's advice did not last long. For example, the king fought the cabinet's attempt to change Hawaiian representation to London. The king's spirit of cooperation was also eroded by his fury at what he considered the cabinet's attempt to discredit him by implying he allowed the importation of liquor to sway votes. Furthermore, on October 1, 1888, the king appointed G. W. Macfarlane as his chamberlain, but the cabinet refused to recognize the appointment or pay his salary. British Commissioner Wodehouse wrote that it:

...would not be favorably regarded by the majority of the Foreign Residents: but would, on the contrary, tend to excite suspicion and distrust, as indicating a disposition on the part of His Majesty to recur, if possible, to a reactionary policy, Colonel Macfarlane being associated in their minds with Loan's and an extravagant Financial policy. For the Cabinet it would mean increased antagonism on the part of the King, and consequently, a widening of the breach already existing between His Majesty and His Ministers. 125/

Macfarlane's salary was finally paid when the Hawaiian Supreme Court decided against the cabinet on February 26, 1890. The Court "held, that the appointment of Chamberlain was personal to His Majesty, and did not require the approval of the Cabinet" and "that the salary of the office follows the title to it." 126/

The 1888 law concerning military forces, passed over the king's veto, was an additional concern for the king. V. V. Ashford was nominated to have a controlling power in the military. The British Commissioner wrote at this time that: "Colonel Ashford has recently made himself so notorious that he has lost the support of his party, and a considerable portion of the 'Rifles.'" 127/ Despite this, Ashford won the nomination, but the king refused to sign it, remembering Ashford's part in the events leading to the 1887 Constitution. The cabinet bypassed the king once again by saying Ashford was "constructively in command" without the signed certificate. (It should be noted here that Ashford's loss of favor with the reformists eventually led him into the camp of the opposition later on.)

The series of events chronicled above created the conditions that led to the insurrection of July 30, 1889. This insurrection was led by the same Robert W. Wilcox who was considered "the principal leader of the agitation among the Hawaiians" during 1887-88. 128/ Princess Liliuokalani had befriended and supported Wilcox during this period until his departure from Hawaii for the United States in early 1888. On his return to Hawaii in April 1889, Liliuokalani again befriended Wilcox and gave him permission to live in her unoccupied Palama residence. Sometime in June, Wilcox held the first of seven meetings in which the insurrection was planned. 129/

At the first meeting (consisting of "a small group of men, all haoles") Wilcox formed a secret society called "the 'Liberal Patriotic Association,' of which Wilcox was president and the Belgian Albert Loomens was vice-president, its stated purpose being to restore the former system of government and the former rights of the king." 130/ The movement was believed to be largely financed by the Chinese and it was not until the fifth meeting that, "for the first time, native Hawaiians were admitted." 131/

The king and cabinet were warned of Wilcox's actions by both the American and British Ministers in early July. 132/ Despite this warning, British Commissioner Wodehouse wrote: "Meetings still continue to be held at the Princess's residence by Mr. Wilcox, who is purchasing arms wherever he can get them. It is strange that he is not arrested." 133/ The Hawaiian government made no arrangements to meet this crisis, in spite of its knowledge of Wilcox's activities. This inaction may be explained by American Minister Merrill's statement of August 1, 1889, that:

...it was recently ascertained on what seemed very reliable authority that no overt acts would be committed prior to the next general election in February, when it was thought the present ministers would be defeated at the polls. 134/

Wilcox, however, did not wait and on July 30, 1889, marched with his followers on Iolani Palace and occupied the grounds. Kalakaua was not at the palace and could not be enticed by Wilcox to return there. According to one author, Wilcox's objectives in this action were to "(1) replace the Constitution of 1887 with one similar to that of 1864; and (2)

to get rid of the Reform cabinet." 135/ It is unclear what his intentions were with regard to Kalakaua. It has been suggested that Kalakaua was in sympathy with Wilcox until he learned of Wilcox's plans to depose him in favor of Liliuokalani, although she denied this. 136/ In any event, the government mobilized after learning of Wilcox's actions, and before attacking told the foreign ministers "that they desired to fully inform us of their contemplated action in the present emergency" but, at Minister Merrill's suggestion, "endeavored to communicate with Mr. Wilcox before attacking." 137/

When this attempt failed, the firing began, and Wilcox and his men eventually surrendered. During the morning, when reports of firing were heard, Minister Merrill "requested Commander Woodward to send to the legation a body of marines," which was supplemented by others later in the day to serve "as a precautionary measure in the event any assistance to preserve order might be required." Quiet ensued during the night, and "early the following morning all the men belonging to the Adams returned to the ship." 138/ Wilcox's revolt was crushed in one day, but he won some measure of victory since he "was tried by a native judge as the law required and was acquitted." 139/

As a result of the insurrection and the king's continued objection to many of the cabinet's actions, a statement was drafted by the cabinet for the king's signature prescribing that: "the powers and responsibilities of the ministers and His Majesty should be clearly understood and precisely defined." 140/ The king objected to signing the statement at first but, at a meeting with Ministers Merrill and Wodehouse, he told them he had decided to sign. British Commissioner Wodehouse wrote of this meeting:

Before leaving His Majesty, we explained the hope that he would now accept the role of a Constitutional sovereign, and leave responsibility of Government with his Ministers; and I remarked that if the country was not satisfied with their conduct, the remedy lay in the polls in February next. 141/

From this time until the general election, further political problems occurred with rifts in the Reform Cabinet, opposition to renewal of the reciprocity treaty, and an anti-Chinese movement. Two major parties formed: the National Reform Party (on Hui Kalaiaina, headed by Robert Wilcox and supported by many haole aliens), whose goal was to revise the constitution and oppose both continued importation of Asian laborers and annexation to the United States; and the Reform Party, supporting the government. The intensity of the pre-election debate was so great that British Commissioner Wodehouse wrote: "The feeling of both parties is very bitter, and perhaps may bring about a collision." 142/

Wodehouse's fear of violence was such that the day before the election he convinced the recently-appointed American Minister Stevens to agree:

..."that Guards for the English and American Legations should be landed tomorrow morning from the English and American War ships now in the Port." Informed of this fact by Stevens, the cabinet ministers vigorously objected to such landing, saying that every precaution was taken to prevent disorder and that the government would provide special guards for the legations if such was requested. The diplomats thereupon cancelled their plan and stated no guards would be needed. 143/

In spite of these fears, the election was peaceful. The opposition National Reform Party (or Hui Kalaiaaina) won half the party seats in the Hawaiian legislature. The election was regarded as a victory by the opponents of the reformers in the government and a defeat of those who favored a policy of closer alignment with the United States. A reformer, W. D. Alexander, wrote the following concerning the election results on Oahu:

One element, which turned the scales against us, was the strong anti-American feeling of the British and many of the Germans, to say nothing of the natives and half-whites. 144/

After the election, the National Reform Party was assisted further by the introduction of a resolution in the legislature "declaring a want of confidence in the ministry because of the dissension within the ranks." 145/ Although this resolution was not voted on, the cabinet resigned anyway and a new cabinet was appointed by the king. The new cabinet consisted of four ministers: one part-Hawaiian, one British by birth, and two born in the United States (one of whom was a personal friend of the king). 146/ Kalakaua had thus managed to remove the Reform cabinet.

Shortly afterwards, a resolution was introduced in the legislature asking whether the new cabinet would discuss the subject of a new constitution. The president of the legislature responded that the sponsor of the resolution "might as well ask the Ministers if they intended to hold a revolution." 147/ In spite of this block in the legislature, a mass meeting of citizens supporting a new constitution was held and committee meetings on the subject were subsequently held. These meetings were led by Robert W. Wilcox and others

who presented a resolution to the king on August 14, 1890, calling for the "King to request the Legislature to enact a Law authorizing You to call Convention for the purpose of drafting a suitable and equitable Constitution for Your Kingdom..." 148/

On August 15, Kalakaua, without consulting his ministers, sent a message to the legislature referring to the resolution petition and stating that it was his "Royal Pleasure that the Legislative Assembly...take such measures as would carry out the intention of the people expressed in that Petition." 149/ This message and the bills that followed, forced the legislature to form a committee to consider the desirability of a new constitution.

As these events proceeded, American Minister Stevens wrote:

The businessmen and the more responsible citizens of the islands are greatly disturbed. For good reasons they fear to have the country convulsed by such an issue. The English commissioner and the undersigned have been urged confidentially by the leading members of the cabinet and by the most conservative of the Legislature to counsel the King against the rash and dangerous step. 150/

Stevens and British Commissioner Wodehouse then agreed that they would talk to the king together. Of this meeting, Wodehouse wrote:

We told the King that we came as His friends, and as the Representatives of two Powers who had the most friendly Relations with Him and that looking to the "large interests" which we had to protect, we thought that our duty to our Governments required us to point to His Majesty the disastrous

results to Himself, and to His Kingdom which would, in our opinion attend any attempt to force through the Legislative Assembly such a measure as that recommended in His Message to that body on the 15th instant.**

We said, Whatever grievances Hawaiians might have to complain of under the present Constitution, and we did not say that there were none, a means for redressing them is provided by the Constitution. To go outside of that would be to get on dangerous and Revolutionary ground. The country, we said required peace, which meant prosperity. 151/

Kalakaua was so displeased with the diplomats' comments, particularly those of Wodehouse, that he asked that Wodehouse be replaced by "some person more lively to the British interest." 152/

The movement for a constitutional convention continued to the point where Robert Wilcox stated in the legislature on September 9, 1890, that:

There was danger of another revolution and the streets being made sticky with blood, if the wishes of the people were to be persistently thwarted as at present. It would be a worse revolution than that of 1887, and some of the finest buildings in Honolulu would be blown up. He would take a hand in it himself... 153/

After this speech British Commissioner Wodehouse wrote: "My colleague [Stevens] and I, have, under these circumstances, called upon the commanders of our National Ships to hold themselves in readiness for any emergency." 154/ On September 25, 1890, Stevens wrote: "There are threats of attempts to

constrain the Legislature by intimidation and violence. But at present writing it looks like a pacific solution by the approval of some Constitutional amendments..." 155/ The events did not turn violent, however, and relative calm ensued after the legislative committee considering the bill for a constitutional convention rejected it. Opponents of the bill believed that pending proposed constitutional amendments would "correct all the really objectionable features of the constitution." 156/

On January 20, 1891, King Kalakaua died and Princess Liliuokalani became queen. The queen immediately moved against the reformers by appointing cabinet members of her choice and giving Kalakaua a large state funeral. She also developed a plan (initially secret) for a new constitution for Hawaii. This would eliminate the "bayonet" constitution of 1887 and restore control of Hawaii to the monarchy and the natives.

Because many of Liliuokalani's policies were opposed to the goals of the reformers, "there was a marked increase in annexation sentiment" during 1891 and 1892. 157/ This sentiment contributed to the fall of the monarchy and the formation of the Provisional Government.

Annexation Movements: 1891 and 1892

When Liliuokalani ascended the throne, Hawaii was "in the beginning of an economic depression brought on by the recent change in the tariff law of the United States." 158/ Although the McKinley Tariff Act raising the tariff on Hawaiian sugar imported into the United States did not go into effect until April 1, 1891, an anticipatory reaction was already occurring in Hawaii.

Several courses of action for Hawaii were suggested in response to this new development. These included

actions to: (1) "abrogate the reciprocity treaty with the United States and then make a similar agreement with one or more of the British colonies in the Pacific;" or, (2) "seek to revise the reciprocity treaty in order to make it permanent...and provide for complete free trade." 159/ As it turned out, due to various obstacles, neither one of these courses was to become a reality.

The second approach, revision of the treaty, was the most desirable for Hawaii and a treaty was actually drafted. This draft treaty included the cession of Pearl Harbor, along with complete free trade, and was submitted to President Harrison, who took no action on it. On February 10, 1892, the Hawaiian Special Envoy to the United States, Mott Smith, learned that "the President would not submit this treaty...to the Senate" and that "his chief objection is that the policy of his administration is pledged to 'high protection,' while this treaty requires him to recommend 'free trade.'" 160/

The draft treaty caused a debate in Hawaii that lasted long after the original treaty attempt had failed. On July 9, 1892, Robert W. Wilcox (the leader of the 1889 rebellion) introduced a resolution in the legislature that called for a committee to be sent to the United States to "ascertain the disposition of the United States Government in regard to Pearl Harbor and in regard to some reparation due this country for the injury inflicted by the McKinley Bill,, and also to negotiate for the cession of Pearl Harbor for adequate compensation, and in general to use their best efforts to obtain closer relations with that country." 161/ Several days later Wilcox withdrew the resolution after native Hawaiians protested the request, although he indicated it was withdrawn because it could not be discussed while

the ministers retained their places in the cabinet. 162/ Wilcox, however, again brought up the cession of Pearl Harbor in August 1892. This time he "hinted to the natives that he favored annexation to the United States rather than to see the country go down to destruction through the bad guidance of an unpopular Ministry." 163/

In the minds of some, an additional course of action was open to Hawaii to ease her economic problems—annexation to the United States. 164/ L. A. Thurston, in an editorial of 1884, had written:

For many years there have been a few residents here who have desired the annexation of these Islands to the United States. Their reasons have been various; some believing that under that great Government the permanent interests of the Islands would be best secured; others that mere money could thus be made, and some have always been impressed with the instability and insecurity of the Hawaiian Government. But the majority of intelligent foreigners, and especially those born here of foreign parents, have contended for the independence of the Government. They have believed it to be far more for the interests of the native race that they should maintain an independent Government and a distinctive national existence...It is well known that the United States Government does not desire the annexation of these Islands; the accession of foreign territory is contrary to its policy; but it is certain that Government will not permit its interests here to be sacrificed, nor permit any other foreign Government to control here. When these Islands cease to be self-governing the United States Government will take possession. 165/

During 1891 and 1892, annexation sentiment increased due to Liliuokalani's policies and the defeat of the Reform Party in the 1890 elections. This defeat had discouraged many who saw the Reform Party as the only vehicle to ensure a stable government. They now looked toward the possibility of annexation as a solution. One of those who began to consider the possibility of annexation with increasing favor was L. A. Thurston, who by "1892 was an ardent annexationist." 166/ However, "up to the end of 1891 there was, it is believed, no organized group seeking to promote annexation to the United States." 167/

The elections of February 1892 were complicated by an increase in the number of political parties from two in 1890 (the Reform Party and the National Reform Party) to four in 1892. The Liberal Party, which included Wilcox and many followers of the National Reform Party, was opposed by three smaller parties, including the Reform Party and the National Reform Party. The Liberal Party slogan was "Hawaii for Hawaiians," 168/ and its goal was a republican form of government:

The Liberal Party was the party of the opposition; its campaign orators continued the attack on the cabinet, the queen, and Marshal C. B. Wilson [an influential advisor to the queen] that had been started by [John E.] Bush and Wilcox in the spring of 1891, and these leaders continued to preach the doctrine of republicanism which, said Bush, was gaining favor among the Hawaiians because of the "present rotten condition of officialdom" in the kingdom, a/ In one speech Wilcox explained that "in times gone by he had been a staunch royalist, today he was in the same degree a Republican, he was a strong believer in freedom and justice

and was in favor of a government of the people, by the people and for the people." b/ On another occasion he spoke of the "utter misgovernment of affairs at home. Ignorant fools are conducting the Government. A 'blacksmith' [Wilson] is very influential with the Queen...He is too ignorant a man to be even trusted with any responsible Government position. It is a standing disgrace to the Hawaiian nation...We must all be loyal Hawaiians, and tell the Queen that her present Government is an injustice and a disgrace to the nation. We must not flatter her." c/ "To flatter the Queen would be to inflate her with her own importance, which would cause disastrous results." 169/

Neither the Liberal Party nor any of the other parties was able to win a majority of seats in the legislature in the 1892 election. The election results thus left the legislature in a weakened state. John E. Bush, a Liberal Party leader, wrote: "The practical defeat of the Liberal Party is the lost opportunity of the Hawaiians...It looks now as though the only hope for equal rights in this country lies in--shall we say it--annexation." 170/

During the last year of the Hawaiian monarchy the pace of events became more heated and feverish. Between the election of February 3, 1892, and the meeting of the legislature on May 28, 1892, two major developments occurred, "one overt and one secret, [that] were important elements of what Minister Stevens described as a feverish political situation: (1) an antigovernment agitation and conspiracy fomented by certain leaders of the Liberal Party, and (2) the formation and activities of an annexation club." 171/

The Government put down the Liberal Party conspiracy by arresting many of its leaders when the queen's marshal, "Wilson learned of the secret Hawaiian Patriotic League [and] succeeded in infiltrating it with spies who supplied him with information about the doings of the conspirators." 172/ Kuykendall points out that, given these events, it seemed "that the United States naval force in Honolulu Harbor was in fact affording protection to the queen's government against the menace of possible revolutionary actions by the Liberal faction." 173/

The second major development was the formation of the Annexation Club. According to Kuykendall, "The sole source of information about the origin and activities of the Annexation Club, a secret one—is Lorrin A. Thurston." 174/ Thurston indicated that the date of the Club's formation was January or February 1892. The object of the club "was not to promote annexation, but to be ready to act quickly and intelligently, should Liliuokalani precipitate the necessity by some move against the Constitution, tending to revert to absolutism or anything of the nature." 175/ The organization, which kept no records, was small—never more than seventeen members, thirteen of whom were, on January 14, 1893, appointed to a Committee of Safety that planned and directed the overthrow of the monarchy. 176/ The club members felt that they ought to "know beforehand the probable attitude of the United States Government toward annexing Hawaii," 177/ and Thurston visited Washington in order to get that information. Of his trip, Thurston wrote:

Or. Mott Smith [special emissary of the Hawaiian Government sent to Washington to negotiate a free-trade treaty with the United States]

volunteered to introduce me to the principal authorities, and was present when I met Senator Cushman K. Davis, Republican member of the foreign relations committee of the Republican Senate, and Representative James H. Blount, Democratic chairman of the like committee of the Democratic House of Representatives. My interview with Mr. Blount took place in his committee room at the Capitol, and lasted about a half-hour.

When I had finished my statement, he said: I suppose that you have come to me because you want to know, in case action becomes necessary in Honolulu, what the attitude of the Democratic House of Representatives may be, if the matter comes up in Washington. I replied that he had stated the case exactly. He went on: I do not know very much about this subject, but I can tell you this: if the question does come up, it will be treated here as a national one, and not as a Democratic [one]. I advise you to see Mr. Blaine, secretary of state, and see what he thinks. I explained that I intended to see Mr. Blaine, but that he was ill, and I had not seen him, although I hoped to meet him soon. All right, said Mr. Blount. You do so, and let me know what he says. I agreed.

A few days afterward, I called at the State Department and presented James G. Blaine a letter of introduction from John L. Stevens, United States minister to Hawaii. I made a full explanation to Mr. Blaine: we had no intention of precipitating action in Honolulu but conditions had gone so far that we felt the maintenance of peace to be impossible; we believed

that Liliuokalani was likely at any time to attempt the promulgation of a new constitution. If she tended toward absolutism, we proposed to seek annexation to the United States, provided it would entertain the proposal. A nucleus had been formed in Honolulu to bring the plan to a focus, should occasion arise; that nucleus had sent me to Washington to ascertain the attitude of the authorities there. Mr. Blaine asked: Have you talked to anyone else in Washington on this subject? I answered that I had, mentioning Senator Davis and Mr. Blount.

Mr. Blaine said that he considered the subject of the utmost importance, and continued: "I am somewhat unwell, but I wish you would call on B. F. Tracy, secretary of the navy, and tell him what you have told me, and say to him that I think you should see the President. Do not see Mr. Blount again. I will attend to him. Come to me after you have seen President Harrison." In accordance with the request, I immediately met Secretary Tracy and reported my conversation with Mr. Blaine. Said Mr. Tracy: I do not know whether you had better see the President or not. But come with me, and we will learn what he thinks. We went to the White House. Mr. Tracy had me wait in an outer room while he spoke with the President. After about a half-hour, the secretary reappeared and beckoned me to accompany him outdoors. Then he spoke: I have explained fully to the President what you have said to me, and have this to say to you: the President does not think he should see you, but he authorizes me to say to you

that, if conditions in Hawaii compel you people to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here. That was all I wanted to know. 178/

Before he left the United States, Thurston wrote a letter to Secretary of State Blaine concerning the subject of "Annexation of Hawaii to the United States." Thurston not only described the current situation in Hawaii, but also the plan of action that would be pursued by the Annexation Club. This plan included: "securing the appointment of a Cabinet at the Islands, committed to annexation, and educating the people in favor of annexation; then, if sentiment in Washington was favorable when Congress assembled in December, proceeding to bring about annexation by action of the Hawaiian legislature." 179/ This letter, coupled with United States Minister Stevens' pro-annexation views, leaves little question that the United States Government became increasingly aware of impending annexation movements in Hawaii during 1892.

B. THE FALL OF THE MONARCHY AND ANNEXATION OF HAWAII*

Memorandum from William Dudley,
Research Branch, Naval Historical
Center, to Carol E. Dinkins, Chair,
Native Hawaiians Study Commission
Committee on Federal, State, and Local
Relationships (Dated March 2, 1983)

V This section of the Report was prepared by William Dudley and Lt. Donna Nelson of the Naval Historical Center. See above, page 265.

Subject: Public Comments on Draft
Report of Findings of the Native
Hawaiians Study Commission

1. This replies to a request from your office that we respond to public comments to Part II.B., "The Fall of the Monarchy and Annexation of Hawaii," which was researched and written in this office at your request.

2. The written comments that you forwarded to this office were contained in letters and lengthy memoranda from Native Hawaiians or those who share their views. The general tenor of these comments was a critical reaction to the content and sources used in researching and writing the sub-chapter.

3^ When your request was received last May, we responded within the guidelines of that request, namely: that within six to eight weeks we produce a 15 to 20 page, double-spaced report, footnoted, on "what forces caused the monarchy to fall and what forces led to the annexation of Hawaii to the United States as a Territory in 1898." The request also stated that "reliance on secondary sources will be sufficient for our review."

4. The account we produced was essentially a summary based on leading secondary works and a limited number of primary sources. Ralph Kuykendall's The Hawaiian Kingdom: The Kalakaua Dynasty (1967) was chosen as a principal source, for it is a well-balanced interpretation, based on multi-archival research with careful annotations. Printed primary sources such as the multi-volume Blount report, the Morgan report, and Lt. Lucien Young's account were consulted but were used carefully and sparingly, with their biases taken into consideration.

5. The types of critical comments varied widely. Several respondents sent accounts they considered more accurate. These statements were lengthy and detailed but the facts presented did not contradict those in our account. The response from the Hawaiian State Statistician remarked that "...the demographic, statistical and historical aspects of the study have been handled reasonably well, reflecting a satisfactory degree of competence and objectivity." The most cogent criticisms argued that primary source research in both public and private archives was much to be preferred to reliance on secondary sources, and that several questions regarding the fall of the monarchy and annexation should have been treated in greater depth and detail. I concur with these sentiments. Primary sources are to be preferred in the research and writing of any historical account. Ideally, the scholar would travel to all archival institutions holding pertinent collections to see if any new facts or fresh perspectives could be found. Unfortunately, the six to eight week time limit, the lack of funds for travel, and the fact that this work was assumed for completion in addition to other work normally done by this office precluded any more extensive treatment.

6. Some commentators objected to the fact that federal historians were asked to provide research on a subject which involved the actions of the U.S. Government and its armed forces. The presumption here is that government historians could not be unbiased in the matter. Our report strove for objectivity and made no attempt to ignore or minimize the parts played by the U.S. Navy, Marine Corps, or the American Minister to Hawaii, John L. Stevens. It is conceded, however, that it would have been more

appropriate had the Commission requested this work be undertaken by a non-governmental historian so that there might have been no question about the appearance or substance of objectivity. I recommend strongly that if the Commission feels additional work is needed with regard to the revision, amendment or re-writing of this chapter, it should be done by either an academic or an independent historian who has no administrative connection with the U.S. Government.

Respectfully yours,

(signed) William S. Dudley

Setting the Stage

To summarize the previous section, the fall of the monarchy in 1893 was primarily the result of a power struggle between supporters of the monarchy, a group largely composed of persons of Hawaiian ancestry, and the monied haole group, or "foreigners," persons of American and European birth or descent. The Kamehamehas had been the last strong monarchs of Hawaii. In the latter part of the nineteenth century, as the kings weakened, the haole population gained in political influence and economic power. This set the scene for the ensuing conflict.

The Constitution of 1887 was a key in the changing scope of Hawaiian politics (see above, page 277). Major changes were that: although the king retained his right to appoint the cabinet, cabinet members could be removed only with the approval of the

legislature; the king no longer had an absolute veto, which could now be over-ridden by a two-thirds majority in the legislature; the House of Nobles was no longer appointed by the king but became elective offices; both nobles and legislators had to meet residence and property requirements, more stringent for the nobles; but the most significant change was in the voting requirements. The vote was extended to all male residents of Hawaiian, American, or European birth or descent who met certain property, educational, and residence requirements and who took an oath to support the Constitution and laws. This extended the vote to foreign residents and naturalized citizens as well as to native Hawaiians. The property requirements for eligibility to vote for representatives were modest; but to vote for nobles, one was required to own "taxable property in this country of the value of not less than three thousand dollars over and above all encumbrances, or shall have received an income of not less than six hundred dollars during the next year preceding his registration for such election." 180/ This last requirement had the effect of placing the control of the House of Nobles (and thus the legislature) in the hands of the Reform Party, which was made up largely of Hawaiian-born Americans and Europeans, and resident foreigners. This group held most of the land and a majority of the businesses of the country. They could, therefore, meet the property requirements, while most of the native Hawaiians were disenfranchised.

In 1889, an attempt was made by a group led by Robert W. Wilcox, a

European-educated Hawaiian, to overturn the Constitution of 1387 by force (see above, page 282)* The aim was to return to a constitution similar to that of 1864 in which the king had had a great deal more power. The insurrection was quelled, but this was the beginning of almost continuous political unrest. At this time the Hui Kalaiaaina, a native political organization whose main objective was a restoration of the pre-1887 constitutional system, was formed. This party gained in strength as the Reform Party was weakened by internal dissension. In the elections of 1890 the Reform Party became the minority party, and its cabinet was forced out of office.

Once again, a move was made to revise the constitution, this time with the open support of King Kalakaua. This was naturally opposed by those who had gained so much under the new constitution. Rear Admiral George Brown, commanding the Pacific Squadron, described the situation in a letter to Secretary of the Navy B. F. Tracy, dated July 29, 1890:

Sir: In reference to political matters in the Hawaiian Islands I have to report that since my last communication on the subject, No. 228 of June 26, 1890, many events have transpired in Honolulu which indicate that serious trouble, if not a revolution, is imminent, at no distant day. The Legislature now in session will not probably adjourn before the middle of September next, and until that time the discordant element in the National Reform Party (Hui Kalaiaaina), as represented by several natives and half-castes in the Legislature, who were prominent leaders in the attempted revolution of July,

1889, will not cease their revolutionary discussions and movements either in the Legislature or in public meetings or the streets. Their efforts are now being made in favor of a constitutional convention, with a view of revising the present constitution, which was adopted in 1887...The presence of the force under my command has a marked influence on the would-be revolutionists, as while they are aware that I am here to protect the persons and properties of citizens of the United States, the general belief among them is that I will, in the event of a revolution, take a more decided stand in the interests of those opposed to them than I might be warranted in doing. The white residents and natives and half-castes who stand ready to oppose the revolutionists have every confidence in their ability to do so successfully, and take great comfort in the knowledge of an adequate naval force being present...181/

The king was persuaded to back down from his position favoring a new constitution, largely through the joint efforts of the American and British ministers (see above, page 285). Crisis was averted in this instance, but the events of 1893, almost parallel to the situation described by Brown, had a markedly different outcome.

Liliuokalani Ascends the Throne

The king's death in 1891 and the passage of the McKinley Tariff in the United States Congress later that year led to a new time of trouble in the kingdom. The new Queen Liliuokalani's reign was marked by an economic

depression brought about by the McKinley Tariff. Rear Admiral Brown reported on August 17, 1892: "The great depression in business matters in the Islands is being felt by all classes. Importations from the United States are extremely light and many vessels leave here in ballast..." 182/

Another major problem was the struggle for control of the cabinet. After the 1892 election, no one party had enough members to claim a clear majority (see above, page 287.) Four successful want-of-confidence resolutions were supported by various combinations of three parties (Reform, National Reform, and Liberal) in the first eight months of the session. Little business was accomplished until November, when a strong moderate cabinet led by George Wilcox was formed as a compromise. It appeared that some stability had at last been achieved.

A number of bills had been postponed during the turmoil. Among the most controversial were the Lottery Bill, the Opium Licensing Bill, and a bill calling for a new constitutional convention. The queen had reluctantly appointed this cabinet, and now a widening rift began to appear between the queen and her ministers. The first two above-mentioned pieces of legislation were supported by the queen, but vigorously opposed by her cabinet. Other clashes worsened the situation. By January 4, 1893, the queen's supporters felt confident enough to propose yet another want-of-confidence resolution. The measure was defeated by only a narrow margin. On January 10, the Lottery Bill passed over the opposition of the cabinet, and taking this as a sign, once again a want-of-confidence vote was called. In the ensuing debate, the feelings of the legislators were summed up by Representative Kamauoha:

The Cabinet were honest and able men. There was no doubt that they possessed the confidence of

the Community. They were men of integrity, who would be able to secure funds to carry on the government. But would they carry out the wishes of the Queen? Would they do what the Queen and the Hawaiian people wanted in regard to the Lottery, the Constitutional Convention, etc.? Would they do as the Queen wanted them to do? 183/

The resolution passed. A new cabinet was appointed by the queen, and on January 14, 1893, the legislature was prorogued.

Events of January, 1893

Constitutional reform had been a major campaign issue in the elections of February 1892; indeed it was a primary plank in the platform of the Liberal Party. Yet the resolution had failed to pass in the legislature of 1892, having been set aside while more pressing matters were attended to. Liliuokalani, as had Kalakaua, had felt severely hampered by the restrictions placed on the monarchy by the present constitution. Now, feeling that she had the will of the people and the support of her new cabinet, the queen decided to take matters into her own hands.

Since early 1892, she had been quietly making plans to revise the constitution. A draft had been prepared in October 1892 that generally reverted to the earlier constitution of 1864, but which gave the monarchy even more control. The queen had made no secret of her intentions. A copy of the document had been submitted to Attorney General Arthur Peterson for his recommendations. All of the cabinet members were aware of its existence, and at least two had promised their support prior to their appointments. 184/

With this in view, Liliuokalani planned to promulgate the new

constitution immediately following prorogation of the legislature. Members of the diplomatic community, the legislature, and other dignitaries were invited to the ceremony. Yet when it came down to signing their names and thus attesting their support, the cabinet refused. The queen later wrote, "They had led me out to the edge of a precipice, and now were leaving me to take the step alone. It was humiliating." 185/

The queen then reluctantly decided to wait until she had more official support; however, the news had spread. The members of the Annexationist Club, a secret organization that had formed during the last constitutional crisis in 1890 (see above, page 288), quickly met and decided the time had come to act on their beliefs. A Committee of Safety was formed under the leadership of Henry E. Cooper. All members of this committee were members of the Annexationist Club with the exception of George Wilcox, the former prime minister. Lorrin Thurston, one of the leaders of the club, proposed as the first order of business a resolution "that it is the sense of this meeting that the solution of the present situation is annexation to the United States." 186/ All but Wilcox approved the motion. Wilcox quietly resigned and returned to his home on Kauai.

The first action of the committee was to send three men, Thurston, W. C. Wilder, and H. F. Glade, to call upon the American Minister, John L. Stevens, to learn if "assistance could be afforded by the United States forces for the protection of life and —* property, the unanimous sentiment and feeling being that life and property were in danger." 187/ Lorrin Thurston reported back to the Committee that Stevens:

...had said that the United States troops on board the Boston would be ready to land any moment to

prevent the destruction of American life and property, and regard to the matter of establishing a Provisional Government they of course recognize the existing government whatever it might be. 188/

Thurston also reported that when asked what requirements there were for being the "existing government" in Stevens' eyes, Stevens informed him that whatever government was "actually in possession of the Government buildings, the executive departments and archives, and in possession of the city, that was a de facto government proclaiming itself a government, would necessarily have to be recognized." 189/

Stevens' role in the Hawaiian revolution has always been controversial. He had held strong annexationist views from the beginning, and this was well known in the Hawaiian community. While he did not openly oppose the queen, from such statements as that quoted above it was obvious that he would not oppose a change. Stevens was careful not to offer aid, but he did promise to recognize any government that the committee might be able to establish. Other accounts indicate that Stevens had promised to support the Provisional Government with U.S. troops. There is some doubt of the validity of this assertion, as will be seen below. However, the approval of the American Minister, tacit or otherwise, was enough to bolster the Committee of Safety and to harden their resolve. By the evening of the 14th of January, recruiting and arming of a revolutionary force had begun and plans were under way to take over the government.

The royal government was aware of the Committee and of its purpose as early as Sunday, January 15th, yet nothing was done to break up the movement. It was generally believed by members of the cabinet that Stevens

had indeed promised support and this was perhaps sufficient to dissuade them from any direct action. However, the government had a force of five hundred men, ten Gatling guns, and twelve pieces of artillery at its disposal. A landing party from the Boston could consist of at most one hundred seventy-five men and the Committee of Safety was assured of only about seventy-five men at that time. For whatever reasons, this day was spent in debate rather than action. 190/

On Sunday evening two cabinet members called on Stevens to find out if the rumors were true. Stevens made it clear to them that he would not support the queen in a conflict. That same day, members of the Committee of Safety also called on Stevens. Stevens reiterated "that while he would call for the United States troops to protect life and property, he could not recognize any government until actually established." He repeated that the troops when landed would not take sides with either party, but would protect American life and property. 191/

On Monday, January 16, a mass meeting was held by the Committee to garner support for their aims. On that day also, in an attempt to defuse the situation, Liliuokalani made a public announcement that no new constitution would be promulgated for the time being. Meanwhile, the Committee sent the following letter to John Stevens:

We, the undersigned, citizens and residents of Honolulu, respectfully represent that, in view of recent public events in this

kingdom, culminating in the revolutionary acts of Queen Liliuokalani on Saturday last, the public safety is menaced and lives and property are in peril, and we appeal to you and the United States forces at your command for assistance. The Queen, with the aid of armed force and accompanied by threats of violence and bloodshed from those with whom she was acting, attempted to proclaim a new constitution; and while prevented for the time from accomplishing her object, declared publicly that she would only defer her action. This conduct and action was upon an occasion and under circumstance[s] which have created general alarm and terror. We are unable to protect ourselves without aid and, therefore, pray for the protection of the United States forces. 192/

This letter was delivered some time in the early afternoon. By four o'clock, following the mass meeting, the Committee decided that circumstances were such that any action on their part would have to wait until the next day. As it would be beneficial to their objectives to be established and recognized before any American troops landed, two men called upon Stevens and requested that the landing party be detained until the next day. At this point, it seems obvious that Stevens was trying to avoid the appearance of complicity because he informed them that arrangements had already been made and that there would be no alterations in the plans. The U.S. troops landed at five o'clock that evening.

Stevens had gone aboard the Boston at three o'clock with the following request: "In view of existing critical circumstances in Honolulu,

indicating an inadequate legal force, I request you to land Marines and Sailors from the ship under your command for the protection of the United States Legation, and the United States Consulate and to secure the safety of American life and property." 193/

Captain Gilbert C. Wiltse, commanding officer of the Boston, had been watching the situation closely since his return to Honolulu on the 14th of January. (The ship, with Stevens and his daughter as passengers, had been at gunnery practice off Hilo from January 4 to January 14.) When Stevens arrived, he found that preparations had already been made. A landing force had been organized and armed, and an order couched in terms of standard Navy policy had been issued to Lieutenant Commander Swinburn, who was to lead the force:

...You will take command of the Battalion and land in Honolulu for the purpose of protecting our Legation, Consulate, and the lives and property of American Citizens, and to assist in preserving public order. Great prudence must be exercised by both officers and men, and no action taken that is not fully warranted by the condition of affairs, and by the conduct of those who may be inimical to the treaty rights of American Citizens...194/

The landing force consisted of "one company of Marines, 30 men, under command of Lieut. H. L. Draper, U.S.M.C., two companies of Sailors, the first consisting of 34 men under command of Lieut. Charles Laird,...and the second consisting of 35 men, under command of Lieut. Dewitt Coffman...and two pieces of artillery, one short gatling and one 37 m/m H.R.C. (Hotchkiss Revolving Cannon)..." 195/

The Marines were detached to guard the Legation and Consulate, while the remainder of the men halted near the Palace until a place to bivouac could be found. At about 9:30 p.m., Arion Hall was obtained. This has been another point of controversy concerning the objectives of the landing force. Arion Hall was some distance from the concentration of American property, yet it was located immediately between the Government Building and the Palace. This would be an ideal location from which to participate in any conflict between the two forces. Though not one hostile move was made by the American forces, there is no doubt that their presence provided a psychological support to the revolutionists. As has been noted above, the cabinet and the queen were convinced that the American Minister and forces from the Boston were in support of the rebelling faction. No matter what their purpose, the mere presence of this armed force served to demoralize the monarchists and to dampen any threat of violence.

A protest was lodged by the local government, but Stevens refused to recall the men. At this point, Monday evening, the Committee of Safety still had not formalized its plans. Sanford Dole, an Associate Judge of the Supreme Court, and generally well respected by all factions, was invited to head the new government that was planned. He was not a member of the Committee of Safety and was not in favor of overthrowing the monarchy or of annexation. His arguments were for deposing the queen and replacing her with a regency in favor of Princess Kaiulani, the queen's designated heir. After much debate, argument, and soul-searching, Dole finally agreed to accept the position the next day.

By Tuesday morning the queen and her cabinet had positive information concerning the Committee of Safety and

their aims, as some of the cabinet members had been invited to join the Executive Council of the Committee. Still they made no move to halt the proposed revolution. Dr. William Alexander, an observer of the events, concluded:

To judge from their conduct, the Queen's Cabinet was overawed by the unanimity and determination of the foreign community, and probably had an exaggerated idea of the force at the command of the Committee of Safety. They shrank from the responsibility of causing fruitless bloodshed, and sought a valid excuse for inaction, which they thought they found in the presence of the United States troops on shore, and in the well known sympathy of the American Minister with the opposition.
196/

By 2:30 on the afternoon of the 17th, the Committee had completed its preparations and began moving toward its objectives. Within fifteen minutes, the Committee of Safety had quietly taken control of the Government Building, which was virtually empty when they arrived. A proclamation was read from the steps by H. E. Cooper, designated vice-president of the new government, and the first phase of the revolution was accomplished as the Committee of Safety became the Provisional Government.

The new Provisional Government moved into the building and got down to work. Martial law was declared, all saloons were ordered to be closed, and messengers were sent to the diplomatic community to inform them of the change in government and to request recognition. Between four and five o'clock, a message was delivered to Dole from Stevens:

A Provisional Government having been duly constituted in the place of the recent Government of Queen Liliuokalani and said Provisional Government being in full possession of the Government Building, the Archives and the Treasury and in control of the capital of the Hawaiian Islands, I hereby recognize said Provisional Government as the de facto government of the Hawaiian Islands. 197/

Other foreign ministers followed suit within days. Armed with Stevens' support, members of the Provisional Government called on the queen and demanded her resignation. After much protest, the queen yielded and signed the following document:

I, Liliuokalani, by the Grace of God and under the Constitution of the Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the constitutional government of the Hawaiian Kingdom by certain persons claiming to have established a provisional government of and for this Kingdom. That I yield to the superior force of the United States of America, whose minister plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the said provisional government. Now to avoid any collision of armed forces and perhaps the loss of life, I do under this protest, and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me in

the authority which I claim as the constitutional sovereign of the Hawaiian Islands. 198/

By thus phrasing her protest, yielding to the United States rather than to the Provisional Government, Liliuokalani had left open a door by which she might regain her kingdom. She nearly succeeded.

During the next two weeks, the Provisional Government worked to solidify its position. A commission was sent to Washington to request annexation. At the same time, a commission was sent by the queen to request a delay in any action until investigations could be made into the events of her overthrow.

Although Honolulu was apparently peaceful during the last days of January, rumors of counter-revolt were rife in the city. The Provisional Government's small military force would clearly not be effective against any major uprising. Consequently, on January 31, a formal request was made to Stevens to extend protection to the government pending negotiations in Washington. Stevens promptly complied. On February 1, 1893, the following order was given to Captain Wiltse of the Boston;

The Provisional Government of the Hawaiian Islands having duly and officially expressed to the undersigned, the fear that said Government may be unable to protect life and property, and to prevent civil disorder in Honolulu, the Capital of said Hawaiian Islands, requests that the flag of the United States may be raised, for the protection of the Hawaiian Islands, and to that end confer on the United States, through the undersigned, freedom of occupation of the public building of the Hawaiian Government and the soil of the Hawaiian Islands, so far as

may be necessary for the exercise of such protection, but not interfering with the administration of the public affairs, by said Provisional Government.

I hereby ask you to comply with the spirit and terms of the request of the Hawaiian Provisional Government, and to that end to use all the force at your Command, in the exercise of your best judgment and discretion, you and myself awaiting instructions from the United States Government at Washington. 199/

Accordingly, that same day the American flag was raised over the Government Building and custody of the building was given over to U.S. Marines.

Stevens' actions were accepted up to a point by the State Department: "So far as your course accords to the de facto sovereign government the material co-operation of the United States for the maintenance of good order and protection of life and property from apprehended disorder, it is commended; but so far as it may appear to overstep that limit by setting the authority of the United States above that of the Hawaiian Government, in the capacity of Protectors, or to impair the independent sovereignty of that government by substituting the flag and power of the United States, it is disavowed." 200/

The Blount and Morgan Reports

There were no changes in the state of affairs until April 1 when Representative James Blount arrived at the islands on a fact-finding commission. Blount was under instructions from President Cleveland to investigate fully all aspects of the events that had taken place. As Stevens' role was under investigation, he was superseded

though at first not officially relieved, by Blount. Blount's instructions read, in part:

To enable you to fulfill this charge, your authority in all matters touching the relations of this Government to the existing or other government of the islands, and the protection of our citizens therein, is paramount, and in you alone, acting in co-operation with the commander of the naval forces, is vested full discretion and power to determine when such forces should be landed or withdrawn. 201/

By this time, Captain Wiltse had been relieved as senior officer on the Pacific Station by Rear Admiral Joseph Skerrett. Wiltse was detached and ordered home on February 28, 1893. Blount ordered the Marines to return to the Boston (one company of sailors had already been withdrawn, the other remained on shore) and he ordered that the American flag be hauled down. On May 24 he officially replaced Stevens as Minister.

Blount remained in Hawaii until August 9 when he returned to Washington without waiting for a replacement. His lengthy report (nearly 700 pages) laid the blame for the revolution squarely on Stevens and recommended a restoration of the former government. Based on this recommendation, and at the urgings of Secretary of State Walter Gresham, the President ordered the new Minister to offer to aid Liliuokalani to regain her throne with the expectation that she would grant full amnesty to those who had opposed her. Liliuokalani's refusal to meet this requirement, coupled with the Provisional Government's emphatic refusal to consider such a move, negated the attempt. 202/ Meanwhile,- it was noted that Blount interviewed neither the members of the Committee of Safety nor the officers of the Boston. There were complaints from

those who were interviewed by him that their testimony was slanted in the final report. 203/

After receipt of this report, in a message to Congress on December 18, 1893, President Cleveland said, in part:

...The lawful government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States Minister for Annexation, the Committee of Safety, which should be called the Committee for Annexation, would never have existed.

But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the plans and penalties of treason by undertaking the subversion of the Queen's government.

But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

And finally, but for the lawless occupation of Honolulu under the false pretexts by the United States forces, and but for Minister Stevens' recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and

her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States. 204/

In December 1893, a resolution was adopted by the Senate directing the Senate Committee on Foreign Relations to determine, "Whether any, and If so, what irregularities have occurred in the diplomatic and other Intercourse between the United States and Hawaii •••" 205/ The resulting report, the so-called "Morgan Report," reached a conclusion almost exactly opposite the Blount Report. Again there were complaints that not all the people involved had been interviewed and that important pieces of evidence were lacking. The truth lies somewhere between the two reports.

The Republic and Annexation Attempts

Meanwhile, it was evident to the Provisional Government that the political climate was not right for annexation. A more permanent form of government was necessary. Therefore, a constitution for the Republic of Hawaii was adopted on July 4, 1894.

The next few years were relatively calm and stable, yet the aim of the Hawaiian government remained annexation to the United States. Repeated overtures were made, but realization of their goals remained distant until 1897. A new administration in Washington would perhaps be more favorable to annexation. A commission was once again sent to negotiate a treaty. The terms of the treaty were agreed upon and the document signed on June 15, 1897. The treaty was unanimously ratified by the Hawaiian Senate on September 10, 1897. Although it had been introduced in the United States Senate in June 1897, no action was taken until December of that year. After much debate and many delays, the chances of the treaty receiving a two-thirds majority in the

Senate appeared slim. On March 16, 1898, a joint resolution was substituted for the Senate bill. Thus the subject came before the entire Congress, where only a simple majority would be required in each House to pass the measure. 206/

The strategic value of the Hawaiian Islands in terms of naval and commercial interests had long been recognized. They lay in the center of the Pacific Basin, a logical point for refueling and resupply. Alfred Thayer Mahan had written in a March 1893 article for Forum that it "may be inferred the importance of the Hawaiian Islands [is] as a position powerfully influencing the commercial and military control of the Pacific, and especially of the northern Pacific, in which the United States, geographically, has the strongest right to assert herself." 207/ Mahan was not alone in his view. Other naval strategists such as Theodore Roosevelt and Commodore George Melville argued the importance of the islands to the United States as well as the importance of keeping any other nation from gaining a foothold there.

With Japan's emergence as a naval force to be reckoned with in the Pacific, and the growing threat of war with Spain, the strategic argument was popular in the United States, although commercial Interests were equally important. With America's entry into the war with Spain, and Rear Admiral George Dewey's operations and victories in the Philippines, the strategists' arguments became even more important. Although Pearl Harbor had been ceded to the United States in 1887, nothing had been done to develop the site as a naval base. The strategists argued that mere possession of that harbor did not ensure security as foreign interests could be encouraged in other points in the islands. At the beginning of the Spanish-American War, Honolulu represented the only coaling station

available to the United States in the Pacific, with the exception of Samoa which, geographically, was not as important. Victory at Manila Bay provided the impetus for victory for the annexationists in Hawaii. On May 4, 1898, three days after the Battle of Manila, the Newlands Resolution for Annexation was introduced in the House of Representatives. Although there was still a great deal of opposition, the Resolution finally passed on June 15, 1898. After more lengthy debate in the Senate, annexation was approved on July 6, 1898. Formal transfer of sovereignty occurred on August 12, 1898, when the Hawaiian Islands became a United States territory.

C. FURTHER ANALYSIS OF ANNEXATION

Why a Joint Resolution, Not a Treaty?

The reasons for the use of a joint Congressional resolution (the Newlands Resolution) rather than a treaty to annex Hawaii to the United States can be ascertained through the documented history of the annexation proceedings as well as by a review of world events that affected United States policies at the time. Several attempts to annex Hawaii to the United States had taken place prior to 1898, one as early as 1854. ^{208/} The treaty process was tried until the alternative joint resolution process succeeded in 1898. Although members of Congress and other government officials, as well as private citizens, advanced numerous reasons to use a joint resolution, the primary motivation was expediency. A joint resolution required only a simple majority of the Congress, whereas a treaty would have required a two-thirds majority of the Senate. ^{209/} The need for annexation, by whatever parliamentary means, was believed urgent to protect the strategic and military interests of the United States in the Pacific.

A short review of world events prior to debate and passage of the 1898 resolution clearly shows the sense of urgency its backers felt. A treaty of annexation was negotiated between the United States and Hawaii on June 16, 1897, and ratified by the Hawaiian Senate later that year. **This** treaty was submitted to the United States Senate on the same day it was negotiated, but "embroiled in the tariff and lacking a clear majority, much less a two-thirds vote of the membership, the Republican senatorial leadership delayed action." ^{210/} In the meantime, Japan protested against annexation as harmful to its nationals in Hawaii, who now made up the majority of the cheap labor force on the islands. President McKinley was fearful that Japan would take possession of Hawaii before the United States could annex it. On the subject of Japan, one author writes that in a conversation with Senator Hoar, McKinley stated that:

"We cannot let the islands go to Japan... Japan has her eye on them. Her people are crowding in there. I am satisfied they do not go there voluntarily, as ordinary immigrants, but that Japan is pressing them in there, in order to get possession before anybody can interfere." McKinley from the first acted on the basis of his new policy with a consciousness of American defense, an appreciation of the desirability of Pacific possessions, and an awareness of the designs of other powers. That consciousness would settle into a hardened conviction that America must assume her destiny in the Philippines as well as Hawaii.

The Japanese scare, however true or false, generated heat, but not enough to accomplish annexation. ^{211/}

On the heels of the Japanese scare came problems with Spain as the United States became involved in the affairs of Cuba and the Philippines* Pro-annexationists also used this as an argument: "The expansionists were quick to point out that suffering Cuba tied in with Hawaii; it was America's destiny to redeem them both. As war with Spain loomed, Hawaii took on new strategic importance for the war in the Pacific." 212/

A listing of specific reasons for Hawaii's strategic importance were incorporated into both Senate Report No. 681, which accompanied an earlier proposed Senate joint resolution, and House Report No. 1355, accompanying the final proposed House joint resolution for Hawaiian annexation. These specifics included the prevention of an alien establishment in the North Pacific, thereby protecting the U.S. Pacific coast, and securing the commerce of the islands* A more important consideration was that the "...United States must act NOW to preserve the results of its past policy, and to prevent the dominancy in Hawaii of a foreign people...It is no longer a question of whether Hawaii shall be controlled by the native Hawaiian or by some foreign people; but the question is, What foreign people shall control Hawaii?" 213/

When war with Spain did come, claims for the strategic importance of Hawaii expanded to include arguments for a coaling station. It was argued that anything less than annexation would keep Hawaii neutral and allow other belligerents comfort. Most important of all was ensuring that Dewey's ability to defeat the Spaniards at Manila in the Philippines would not be weakened by lack of supplies. Representative Hitt was also concerned about a counterattack:

For a war of defense the
Hawaiian Islands are to us

inestimably important, most essential, and in this light they have been most often discussed. The discussion in past years has attracted little public attention, because our people, until they were lately awakened by the war and the movement to reenforce Dewey, have not thought much about the exposed situation of our western coast in case of war with a really great power or the necessity of possessing these islands confronting our Pacific coast.

We learn fast in war time...

214/

President McKinley, "under such circumstances, feared interminable delays, and replaced the treaty...with a simple resolution which could be adopted by a simple majority." 215/ The fact that the administration felt there was a real possibility that the Senate would fail to ratify a treaty with the required two-thirds majority was noted by several members of Congress. Among them was Representative Crumpacker of Indiana, an opponent of annexation, who stated in the debate of June 14, 1898: "...the treaty required the assent of two-thirds of the Senators, and it became apparent that it could not command that assent, so it has been abandoned and this expedient invented..." 216/

In a remarkable display of candor and confidence, Representative Dolliver of Iowa, in favor of annexation, confirmed the comment of the Indiana Representative on both simple majority and expediency, by stating on the day the resolution passed the House that: "Now for the second time a treaty has been negotiated annexing these islands, and the opposition of less than a majority in the Senate has held up the treaty and we are driven to the

unusual expedient of a joint resolution of Congress to accomplish a thing which ought to have been accomplished nearly ten years ago*" 217/

The proceedings in the Senate also confirmed the fear that the treaty lacked votes. Senator Morrill, during annexation debate, stated: "Here the Senate was informed about it after the Secretary had signed the treaty, but even the Senate did not permit itself to discuss it except in secret session until its paucity of votes was disclosed; and it came originally in the form of a treaty..." 218/ The argument for holding secret sessions was weak and the weakness of the argument is evident from reading the proceedings of this session of May 31, 1898, in which senators in the session questioned the secrecy of anything discussed there.

The proceedings of the secret session show that the proponents of annexation desired a secret session not because of concern for war security, but because they feared defeat of the proposed 1897 treaty of annexation. They used the war with Spain to provide "the heat that generated annexation." 219/ As Representative Alexander stated on June 11: "The annexation of the Hawaiian Islands, for the first time in our history, is presented to us as a war necessity." 220/ This idea was echoed by other legislators such as Representative Pearson who said: "I shall give my vote for this resolution for the same reasons that I supported the war revenue bill. I believe that this is a necessary step in the successful prosecution of the war with Spain." 221/

The final argument involved the appropriateness and constitutionality of the resolution, although Congressional debate on Hawaiian annexation did not concentrate on the constitutional authority of the Congress

to annex territory, as it did with Texas. After discussion of this issue, the next section of this report considers the constitutionality question in the context of the lack of a plebiscite in Hawaii on the issue of annexation, as was the case in Texas. (See below, pages 305 and 312.)

Congressmen stated that the annexation of Texas by joint resolution was a precedent to be followed in the Hawaiian case. Mr. William Alden Smith of the House of Representatives commented on the annexation issue:

While there can be no question, Mr. Speaker, but that treaty making was especially lodged by the Constitution in the President and Senate, and that the composition of the Senate was so framed that each State should have an equal voice, nevertheless, the exigencies which at times confront the Republic warn us of the importance of the popular branch of Congress, coming direct from the people; and the Texas precedent has made the votes of a majority of both branches of Congress sufficient. 222/

Representative Parker also stated that, in dealing with Hawaii, the proper means of annexation would necessarily come from Congress, rather than the treaty-making power. He gave the following explanation:

It is well understood to be a proper exercise of the treaty-making power that a nation may contract to sell part of its lands which another wishes to buy, but it may well be doubted whether a government can by treaty contract itself out of existence...It may acquiesce, it may agree, but the authority over these islands will

not be derived from that agreement so much as from the act of the United States in taking possession. 223/

Senator Bate remarked on June 30, 1898, "that it is an innovation upon all precedents known in the history of this country and its legislation that we should have a resolution from the House of Representatives before the Senate involving the precise question that is still pending in the nature of a treaty." 224/ To this may be added the statement concerning McKinley's sentiments that, "He had thought of Hawaii for a year while the treaty languished in the Senate, and finally adopted the medium of a joint resolution for speed's sake though he still disliked its quality of evasion." 225/

President McKinley had evidently considered using a joint resolution to annex Hawaii as early as March 15, 1897. In a conference with former Secretary of State Foster and President Pro Tem of the Senate, William Pierce Frye, the President decided that because his party lacked a two-thirds majority in the Senate: "a joint resolution was best, since it required simple majorities in each house." 226/ However, after sudden negotiations for the Annexation Treaty of June 16, 1897, the treaty was introduced in the Senate instead. The President at this time "had now abandoned the joint resolution scheme because it smacked of weakness, and he wished to gauge opinion while the Treaty was debated." 227/

The joint resolution that was finally used to annex Hawaii was not introduced until world events made plain to the President and Congress that annexation was essential. All concerned viewed it as an expedient. The possibility that passage by a majority of the more representative

House, as well as by the Senate, may have indicated greater public support than treaty ratification apparently was not discussed by those considering these issues.

A Comparison to Annexation of Other Territories

Inhabited territories, other than those lands ceded to the Federal Government by individual states, and except for Texas, were annexed by treaty until 1898. 228/ President Jefferson, in considering the territorial annexation of Louisiana in 1803, deliberated carefully whether he had the constitutional authority to annex. The Constitution prohibited the Federal Government from exercising all powers not expressly delegated to it, and was silent on the subject of territorial expansion. Amendment of the Constitution was possible, but Jefferson thought the time required to amend could have lost the purchase of Louisiana. He therefore entered into a treaty with France to purchase and annex the Louisiana Territory on April 30, 1803. At the same time he proposed "to procure a subsequent ratification of the act in a constitutional amendment that should make specific provisions for future acquisitions." 229/ Since the strict constructionists were in the minority, however, without amendment "the troublesome question was deemed to be settled in favor of the constitutionality of territorial acquisition for all time." 230/

The precedent set in the case of Louisiana was subsequently followed in other cases of annexation by treaty: Florida was acquired from Spain on February 22, 1819; California basically was acquired by conquest in 1846-47, followed by a treaty with Mexico on February 2, 1848; New Mexico and Arizona were included in the California treaty; additional

territory was added to Arizona by the Gadsden treaty with Mexico of December 3, 1853-June 30, 1854; and Alaska was annexed by treaty of purchase from Russia on March 30, 1867.

In addition, in 1867 the United States proposed to annex Denmark's islands of St. Thomas, St. John, and St. Croix by treaty. Those treaties contained a clause for the assent of the islands' people. The people assented, but the treaty failed. 231/ St. Thomas, St. John, and St. Croix were later annexed by treaty in 1917. A proposed treaty for Santo Domingo failed in 1870 when the clause for the assent of the people resulted in a rejection. The Congressional consideration of the Santo Domingo matter is helpful. After the failure of the treaty to pass the Senate in 1870, numerous attempts were made to pass a joint resolution to annex Santo Domingo, but the Senate resolution that finally passed called only for an investigation of the annexation subject. 232/ The House then proceeded to kill any hopes of annexation using the resolution approach by passing an amendment that stated nothing in the resolution shall be "understood or construed as committing Congress to the policy of annexing..." 233/ When the investigation report was submitted, promoting annexation, it was debated for several days and finally died because "it was impossible to obtain the approval of two-thirds of the senators for a treaty, equally impossible to get a majority vote in the House for a joint resolution." 234/

In addition to these annexations of territory by either treaty of purchase or conquest, the United States also acquired a large number of islands under the Act of August 15, 1856. 235/ This act provided that private American citizens could take possession of (uninhabited) islands for the United States under the principle of discovery. The principal object of

such annexations was to secure the guano located on those islands. Approximately 70 islands became United States territory during the period of October 28, 1856, through June 21, 1894. 236/ In addition, the island of Midway was annexed by the Executive Office in 1868 under the principle of discovery, "to create a naval station there." 237/

Another means of acquiring territory was the Proclamation used by President Madison in 1810 to acquire "possession" of territory purchased by the United States in the Louisiana Purchase. 238/ The territory had been allowed to remain under Spanish authority since the treaty with France in 1803.

The annexation most analogous to that of Hawaii, however, was the annexation of Texas. Both were "independent foreign states" that became territories of the United States under joint resolutions.

Texas assumed independence from Mexico and negotiated a treaty with the United States for annexation on April 12, 1844. This treaty was rejected by the United States Senate. In indignation, a powerful movement started in Texas favoring a treaty of alliance with Great Britain or possible reconciliation with Mexico. 239/ This movement aroused the people of the United States and, in consequence, a joint resolution passed both houses of Congress providing for the admittance of the territory of Texas into the Union as a state. The resolution left to the discretion of the President whether to accept Texas by treaty "or by articles of agreement with the Government of Texas under legislative authority, or by the act of a convention chosen by the people of Texas, under like authority." 240/ Texas preferred the convention method, and the matter was submitted to the people of Texas who voted in favor of annexation.

The Texas and Hawaii annexations were similar in several respects, therefore. A number of expatriated American citizens resided in both Texas and Hawaii. In each, a failed treaty attempt had preceded the annexation by a joint resolution. As stated in Senate Report No. 681 on the Hawaiian annexation, "This joint resolution [on Texas] clearly establishes the precedent that Congress has the power to annex a foreign State...either by assenting to a treaty of annexation or by agreeing to articles of annexation or by act of Congress based upon the consent of such foreign Government obtained in any authentic way." 241/ The argument had the tone of certainty, but those opposed argued against the precedent. 242/

. Opponents noted that the body of the joint resolution annexing Texas did not contain the words "annex" or "annexing." Instead, the resolutions read: "'may be erected into a State,'¹ ...The proper title to the Texas resolutions is shown by the Congressional Globe to have been, 'Joint resolutions declaring the terms on which Congress will admit Texas into the Union as a State.'" 243/ Representative Mann replied in Congressional debate that: "It is not necessary to deny that the proposed annexation of the Hawaiian Islands constitutes a new departure in the policy of our Government, for whether it does or not makes no difference... the Republican party...has never shrunk from doing that which is right and advantageous because it might be called a new departure." 244/ To add weight to the argument, it was reported that one of the President's advisors stated: "the President has been very firm about it and means to annex the Islands anyway..." President McKinley himself told George Cortelyou: "We need Hawaii just as much and a good deal more than we did California. It is manifest destiny." 245/

The annexation differed, as well. In Texas, unlike in Hawaii, the people voted on annexation. 246/

Did Any Native Hawaiians Sign Annexation Documents?

Determination of whether any native Hawaiians signed the proposed 1897 annexation treaty first requires a definition of "native Hawaiians." Certain parties during the annexation debate attempted to define second and third generation whites born on the islands as "white natives." For example, it was argued that Lorrin A. Thurston, a member of the Hawaiian treaty delegation, whose parents were born in Hawaii, and Chief Justice Judd of Hawaii were "white natives of the islands." 247/ Most agreed, however, that "native Hawaiians" referred to the original aboriginal natives of the islands. This was clearly shown in the census breakdowns concerning Hawaii 248/ and in most of the documents presented concerning annexation.

However, the only way to determine definitively how many native Hawaiians were involved in annexation proceedings is extensive genealogical research. The Federal Archivist told the Commission that this is both time-consuming and expensive. The alternative approach, checking surnames, undoubtedly does not reliably identify the number of native Hawaiians present for legislative action.

The historical record, as detailed below, indicates that no more than six native Hawaiians 249/ were present in the Hawaiian legislature when the 1894 Constitution of Hawaii was adopted. This Constitution, valid until annexation, called for Hawaii's annexation. 250/ Hawaii had a long history of submitting requests for annexation to the United States, both informally and through negotiated treaties. 251/ How many of these earlier requests were actually supported by the native

population is a matter of conjecture, since none of Hawaii's constitutions called for a popular vote on annexation. Treaties were left to the hedd of state with approval of the legislature, 252/ as set forth in Article 32 of the 1894 Hawaiian Constitution. The proposed annexation treaty of 1854 was initiated by the king, a native Hawaiian. This proposal failed when he died and the new king rejected the treaty. 253/

One native Hawaiian was present and voted for the Hawaiian Senate resolution that ratified the Annexation Treaty of 1897 between the United States and Hawaii. 254/ This final act in Hawaiian participation in the treaty ratification process took place in a Special Session of the Senate of the Republic of Hawaii in September, 1897. On the first day of the session, September 8th, President Dole listed the following reasons for annexation: (1) a growing menace to the population by immigration; (2) the threat of great naval powers; (3) need for United States' development of resources; and (4) it was in the best interests of all people of Hawaii. 2 55/ A protest resolution was also submitted to the Hawaiian Senate, signed by fifteen natives, stating that a mass meeting had been held confirming that "the native Hawaiians and a large majority of the People of the Hawaiian Islands" were against annexation. 256/ On the second day of the session a report was submitted by the Committee on Foreign Relations endorsing the ratification of the proposed treaty of annexation and agreeing with the reasons for annexation presented by President Dole the day before. This report was signed by the committee, including J. Kauhane, a native Hawaiian, on September 9, 1897. 257/

The same committee also submitted a report on the native Hawaiians' protest, in which the committee concluded

that it was based more on sentiment than real opposition and recommended that the protest be laid on the tabla, which it was. This report was also signed by the committee, including J. Kauhane, on September 9, 1897. 258/ The Hawaiian resolution for ratification of the annexation treaty was unanimously adopted by the Senate the same day. 259/ One of those senators voting to adopt the ratification resolution was J. Kauhane, who was also Vice-President of the Senate. Senator Kauhane was the only native Hawaiian who signed the annexation ratification resolution, 260/ the only instrument relating to annexation other than the Treat: of 1897.

In the Congressional debate on annexation, Representative Bland was asked directly whether "the Senate of Hawaii which ratified the treaty is composed largely of native Hawaiians?" The answer was: "Oh, Mr. Speaker, I am not speaking of natives or foreigners. There are a few white natives." 261/

Providing further evidence of lack of "native" participation in annexation proceedings was the so-called "monster petition" of 1897 262/ signed by approximately 29,000 native Hawaiians protesting annexation by the United States. This petition was investigated by the United States Congress and the subsequent report indicated that many names on it were fraudulent. 263/ A large portion of the 29,000 names on the list remained, however, and they represented the vast majority of the 31,000 "native Hawaiians" living on the islands. 264/ This figure may be compared with the 3,196 actual voters in the first election under the 1894 Constitution held in 1896, and the 2,687 voters for representatives in 1897. 265/

Congressional debate on annexation is filled with comments to the effect that it was known that most, if not

all, native Hawaiians opposed annexation. 266/ Senator Caffery informed the Senate on June 28, 1898, that "the people of Hawaii do not want annexation...When I speak of the people of Hawaii I speak of the native Hawaiians." 267/ He then submitted documents concerning an 1893 interview with a white Hawaiian born in the islands in 1850. This gentleman stated that if an annexation vote had been taken "it would be overwhelmingly defeated--almost to a man by the native Hawaiians..." 268/

The Organic Act, passed by the United States Congress, opened the way for an open electorate in Hawaii. With this development, Hawaiians sent to the U.S. Congress their first delegate, Robert Wilcox, a home rule advocate and leader of native Hawaiian insurrections in 1889 and 1895. Hawaii's first Territorial Legislature of 1901 was also composed largely of native Hawaiians and Home Rule advocates who proceeded to protest annexation by delaying bills, failing to pass the appropriation bill, and calling for Governor Dole's removal due to incompetence. 269/

D. HAWAIIAN ADMISSION TO STATEHOOD COMPARED TO THAT OF OTHER STATES

Hawaii was admitted to statehood in 1959 after more than sixty years as a territory. This section of the report includes a discussion of Hawaii's admission, a statement of Hawaii's boundaries at statehood, and a comparison of the history of admission with the admission history of several other states. The selected states, in the order of their statehood, are: Louisiana, Florida, Texas, Oregon and Alaska.

Under the Constitution, the acquisition of new territory was achieved by treaties with foreign nations, except for Texas and Hawaii, which were annexed by joint

resolution. The usual course after annexation was the establishment of a territorial government, the adoption of a state constitution and government, and the request for admission. A few states did not establish territorial governments: Texas, Florida and California. 270/

Certain other requirements also became standard for statehood:

- (1) The inhabitants of the proposed new State are imbued with and are sympathetic toward the principles of democracy as exemplified in the American form of government.
- (2) A majority of the electorate wishes statehood.
- (3) The proposed new State has sufficient population and resources to support State government and at the same time carry its share of the cost of the Federal Government. 271/

While the move to incorporate the Hawaiian territory into the United States was an important step toward statehood, it was not an assurance for its realization. The extended period of time in which the islands remained in territorial status was notable, but it was not unique to Hawaii. Alaska experienced the same delay in achieving statehood. There were also other states with long territorial periods: Utah, 46 years; Arizona, 49 years; and New Mexico, 62 years. 272/

History of Hawaiian Statehood

Hawaii was annexed to the United States by Joint Resolution No. 55, July 7, 1898 (30 Stat. 750). The legislative record indicated that the

joint resolution for annexation was substantially the same as the treaty negotiated in the prior year with the Republic of Hawaii, which was duly ratified by its Senate. 273/

Soon after annexation, a territorial government was established for Hawaii under the Act of April 30, 1900 (31 Stat. 141). As early as 1903 the legislature of the Territory of Hawaii began to petition Congress for statehood. 274/ As in the case of Alaska, the question of statehood for Hawaii was the subject of numerous Congressional hearings and debates for many years. The proceedings in which Hawaiian statehood was discussed reflect that politics, both in the United States and on the islands, was a major factor in delaying Hawaii's transformation from territory to state.

The political situation in Hawaii was best summarized by John A. Burns, Delegate from Hawaii, in his article entitled, "Statehood and Hawaii's People." 275/ He described the Hawaiian achievement of statehood as the conquering of centralized government and the emergence of Hawaii's people. He admitted that the overthrow of the Hawaiian monarchy in 1893 was an unpopular event and that the Hawaiian people distrusted the new Provisional Government. Its rule was much more stringent than that of the monarchy since a large portion of the general public was prevented from voting, while power remained in the hands of the propertied class. Burns stated that the unpopularity of the annexation was not because of animosity toward the United States, but rather a resentment for the particular ruling party.

Directly after annexation, a commission was set up to compose an Organic Act for Hawaii. According to Burns, two Hawaiian members of the commission wished to add a property and income requirement to the

educational qualifications for voting.* This provision would have prevented the majority of the Hawaiian people from voting. The efforts of Senator Tillman of South Carolina blocked such a measure, however, and the Organic Act was passed in 1900 with only a literacy requirement for voters.

The Territorial government continued to be extremely restrictive. Even though the Territorial legislature had passed measures for erecting county governments, the Territorial executive repeatedly vetoed them. Finally, the situation evoked a Congressional investigation. This resulted in an ultimatum by Congress that called for the Territory to organize county governments quickly or Congress would do so. After this directive, the Territorial executive allowed a local government bill to pass.

Delegate Burns listed a number of other reasons why statehood was delayed for Hawaii: besides county government, the Hawaiian Homes Commission, the bill of rights, and other projects all involved excessive amounts of time. In addition to these reasons, the controlling economic and political groups strongly opposed statehood for their own interests. After amendments were made to the Agricultural Adjustment Act by the Act of May 9, 1934 (48 Stat. 670), placing strict limits on the amount of sugar imported from Hawaii into the continental United States, and extensive investigations were made into other Hawaiian affairs, the controlling groups were compelled to support statehood.

By 1935, Hawaiian statehood hearings had become more active. It was then suggested that a plebiscite be held to determine whether Hawaiian citizens approved of the statehood proposal. A plebiscite held in 1940 showed a majority of the residents of Hawaii favoring admission to the Union. At that point, however,

World War II temporarily delayed any further attempts for statehood.

The numerous proceedings on Hawaiian statehood proved time and time again that Hawaii had met all the criteria for admission. Desire for statehood was evidenced by the approval of the state constitution in the general election of November 1950, by a 3-to-2 margin. 276/

After the war, procrastination on Hawaiian statehood bills came mostly from the United States Congress. Alaska and Hawaii were in the midst of the same political struggle and their futures as territories or states were at the sole discretion of the Congress. Once the fight for Alaskan statehood had been won, it was evident that the last incorporated territory, Hawaii, would soon achieve the same status. Hawaii was finally admitted to the Union as a State by the Act of March 18, 1959 (73 Stat. 4).

Hawaiian Boundaries

The joint resolution of annexation did not define the boundaries of Hawaii, but merely accepted the cession made by the government of the Republic of Hawaii of "the Hawaiian Islands and their dependencies." The islands were listed as Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, Kahoolawe, Molokini, Lehua, Kaula, Nihoa, Necker, Laysan, Gardiner, Lisiansky, Ocean, French Frigates Shoal, Palmyra, Brooks Shoal, Pearl and Hermes Reef, Gambia Shoal, and Dowsett and Maro Reef (Sen. Doc. No. 16, 55th Cong., 3rd Sess.).

The Admission Act of March 18, 1959 (73 Stat. 4) and the State Constitution define the boundaries as "all the islands, together with their appurtenant reefs and territorial

waters, included within the territory of Hawaii...except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said state shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (off-shore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters."

Some question is presented regarding the status of Midway Island. The United States claims that it acquired Midway on August 28, 1867. The Hawaiian government, before annexation, claimed it had acquired Midway on July 5, 1859, prior to the acquisition by the United States. Thus, there is an academic question of whether the United States acquired Midway when it annexed Hawaii or whether it acquired Midway independently.

Palmyra Island was part of the territory that the United States acquired when it annexed Hawaii (see United States v. Fullard-Leo, 331 U.S. 256 (1947)), but is not now part of the State of Hawaii. Midway Island, Johnston Island, and Sand Island were included within the jurisdiction of the United States District Court for Hawaii by the Act of August 13, 1940 (54 Stat. 784) and it may be that the specific exclusion of these islands from the Admission Act and the Constitution was merely to overcome any presumption that might have arisen from the 1940 Act that these islands were in the Territory of Hawaii. In any event, it is clear that Palmyra Island was once part of the Kingdom of Hawaii and the Territory of Hawaii but is not now part of the State of Hawaii. Midway Island is not part of the State of Hawaii either; there is a question of whether it was part of the Hawaiian Kingdom. Midway, however, is part of the Hawaiian Island chain.

Comparison to Admission of Other States

Louisiana

The first parcel of land to be added to the United States under the powers of the new federal Constitution was the territory known as the "Louisiana Purchase." This land was purchased by the United States from France under the Treaty of April 30, 1803 (8 Stat. 200). The transaction was necessary for the continued success of the commercial traffic on the Mississippi River and especially for maintaining the important port at New Orleans. Popular support for the acquisition of the Louisiana territory was strong because the acquisition was viewed as a means of removing a large European power from America's doorstep and promoting national independence. This sentiment overcame whatever doubts were expressed by members of Congress as to the constitutional authority of the nation to acquire foreign territory. 277/

A significant section of the Treaty of Paris in 1803 was Article III, which stated:

The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible...

This provision anticipated the admission of the Louisiana territory in the near future. From the cession, two territories were erected and a temporary government provided for under the Act of March 26, 1804 (2 Stat. 283). An enabling act was then passed for the people of the Orleans Territory on February 20, 1811 (2 Stat. 641) so that they might form a constitution and state government and request admission to the Union. This goal was subsequently accomplished and statehood was confirmed by the Act of April 8, 1812 (2 Stat. 701).

Florida

The second area of land annexed to the United States by means of treaty was East and West Florida. This territory was ceded by Spain to the United States under the Treaty of Amity, Settlement, and Limits, February 22, 1819, and ratified by the United States on February 19, 1821 (8 Stat. 252). The necessity of the annexation of Florida was accepted under the same principle as Louisiana, that is, keeping the European powers at a safe distance from home. 278/

The treaty with Spain contained a provision under Article 6 similar to that in the Treaty of 1803 with France. It stated:

The inhabitants of the territories which his Catholic Majesty cedes to the the United States, by this Treaty, shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

In keeping with this agreement, a temporary government was established for Florida under the Act of March 3, 1819 (3 Stat. 523), superseded by the Act of March 3, 1821 (3 Stat. 637) following ratification of the treaty. In January 1839, Florida formed its constitution and state government and asked for admission into the Union, Florida statehood was confirmed by the Act of March 3, 1845 (5 Stat. 742), which also admitted the State of Iowa.

The acquisitions of Louisiana and Florida were reflections of a growing national policy described by John Gorham Palfrey, who stated:

The acquisition must be read with all the facts; it expressed the national individualism; it was defensive, to preserve the national unity; a mere taking of adjoining land to protect the peace and prosperity at home; it was subjective, not objective. 279/

Texas

The circumstances surrounding the annexation of Texas were quite different from the circumstances surrounding acquisition of Florida and Louisiana. Texas was an independent republic and had been since about 1835. At that time, Mexico had begun losing control over the territory and the Anglo-Saxon settlers organized a provisional government of their own. From that point on, there had been constant struggles between the Texans and Mexicans. President John Tyler, in his message to the members of the 28th Congress during its second session, stated that the continued hostile relations between Texas and Mexico would only prove detrimental to the peace and prosperity of the United States. 280/ To avoid this, President Tyler offered a treaty of annexation to Texas that Texas found most agreeable. The Senate, however, did not ratify the treaty. Tyler claimed that the main objection to the treaty was that it was not put to a popular vote among the American people. Thus, he felt it his "duty to submit the whole subject to Congress as the best expounders of popular sentiment." 281/

The flavor of the Congressional debates in the 28th Congress, second session, on the proposition for the annexation or admission of Texas to the Union indicated that the question of slavery was the prime concern. To divert attention from the preeminent slavery issue, however, other arguments against annexation came

into focus. These arguments included the constitutional power of Congress to acquire foreign lands, and the effect of the Texas annexation on the rights of Mexico and her possible response to such action.

While slavery was at the heart of the disagreement about the annexation of Texas, the constitutional question regarding the authority of Congress to annex by joint resolution, rather than treaty power, gained the most support from those in opposition. Were it not for an intendment to the joint resolution providing that the President could, if he deemed advisable, negotiate with the republic instead of proceeding with the resolution, the action might never have passed the Senate. 282/

Texas was ultimately annexed to the Union by Joint Resolution No. 8, March 1, 1845 (5 Stat. 797). The resolution of annexation anticipated immediate statehood for the Republic of Texas. Shortly thereafter, Joint Resolution No. 1, December 29, 1845 (9 Stat. 108) was passed, admitting the State of Texas into the Union. Discussions were brief in the 29th Congress on the resolution to admit Texas; however, a few remarks were made concerning the propriety of the action of Congress that effectuated the Texas annexation. The dissenting members of Congress apparently became resigned to the majority opinion. 283/

The annexation of Texas was a prime example of the expression of the popular political and social conditions of the time. It was a rejection of Mexico's continued hostilities in the territory, an exercise of an inherent power of Congress, and a submission to the unyielding efforts of the annexationists.

Oregon

The area of the Pacific Northwest, which had been known as Oregon

Country, was made popular by its fur trade. This industry gained the interest of the United States, Russia, Spain, and England. Spain, however, yielded her interest in that territory to the United States in the Treaty of 1819, and later, in 1824, Russia agreed to cease further settlements south of 54° 40'. This left the powers of the United States and Great Britain as final competitors for the vast territory. Prior to that time, the United States and Great Britain had entered into an agreement of joint occupation in 1818 (8 Stat. 248), which remained in effect for ten years. On August 26, 1827, the 1818 agreement was essentially renewed, but for an indefinite period of time with a provision that either party could terminate the agreement upon a twelve-month notice. 284/

Settlement in the Oregon Country was slow until the early 1840's, when large groups of emigrants began making their way along the Oregon trail in search of more prosperous lives. It was this influx of American settlers that provided the impetus for the United States to define her claim in the Oregon Country against Great Britain. President Polk reoffered a division of the territory at the 49th parallel, but Great Britain refused. The United States then exercised her right to abrogate the Convention of 1827 while expressing her intention to fight for the territory that she claimed was rightfully hers by title. New negotiations were begun and Great Britain finally agreed to the division of the Oregon Country at the 49th parallel by the Treaty of June 15, 1846 (9 Stat. 869).

Oregon was provided with a territorial government under the Act of August 14, 1848 (9 Stat. 323). This action had been delayed in the Congress because of the heavily-debated slavery issue. The people of the Oregon territory then adopted a

constitution and state government. Their application for admission into the Union was accepted by the Act of February 14, 1859 (11 Stat. 383). The State of Oregon was formed and the remainder of its territorial lands outside the newly-declared boundaries were made part of the Territory of Washington.

Alaska

Alaska was purchased from the Russians under the Treaty of March 30, 1867 (15 Stat. 539) for \$7,200,000. The treaty was not overwhelmingly well received, but with the persistence of Secretary of State Seward, it passed the Senate.

The quest for Alaskan statehood was a long and tedious battle. Alaska was first established as a "civil and judicial district" under the Act of May 17, 1884 (23 Stat. 24), and was not recognized under a territorial government until the passage of the Act of August 24, 1912 (37 Stat. 512). The legislative record showed that the first statehood bill was offered in 1916, followed in subsequent years by extensive hearings and testimony on the subject. At various times during this period, bills for Alaskan statehood had been acted upon favorably in both houses of Congress and in committees of each house. 285/ Ernest Gruening's book on The State of Alaska, indicated that Alaskan industrial interests and other partisan interests were strongly against statehood, and for maintaining the status quo. They caused considerable delay to Alaska's admission.

By the 1950's, even with party platforms supporting statehood for the last two incorporated territories, Alaska and Hawaii, resistance continued in the Congress. Senator Church described the situation as "the reluctance of Congress to share its

prerogatives, or to extend the legislative franchise." 286/ Members of Congress did not want their voices or votes to be undermined by the addition of new senators and representatives. Finally, these political obstacles were overcome in the 85th Congress and the State of Alaska was admitted into the Union by the Act of July 7, 1958 (72 Stat. 339).

DIPLOMATIC AND CONGRESSIONAL, HISTORY:
FROM MONARCHY TO STATEHOOD

NOTES

1/ Ethel M. Damon, Sanford Dole and His Hawaii (Palo Alto, Calif.: Published for Hawaiian Historical Society by Pacific Books, 1957), p. 141.

1/ Kathleen Dickenson Mellen, An Island Kingdom Passes (New York: Hasting House Publishers, 1958), pp. 8-10.

3/ Ibid., p. 14.

4/ Paul Bailey, Kings and Queens of Old Hawaii (Los Angeles, Calif.: Westernlore Press, 1975), p. 267.

5/ Ibid.

6/ Mellen, p. 36.

2/ Damon, p. 141.

8/ Eugene Burns, The Last King of Paradise (New York: Pellegrini & Cudahy, 1952), p. 156.

9/ Ibid.

10/ Act of January 30, 1875, 19 Stat. 625-^626.

11/ Charles C. Tansill, The Foreign Policy of Thomas F. Bayard (New York: Fordham University Press, 1940), p. 370.

12/ Ibid.

13/ Burns, p. 157.

14/ Edward Joesting, Hawaii: An Uncommon History (New York: W. W. Norton & Co., Inc, 1972), p. 211.

15/ Ibid., pp. 211-212.

16/ Bailey, p. 269.

17/ Congressman Daniel Akaka, in his comments on the Commission's Draft Report, questions the interpretation in the Draft Report of events during Kalakaua's reign because of the emphasis placed on the role of Walter Gibson. He states: "If Gibson was in fact so important a figure, why was his participation in events ignored in first-hand accounts of the period...?" (Akaka's Comments, p. 5). He adds: "I seriously question this interpretation of history and the emphasis placed on Gibson's influence with the monarchy" (Akaka's comments, p. 5.)

Walter Gibson's influence on the monarchy ended with his departure from Hawaii on July 12, 1887. He died shortly afterwards in the United States on January 24, 1888. (K. D. Mellen, An Island Kingdom Passes, pp. 200 and 212, (1958)). James H. Blount arrived in Hawaii for the first time on April 6, 1893 (Dispatch No. 1, Spec. Comm.). His duties, upon arrival in Hawaii, were to concentrate on taking and compiling evidence and testimony on the 1893 downfall of the Hawaiian Monarchy and formation of the Provisional Government, as well as the state of affairs in Hawaii at the time (E. M. Damon, Sanford Dole and His Hawaii, p. 258 (1957); Gresham to Blount, Correspondence No. 1, March 11, 1893 printed in H. Ex. Doc. No. 47, 53rd Cong., 2nd Sess. (1893)). It is self-explanatory that Blount himself could not have been the author of any first-hand account of the Kalakaua/Gibson era. Indeed, the scope of Blount's duties did not include any need to investigate this period.

Notwithstanding the foregoing, it can be pointed out that the Blount dispatches did discuss Gibson's participation in the events of the Kalakaua era. Not only did Blount

discuss Gibson, but he took **testimony** of first-hand accounts **from people who** were present in **Hawaii at the time** Gibson was, and who knew him.

Blount's papers include an interview he had with Hawaiian Chief Justice A. F. Judd on **May 16, 1893** (Interview No. 28, p. 371 of **Blount's** report in House Ex. Doc. No. 47, 53d Cong. 2d Sess. (Dec. 18, 1893)). **The** questions were asked **by** Blount, himself, concerning Gibson and his **power**.

Q. Did Gibson use **the race feeling** to obtain **power, and to maintain** himself in it?

A. He did; and he also used flattery to the King to **exalt** his position. He fostered in the King's mind the idea of proclaiming himself emperor of the Pacific in connection **with** the Samoan affair.

The interview Blount had with M. M. Scott on April 10, 1893 **went** even further. It implied that **Gibson's** policies and influence not only caused the 1887 revolution, but that **the** impact of these policies were **evident** even in 1893 (Interview No. 46, **Ibid.**, p. 488 (1893)). Blount again conducted the interview personally.

Blount: What I want to **know** is this: Whether or not prior to 1887, and **down to** the revolution the controversies followed **racial** lines.

Scott: This present revolution?

Blount: Yes, were the contests generally parallel **with** racial lines?

Scott: They were.

Blount: Did these contests, parallel to what we have

termed racial lines, grow out of the difference of opinion on questions of taxation or questions of taxation and legislation? How did they grow?

Scott: No, they grew out of the office. Mr. Gibson advised it.

Blount: Please bring that out.

Scott: In the spring of 1882, when they held the election here, he advised it. He was the originator of the phrase "Hawaii for Hawaiians." He was a man of marked ability. He was the president of the board of education. He made speeches couched in careful language when the foreigners would see or hear them. He spoke Hawaiian well. His cry was "Hawaii for Hawaiians." He said to the people, the missionary has not been your friend. He leaves no outlet for you. He does not wish you to hold office. He [Gibson] puffed up Kalakaua with the idea that he could be emperor of all the Pacific Islands.

Regarding this and other comments, Blount sent a dispatch (Blount to Gresham, Correspondence No. 17, July 17, 1893, pp. 107-108, in H. Ex. Doc. No. 47, 53d Cong., 2d Sess. (1893)) which stated:

The great stir in Cabinet changes commenced with the Gibson Cabinet in 1882. He was a man of large information, free from all suspicions of bribery, politically ambitious, and led the natives and some whites...

It may not be amiss to present some of the criticisms against Kalakaua and his party formally filed with me by Professor W. D. Alexander...

He gives an account of various obnoxious measures advocated by the king, which were defeated.

In 1882 he says the race issue was raised by W. Gibson and only two white men were elected to the Legislature on the Islands.

Walter Gibson's influence over Kalakaua was also illustrated in passages of Gibson's diary as follows:

Sat., Jan. 15—"Examined the Explorer [a ship]. Propose to purchase her as a Government vessel to send to Samoa to carry Bush on his several missions."

Sun., Jan. 16—"A talk with the King about the Explorer. He said that Aholo and Kanoa were opposed to the purchase of her. It is too much my enterprise. These natives are opposed. I am sorry to have our Polynesian movement checked." (Jacob Adler & Gwynn Barrett, The Diaries of Walter Murray Gibson, (Honolulu: University of Hawaii Press, 1973), p. 114.

Tues., Jan. 18—"Talked earnestly with the King about the purchase of the Explorer. He is convinced and with me. Told me to call a Cabinet early in the morning."

Wed., Jan. 19—"A Cabinet Council at the Palace at 7:00 A.M. The King determined about purchase of Explorer—so decided in Council. I and Aholo, a Committee to make purchase. We went at 8 A.M. to Hotel and found Mr. Arundel. Concluded purchase for \$20,000 in four installments, [sic] I have carried my point, and the Polynesian movement will not be checked." (Ibid., p. 115.)

Fri., Jan. 21—"Completed the purchase of the Explorer—the vessel delivered to the Min. of Interior Aholo. I will now take charge of her as Secretary of the Navy—an empty title—but I will push this matter, our Polynesian confederation. Hawaii has the elements and prospects of a commanding Polynesian state—Kalakaua shall be a King." (Ibid., pp. 116-117.)

Lorin Thurston and William Castle were also very familiar with Gibson. They were among the members of the Committee of Thirteen who specifically asked for his dismissal from the Kalakaua Cabinet in 1887. Wm. R. Castle, in his Reminiscences (published privately in 1960 per the University of Hawaii Library (Hawaiian Collection)), wrote at p. 77:

It was said at that time that Moreno was going to organize and consolidate a union of all the Pacific Islands under Kalakaua as emperor. The same way that dreamer Walter Gibson obtained a controlling influence over Kalakaua by holding out wonderful pictures of a vast future of boundless wealth for us if his, Gibson's plans were carried. No doubt these alluring pictures accounted in part for his determined plan to create an army and navy with which to conquer the Pacific. Through his dreams or to appreciate the fact that with every opportunity in his grasp to render his name immortal by a wise and beneficent leadership he was instead making a wreck of his reign...•

As for the books by Wm. A. Russ, the titles alone should explain Gibson's absence from them. They were entitled The Hawaiian Revolution, 1893-94 and The Hawaiian Republic, 1894-98. Gibson died in 1888.

The above comments also address views expressed in comments received by the Commission from Elmer Miller about Kalakaua's policies.

18/ Burns, p. 158.

19/ Mellen, P. 75.

20/ Ibid.

2JL/ Bailey, P. 278.

22/ Burns, p. 165.

2V Ibid., p. 168

24/ Ibid.

25/ Ibid., p. 170.

26/ With respect to the statement that Celso Moreno and the king called "for Hawaiians to throw out or kill the planter sympathizers and foreign interests groups on the Islands," Congressman Daniel Akaka commented: "It is difficult to believe Kalakaua capable of such intrigue and scheming" (Akaka's Comments, p. 5).

Shortly after Celso Moreno was installed as a member of the Hawaiian Cabinet with the title of Minister of Foreign Affairs in 1880, posters in his support came out in all parts of Honolulu. They were addressed to "All true-born citizens of the country" and asked them to support Moreno: "His intention is to cast down the foreigners and put in their places the true Hawaiians..." (K. D. Mellen, An Island Kingdom Passes, p. 91 (1958); Copy of entire poster in Blount Rept., H. Ex. Doc. No. 47, 53rd Cong., 2d Seas., p. 183 (1893).

Robert W. Wilcox, a Hawaiian who supported Moreno and attended a mass meeting of citizens to discuss the Moreno appointment, proclaimed that "foreigners were stirring up confusion for their own evil purposes..." (E. M. Damon, Sanford B. Dole, p. 156 (1957)). Sanford Dole, who attended the mass meeting, reported his feelings to his brother George. Dole

wrote: "Robert Wilcox...probably egged on by the king...appears to wish the destructin of white men..." (Ibid., p. 157).

A first-hand account by James M. Comly, the U.S. Minister Resident to Hawaii (1877-1882), discusses the Moreno incident of 1880 in some detail, particularly in Dispatch No. 122, dated 21 August 1880 from Honolulu. Comly reports that the British, American, "Hawaiian citizens who were natives of the United States," and German residents of Hawaii presented memorials "to interfere for the protection of [their] interests, and demand the dismissal of the new Cabinet, as a menace to [their] capital invested here." Comly, who had informed the king of strong opposition to Moreno, mentions a discussion held by him and others in which "the general impression seemed to be that Moreno intended personal violence if I did not give way."

With respect to the role of the king it appears that at the very least he was highly sympathetic to Moreno's points of view. Kalakaua stated to Minister Comly: "Mr. Moreno had shown himself to be a very entertaining companion, a man of large and novel views in political and state affairs; that he had been frequently surprised to find out how exactly Mr. Moreno's views coincided with his own; and that he [had] put him in office because of this harmony and sympathy..." (Comly Dispatch, No. 122).

The dispatches of Minister Comly pertaining to the Moreno affair and its sequel include Nos. 104, 113, 121, 122, 131, 136, 141 and 149. "The Moreno affair of 1880 is one of the most curious and at the same time one of the most important incidents in Hawaiian history...These dispatches of General Comly are an important contribution to the history of the reign of Kalakaua" (Hawaiian Diplomatic Correspondence, Historical Commission of the Territory of Hawaii,

Vol. I, No. 3, Ralph S. Kuykendall, p. 42 (1926). Note: **Entire Dispatch No. 122** reprinted in Hawaiian Diplomatic Correspondence.)

27/ Burns, p. 168.

28/ Bailey, p. 285.

29/ Joesting, p. 213.

30/ Damon, p. 160.

31/ Joesting, p. 214.

32/ Ibid.

33/ Mellen, p. 102.

34/ Ibid., p. 103.

35/ Bailey, p. 286.

36/ Mellen, p. 107.

37/ See comment **received from**

Robert C. Schmitt, p. 3.

38/ Mellen, p. 115.

39/ Ibid., p. 120.

40/ Ibid., p. 121.

41/ Bailey, p. <187.

42/ Mellen, p. 122.

43/ Damon, p. 166.

44/ Mellen, p. 125.

45/ Bailey, p. 288.

46/ Mellen, p. 164.

47/ Damon, p. 175.

48/ Mellen, p. 169.

49/ Damon, p. 192.

50/ Joesting, p. 217. Congressman Daniel Akaka comments that the Draft Report on page 184, "indicates that the spark that ignited the annexationists was the signing of a bill to regulate the sale of opium and a bill to establish a lottery" (Akaka's Comments, pp. 5-6). In addition, it is asserted that these bills "...were merely used as excuses by the annexationists to bring down the Monarchy" (Akaka's Comments, p. 6). Other commenters raised a similar point.

The draft report does not refer to the lottery bill until page 190, in the section on Liliuokalani's reign. Moreover, the comments do not accurately reflect the chronology of events. The lottery bill was enacted in 1893—not in 1886-1887 which is the period discussed at pages 184-185 of the draft report. More importantly, the statement cited in support of these comments is a December 20, 1893 statement made with respect to conditions in 1893 and not events in 1886-1887. Finally, pages 184-185 of the draft report refer to the "reformers"—not "annexationists."

51/ Damon, p. 192.

52/ Joesting, p. 217.

53/ Bailey, p. 21.

54/ Ibid., p. 291.

55/ Joesting, p. 218.

56/ Bailey, p. 295.

57/ Senator Daniel Inouye and others commented that the Draft Report fails to inquire into the possible role of the United States Government in the adoption of the 1887 Constitution; i.e., the extent to

which the United States "condoned, participated in or enjoyed the benefits of the coercive activities of the American expatriate group" which is alleged to be chiefly responsible for the 1887 Constitution (Comments by Senator Daniel K. Inouye on the Draft Report of Findings of the Native Hawaiians Study Commission, pp. 14-15 (November 23, 1982)). This section is added to explain that role.

58/ Ralph S. Kuykendall, Hawaiian Kingdom, Volume III, The Kalakaua Dynasty, 1874-1893 (Honolulu: University of Hawaii Press, 1967), p. 350. Hereinafter referred to as "Kuykendall, Volume III."

59/ Kuykendall, Volume III, pp. 351-352.

60/ Sanford B. Dole, Memoirs of the Hawaiian Revolution, (Honolulu: Advertiser Publishing Co., Ltd., 1936), p. 48; cited by Kuykendall, Volume III, p. 352.

61/ Kuykendall, Volume III, p. 352. The foregoing information is not contained in James H. Blount's 1893 report. Neither Clarence Ashford "nor Volney Ashford, in the statement which he wrote for Commissioner Blount, say anything about the Honolulu Rifles and their part in the Revolution of 1887" (Kuykendall, Volume III, p. 704, note 27). This is a critical omission in light of the pivotal role of the Honolulu Rifles with respect to the adoption of the 1887 Constitution. Specifically, the Honolulu Rifles patrolled the streets of Honolulu and arrested Walter Gibson, Kalakaua's premier, just prior to the king's assent to the formation of the cabinet government. Kalakaua, who had called out the Rifles himself on June 30, 1887, to keep order, had unwittingly given official sanction to an army that he discovered shortly afterwards was unreliable. Fear of the worst convinced the king to sign.

Obviously, concealment of the data from Blount was beyond his control. The salient point is that the absence of this information from Blount's report, for whatever reason, tends to make it much less authoritative than its proponents contend it is.

62/ Kuykendall, Volume III, p. 703, footnote 9.

63/ Ibid., pp. 348-349.

64/ House Ex. Doc. No. 47, 53 Cong., 2nd Sess., p. 203; cited in Kuykendall, Volume III, p. 348, footnote.

65/ Ibid., p. 348, footnote.

66/ Quoted in A. D. Baldwin, A Memoir of Henry Perrine Baldwin, 1842-1911 (Cleveland, 1915), pp. 55-56; cited in Kuykendall, Volume III, pp. 348-349, footnote.

67/ Kuykendall, Volume III, p. 349, footnote. Emphasis added.

68/ Blount Report, H. Ex. Doc. No. 47, 53d Cong., 2d Sess., p. 331 (1893).

69/ Kuykendall, Volume III, p. 348.

70/ Ibid., p. 347; and Enclosure No. 5 to Dispatch No. 124 (Petition of American Citizens to Merrill), U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy No. T-30, Roll 23). The names of only three members of the Committee of Thirteen appear on the petition of American citizens. Presumably, if there had been more than three American nationals on the Committee, the names of more than three members of the Committee would have appeared on the petition. This assumption is supported by the fact that the Hawaiian League-sponsored

"Reform Cabinet" (appointed in 1887) contained only one American expatriate--the grandson of original American Missionaries who had been in Hawaii since 1828. (See discussion above, p. 277 and Lorrin A. Thurston, Memoirs of the Hawaiian Revolution (Honolulu: Advertiser Publishing Co., Ltd., 1936), p. 277.)

Thurston added as well that "Among the leaders of the conservatives were the 'mission boys,' the sons and grandsons of the early American missionaries. Two of the strongest conservatives were Sanford B. Dole and P. C. Jones, members of the executive committee" (Ibid., p. 277). Thurston also stated: "Besides our own military [Honolulu Rifles], we had the support of the 'Drei Hundert,' chiefly composed of Germans, who were reputed to have served in the German Army" (Ibid., p. 141). Thus, the military wing of the League contained Germans and was commanded by a Canadian.

71/ Kuykendall, Volume III, p. 344.

72/ Ibid., p. 355.

73/ Memorandum written by Bayard after conversation with Carter, July 6, 1887, Hawaiian Legation, Notes from Vol. 3, MS Dept. of State; cited and quoted in* Charles C. Tansill, The Foreign Policy of Thomas F. Bayard, p. 391.

74/ Bayard MS, Foreign Relations, 1894, Appendix II, pp. 660-662, 793-817; cited and quoted in Tansill, pp. 391-392. The above quote was cited to indicate the possibility that Minister Merrill was opposed to the reformers, though it cannot be determined. As pointed out in Tansill, p. 392: "There is nothing in the Bayard manuscript that would confirm this statement of Mr. Carter." From the conversation that Bayard had on July 6, 1887, it would appear that references to instructing Merrill not to help Kalakaua are probably false. What was interesting in the above

quote is that Merrill was not considered an active ally of the reformers nor American warships an aid to their revolution.

75/ Kuykendall, Volume III, p. 353. Inclusion of this discussion of the Aki episode was suggested in comments received by the Commission on its Draft Report.

76/ Wodehouse to Foreign Office, No. 15, very confidential, April 12, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 353.

77/ Wodehouse to Foreign Office, No. 10, confidential, March 16, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 353.

78/ Merrill to Bayard, unnumbered, May 31, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 24, 1st letter on roll).

79/ Merrill to Bayard, No. 124, June 6, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

80/ Merrill to Bayard, Dispatch No. 135, July 30, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

81/ Ibid.

82/ Kuykendall, Volume III, p. 358.

83/ Hawaii Daily Bulletin, June 28, 1887; cited by Kuykendall, Volume III, p. 358.

84/ Daily Herald, July 1, 1887, submitted as Enclosure 1 in Merrill to Bayard, No. 125, July 1, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

85/ Ibid. See also footnote 89, below.

86/ Kuykendall, Volume III, p. 363; J. Adler and G. Barrett, The Diaries of Walter Murray Gibson (Honolulu: University Press of Hawaii, 1973), p. 162.

87/ Kuykendall, Volume III, p. 364.

88/ Merrill to Bayard, No. 135, July 30, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

89/ Sanford B. Dole explained concerning the committee bringing the resolutions to Kalakaua on June 30th that:

The committee immediately called on the King, presented him with a certified copy, and informed him that he was given twenty-four hours in which to make reply. He gave oral reply that it was not necessary to wait; that he would accede now to all the demands. The committee said to the King that the meeting had given him twenty-four hours, and the committee would not change the requirement. Moreover, the committee stated, they wished a reply in writing (Dole, Memoirs of the Hawaiian Revolution, p. 55).

90/ Merrill to Bayard, No. 139, August 29, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

91/ Mellen, p. 196.

92/ Joesting, p. 220.

93/ Thomas M. Spaulding, Cabinet Government in Hawaii, (Honolulu: University of Hawaii Occasional Papers, No. 2, 1924), pp. 1 and 8. Emphasis added.

94/ Bailey, p. 297.

95/ New York Herald, August 25, 1887, quoted in Daily Bulletin, September 7, 1887; cited by Kuykendall, Volume III, p. 371.

96/ Joesting, p. 220.

97/ Bailey, p. 299.

98/ Hawaiian Instructions, Vol. 2, MS, Dept. of State (November 19, 1881).

99/ Senate Executive Journal, Vol. 24, pp. 280 and 289.

100/ Tansill, p. 372.

101/ Senate Executive Journal, Vol. 25, p. 419.

102/ Tansill, pp. 377-78.

103/ Ibid., p. 379.

104/ Senator Daniel Inouye states that the Draft Report did not inquire into the "possible role" with regard to "thwarting subsequent efforts by native Hawaiians to overturn... [the 1887] Constitution in 1889 and to revise it in 1890" (Senator Inouye's Comments, pp. 14-15). The following 7 pages were added in response to that comment.

105/ Kuykendall, Volume III, p. 401.

106/ Daily Bulletin, July 20, 1887; Hawaiian Gazette, July 26, 1887; cited by Kuykendall, Volume III, p. 407.

107/ Hawaiian Gazette, August 9, 1887; Pacific Commercial Advertiser, August 15, 1887; cited by Kuykendall, Volume III, p. 407.

108/ Ibid.

109/ Hawaiian Gazette, August 16, 1887; cited by Kuykendall, Volume III, p. 407.

110/ Daily Bulletin, September 13, 1887; Hawaiian Gazette, September 13, and 20, 1887; Pacific Commercial Advertiser, September 12 and 19, 1887; Damon, Sanford Dole and His Hawaii, pp. 204-205; W. D. Alexander to A. C. Alexander, September 17, 1887, in private collection; Merrill to Bayard, No. 141, September 19, 1887, U.S. Department of State Archives, Dispatches, Hawaii, Vol. XXIII, printed in For. Relations, 1888, p. 803; Wodehouse to Foreign Office, No. 30, political and confidential, September 27, 1887, British Public Record Office, Foreign Office 58/220; cited by Kuykendall, Volume III, p. 410.

111/ Daily Bulletin, September 16, 1887 (letter of "One Who Voted Straight Reform"); cited by Kuykendall, Volume III, p. 410.

112/ Laws, 1887, passim; legislative proceedings reported in Honolulu newspapers; cited by Kuykendall, Volume III, p. 411.

113/ Wodehouse to Foreign Office, Nos. 30 and 35, political and confidential, September 27, December 20, 1887; Daily Bulletin, November 25, 26, 1887; Hawaiian Gazette, November 8, 15, December 13, 1887; Pacific Commercial Advertiser, December 5 (letter by "Reform"); Laws, 1887, pp. 60-64; cited by Kuykendall, Volume III, p. 411.

114/ Kuykendall, Volume III, p. 411.

115/ Ibid., p. 413.

116/ Everett v. Baker, 7 Haw. 299 (1888).

117/ Merrill to Bayard, No. 162, December 24, 1887, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

118/ Liliuokalani, Diary, December 20, 22 and 23, 1887, in State Archives of Hawaii; cited by Kuykendall, Volume III, p. 415.

119/ Kuykendall, Volume III, p. 714, note 46.

120/ Merrill to Bayard, No. 166, January 14, 1888, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 23).

121/ Kuykendall, Volume III, p. 415.

Ibid. It should be noted that Kuykendall, in reprinting **these** passages from Liliuokalani's **diary**, explained that "the two W's are believed to stand for Robert W. Wilcox and Charles B. Wilson."

123/ Record of Informal Meetings of the Cabinet Council, January 18, 1888; cited by Kuykendall, Volume III, p. 416.

124/ Ibid.

125/ Wodehouse to Foreign Office, No. 76, political and confidential, September 28, 1888, British Public Record Office, Foreign Office 58/234; cited by Kuykendall, Volume III, p. 420.

126/ Macfarlane v. Damon, 8 Haw. 19 (1890).

127/ Wodehouse to Foreign Office, Nos. 70 and 73, political and confidential, August 4, 28, 1888, British Public Record Office, Foreign Office 58/234; cited by Kuykendall, Volume III, p. 422.

128/ Kuykendall, Volume III, p. 416.

129/ Ibid., p. 425.

130/ Ibid.

131/ Ibid.

132/ Merrill to Blaine, No. 253, July 26, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 14-15; Commander E. T. Woodward to Secretary of Navy, July 27, 1889, printed in Ibid., pp. 459-460 (1893).

133/ Wodehouse to Foreign Office, No. 5, political and confidential, August 2, 1889, British Public Record Office, Foreign Office 58/242. "The portion of this dispatch quoted was written on or before July 27. From a rough draft dated July 16 in [the State Archives of Hawaii], British Consulate Records, it appears that Wodehouse received his first information from the king's brother-in-law, A. S. Cleghorn;" cited by Kuykendall, Volume III, p. 426.

134/ Merrill to Blaine, No. 255, August 1, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 16-18 (1893).

Kuykendall, Volume III, p.

136/ Daily Bulletin, July 31, 1889, as Enclosure No. 1 in Merrill to Blaine, No. 255, August 1, 1889, U.S. Department of State Archives, Dispatches, Hawaii (also in National Archives, Microcopy T-30, Roll 24); see also Kuykendall, Volume III, pp. 426-427; see also L. A. Thurston, Memoirs of the Hawaiian Revolution, pp. 192-97. Kuykendall states that this suggestion is "incompatible with other known facts except on the theory of a double cross by Wilcox or the king" (p. 427). On the other hand, the Commission received the following comment from Helena K. Wilcox Salazar, granddaughter of the Hon. Robert W. Wilcox: "...I was appalled and truly amazed to read that my grandfather, the Honorable Robert W. Wilcox, led the counter-rebellion of 1889 to restore Kalakaua to power. This is not true and gives the impression that Kalakaua had the backing of the people."

"According to grandfather, Kalakaua cared nothing about the people, and according to Historian W. D. Alexander, the people, in turn, were indifferent as to Kalakaua's fate.

"Historian R. 5. Kuykendall informs us that grandfather led the counter-rebellion to 'replace Kalakaua with Liliuokalani'-after the Kalakaua-Pate scandals. Moreover, nor did grandfather lead the counter-rebellion of 1895 to restore Liliuokalani.

"As an alternate to the disastrous rule of the Kalakaua's, he told Commissioner Blount, he had sought rather to found a Republic." (See Appendix for comment.)

137/ Merrill to Blaine, No. 255, August 1, 1889 printed in H. Ex. Doc. 48, 53rd Cong., 2d Seas., p. 16 (1893).

138/ Merrill to Bayard, No. 255, August 1, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., p. 17 (1893).

139/ Joesting, p. 242.

140/ Merrill to Blaine, No. 257, August 6, 1889, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 18-19 (1893).

141/ Wodehouse to Foreign Office, No. 8, political and confidential, August 24, 1889, British Public Record Office, Foreign Office 58/242; cited by Kuykendall, Volume III, p. 431.

142/ Wodehouse to Foreign Office, No. 2, political, January 17, 1890, British Public Record Office, Foreign Office 58/253; cited by Kuykendall, Volume III, p. 453.

143/ Kuykendall, Volume III, p. 454, citing Record of Informal Meeting* of the Cabinet Council, February 4, 1890.

144/ w. D. Alexander to A. C. Alexander, February 7, 1890, In a private collection of Alexander family papers; cited by Kuykendall, Volume III, p. 452.

145/ Kuykendall, Volume III, p. 460.

146/ Daily Bulletin, June 17, 1890; Pacific Commercial Advertiser, June 18, 1890; cited by Kuykendall, Volume III, p. 461.

147/ Dally Bulletin, July 2, 18⁹⁰; cited by Kuykendall, Volume III, p. 462.

148/ Dally Bulletin, August 14, 15, 1890; cited by Kuykendall, Volume III, p. 462.

149/ Journal of the Legislative Assembly, August 15, 1890. The original message is in the Legislative file In the State Archives of Hawaii; cited and qualified by Kuykendall, Volume III, p. 462.

150/ Stevens to Blaine, No. 30, confidential, August 19, 1890, U.S. Department of State Archives, Dispatches, Hawaii, Vol. XXIV, printed in House Ex. Doc. No. 48, 53 Cong., 2d Sess., pp. 67-68 (1893).

151/ Wodehouse to Foreign Office, No. 23, political and confidential, August 29, 1890, British Public Record Office, Foreign Office 58/253; cited by Kuykendall, Volume III, p. 403.

152/ Kalakaua to Robert F. Synge, "Strictly Confidential," **September 19**, 1890, British Public Record Office, Foreign Office 58/254; cited by Kuykendall, Volume III, p. 463. (Kuykendall notes that the **British** Foreign Office wrote on **Kalakaua's** letter that Wodehouse's "**advice was** sensible enough and has **been** approved.")

153/ Daily Bulletin, and Pacific Commercial Advertiser, **September 10**, 1890; cited by Kuykendall, Volume III, p. 464.

154/ Wodehouse to Foreign Office, Nos. 24 and 26, political and confidential, September 10, 20, 1890, British Public Record Office, **Foreign** Office 58/253; cited by Kuykendall, Volume III, p. 464.

155/ Stevens to Blaine, No. 3, September 25, 1890, U.S. **Department** of State Archives, Dispatches, **Hawaii** (also in National Archives, **Microcopy** T-30, Roll 25).

156/ Kuykendall, Volume III, p. 464.

157/ Ibid., p. 509.

158/ Ibid., p. 487.

159/ Ibid., p. 488.

160/ Mott Smith to Parker, December 2, 4, 16, 30, 1891; **January** 13, 30, February 10, 1892, in **State** Archives of Hawaii, Treaty **Document** File; cited by Kuykendall, Volume III, p. 499.

161/ Pacific Commercial Advertiser, July 11, 1892; cited by Kuykendall, Volume III, p. 503.

162/ Daily Bulletin, July 14, 15, 1892; cited by Kuykendall, Volume III, p. 504.

163/ Pacific Commercial Advertiser, August 15, 1892; Daily Bulletin, August 15, 1892; cited by Kuykendall, Volume III, p. 504.

164/ Kuykendall, Volume III, p. 508.

165/ Bulletin editorial of August 27, **1884**; cited by Kuykendall, Volume III, p. 508.

166/ Kuykendall, Volume III, p. 510.

167/ Ibid., p. 514.

168/ Daily Bulletin, July 21, 1891; cited by Kuykendall, Volume III, p. 515.

169/ Kuykendall, Volume III, p. 519, citing (a) Ka Leo o Ka Lahui, November 24, 1891; (b) Ibid., October 9, 1891; (c) Pacific Commercial Advertiser, December 5, 1891.

170/ Ka Leo o Ka Lahui, February 5, 1892; cited by Kuykendall, Volume III, p. 522.

171/ Kuykendall, Volume III, p. 523.

172/ Ibid., p. 529.

173/ Ibid., p. 526; refers to Mott Smith to Parker, December 30, 1891, State Archives of Hawaii, Treaty Documents.

174/ Kuykendall, Volume III, p. 532.

175/ Thurston, Memoirs of the Hawaiian Revolution, p. 229.

176/ Kuykendall, Volume III, p. 533.

177/ Thurston, Memoirs of the Hawaiian Revolution, p. 229.

178/ Ibid., pp. 230-232.

179/ Thurston to Blaine, May 27, 1892, with enclosed statement, U.S. Department of State Archives, Miscellaneous Letters, May 1892, Pt. IIj cited by Kuykendall, Volume III, pp. 536-537.

180/ Kuykendall, Volume III, p. 370.

181/ National Archives, Record Group 45, Area File 9, July-October 1892.

182/ Ibid.

183/ Kuykendall, Volume III, p. 580.

Ibid., pp. 582-583.

184/

185/ Merze Tate, The United States and the Hawaiian Kingdom (New Haven: Yale University Press, 1965); p. 161.

186/ Ibid., p. 163.

187/ Ibid., p. 166.

188/ Kuykendall, Volume III, p. 588.

189/ James Blount, Report of the Commissioner to the Hawaiian Islands (Washington: Government Printing Office, 1893), p. 497.

190/ Tate, p. 168.

191/ Kuykendall, Volume III, pp. 590-591.

192/ Blount, p. 118.

193/ Area File 9, November 1892-May 1893.

194/ Ibid.

195/ Ibid.

196/ Kuykendall, Volume III, p. 598.

197/ Ibid., p. 601.

198/ Blount, p. 120.

199/ Area File 9, November 1892-May 1893.

200 Ibid.

201 Blount, p. 2.

202/ Tate, pp. 242-246.

203/ Kuykendall, Volume III, pp. 624-631.

204/ Quoted in Tate, pp. 248-249.

205/ Kuykendall, Volume III, p. 647.

206/ Tate, Chapter 8.

207/ Alfred Thayer Mahan, "Hawaii and Our Future Sea Power," The Forum XV (March, 1893), p. 7.

208/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., p. 1 (1898). (Copies of previous proposed Annexation Treaties with U.S. of 1854 and 1893 and Reciprocity Treaty of 1875, pp. 91-97).

209/ c. Julien, America's Eapltre
(New York: Panipheon Books, 1971)» p»
53; 31 Cong. Rec , pp. 5920, 6003
(1898).

210/ H. Wayne Morgan, Wm. McKinley
and His America, (Syracuse, N.Y.:
Syracuse University Press, 1963), p.
295.

211/ Ibid., pp. 295-6.

212/ Ibid., p. 296.

213/ H. R. Rep. No. 1355, 55th
Cong., 2d Sess., p. 29 (1898). **The**
Office of Hawaiian Affairs **commented**
that the Commission's Draft **Report**
"...reasons that annexation by the
joint resolution method was **necessary**
because annexation was essential"
(OHA's Comments, p. 17). OHA **states**
that by the time the annexation
resolution was introduced in **Congress**
the Spanish-American War was
"virtually over" and asserts **that the**
joint resolution was utilized **"because**
of strong opposition in the **Senate to**
annexation" (OHA's Comments, p. 17).
Similarly, Congressman Daniel **Akaka**
submits: "It wasn't so much
expediency that required a joint
resolution in Congress as the fact
that many Americans and their
representatives did not support **the**
annexation of a country whose
government had been established **and**
maintained with United States **military**
force" (Congressman Akaka's **Comments**,
p. 11).

In fact, the Draft Report
acknowledges that there was strong
opposition to the annexation **of Hawaii**
in the United States Senate (**Draft**
Report, pp. 203-204; **Final Report**, pp.
302-303). Furthermore, the **comments**
ignore the distinction between **the**
immediate reason for the **interest** in
annexing Hawaii that prompted **the use**
of a joint resolution--i.e., **fear that**
unless the United States acted
immediately some other foreign **power**
would take over Hawaii--and the

underlying reasons for interest in
annexing Hawaii: the commercial
importance of Hawaii, a fear of
control of Hawaii by the Japanese, and
protection of the Pacific Coast.
These underlying reasons are evident
from the Congressional **debate on the**
joint resolution.

Theories of present-day historians
that American commercial interests
were the principal motivating force
behind annexation (T. J. Osborne) or
that anti-Japanese sentiment was the
major driving force behind annexation
(W. H. Morgan) (pointed out in Senator
Daniel Inouye's Comments, p. 11) do
not alter the fact that the underlying
reasons for interest in annexation
cited in the Draft Report, in fact,
contributed to sentiment for annexing
the Hawaiian Islands.

214/ 31 Cong. Rec , p. 5772
(1898).

215/ Julien, p. 53.

216/ 31 Cong. Rec , p. 5920
(1898).

217/ Ibid., p. 6003

218/ Ibid., p. 6141

219/ Morgan, p. 296.

220/ 31 Cong. Rec , p. 5785
(1898).

221/ Ibid., p. 5835.

222/ Ibid., p. 6005.

223/ Ibid., p. 5982.

224/ Ibid., p. 6518.

225/ Morgan, p. 297.

226/ Ibid., p. 294.

227/ Ibid., p. 295.

228/ As sources for this section, see the Treaties and Acts relating to Territories Annexed; Treaties Proposed on Texas and Hawaii. See also S. Rep. No. 681, 55th Cong., 2d Sess., pp. 19-22 (1898), and 1898 Hawaiian Annexation Papers.

229/ 31 Cong. Rec, p. 5875 (1898).

230/ Ibid. This power has been affirmed in American Insurance Company v. Canter, 26 U.S. 511, 524 (1828); Mormon Church v. United States, 136 U.S. 1, 42-43 (1890); and other cases. See also S. Rep. No. 681, 55th Cong., 2d Sess., p. 46 (1898).

231/ See E. Oberholtzer, A History of the United States Since the Civil War, Volume II, (New York: The Macmillan Co., 1928), pp. 226-227.

232/ Cong. Globe, 41st Cong., 3d Sess., p. 271 (1870).

233/ Ibid., p. 416. (See also S. Ex. Doc. No. 17 and H. Ex. Doc. Nos. 42, 43, 41st Cong., 3d Sess. (1870).)

234/ Oberholtzer, p. 244.

235/ 34 Stat. 119.

236/ 31 Cong. Rec, p. 5878 (1898). (List of island names and locations.)

237/ Ibid.; S. Ex. Doc. No. 79, 40th Cong., 2d Sess., pp. 1-3 (1868).

238/ Presidential Proclamation of October 27, 1810, 11 Stat. 761.

239/ S. Rep. No. 681, 55th Cong., 2d Sess., p. 1 (1898).

240/ Ibid., p. 2.

241/ Ibid.

242/ 31 Cong. Rec, pp. 6012-6014, 6518 (1898); H. R. Rep. No. 1355, 55th Cong., 2d Sess., pp. 53-58 (1898).

243/ 31 Cong. Rec, p. 6518 (1898)* Further, opponents of Hawaiian annexation claimed that the Texas plebiscite set the precedent for a popular vote on annexation by Hawaiians. The forces in favor of Hawaii's annexation, however, argued that the Act of the Texas legislature calling the convention made no provision for a popular vote. It was simply done at the discretion of the Governor. The Texas legislature's acceptance of the terms of the resolution, prior to the popular vote, had completed the annexation.

244/ 31 Cong. Rec, pp. 5845-46 (1898).

245/ Morgan, p. 296.

246/ Some commentators criticized the Draft Report's comparison of the annexation of Hawaii and Texas. For example, comments from Congressman Daniel Akaka state that the comparison is "too pat" and only serves to "mislead and confuse the history of the era." The comparison was in fact first made in the 1898 Congressional debates, and the similarities and differences are accurately reflected in the Report.

247/ S. Doc. No. 214, 55th Cong., 2d Sess., pp. 8-9 (1898).

248/ H. R. Rep. No. 1355, 55th Cong., 2d Sess., p. 42 (1898); 31 Cong* Rec, p. 5987 (1898).

249/ The total of six native Hawaiians is taken from a statement of Hawaii's Attorney General W. O. Smith (B. Damon, p. 296).

250/ S. Doc. No. 109, 55th Cong., 2d Sess., p. 35 (1898); Hawaiian Constitution of 1894.

251/ H. R. Rep. Mo. 1355, 55th Cong., 2d Sess., pp. 1-2 (1898)*

252/ S. Rep. Mo. 681, 55th Cong., 2d Sess., p. 4 (1898).

253/ H. R. Rep. Mo. 1355, 55th Cong., 2d Sess., pp. 54-55 (1898); S. Rep. Mo. 681, 55th Cong., 2d Sess., pp. 3-4 (1898).

254/ Hawaii Sen. Jour, of Extra Sess. pp. 22, 239 (1897); J. Kauhane's obituary; Letter dated February 26, 1982, to John Hitzelberg, U.S. Department of Justice, from Agnes Conrad, State Archivist of Hawaii.

255/ Hawaii Sen. Jour, of Extra Sess., pp. 3-4 (1897).

256/ Ibid., pp. 10-11.

257/ Ibid., p. 15.

258/ Ibid., p. 21.

259/ Ibid., pp. 20 and 22.

260/ Ibid., p. 239; Letter, dated 2/26/82, to John Hitzelberg, Department of Justice, from Agnes Conrad, State Archivist. To answer the question on "native Hawaiian" signatures to annexation would ideally require checking the family histories of all the members of the Hawaiian Legislature and cabinet members. In lieu of this, the sources relied upon were documents cited here, the statement of the State Archivist, and an examination of names that appear to be Hawaiian, which may be how the State Archivist arrived at her conclusion that J. Kauhane was the only "native Hawaiian."

261/ 31 Cong. Rec, p. 5841 (1898).

262/ Cover pages of the "monster petition" are included in Archives annexation papers. This petition is also discussed in the Congressional debate; see 31 Cong. Rec, p. 6702 (1898).

263/ 31 Cong. Rec, pp. 5787, 5883-86 (1898); Treaty Annexation papers from National Archives.

264/ S. Rep. No. 681, 55th Cong., 2d Sess., p. 43 (1898); 1896 Census.

265/ 31 Cong. Rec, p. 6702 (1898).

266/ Ibid., pp. 6014, 6337, 6404, 6469.

267/ Ibid., p. 6404.

268/ Ibid., p. 6469.

269/ Damon, pp. 340-341.

270/ [1958] U.S. Code Cong. & Ad. News 2933, 2936.

271/ Ibid., p. 2943.

272/ Ibid., p. 2936.

273/ 31 Cong. Rec, pp. 5770-71.

274/ [1959] U.S. Code Cong. & Ad. News 1346, 1350.

275/ 105 Cong. Rec, pp. 14564-66 (1959).

276/ Ibid., p. 14565.

277/ John Gorham Palfrey, The Growth of the Idea of Annexation, and Its Breaking Upon Constitutional Law, 13 Harvard L. Rev. 377-380 (1899-1900).

278/ Ibid., p. 380.

279/ Ibid.

280/ Cong. Globe, 28th Cong., 2d Sess., pp. 4-5 (1844-45).

281/ Ibid., p. 4.

282/ Ibid., p. 363 (Mr. Crittenden).

283/ Cong. Globe, 29th Cong., **1st** Sess., p. 88 (1845-1846) (Mr. Webster).

284/ Convention with Great Britain, August 6, 1827 (8 Stat. 360).

285/ 101 Cong. Rec, p. **5882** (1955).

286/ 104 Cong. Rec, p. **7997** (1958).

Existing Law, Native Hawaiians, And Compensation

In light of the history of landholding laws in Hawaii, the fall of the monarchy, and annexation as set forth in the preceding two chapters, the Commission has examined whether the native Hawaiians have any legal claim to compensation from the United States for loss of land or sovereignty. The present chapter sets forth the analysis and findings of this review. In preparing this chapter, the Commission has reviewed a number of articles and reports making the legal argument in favor of compensation. These include Melody MacKenzie's report for the Office of Hawaiian Affairs, Sovereignty and Land: Honoring the Native Hawaiian Claim, y/ Karen Blondin's A Case For Reparations for Native Hawaiians (16 Hawaiian Bar Journal 13), and H. Rodger Betts' unpublished Report on the Hawaiian Native Claims (Second Draft, February 17, 1978). The Commission also attempted to address the views and analyses presented by a number of people at the Commission's hearings throughout Hawaii in January, 1982. In addition, the Commission has taken into account a number of comments received during the comment period on this chapter as it appeared in the Draft Report of Findings. Because of their scope, special attention was given to comments received from Senator Daniel K. Inouye, Congressman Daniel K. Akaka, the Office of Hawaiian Affairs (OHA), and Patrick Hanifin. _2/

In the following sections, the chapter first sets forth the background for the analysis, since much of it depends on technical legal concepts and terms. It then reviews whether the native Hawaiians are entitled to compensation for loss of their land under present law, and whether they are entitled to compensation for loss of their sovereignty. Finally, this chapter compares the native Hawaiians' claims

to those of the Alaska Natives, addressed by Congress in the Alaska Native Claims Settlement Act. 3/

A. BACKGROUND

Over the years, a number of different native groups and organizations have sought compensation from the United States for loss of lands and loss of sovereignty. As a result, a large body of law has developed. That law is made up of both statutes passed by Congress and of cases decided by courts. Much of that law has been developed because American Indians have made claims for compensation; other law has grown out of claims by Alaska Native groups. In the discussion of whether the native Hawaiians have viable claims for compensation, the analysis examines whether the existing law—statutes and cases—provides a basis for giving compensation. Without in any way suggesting that Hawaiian natives are an Indian tribe, the law developed for and about Indian tribes will be reviewed to determine whether this body of law provides a legal basis for the native Hawaiian claims. 4/

Generally, law providing that native groups may be entitled to compensation for loss of land has developed under two legal principles: first, that a native group had "aboriginal title" to lands, and those lands were taken by the United States. and second, that the native group had "recognized title" to lands—title that the United States specifically acknowledged under its laws—and those lands were taken by the United States. A native group must meet a number of technical legal requirements in order to be entitled to compensation under either principle. This chapter will analyze the facts regarding the native Hawaiian history and land law in the context of those legal requirements.

Claims for compensation for loss of sovereignty, on the other hand, have been made under several laws, this chapter will first look at the legal concept of sovereignty, then consider the native Hawaiian experience under that concept. The chapter will then examine each of the laws under which claims for loss of sovereignty have been made.

Finally, this chapter will look at whether any special trust relationship exists between the United States and the native Hawaiians that would be a basis for compensation. It will then compare the native Hawaiian claims to the Alaska Native claims.

While this chapter must cover technical and legal material, summaries at the beginning and end of each portion of the chapter will make clear the context in which those legal points are considered.

B. ABORIGINAL TITLE AND COMPENSATION

Aboriginal title is a concept developed in the law to provide a basis for a native group that does not have traditional, legally-accepted land ownership rights to establish a claim to land based on use and occupancy thereof where the sovereign (an entity separate and distinct from the native group) has the underlying fee to said land. It is generally defined as title derived from the use and occupancy of land from time immemorial. ^{5/} Under the law, a number of specific tests have developed that a native group must meet in order to establish that it has aboriginal title to a tract of land: the group must be "a single landowning entity;" ^{6/} there must be actual ^{7/} and exclusive use and occupancy ^{8/} of the land; the use and occupancy must be of a defined area; ^{9/} and the land must be used and occupied for a long time before aboriginal title was extinguished. ^{10/}

If the native Hawaiians meet the tests for holding aboriginal title, to

be entitled to compensation from the United States the title must have been extinguished by the government of the United States, not by the government of Hawaii, before the United States annexed Hawaii. ^{11/} Finally, even if the aboriginal title was terminated by the United States, some law must give the native Hawaiians a right to compensation for loss of aboriginal title, since without such a law there is no right to such compensation. ^{12/} The following sections will analyze each of these requirements to determine: whether the native Hawaiians had aboriginal title to portions of the land in Hawaii; whether the United States extinguished that title; and whether the native Hawaiians are entitled to compensation for loss of that title.

Did the Native Hawaiians Have Aboriginal Title to the Crown and Government Lands?

To establish aboriginal title to the Crown and Government lands, native Hawaiians must meet each of the tests for such title set forth above. ^{13/}

Under present law, the native Hawaiians as a group (without determining what persons would qualify as native Hawaiians) meet some but not all parts of the test to be a single landowning entity. ^{14/} Courts have held that, even in the absence of political cohesion, Indians having a common culture, common language, ties of kinship, economic ties, treated by the sovereign as having collective rights in the area claimed, and having common use of a claimed area, constituted a single landowning entity, ^{15/} The native Hawaiians were a group with a common culture, language, and ties of kinship.

Their economic ties in the nineteenth century are less apparent, since commoners were free to move from one ahupua'a to another, and since, during that century, many native Hawaiians left the land to work for

foreign landowners in Hawaii or to work in other non-agricultural pursuits, so that they did not act as a group with economic ties to each other. 16/ Under the ancient land law system, it could be considered that the king owned all the land. 17/ However, even at that time the native Hawaiians did not treat all the lands as owned in common. A native Hawaiian tenant worked for a particular chief, and could be summarily ejected from the land he cultivated by that chief. In turn, the chief could be summarily removed from his land by the king. 18/ These practices underscored that ownership of the land was not by all native Hawaiians as a group.

Furthermore, the Great Mahele (or division of land) of 1848 brought to an "end once and for all the feudal system of land tenure in Hawaii, and finally and conclusively established the principle of private allodial titles." 19/ Since the intended goal of the Land Commission Board and of the Mahele was to be a total partition of undivided interests and also, a division and parcelling out of the Government and Crown lands 20/ (that is, defeudalization), 21/ any idea of communal ownership was laid to rest.

Moreover, the Kuleana Act of 1850 (and other legislation passed subsequent to the Great Mahele) allowed individual native Hawaiians to claim a fee simple interest in lands they had actually cultivated or, in the case of other native Hawaiians, to obtain fee simple title to Government lands by purchase. 22/ In addition, much land, including Government and Crown land established by the Great Mahele, was made available for purchase by foreigners. These lands, then, were not held in common by the native Hawaiians, but were owned in fee simple and gave the people vested property rights. Such ownership is not in common and is contrary to the concept of aboriginal title.

The Kuleana Act was significant in two other respects. Those natives who cultivated land had traditionally been allowed to "grow crops for their own use and to pasture animals on unoccupied lands" of the ahupua'a, one of the principal landowning units into which all land (including Government and Crown lands) was divided. 23/ The Kuleana Act abolished the right to grow crops and the right of pasturage. 24/ In addition, the Kuleana Act had the effect of establishing the principle that Government land could be sold, thereby opening the way for foreigners to purchase Government lands. By 1864, native Hawaiians had purchased over 90,000 acres of Government land and by 1893, foreigners had purchased over 600,000 acres of Government land. 25/ By 1893, 752,431 acres of Government and Crown lands had been leased to foreigners. 26/

One theory contends that the statement in the 1840 Constitution of Hawaii that the lands of Hawaii "belonged to the chiefs and people in common" 27/ establishes that the native Hawaiians had collective or common ownership of the Government and Crown lands and, in effect, proves that the native Hawaiians had aboriginal title to the Government and Crown lands. 28/ Similarly, it has been argued that the change in the land system of Hawaii under the Great Mahele, whereby the king "set apart forever to the chiefs and the people" approximately one and one-half million acres of land and retained for himself, his heirs and successors approximately one million acres 29/ (known respectively as the Government and Crown lands), establishes the collective ownership of these lands by the native Hawaiians and, therefore, effectively proves that they had aboriginal title thereto. 30/ However, even if the quoted language

signifies that the Hawaiian Government treated the native Hawaiians as having "collective rights" 31/ in *h« Government and Crown lands, this treatment does not, in and of itself, establish that the native Hawaiians constituted a single landowning entity, 32/ which, in turn, is only one of the prerequisites for the existence of aboriginal title. Furthermore, even if the quoted language were an acknowledgment by the Hawaiian Government that native Hawaiians had a right to exercise some degree of control over the Government and Crown lands, this acknowledgment, in and of itself, does not prove the existence of aboriginal title to these lands. 33/ The existence of aboriginal title is a question of fact that must be established by clear and definite proof. 34/ The historical record reveals developments in individual ownership by native Hawaiians of many of these same lands between 1848 and 1893 and the ownership and/or use of many of the Government and Crown lands by non-natives by 1893 35/—facts that belie the arguments based on the 1840 Constitution and Great Mahele.

The first test for aboriginal title is the existence of a "single landowning entity." While the native Hawaiians, as a group, meet some of the requirements for a "single landowning entity," they do not meet all such requirements. As noted, they did not have common economic ties that united them. Not only were commoners free to move from one ahupua'a to another, but during the nineteenth century many native Hawaiians abandoned the land to work for foreign landowners in Hawaii or to work in other non-agricultural pursuits. 36/ Second, it does not appear that they made common use of the Crown and Government lands after 1848, in light of the ownership of many of these lands by individual native Hawaiians and individual non-natives, and the use of many

of these lands by non-natives under leases from the Hawaiian Government. Third, even if the Hawaiian Government had treated the native Hawaiians as having "collective rights" in the Crown and Government lands prior to 1848, it appears that it did not do so after that date. Indeed, passage of the Kuleana Act (and related legislation), which opened the way to ownership of Crown and Government lands by individual native Hawaiians and individual foreigners, and the practice of leasing Government and Crown lands to foreigners indicate that after 1848 the Hawaiian Government did not view the native Hawaiians as an entity that had "collective rights" in the Crown and Government lands. In order for a group to be deemed a "single landowning entity," it must have been viewed as an entity having collective rights as of the alleged date of extinguishment of title. 37/

One comment received by the Commission on its Draft Report states that the Hawaiian Government was the "single landowning entity" required for the existence of aboriginal title. In effect, the commenter asserts that the native Hawaiians and the Hawaiian Government are one and the same for the purpose of aboriginal title. 38/ It is clear, however, that the government of Hawaii represented all the citizens of Hawaii, not just the native Hawaiians. Additionally, it is significant that the United States dealt with the government of Hawaii as a separate sovereign, or foreign country, the same way in which it dealt with France, for example. The United States Government did not treat Hawaii as a domestic dependent nation as it did entities such as Indian tribes. Moreover, the commenter's view is not consistent with the facts. The Kuleana Act of 1850 abolished the rights of native tenants to grow crops and pasture animals on Government and Crown lands. 39/ This statute was interpreted by the Hawaiian Supreme

Court as effecting an implicit repeal of all former gathering rights as well. 40/

These facts present strong evidence that the Hawaiian Government did not represent only the native Hawaiians 41/ and was not the "single landowning entity," since enactment of this legislation had the effect of terminating the native Hawaiians' right of use and occupancy (the essence of aboriginal title) of most of the Government and Crown lands. In addition, it was provided by statute that any Hawaiians using Government land without Government authorization could be prosecuted for trespass. 42/ Yet if the Hawaiian Government had been the "single landowning entity," native Hawaiians would, of necessity, have had a right to use and occupy Government lands without any authorization, and therefore should have been specified as exempt from application of this statute. Finally, native tenants who had long occupied lands deemed to belong to the Government (that is, lands that had never been awarded to anyone by the Board of Land Commissioners) were held to have neither title to nor the right of possession of these lands, but, in effect, were only trespassers thereon. 43/ If the Hawaiian Government had been the "single landowning entity" for aboriginal title purposes, these native tenants would not have been considered trespassers. 44/

The same commenter who states that the Hawaiian Government and the native Hawaiians were one and the same entity for aboriginal title purposes, also expresses the view that the native Hawaiians were "citizens of an aboriginal nation with internal and external attributes of sovereignty." 45/ The juxtaposition of these views presents a conceptual problem. The legal fiction of aboriginal title was created to meet the need of various European sovereigns, who claimed fee title to the lands of North America (and later the United States as the successor sovereign), to acknowledge

the possession of much of these lands by various Indian tribes. 46/ Thus, when an Indian tribe holds aboriginal title to certain lands this means that the tribe has a right of use and occupancy of such lands, while the sovereign (an entity separate and distinct from the members of the tribe viewed as a group or the tribal government) holds the fee title to said lands. Accordingly, if these two views are correct and the Hawaiian Government was, in fact, simultaneously both the single landowning entity and the sovereign, then such a state of facts is diametrically opposed to the concept of aboriginal title, which rests upon the existence of two separate entities (the native group that is the single landowning entity and the sovereign).

The second test for aboriginal title is that the single landowning entity had actual and exclusive use and occupancy of the specified lands (here, the Government and Crown lands) for a long time before title was extinguished. 47/ Actual and exclusive use and occupancy for a long time prior to 1893 or 1898 48/ and continuing up to 1893 or 1898—the alleged dates of extinguishment 49/—must be established by clear and definite proof. 50/ Because such a large portion of the Crown and Government lands was patented or sold to individuals (either native Hawaiians or foreigners) or leased to foreigners by 1893, actual and exclusive use for a long time up to that date cannot easily be shown. Courts require that occupancy be actual and not "merely asserted." 51/ Moreover, in making a determination as to the area that was actually and exclusively used and occupied, the courts will take into account a loss of population of the landowning entity prior to the alleged date of extinguishment of aboriginal title. 52/ Between 1853 and 1896 the number of native Hawaiians dropped from 70,036 to 31,019. 53/ Even before 1893, therefore, the trend was a

dramatic decline. Moreover, since the native Hawaiians did not have a nomadic culture, actual and exclusive use and occupancy of the extensive area of Crown and Government lands is even more difficult to establish. 54/

The final test for aboriginal title is that the use and occupancy must have continued for a long time before being extinguished. Prior to the Great Mahele, given the system of occupancy by chiefs, rather than by the people in common, 55/ it is doubtful if common use and occupancy by all native Hawaiians existed. Between the time of the Great Mahele in 1848 and 1893, much of the Government and Crown land was converted to fee simple ownership by non-natives and natives, and much of this land was used by non-natives. Thus, it does not appear that common use and occupancy of the Crown and Government lands by all native Hawaiians existed between 1848 and 1898. 56/

It cannot be established, therefore, that the native Hawaiians meet the above three tests for showing the existence of aboriginal title.

Did the United States Extinguish Whatever Aboriginal Title Existed?

The assertion was made in a comment received by the Commission that aboriginal title to the Crown and Government lands still existed in 1898 and was extinguished by the United States by means of the Joint Resolution of Annexation. 57/ This comment rests in large part on the premise that during the period between the establishment of the Provisional Government in 1893 and 1898 aboriginal title was not extinguished, "...since only voluntary abandonment of these lands by native Hawaiians would divest native Hawaiians of aboriginal title." 58/ The statement that the aboriginal title of the native Hawaiians could only be

extinguished by voluntary abandonment assumes that the Hawaiian Government was the single landowning entity for purposes of holding aboriginal title. Under traditional principles of Indian law, aboriginal title can be extinguished by voluntary abandonment or by actions of the sovereign that are inconsistent with the existence of aboriginal title. 59/ If the Hawaiian Government was not the single landowning entity, then the Hawaiian Government as sovereign (that is, as an entity separate from the native Hawaiians) took actions that were inconsistent with the existence of aboriginal title and that extinguished said title. If the Hawaiian Government was the single landowning entity, then these same actions, in effect, constituted a voluntary abandonment of aboriginal title. 60/

The facts of land ownership in Hawaii underscore that even if the tests for aboriginal title had been met, such title was extinguished by actions of the Hawaiian Government before 1893 (that is, actions of the sovereign that were inconsistent with aboriginal title) and certainly before annexation, which is the first time the United States assumed sovereignty. The Kuleana Act of 1850 terminated the right of pasturage and the right of commoners to grow crops on unoccupied lands of the ahupua'a. 61/ Other Hawaiian legislative acts had the effect of allowing foreigners to purchase Government lands. By 1893, over 600,000 acres of Government land had been sold to foreigners (non-natives) and 752,431 acres of Government and Crown lands had been leased to foreigners. 62/ By thus having "asserted and exerted full dominion" over Crown and Government lands, the government of Hawaii (which as sovereign had the authority to extinguish aboriginal title) had taken actions specifically inconsistent with the continued existence of aboriginal title. 63/ Legislation enacted by the

sovereign can effect an extinguishment of aboriginal title. 64/ Settlement and/or use of aboriginal title lands by non-natives that is authorized by the sovereign—here the government of Hawaii—operates to extinguish aboriginal title. 65/

In sum/ termination of the native Hawaiians' right to grow crops and right to pasturage on the unoccupied lands of ahupua'a (pursuant to the Kuleana Act of 1850), the purchase of Government lands by natives and foreigners (authorized by various acts passed by the Hawaiian legislature), and the statutes authorizing foreigners to lease Crown and Government lands (together with the actual leasing of 752,431 acres of 3aid lands by foreigners), taken together, served to effectuate an extinguishment of aboriginal title, if any had existed, to the Crown and Government lands. Therefore, if native Hawaiians had had any aboriginal title to the Crown and Government lands, that title was extinguished by the actions of the government of Hawaii before 1893. Similarly, if the Hawaiian Government was the single landowning entity and "represented" the native Hawaiians, 66/ then these very same actions constituted a relinquishment, in effect, of. the native Hawaiians' right of use and occupancy of the Government and Crown lands (that is, abandonment of aboriginal title) prior to 1893. 67/

Importantly, "aboriginal title rights extinguished prior to the inception of United States sovereignty are not compensable claims against the United States." 68/ Comments received by the Commission suggest that even if the native Hawaiians were deprived of aboriginal title in 1893 by actions of the Provisional Government (or by the establishment thereof) the United States would, nonetheless, be liable under applicable Indian law. 69/ Such liability is premised on decisions under the Indian Claims Commission Act holding the United States liable for

the removal of minerals by third parties from aboriginal title lands prior to the date of extinguishment of aboriginal title. 70/ However, in all of the cited cases the aboriginal title lands in question had become part of the territory of the United States (and thus the United States had sovereignty over these lands) prior to the actions of the third parties. 71/ Any actions of the Provisional Government in 1893 (or the establishment thereof in 1893) occurred prior to the inception of the United States' sovereignty over the Hawaiian Islands. Furthermore, the historical evidence shows that aboriginal title, if my had existed, was extinguished before 1893—that is, before the Provisional Government came into existence. 72/ In light of the foregoing, any United States' participation in the fall of the Hawaiian monarchy does not constitute an extinguishment of aboriginal title for which the United States is liable.

Right of Compensation for Loss of Aboriginal Title

Even if the native Hawaiians had had aboriginal title to the Crown and Government lands, and that title had been extinguished by the United States (tests that are not met), compensation for the loss of these lands would not be available under current law. The Fifth Amendment to the United States Constitution provides that the United States cannot take land without just compensation. Aboriginal title is not a vested property right, but instead only a right of occupancy, which the sovereign may terminate at any time without payment of compensation. 73/ Therefore, courts have held that its loss does not entitle the loser to compensation under the Fifth Amendment. 74/

Extinguishment of aboriginal title is compensable under Section 2 of the Indian Claims Commission Act (25 U.S.C. § 70a). 75/ However, to be

compensated, claims under that Act had to be filed by 1951. Therefore, under present law, no authority is available under which compensation can be sought. 76/

In conclusion, the native Hawaiians do not meet the above three tests for establishing aboriginal title to lands in Hawaii, including the Crown and Government lands designated by the Great Mahele. Further, even if aboriginal title were established, it was extinguished by acts of the Hawaiian Government prior to 1898, when the United States, through annexation, became the sovereign. Therefore, the native Hawaiians are not entitled to compensation for such extinguishment by the United States under existing law. Finally, even if the United States had extinguished aboriginal title, no present law provides for compensation for that loss.

C. RECOGNIZED TITLE AND COMPENSATION

The second legal principle under which the United States may compensate for loss of land is if the United States has "recognized"--acknowledged by its laws--the title of the native group to the land. 77/ Again, specific legal requirements to establish that the United States has recognized title must be met. "Recognized" title, in federal law, occurs when Congress has granted an Indian tribe the "right to occupy and use" certain lands permanently. 78/ "Recognized" title means the grant to an Indian tribe of "rights in land which were in addition to the Indians' traditional use and occupancy rights exercised only with the permission of the sovereign..." 79/ This section of the chapter analyzes those requirements in light of native Hawaiian history.

First, recognized title must come from the United States Congress. 80/ Before 1898, the Hawaiian Islands were not part of the territory of the United States. Therefore, Congress had no jurisdiction over the native

Hawaiians, unlike the Indian tribes. 81/ The United States could not, then, have granted recognized title to the Government and Crown lands prior to the time when the United States exercised sovereignty over the Hawaiian Islands.

Because only Congress can accord recognized title, the Hawaiian king's setting aside of about 1.5 million acres of Government lands to "the chiefs and the people of my Kingdom," and the approval of this action by the Hawaiian legislature by the Act of June 7, 1848, cannot be a grant of recognized title. 82/

Similarly, because Congress can grant recognized title only when it can exercise sovereignty, such title could not be established by the United States through various treaties and agreements before 1898. 83/ Therefore, an unratified treaty between the United States and the Hawaiian Kingdom negotiated in 1826, an 1849 treaty (relating to friendship, commerce, and navigation), and the 1875 Reciprocity Treaty (concerning trade) cannot constitute recognition by the United States of the title of the native Hawaiians to the Government and Crown lands. 84/ Further, an unratified treaty cannot possibly be the source of recognized title. 85/ A treaty of peace and friendship does not constitute a grant of recognized title even though it may acknowledge that the particular tribe or band is living in a certain area. 86/ Moreover, these treaties were not made with the native Hawaiians, but with the Hawaiian Government. 87/

The native Hawaiians claim that they held recognized title to the Government and Crown lands. Comments received by the Commission in support of this claim make a two-part argument. Part one consists of several assertions. First, it is asserted that the Hawaiian Government held recognized title to the Crown and Government lands because a formal title to these lands was "confirmed in the native government by the Mahele and subsequent actions." 88/ In

addition, it is asserted that there is no distinction to be made between the native Hawaiian* and the Hawaiian Government and that they were one and the same, insofar as holding recognized title to the Crown and Government lands is concerned. 89/ Thus, it is alleged, in effect, that the Mahele operated to vest title to the Government and Crown lands in the native Hawaiians. 90/

Part two of the recognized title argument is that the United States recognized and acknowledged the right* of the Hawaiian Government to its own lands: "...the United States by recognizing the sovereignty and domain of the Hawaiian Kingdom, also recognized the legitimacy of that government's title to its own lands." 91/

The essential premise of the recognized title claim is that the native Hawaiians and the Hawaiian Government are the same entity, rather than separate entities. However, Hawaiian law does not support the "same entity" theory, as the following considerations illustrate. First, the Hawaiian Government was viewed as an entity distinct from any natural persons. 92/ Second, in 1851, the Hawaiian legislature passed a statute providing for the appointment of agents to "sell Government lands to the people." 93/ Specifically, the statute provided for the sale of Government lands to the "natives."

If, as OHA asserts, native Hawaiians and the Hawaiian Government were one and the same entity insofar as holding title to the Crown and Government lands was concerned, then there would have been no need for this statute, since the natives would already have been owners of the Government lands--supposedly by the operation of the Great Mahele. 94/ Third, native tenants who had long occupied what were deemed to be Government lands (but which had never been awarded to them or anyone else by the Board of

Land Commissioners) were held to have neither title to nor the right of possession of these Lands but were, in effect, mere trespassers. 95/ This holding cannot be reconciled with the theory that the Hawaiian Government and the native Hawaiians were one and the same entity, insofar as holding recognized title to the Crown and Government lands was concerned. 96/ Finally, when the owner of a kuleana (a native tenant) died without heirs, title to the land did not revert to the Government, but to the owner of the ahupue'a or ili in which the kuleana was located. 97/

The second premise underlying the recognized title claim (after the "same entity" theory) is that the 1840 Constitution and/or the Great Mahele of 1848 operated, in effect, to vest title to the Government and Crown lands in the native Hawaiians. 98/ The validity of this premise must be determined by reference to Hawaiian law.

The thrust of the Constitution of 1840 was that the chiefs and people had rights to land. 99/ However, as of 1845, the chiefs and people had "...only a qualified right of possession to lands. They had no titles to them." 100/ Pursuant to the Act of December 10, 1845 (which established the Board of Land Commissioners), 101/ King Kamehameha III "...relinquished his claim of ownership as sovereign to over two-thirds of the entire territory of the Kingdom, in order that the same might be awarded to the chiefs and common people by the Land Commission." 102/ Until this act was passed the title to land was in the king himself. 103/ Thus, the Act of December 10, 1845 "...paved the way for the chiefs and people to obtain title to the lands occupied by them respectively--something they theretofore did not have." 104/ Accordingly, the 1840 Constitution did not operate so as to vest title to the Government & i Crvcr.

lands in the native Hawaiians.

Furthermore, the provision of the 1840 Constitution entitled "Exposition of the Principles on Which the Present Dynasty is Founded" (which states that all land "belonged to the chiefs and people in common") is not found in the subsequent 1852 Constitution. 105/ As a general rule, "the adoption of a new constitution repeals and supersedes all the provisions of the older [former] constitution not continued in force by the new instrument." 106/ Indeed, a provision in a constitution that is not contained in subsequent constitutions does not remain in effect. 107/ After 1852, only the 1852 Constitution was in effect. 108/ With respect to the legal impact of a new constitution, the Hawaiian Supreme Court held in 1892 that when a new constitution takes effect:

...it is a new departure in the government of the country, inasmuch as it states anew the principles upon which the government is to be administered, and rearranges the distributions and limitations of sovereign powers. What is not changed is re-affirmed. The new statement of the fundamental law takes the place of the old. 109/

The operative effect of the Great Mahele of 1848 has been described as follows:

The Mahele did not give title. It did give the chiefs the opportunity to take their Maheles [divisions] to the Land Commission and receive awards of title thereon just as the common people had presented to the Commission their claims for titles to their kuleana. Title was derived from the awards.

That the common people were not parties to a "division" is shown by the fact that the

kuleana which were awarded to them were regarded as being carved out of or subtracted from the ahupua'a and ili in which they respectively were situated.

[The Mahele has thus been characterized as the)...process of rearranging and distributing the land among the claimants who applied for title to it. 110/

There is no indication that the Great Mahele has been construed as having, in and of itself, vested any title to the Government and Crown lands in the native Hawaiians. 111/ Rather, with respect to the Government lands, the only common interest obtained by native Hawaiians, as a group, by virtue of the Great Mahele was a common right to present claims for particular Government lands to the Board of Land Commissioners (and later the Minister of the Interior) in order that the Board (or Minister) might make awards of lands claimed. 112/ Indeed, even after the Great Mahele, "Government" lands not awarded by the Board of Land Commissioners (or the Minister of the Interior) were considered to belong to the Government. 113/

With regard to the Crown lands, the Great Mahele did not operate so as to vest title thereto in the native Hawaiians. Rather, title to the Crown lands was in the king. 114/ Title to these lands remained in the king 115/ (or in the office of the sovereign) 116/ until 1893 when the monarchy ceased to exist, whereupon they became Government lands. 117/ When the former Crown lands became Government lands, title to the former Crown lands became vested in the Provisional Government. 118/

In sum, native Hawaiians, as a group, did not obtain a "formal, vested title" 119/ to the Government and Crown lands. Accordingly, the basic premises of the recognized

title claim are invalid. 120/

The crux of the second part of the recognized title argument is that the "...federal government did recognize and acknowledge the existing government of Hawaii and the rights of that government to the territory within its domain." 121/ This theory contends that the unratified treaty between the United States and the Hawaiian Kingdom negotiated in 1826, together with the 1849 and 1875 treaties noted above, effected an acknowledgment and recognition of the rights of the Hawaiian Government to lands within its domain. 122/

The source of recognized title is the United States Congress, and Congress can grant recognized title to land only when it exercises sovereignty over said land. 123/ Prior to 1898, the Hawaiian Islands were not part of the territory of the United States and Congress did not have sovereignty over them. Accordingly, the "recognized" title theory advanced cannot be reconciled with these requirements for the existence of recognized title. Moreover, the alleged recognition and acknowledgment by the United States of the "rights" of the Hawaiian Government to the territory within its domain, is analogous to a situation where Congress, by statute, accords a native group only the right of "permissive occupation"—in effect, an "acknowledgment" that a native group occupies and uses certain lands in its possession. 124/ Yet, such an "acknowledgment" does not give rise to recognized title. 125/ Similarly, a treaty that acknowledges only that a particular native group is occupying and using certain lands does not give rise to recognized title. 126/ As noted previously, an unratified treaty cannot be the source of recognized title. 127/

Since the Hawaiian Islands were not part of the territory of the United States prior to 1898, Congress had no sovereignty over the Hawaiian Islands and, therefore, no jurisdiction over the native Hawaiians prior to 1898. Thus, Congress could not have granted native Hawaiians recognized title to the Crown and Government lands prior to annexation. Accordingly, no grant of recognized title to the native Hawaiians, as a group, was possible by virtue of the one unratified and two ratified treaties that predated annexation. 128/

Nor did the Joint Resolution of Annexation constitute a recognition of title for native Hawaiians. 129/ The section of the Joint Resolution relating to public lands designates as beneficiaries the "inhabitants of the Hawaiian Islands," not "native Hawaiians." 130/ This use of language is particularly important because Congress was well aware of the existence of the native Hawaiians, and looked on them as distinct from the rest of the residents of Hawaii. 131/ Congress also viewed the "native Hawaiians" as a distinct ethnic group. 132/ Finally, the legislative history of the Joint Resolution makes clear that the "inhabitants of the Hawaiian Islands" were viewed as being all 109,000 people living on the Hawaiian Islands. 133/ If Congress had meant to recognize title of the native Hawaiians in the Joint Resolution of 1898, it would, among other things, have used the term "native Hawaiians" rather than "inhabitants of the Hawaiian Islands."

The Organic Act of 1900 also did not establish recognized title of the native Hawaiians to the ceded lands. 134/ The Organic Act of 1900 provides, in part: "The laws of Hawaii relating to public lands... shall continue in force until Congress shall otherwise provide." 135/ This

provision is similar to a clause in Alaska's Organic Act, which at Section 8 provides, in part:

...That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress ... 136/

The Supreme Court has held that this provision of the Alaska Organic Act did not indicate "any intention by Congress to grant to the Indians permanent rights in the lands of Alaska occupied by them by permission of Congress." 137/ Rather, the Alaska Organic Act was designed "merely to retain the status quo until further congressional or judicial action was taken." 138/ The Hawaiian Organic Act must be similarly considered not to grant a permanent right of use and occupancy in Crown and Government lands to native Hawaiians. Further, unlike the Alaska Act, the Hawaii Act does not refer to natives. 139/

Some comments received by the Commission assert as a sort of corollary in support of the recognized title claim that the United States has followed a consistent policy of respecting "...property rights of native people recognized under prior governments. Congress and the courts have long respected grants to native peoples under the laws of another sovereign." 140/

It is an established principle of international law that private property rights in territory ceded by one nation to another are not affected by the change of sovereign and are entitled to protection. 141/ This rule would apply if the claimed property of native Hawaiians was considered as having been segregated

from the public domain of the prior sovereign before the annexation of Hawaii. 142/ It is necessary to examine the law of the prior sovereign before the cession (that is, Hawaiian law) in order to determine whether the claimed property was regarded as having been separated from the public domain of the prior sovereign. 143/

Government lands that were not awarded by the Board of Land Commissioners (or by the Minister of the Interior) were considered to belong to the Hawaiian Government. 144/ The Crown lands became Government lands in 1893 after the monarchy ceased to exist. 145/ Lands that belonged to the Hawaiian Government were considered as comprising the "public domain." 146/ Since title to the Government lands was in the Hawaiian Government, it follows that the Government (and former Crown) lands were part of the public domain. 147/ Thus, the rule of international law invoked is not applicable to the Crown and Government lands. Even the claimed property rights of native groups are not protected by this rule in those instances where the property in question was not considered as having been separated from the public domain of the prior sovereign. 148/

Moreover, the test traditionally used to determine whether the cited rule of international law is applicable to a claimed private property right is whether said right constituted a "vested" interest under the law of the prior sovereign before the cession of territory in question. 149/ Prior to annexation, the Constitution of 1840 was not construed as operating to create a vested private interest in the Government and Crown lands. Furthermore, the Constitution of 1840 was repealed by the 1852 Constitution. 150/ Nor was the Great Mahele interpreted as granting a vested private interest in the subject lands to the native

Hawaiians. 151/ Accordingly, the native Hawaiians did not have a "vested" interest in the Government and Crown lands under pre-annexation Hawaiian law.

If recognized title is not established, no compensation is due under the Fifth Amendment. 152/ Even if the native Hawaiians had been accorded recognized title by some action of the United States Congress, they cannot be compensated for the loss of that title. Any actions of the United States before 1898 cannot constitute a compensable claim under the Fifth Amendment for a "taking" of the Government and Crown lands without compensation, because the United States did not have sovereignty over the Hawaiian Islands prior to 1898. 153/ Annexation itself was not a taking under the requirements of the Fifth Amendment because it was not an appropriation of the Crown and Government lands for use by the Federal Government, pursuant to a Congressional authorization. 154/ Section 91 of the Organic Act of 1900 confirms this fact by providing that the "public property" (Crown and Government lands) ceded to the United States under the Joint Resolution of Annexation:

...shall be and remain in the possession, use and control of the government of the Territory of Hawaii, and shall be maintained, managed and cared for by it, at its own expense, until otherwise provided by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of Hawaii. 155/

Section 91 (in conjunction with Section 73, which authorized the Territory of Hawaii to sell, exchange, and lease the public lands) has been interpreted as follows:

Those provisions [Sections 73 and 91] did not create a mere agency on the part of the Territory to act for the Federal Government. They constitute a delegation of legislative power from Congress to the Territory. Conveyances made pursuant to the power are not conveyances of the United States of America executed by the territorial officers as agents, but they are conveyances of and by the Territory in its own right pursuant to the Acts of Congress. This follows from the fact that the Territory has complete possession and control of the public lands with the power to dispose of them. 156/

Therefore, the native Hawaiians would not be entitled to Fifth Amendment compensation for loss of recognized title, if it were established. 157/

In sum, Congress must grant recognized title, not the government of Hawaii. Moreover, the United States could not have granted such recognized title before 1898 because it did not have sovereignty over the Hawaiian Islands. The actions it took in and after 1898—particularly annexation and passage of the Organic Act of 1900—did not create recognized title, because they did not grant the native Hawaiians the right to use and occupy the Government and Crown lands permanently. Even if recognized title were established, under the facts of the Hawaiian experience, loss of that title would not be compensable under either the Fifth Amendment to the , United States Constitution or under the Indian Claims Commission Act. Under present law, therefore, the native Hawaiians have no legal right to compensation for loss of their land.

D. LOSS OF SOVEREIGNTY AND COMPENSATION

Native groups have also made claims that they should be given compensation for loss of "sovereignty." This section defines sovereignty and then considers whether the law provides compensation for its loss in the context of the facts relevant to native Hawaiians.

The Office of Hawaiian Affairs defines sovereignty as the power to control internal and external affairs and the right of self-government. ^{158/} The United States courts have examined the concept of sovereignty for Indian tribes and that consideration would be applicable as well to native Hawaiians:

The powers of the Indian tribes are, in general, "inherent powers of a limited sovereignty which has never been extinguished..." Before the coming of Europeans, the tribes were self-governing sovereign political communities. [Cites omitted].

Indian tribes are, of course, no longer "possessed of the full attributes of sovereignty."...Their incorporation with the territory of the United States, and their acceptance of its protection, necessarily divested them of some aspects of the sovereignty which they had previously exercised...But our cases recognize that the Indian tribes have not given up their full sovereignty. We have recently said: "Indian tribes are unique aggregations possessing attributes of sovereignty over both their members and their territory..." The sovereignty that the Indian tribes retain is of a unique and limited character. It exists only at the sufferance

of Congress and is subject to complete defeasance. But until Congress acts, the tribes retain their existing sovereign powers. In sum, Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status...^{159/}

The part of their sovereignty that Indian tribes have "implicitly lost by virtue of their dependent status" is the power to control their external relations with non-members of the tribe. ^{160/} As a result, Indian tribes are not free to alienate their land to non-Indians, to have "direct commercial or governmental relations with foreign nations," or to exercise criminal jurisdiction over non-members in tribal courts. ^{161/}

The sovereignty retained by Indian tribes encompasses the power of tribal self-government and the power to control internal relations among the members of the tribe. ^{162/} Thus, Indian tribes retain their power to determine tribal membership, regulate domestic relations, promulgate rules of inheritance for tribal members, and exercise criminal jurisdiction over tribal members. ^{163/}

For native Hawaiians, by analogy, there are claims that native Hawaiians lost all attributes of sovereignty—the power to deal with foreign nations, to control internal relations, and to govern themselves. It has been argued that the power of self-government was effectively lost with the establishment of the Provisional Government in 1893, and was totally lost when the Territorial Government was established pursuant to the Organic Act of 1900 (31 Stat. 141). ^{164/} Even if history had fully established these claims, which the preceding chapter does not, native Hawaiians could not be compensated for loss of sovereignty.

For native groups, including Indian tribes and native Hawaiians, sovereignty "exists only at the sufferance of Congress and is subject to complete defeasance." 165/ In short, Congress can take away sovereignty of native groups at will, once it exercises sovereignty over the group. In terms of native Hawaiians, the United States was dealing with the government of Hawaii as another sovereign until 1898. Courts will not look behind the United States' recognition of a foreign government; so before 1898, no action of Congress could be regarded as taking the sovereignty of Hawaii. 166/

Even after 1898, any effect which Congress' actions may have had on the sovereignty of native Hawaiians cannot give rise to a compensable claim. Since Congress can take away the sovereignty of native groups at will, sovereignty is not a property right subject to the Fifth Amendment, and its loss is not compensable. 167/ Moreover, a claim of compensation for loss of sovereignty is not a viable cause of action, even under the liberal provisions of the Indian Claims Commission Act (60 Stat. 1049, 25 U.S.C. § 70, et seq). The legislative history of the Indian Claims Commission Act indicates no intention on the part of Congress to create a cause of action for loss of sovereignty and the Indian Claims Commission has so held. 168/ Even if there were theoretically a viable cause of action for loss of sovereignty under the Indian Claims Commission Act, the United States did not assume a special duty to protect the sovereignty of the native Hawaiians under either the Organic Act of 1900 or the Joint Resolution of Annexation (or under the one unratified treaty and two ratified treaties with Hawaii that pre-dated Annexation), so that the requirements for such a claim would not have been

met. 169/ Further, such a claim would have to have been filed by 1951. 170/ The analysis under the Fifth Amendment and the Indian Claims Commission Act is not changed by the fact that the Joint Resolution **was** not submitted to a plebiscite in **Hawaii**. Indeed, it has been held that the Joint Resolution was legal and proper. 171/

The Alaska Native Claims Settlement Act (ANCSA) also does not appear to support the claim of compensation **for** loss of sovereignty. ANCSA compensated the **Alaska** Natives for loss of aboriginal title, if any, and for the termination of all claims based on that title. 172/ Furthermore, the legislative history of ANCSA shows that Congress did not intend to extinguish claims "based upon grounds other than the loss of original Indian title land." 173/ Since Congress did not intend to extinguish claims based upon grounds other than loss of aboriginal title, the compensation paid under ANCSA was clearly not payment for any claim for loss of sovereignty by the Alaskan Natives. In sum, ANCSA did not provide for compensation for loss of sovereignty by Alaskan Natives, and, therefore, provides no analogy for compensation to native Hawaiians for loss of sovereignty.

Therefore, the native Hawaiians have no present legal entitlement to compensation for any loss of sovereignty against the United States. 174/

E. TRUST RELATIONSHIP BETWEEN THE NATIVES OF HAWAII AND THE UNITED STATES

If a special trust relationship between the Federal Government and native Hawaiians exist³ that is very similar to the trust relationship between the Federal Government and United States Indian tribes, 175/ failure of the United States to meet

the terms of the trust may (but does not necessarily) provide a basis for compensation. 176/ The theory has been advanced that, "It has long been recognized that a special relationship, characterized as a fiduciary relationship, exists between the Federal Government and Indian tribes," 177/ and that, "The federal-Hawaiian native relationship arises from United States' participation in the overthrow of the native government and subsequent federal ownership of the legal title to native lands." 178/

A fiduciary relationship between the Federal Government and an Indian tribe can, as a general rule, arise only from provisions of a treaty, statute, or agreement whereby the Government assumes fiduciary obligations toward the tribe. 179/ No fiduciary (trust) relationship arose from the fact that the United States Minister in Hawaii supported establishment of the Provisional Government in 1893. (Regarding this history, see preceding chapter.) The salient fact is that the Hawaiian Islands were not part of the United States in 1893, and the Federal Government exercised no sovereignty over them. 180/ The sovereignty of the Federal Government over Indian tribes arises from the fact that these tribes reside within the boundaries of the United States. 181/ In the absence of sovereignty over the Hawaiian Islands, no fiduciary relationship could have existed between the natives of Hawaii and the Federal Government in 1893, or at any time prior to annexation. 182/

The Joint Resolution of Annexation (Joint Resolution No. 55 of July 7, 1898, 30 Stat. 750) also did not give rise to a fiduciary relationship between the United States and the native Hawaiians. The Joint Resolution provided that the revenues or proceeds from the ceded land shall (with specified exceptions) "...be used solely for the benefit of the

inhabitants of the Hawaiian Islands ^for educational and other public purposes." This language does not give rise to a fiduciary relationship with the native Hawaiians because it did not specify that the revenues and proceeds of the ceded lands were to be used solely for the benefit of the "native inhabitants of the Hawaiian Islands." 183/ Whether or not this language creates a trust relationship between the United States and all Hawaiians ("inhabitants") to superintend the use of these funds is a matter beyond the scope of this Commission, which is to examine the interests of native Hawaiians.

Similarly, the Organic Act of 1900 (31 Stat. 141) did not give rise to a trust relationship with the native Hawaiians. Section 73 of the Organic Act provided, in part, that funds derived from the "sale or lease or other disposal" of the ceded lands shall be "applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation..." Again, if Congress had intended Section 73 to apply specifically to "native inhabitants," it would have so provided.

More importantly, Section 91 of the Organic Act indicates lack of any intent by Congress to establish a fiduciary relationship with the native Hawaiians. Section 91 provides that the lands ceded by the joint resolution of annexation were to:

...remain in the possession, use and control of the government of the Territory of Hawaii, and shall be maintained, managed and cared for by it, at its own expense...

Since Congress in Section 91 of the Organic Act specifically provided that the Territory of Hawaii and not the Federal Government would control and

supervise the ceded lands, -no fiduciary or trust relationship between the native Hawaiians and the. Federal Government exists. 184/

The fact that the title to the ceded lands was held by the United States did not give rise to a fiduciary relationship because Congress provided that the Territory of Hawaii would control and supervise these lands-not the Federal Government. 185/ Furthermore, pursuant to Section 5 of the Hawaii Admission Act (Act of March 18, 1959, 73 Stat. 4,5), the United States granted the State of Hawaii "the United States' title to all the public lands, and other public property within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission to the Union." Since fee title to much of the ceded lands is no longer held by the Federal Government, no fiduciary relationship now exists as to the ceded lands, in any event.

Some commenters on the Commission's Draft Report assert that the Hawaiian Homes Commission Act of 1921 186/ and Hawaii's Admission Act 187/ "unequivocally establish a trust relationship between Native Hawaiians and the Federal Government." 188/ Yet even assuming this assertion is correct, 189/ such specific trusts do not establish the existence of a general trust that might require compensation for the Government and Crown lands. Only a trust duty with respect to these lands that arose prior to 1893 or 1898 might require payment of compensation. A trust duty must come into existence before it can be breached. 190/ Here, the acts that supposedly constituted the breach (that is, the Federal Government's participation in the fall of the Hawaiian monarchy and annexation) are said to have simultaneously given rise to the alleged trust duty. Yet the acts of breach cannot create a trust relationship. 191/

Even if a trust relationship between the Hawaiian natives and the Federal Government were to exist with respect to the Crown and Government lands (by virtue of the Joint Resolution of Annexation and the Organic Act), it is, at most, a very limited trust relationship. The requirement that revenues or proceeds from the ceded lands were (with certain exceptions) to be used "solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes" was at most a "special trust" that "merely restricted the uses to which the proceeds of such lands [the public lands of Hawaii] could be put." 192/ Additionally, even though the proceeds or revenues from the ceded lands may have been the subject of a "special trust," and even though the Federal Government held fee title to the ceded lands, these two circumstances did not "impose upon the Government all fiduciary duties ordinarily placed by equity upon a trustee." 193/ This limited trust relationship, if any, did not encompass any fiduciary duty of the Federal Government to protect the native Hawaiians in the possession of their lands because the Federal Government never assumed any such duty. 194/

There is most likely no specified trust relationship between the United States and the native Hawaiians established by law of the United States, requiring compensation to be paid for the Crown and Government lands or for loss of sovereignty. At most there is a very limited special trust. Native Hawaiians are therefore not entitled under existing law to compensation for any breach of a trust duty toward them.

F. COMPARISON WITH ALASKA NATIVE CLAIMS

The legal claims of the Alaska Natives that motivated passage of the Alaska Native Claims Settlement Act

(43 O.S.C. § 1601, et seq.) differed significantly from the claims of native Hawaiians. 195/

Non-Indian settlement of the western United States followed a three-step pattern. First, the land was acquired by treaty from the sovereign entity—France, Spain, Mexico, Great Britain, or Russia—claiming title. Second, some lands in the acquired territory were set aside for Indians. Third, the public land laws, which allowed people to enter into the acquired territories and settle thereon, were extended to all federally-owned land in the acquired territory, except land that had been specifically reserved for governmental purposes, such as Indian reservations.

In Alaska, however, only the first and third steps occurred. 196/ After the United States acquired title from Russia, the public land laws were extended to Alaska without there having been any effort by the United States to define Alaska Native rights to use land or set aside land for their exclusive use. However, as Congress extended the various public land laws to Alaska, it provided that nothing in the laws should be deemed to affect Alaska Native occupancy. In general, this meant that land actually occupied by an Alaska Native or a native group or village could not be acquired by a non-native under the public land laws. However, it has generally been held that a non-native could acquire title to vacant land that was subject to native "aboriginal" occupancy, rather than actual occupancy. 197/

When Alaska became a state, Congress authorized the State to select vast areas of federal land for its own use. 198/ The selection of land had to be approved by the Secretary of the Interior; however, he could give "tentative approval" to the State selection pending his final approval and issuance of a patent. Once the State had received "tentative approval," it could "conditionally"

lease or sell the land to third parties. Another provision of the Statehood Act, however, required the State of Alaska to disclaim any interest in land that "may be held by any Indians, Eskimos, or Aleuts." Further, the Statehood Act provided that none of its provisions could be construed to "recognize, deny, enlarge, or impair any claim against the United States" [emphasis added] and that the resolution of any native land rights would be left to future legislation by Congress.

The Statehood Act thus had an irreconcilable conflict. Unlike the acts that extended the public land laws to Alaska but protected the lands natives actually occupied, the Statehood Act prohibited the State from selecting any lands that "might" be held by natives or even claimed by natives. Congress probably intended to protect lands that the natives used and occupied in an aboriginal manner from State selection, but no one was sure what those lands were or the extent of any native claim. The State did select some lands and received tentative approvals from the Secretary. The State then leased these lands to oil companies, which discovered oil on them. When oil was discovered, the native groups claimed aboriginal title to the land. The Secretary of the Interior then issued a land freeze preventing the State from receiving further tentative approvals of its selections pending resolution of the native claims. Moreover, Congress, in the Statehood Act, had reserved for itself the exclusive authority of defining native land rights through future legislation, so resolution by lawsuit was difficult. This impasse led to the enactment of the Alaska Native Claims Settlement Act which, for the first time in Alaska, defined the land rights of the natives and allowed the State to select its land from the federal lands not set aside for the natives by the Settlement Act.

In contrast, in Hawaii the land rights of the natives were determined by a series of laws from 1850 to 1898, subsequent to the Great Mahele of 1848, which established a mechanism for the acquisition of fee title. The Crown and Government lands established by the Great Mahele eventually became federal lands when Hawaii was annexed by the United States. Title to the lands was vested in the State of Hawaii by the Hawaiian Statehood Act, which does not contain a provision protecting native land rights similar to the one found in the Alaska Statehood Act.

Therefore, the reasons that impelled passage of the Alaska Native Claims Settlement Act are not present in the Hawaiian situation.

The purpose of this chapter has been to examine the existing laws that are most likely to provide a basis for compensation to native Hawaiians for any loss of lands or loss of sovereignty. As set forth in detail here, the review shows that existing law provides no basis for such compensation. Therefore, special legislation would be required before any such payments could be made. Congress has responded in the past to native American claims: once with the passage of the Indian Claims Commission Act in 1946, and again in 1971 with the Alaska Native Claims Settlement Act.

EXISTING LAW, NATIVE HAWAIIANS,
AND COMPENSATION

1/ Melody K. MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim (Honolulu: Office of Hawaiian Affairs, 1982), pp. 75-79.

2/ Patrick Hanifin's comments were in the form of a detailed article that is scheduled to be published in the Hawaii Bar Journal in the Spring of 1983. The article is entitled "Hawaiian Reparations: Nothing Lost, Nothing Owed."

3/ This chapter looks at rights under present law only; it does not address whether Congress or the State Legislature should consider enacting new laws in these matters. Further, in response to comments received by the Commission, we reiterate that the chapter looks only at whether native Hawaiians have present legal rights to compensation. It does not address whether the United States' conduct in Hawaii at the end of the nineteenth century was proper, moral, or legal, or what account of it the United States should make. Those matters are left for the Conclusions and Recommendations section of the Report.

4/ Some comments received by the Commission on its Draft Report stated that the tone of this chapter is improperly adversarial. The chapter attempts to address the full range of views on the matters it covers; the approach is intended to be comprehensive rather than adversarial. Other commenters stated that comparisons of native Hawaiians to North American Indians, Eskimos, and Alaskan Natives were not appropriate. However, we have examined the experiences of and the laws applicable to these groups whose experience as

native groups provides some similarities to the experience of native Hawaiians. Congressman Cecil Heftel, in his comments and other commenters recognize the use of such analogies or rely upon such analogies.

5/ Inupiat Community of the Slope v. United States, ___ Ct.Cl. ___, 680 P.2d 122, 128 (1982), cert. denied, 103 S. Ct. 299 (1982).

6/ E.g., Northern Paiute Nation, et. al. v. United States, 7 Ind.Cl.Comm. 322, 412 (1959), aff'd, 183 Ct.Cl. 321 (1968).

2/ Quapaw Tribe v. United States, 128 Ct.Cl. 45, 49 (1954).

8/ United States v. Seminole Indians, 180 Ct.Cl. 375, 383 (1967).

9/ Ibid.

K>/ Ibid.

11/ Caddo Tribe of Oklahoma v. United States, 35 Ind.Cl.Comm. 321, 339 (1975). One commenter (on the Draft Report) emphasized the view that the native Hawaiians held aboriginal title to Government and Crown lands as of 1898 and that this title was extinguished by the United States when annexation occurred (Melody K. MacKenzie, Comments on the Native Hawaiians Study Commission Draft Report, (November 1982), p. 25; hereinafter cited as "OHA's Comments").

12/ Claims in the absence of such a law are barred by the doctrine of sovereign immunity.

13/ In a draft alternate to this chapter, OHA comments that the native Hawaiians are "not asserting aboriginal title claims to Government and Crown lands which passed into fee simple ownership" (OHA's Comments, Alternate Chapter III, p. 7.) About 720,000 acres of Government and Crown lands passed into fee simple ownership before 1898 (see discussion, above, page 335 to 336, and Levy, Native Hawaiian Land Rights, 63 Calif. L. Rev. 848, 859 (1975)).

14/ The requirement of a single landowning entity is discussed fully in the cases cited below in footnote 15.

15/ Confederated Tribes of the Warm Springs Reservation v. United States, 177 Ct.Cl. 184, 206-207 (1966); Nooksack Tribe v. United States, 3 Ind.Cl.Comm. 479, 494-495 (1955), aff'd, 162 Ct.Cl. 712 (1963), cert. denied, 375 U.S. 993 (1964); and Muckleshoot Tribe v. United States, 3 Ind.Cl.Comm. 658, 674-675 (1955), aff'd in part, vacated in part on other grounds, 174 Ct.Cl. 1283 (1966), cert. denied, 385 U.S. 847 (1966).

16/ Levy, p. 859.

17/ Jon J. Chinen, The Great Mahele; Hawaii's Land Division of 1848 (Honolulu: The University Press of Hawaii, 1974), p. 5.

18/ Gavan Daws, Shoal of Time; A History of the Hawaiian Islands, (New York: The MacMillan Company, 1968), pp. 124-5; see also above, chapter entitled "Diplomatic and Congressional History: From Monarchy to Statehood."

19/ Morris, The Land System of Hawaii, 21 ABA Journal 649, 650 (1935).

20/ Levy, pp. 854-855.

21/ Some commenters objected to the use of feudal terms in referring to native Hawaiians' land ownership patterns. The terms are used here to assist those who are not native Hawaiians in understanding land ownership patterns.

22/ Levy, pp. 855-857. The paper submitted to the Commission by the Office of Hawaiian Affairs, "Regarding the Legal Aspects," written by Melody MacKenzie and Jon Van Dyke, contends that although the Kuleana Act allowed individual native Hawaiians to obtain fee simple title to Crown or Government lands that they actually cultivated or Government lands they purchased, it did not extinguish the "people's" interest in the Crown and Government lands. See the discussion above, pages 335 to 336, and footnote 13, above. The MacKenzie/Van Dyke paper is reproduced in its entirety in the Appendix of this Report.

23/ Daws, p. 124.

24/ Levy, p. 857.

25/ Ibid., p. 859.

26/ Ibid.

27/ Ibid., p. 852, note 26.

28/ H. Rodger Betts, Report on the Hawaiian Native Claims, Second Draft (1978), p. 15. One comment received by the Commission states that the 1840 Constitution affirms that the native Hawaiians had aboriginal title to the Government and Crown lands.

29/ Chinen, The Great Mahele, pp. 25-29. Betts concedes that the lands at issue did not encompass 2,500,000 acres by 1898 (Betts, p. 15). Indeed, Congress believed that the "public lands" in Hawaii totaled only 1,740,000 acres. (H.R. Rep. No. 1355, 2nd Sess., p. 43 (1898)). MacKenzie states that the lands at issue total 1.75 million acres.

30/ Betts, pp. 15-20; MacKenzie, p 76. One commenter takes the position the Great Mahele did not extinguish aboriginal title. However, the Great Mahele was the process established when individuals could acquire fee simple ownership to Government and Crown land and thus obtain vested property interests. Such an action by the Hawaiian Government was inconsistent with the existence of aboriginal title to the Government and Crown lands, and together with other actions inconsistent with aboriginal title, operated to extinguish aboriginal title, if any had existed, prior to 1893.

31/ Nooksack Tribe v. United States, supra, 3 Ind.Cl.Comm. at 495.

32/ 3 Ind.Cl.Comm. at 494-495.

33/ Skokomish Tribe v. United States, 6 Ind.Cl.Comm. 135, 157-158 (1958). Cf. Red Lake, Pembina and White Earth Bands, et. al. v. United States, 164 Ct.Cl. 389, 393-394 (1964). The fact that land that is the subject of a claim of aboriginal title was explicitly included in a treaty of cession involving said land (and other land) does not establish the existence of aboriginal title.

34/ See discussion in text above.

35/ Karen Blondin, A Case for reparations for Native Hawaiians, 16 Hawaiian Bar Journal 13, p. 27; Levy, pp. 857-859. In her article, A Case for Reparations, Karen Blondin argues that the Court of Claims decision in Liliuokalani v. United States, 45 Ct. Cl. 418 (1910) makes clear that land was collectively held and used by native Hawaiians. In Liliuokalani, the Court of Claims held that the lands held as Crown lands by the Queen should be treated as other Government lands, so that the Queen's loss of the lands did not give rise to a

compensable taking for her. Since the Government lands, as discussed above, are not regarded as owned collectively by the native Hawaiians as a group, the ruling in Liliuokalani does not support Blondin's argument.

Further, in Sovereignty and Land, MacKenzie argues that the 1840 Constitution created a trust relationship among the king, chiefs, and people by citing a statute that reads:

No man living on a farm whose name is recorded by his landlord, shall without cause desert the land of his landlord. Nor shall the landlord causelessly dispossess his tenant, (p. 6)

However, this statute was a mere instrument of the chiefs to keep the laborers of their land from leaving their homes for the developing cities of Honolulu and Lahaina (Levy, p. 851). It was not a statement of common use and ownership. These laws and the ones to follow were to represent a move toward the philosophy of individual ownership of land and a break from whatever common use may have existed in the traditional feudal land system.

36/ See footnote 16, above.

37/ Nooksack Tribe v. United States, supra, 3 Ind.Cl.Comm. at 494-495; Samish Tribe v. United States, 6 Ind.Cl.Comm. 159, 172 (1958).

38/ OHA's Comments, p. 23.

39/ Act of August 6, 1850 §7 [1850] Hawaii Laws 203 (2 Revised Laws (1925) at 2142); Hanifin, p. 18; and Levy, p. 857.

40/ Levy, p. 857, note 57, citing Oni v. Meek, 2 Haw. 87 (1858).

41/ OHA's Comments, p. 23.

42/ 1880 Session Laws, p. 56; cited by Hanifin, p. 18, note 16.

43/ Thurston v. Bishop, 7 Haw. 421, 438 (1888).

44/ Indian law recognizes that individual members of a tribe have the right to use tribal property. See e.g., United States v. Cook, 86 U.S. (19 Wall.) 591, 593 (1873); and Whitefoot v. United States, 155 Ct.Cl. 127, 133-135 (1961), cert. denied, 369 U.S. 818 (1962). Cf. United States v. Jim, 409 U.S. 80, 82 (1972), rehearing denied, 409 U.S. 1118 (1973).

45/ OHA's Comments, p. 28.

46/ Cherokee Nation v. Georgia 30 U.S. (5 Pet.) 1, 16-18 (1832); and Johnson v. McIntosh, 21 U.S. (8 Wheat.) 543, 572-574 (1823).

47/ Confederated Tribes of the Warm Springs Reservation v. United States, supra; Sac and Fox Tribe of Indians of Oklahoma 161 Ct.Cl. 189, 201-202 (1963), cert. denied, 375 U.S. 921 (1963).

48/ It is argued that aboriginal title existed as of 1893 and/or 1898; see Betts, p. 14, MacKenzie, pp. 76 and 78.

49/ Confederated Tribes of the Wam Springs Reservation v. United States, supra, 177 Ct.Cl. at 194. To prove the existence of aboriginal title it must be shown that such title was not lost or abandoned prior to the alleged date of extinguishment. Confederated Tribes of the Umatilla Indian Reservation v. United States, 14 Ind.Cl.Comm. 14,116 (1964).

50/ Quapaw Tribe v. United States, 128 Ct.Cl. 45, 48-49 (1954).

51/ Quapaw Tribe v. United States, 1 Ind.Cl.Comm. 469, 488 (1951), aff'd

in part, rev'd in part on other grounds, 128 Ct. Cl. 45 (1954). OHA states that "Native Hawaiians advance no argument as to 'constructive possession' of Government and Crown lands" (OHA's Comments, p. 23).

52/ Puyallup Tribe v. United States, 17 Ind.Cl.Comm. 1, 23-24 (1966). It appears that the Government and Crown lands constituted a defined area—one of the tests for aboriginal title.

53/ 31 Cong. Rec, p. 6261 (1898).

54/ Cf. Caddo Tribe of Oklahoma v. United States, 4 Ind.Cl.Comm. 218-219 (1956), appeal dismissed, 140 Ct.Cl. 63 (1957).

55/ See footnote 18, above; Jean Hobbs, Hawaii: A Pageant of the Soil (Stanford, Calif: Stanford University Press, 1935), pp. 4-6 and 12-16.

56/ OHA comments that notwithstanding the conversion of much land to "individual fee-simple ownership," the Government and Crown lands were "maintained as lands held by the Hawaiian Kingdom for the chiefs and people in common" (OHA's Comments, p. 24). In addition, OHA states: "One indication of the collective rights in these lands was the specific recognition of native rights of gathering and access on Government and Crown lands" (OHA's Comments, p. 24)

The first assertion refers to OHA's contention that the argument concerning extinguishment of aboriginal title is "irrelevant" because the Mahele confirmed the title to the Crown and Government lands in the Hawaiian Government and thus, in effect, confirmed the title in the native Hawaiians. This assertion is addressed in Part C of this chapter. The second contention ignores that portion of the Kuleana Act of 1850 that terminated the rights of native

tenants to grow crops and pasture animals on Crown and Government lands. In addition, this statute was held to have effected an implicit repeal of all former gathering rights. This statute evidences an absence of collective rights in the Government and Crown lands.

57/ OHA's Comments, p. 25.

58/ Ibid., p. 24.

59/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941). OHA cites Mashpee Tribe v. New Seabury Corp., 592 F.2d 575 (1st Cir. 1979) with respect to abandonment of aboriginal title. However, this case concerned "abandonment" by the claimant of its tribal status and not abandonment of aboriginal title (592 F.2d at 586-587).

60/ Cf. Williams v. City of Chicago, 242 U.S. 434, 437-438 (1917); and Buttz v. Northern Pacific Railroad, 119 U.S. 55, 69-70 (1886).

OHA also states: "Under traditional principles of Indian law, forcible dispossession by non-natives [referring to the landing of American troops on January 17, 1893], is not voluntary abandonment and does not extinguish aboriginal title" (OHA's Comments, pp. 24-25). Temporary forcible dispossession of an Indian tribe from its aboriginal title lands by the sovereign had been found to effect an extinguishment of title (Northern Paiute Nation, et al. v. United States, 7 Ind.Cl.Comm. 615, 616 (1959), aff'd, 183 Ct.Cl. 321 (1968)), but, as a general rule, temporary forcible dispossession does not operate to extinguish aboriginal title where there is no evidence of a Congressional intention to extinguish title (United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 354-356 (1941)). Here, where the Federal Government was not the sovereign before 1898, the rule cited by OHA has no applicability.

6jy Levy, p. 857.

62/ One theory advanced in the comments received by the Commission is that leasing of Government and Crown lands is an example of "permissive use" of aboriginal title lands that did not effect an extinguishment of aboriginal title (see Senator Inouye's Comments, pp. 37-39).

The doctrine of "permissive use" refers to use of an Indian tribe's (or band's) aboriginal title lands by another Indian tribe or band; this use is specifically allowed by the tribe or band holding aboriginal title (Samish Tribe v. United States, 6 Ind.Cl.Comm. 159, 175 (1958); S'Klallam Tribe v. United States, 5 Ind.Cl.Comm. 680, 704 (1957)). The fact that non-native Hawaiians were allowed to use the Government and Crown lands is not evidence that the native Hawaiians held aboriginal title to these lands. Cf. Confederated Tribes of the Umatilla Indian Reservation v. United States, 14 Ind.Cl.Comm. 14, 119 (1964). "Permissive use" presumes the existence of aboriginal title (14 Ind.Cl.Comm. at 119). Furthermore, the use of Crown and Government lands was authorized by the Hawaiian Government—the sovereign—and not by the native Hawaiians.

63/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941); and Pillager Bands of Chippewa Indians v. United States, 192 Ct.Cl. 698, 705 (1970).

64/ United States v. Santa Fe Pacific Railroad Co., 314 U.S. 339, 347 (1941); Washoe Indian Tribe v. United States, 21 Ind.Cl.Comm. 447, 448 (1969); and cf. United States v. Northern Paiute Nation, 203 Ct.Cl. 468, 474-475 (1974).

65/ Cowlitz Tribe v. United States, 25 Ind.Cl.Comm. 442, 451 (1971), aff'd, 199 Ct.Cl. 523 (1972); Tlingit and Haida Indians v. United States, 147 Ct.Cl. 315, 336-341

(1959); Washoe Indian Tribe v. United States, 21 Ind.Cl.Comm. 447, 448 (1969); Pueblo de Zia v. United States, 19, Ind.Cl.Comm. 56, 64-65, 74-75, 77 (1968); and Pueblo of Taos v. United States, 15 Ind.Cl.Comm. 666, 702 (1965).

66/ OHA's Comments, p. 23.

67/ Cf. Williams v. City of Chicago, 242 U.S. 434, 437-438 (1917); and Buttz v. Northern Pacific Railroad, 119 U.S. 55, 69-70 (1886).

68/ Caddo Tribe of Oklahoma v. United States, 35 Ind.Cl.Comm. 321, 339 (1975); Pueblo de Cochiti v. United States, 7 Ind.Cl.Comm. 422, 450-454 (1959); and Pueblo de Isleta v. United States, 7 Ind.Cl.Comm. 619, 645-646 (1959), aff'd, 152 Ct.Cl. 866 (1961), cert. denied, 368 U.S. 822 (1961).

69/ OHA's Comments, p. 25; Senator Inouye's Comments, pp. 35-36.

70/ Temoak Band of Western Shoshone Indians v. United States, 219 Ct.Cl. 346 (1979), cert. denied, 444 U.S. 973 (1979); United States v. Fort Sill Apache Tribe, 209 Ct.Cl. 433 (1976); United States v. Northern Paiute Nation, 203 Ct.Cl. 468 (1974); and United States v. Northern Paiute Nation, 183 Ct.Cl. 321 (1968).

71/ See e.g., United States v. Northern Paiute Nation, 203 Ct.Cl. 468, 470 (1974). Furthermore, the cases cited in the preceding footnote involve situations where there was a treaty that prospectively authorized the acts of the third parties (219 Ct.Cl. at 356-357) or where there was a "subsequent ratification and adoption" by Congress of the acts in question (203 Ct.Cl. at 474; and 183 Ct.Cl. at 340). The actions of United States Minister Stevens that contributed to the overthrow of the monarchy were obviously not authorized by any pre-1893 treaty between the United States and Hawaii, nor were they

subsequently adopted by Congress. Indeed, the actions of Stevens on January 17, 1893, do not appear to have been sanctioned by the Congress or the President. The United States Government is not liable for the acts of an agent that exceed the scope of the agent's authority. See Wisconsin Central Railroad Company v. United States, 164 U.S. 190, 210 (1896); Hawkins v. United States, 96 U.S. 689, 691-692 (1877); Whiteside, et al. v. United States, 93 U.S. 247, 256-257 (1876); and Filor v. United States, 76 U.S. (9 Wall.) 45, 48-49 (1869). The paper by Melody MacKenzie and Jon Van Dyke, "Regarding the Legal Aspects," contends that the Government is responsible for the acts of an agent. However, the United States is liable only when it expressly waives sovereign immunity, and it has done so in specific circumstances and then only for authorized acts.

Nor is the decision in Lipan Apache Tribe, et al. v. United States, 36 Ind.Cl.Comm. 7 (1975) controlling. In Lipan Apache, the United States was held liable for the acts of the third parties which effected an extinguishment of aboriginal title of certain Texas Indians to lands in Texas. The acts in question occurred after Texas was admitted to the Union as a State in 1845. By the terms of admission Texas retained ownership of public lands within Texas; however, the Federal Government held jurisdiction over Indian affairs within Texas (36 Ind.Cl.Comm. at 18). On May 15, 1846, the Federal Government entered into a treaty with the plaintiff Indian tribes whereby the tribes acknowledged themselves to be 'under the protection of the United States and no other power, state or sovereignty whatever' (36 Ind.Cl.Comm. at 51). The Commission found that subsequently (i.e., in the 1850's) the United States, through its military forces, had aided Texas authorities in placing the tribes on reservations, thereby extinguishing the plaintiff tribes' aboriginal title to their Texas lands.

The Commission held that by virtue of the 1846 treaty "...the United States had assumed the role of protector of those Texas Indians who participated in that treaty. In our judgment the Federal Government did not fulfill its role as protector of the Indians" (36 Ind.Cl.Comm. at 18-79). Under the circumstances the aboriginal rights of the plaintiff tribes had been "effectively extinguished by the United States" (36 Ind.Cl.Comm. at 19).

Even assuming, arguendo, that the Provisional Government extinguished the aboriginal title, if any, of the native Hawaiians to the Crown and Government lands, it does not follow that the United States would incur any liability for the acts of the Provisional Government on the basis of the Lipan Apache decision. This is because there are crucial differences between the situation in Lipan Apache and the situation here. First, Texas had been annexed by the United States and was part of the United States before the acts of third parties in question took place. By contrast, in 1893, the Hawaiian Islands were not part of the territory of the United States. Second, after the annexation of Texas, the United States was "in charge of Indian Affairs" in Texas (36 Ind.Cl.Comm. at 18). By comparison, as of 1893 the United States had no control over the affairs of native Hawaiians; sovereignty over native peoples only arises when their lands become included within the territorial boundaries of the United States (Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 16-18 (1835)). Most importantly, in Lipan Apache the United States had assumed a duty to protect the Texas tribes that were parties to the 1846 treaty, thereby giving rise to a "special relationship" within the meaning of Section 2, Clause (5) of the Indian Claims Commission Act (25 U.S.C. §70a). Prior to 1893 (or 1898) the United States had entered into no treaty with either the Kingdom of Hawaii or the native Hawaiians as a

group whereby it assumed the duty of protecting the native Hawaiians (including any duty to protect their possession of lands that they occupied). ff. compare with United States v. Oneida Nation of New York, 217 Ct.Cl. 45, 55-59 (1978) which held there was a "special relationship" with the Oneida Nation because in a 1784 treaty the Federal Government had promised to protect the Oneidas in the possession of the lands the Oneidas occupied as of 1784.

72/ Senator Inouye states: "...it could be argued that the United States exercised some measure of control over the Hawaiian Islands long before annexation" (Senator Inouye's Comments, p. 37, note 17).

It has been suggested that the United States might be held liable under Section 2, Clause (5) for the Indians' loss of title to lands (which had never been part of the public domain of the United States) where there is "true concert, partnership or control of the Federal Government" with regard to the specific acts of third parties which effected an extinguishment of title. Six Nations, etc. v. United States, 173 Ct.Cl. 899, 904, 907-909 (1965). However, there are no decisions holding the United States liable under Clause (5) for the acts of third parties on the grounds of "true concert, partnership or control of the Federal Government." Moreover, in Lipan Apache Tribe, et al. v. United States, 180 Ct.Cl. 487, 502 (1967) the Court noted the language from the Six Nations opinion, but stated with respect to Section 2, Clause (5): "In any event, the United States is held liable under this 'fair and honorable dealings' clause not because it has title to the property, but because, by its own acts, it has undertaken special duties which it has failed to fulfil" (180 Ct.Cl. 502). The comments have not established the existence of any special duties owed to the native Hawaiians. In addition, where a native group claims that the United States undertook certain trust

responsibilities relating to that group (see OHA's Comments, pp. 29-30), liability turns on whether a "special relationship was created" (Cf. 180 Ct.Cl. at 502). Yet the wrongs complained of (i.e., United States' participation in the fall of the monarchy and the annexation of Hawaii) (see OHA's Comments, p. 30) cannot give rise to a "special relationship" under Clause (5). See Gila River Pima-Maricopa Indian Community, et al. v. United States, 190 Ct.Cl. 790, 800 (1970), cert, denied, 400 U.S. 819 (1970).

Finally, the central government under the Articles of Confederation possessed considerable jurisdiction over Indian affairs within the States. See United States v. Oneida Nation of New York, 217 Ct.Cl. 45, 62-65 (1978). By contrast, the Federal Government had no jurisdiction over native Hawaiian affairs prior to 1898.

73/ Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 279 (1955).

74/ Tee-Hit-Ton Indians v. United States, supra, at 284-285. See also Inupiat Community of the Arctic Slope v. United States, Ct.Cl. 680 F.2d 122, 128-129 (1982), cert. denied, 103 S.Ct. 299 (1982).

75/ See e.g., Fort Sill Apache Tribe of the State of Oklahoma v. United States, 22 Ind.Cl.Comm. 527, 543 (1970).

76/ One commenter suggests that the statute of limitations is unfair since some native Hawaiians were born after 1951 and could not have filed claims earlier. However, the Indian Claims Commission Act is designed to compensate the claims of appropriate groups of individuals, not the claims of individuals. If they were qualified to file a claim under the Act, native Hawaiians did not file before August 13, 1951.

77/ MacKenzie, pp. 75-76, 83.

78/ Sac and Fox Tribe of Indians of Oklahoma v. United States, 161 Ct.Cl. 189, 197 (1963), cert, denied, 375 U.S. 921 (1963).

79/ Ibid., emphasis added.

80/ Ibid., p. 192.

81/ Sovereignty over Indian tribes comes from their presence within the territorial boundaries of the United States. Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 16-18 (1832).

82/ See MacKenzie, p. 76. She argues that the 1848 Act affirmed the aboriginal title in these lands "to the Hawaiian people as a collective group" and "recognized the traditional use rights of native tenants." She further contends that deeds executed by Kamehameha III and approved by the Hawaiian legislature evidenced recognized title. Ibid., p. 83.

83/ Sac and Fox Tribe v. United States, supra, 161 Ct.Cl. at 192.

84/ The theory that these acts do accord recognized title is in MacKenzie, pp. 83-85. For discussion of these treaties see preceding chapter above.

85/ Coos Bay, Lower Umqua and Siuslaw Indian Tribes v. United States, 87 Ct.Cl. 143, 153 (1938), cert. denied, 306 U.S. 653 (1939).

86/ Sac and Fox Tribe v. United States, supra, 161 Ct.Cl. at 192-193; and Northwestern Band of Shoshone Indians v. United States, 95 Ct.Cl. 642, 657-661, 681-684 (1942).

87/ See also United States v. Mowat, 582 F.2d 1194, 1206 (9th Cir. 1978), cert, denied, 439 U.S. 967 (1978), which implies that the native Hawaiians had no recognized title to the lands at issue.

88/ OHA's Comments, pp. 23, 25-26.

89/ Ibid. The contention that the Hawaiian Government was the "single landowning entity," for aboriginal title purposes has been addressed previously (see pp. 336 to 337 above).

90/ OHA asserts "...the title held by native Hawaiians may have been not only aboriginal in nature, but also a formal, vested title" (OHA's Comments, Alternate Chapter III, p. 12). The alleged "communal rights of native Hawaiians" to the Crown and Government lands (supposedly granted by the 1840 Constitution and confirmed by the Great Mahele) are equated with land titles conferred by foreign governments (e.g., such as titles conferred by Spanish land grants). (Senator Inouye's Comments, pp. 39-40.) Thus, Senator Inouye, too, is effectively asserting that title to the Government and Crown lands was in the native Hawaiians.

91/ OHA's Comments, p. 26. Again, OHA states that the native Hawaiians and the Hawaiian Government are not separate entities. The following discussion in the text also responds to the views of Keith S. Abe.

92/ Thurston v. Bishop, 7 Haw. 421, 437-438 (1888); Harris v. Carter, 6 Haw. 195, 201 (1877); and Kenoa v. Meek, 6 Haw. 63, 65 (1872). See also Hanifin, pp. 16-18.

It should be noted that ownership of the Crown lands was in the king. In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864). The Court of Claims held that the Crown lands belonged to the office of the sovereign rather than the sovereign as an individual and became Government lands when the monarchy ceased to exist in 1893. Liliuokalani v. United States, 45 Ct.Cl. 418, 426-428 (1910).

93/ Act of July 11, 1851 [1851] Hawaii Laws 52 (2 Revised Laws (1925) at 2196)).

94/ There were also other statutes providing for sale of Government land to the people; e.g., 1874 Session Laws, CY 24; 1876 Session Laws, Ch. 44 and 1878 Session Laws Ch. 5; and 1884 Session Laws, Ch. 45; cited by Hanifin, p. 16,

95/ Thurston v. Bishop, 7 Haw. 421, 437-438 (1888).

96/ Indian law recognizes that individual members of a tribe have the right to use tribal property. United States v. Cook, 86 U.S. (19 Wall.) 591, 593 (1873); and Whitefoot v. United States, 155 Ct.Cl. 127, 133-135 (1961), cert. denied, 369 U.S. 818 (1962). Cf. United States v. Jim, 409 U.S. 80, 82 (1972), rehearing denied, 409 U.S. 1118 (1973).

97/ Hobbs, p. 41, note 17.

98/ OHA asserts that the title to the Crown and Government lands "held by native Hawaiians may have been not only aboriginal in nature, but also a formal, vested title" (OHA's Comments, Alternate Chapter III, p. 12). In addition, OHA contends that: (1) the native Hawaiians and the Hawaiian Government were one and the same entity insofar as holding title to the subject lands is concerned; and (2) the Great Mahele operated so as to vest a "formal title" to said lands in the Hawaiian Government (OHA's Comments, pp. 23, 25-26). Also, Senator Inouye alleges, in effect, that the 1840 Constitution granted the native Hawaiians' title to the Crown and Government lands (Senator Inouye's comments, pp. 39-41).

99/ Daws, p. 125, and Hobbs, p. 29. The Hawaiian Supreme Court held in 1977 that the 1840 Constitution "acknowledged that the people of Hawaii are the original owners of all Hawaiian land," State v. Zimring, 58 Haw. 106, 111 (1977). The Zimring opinion ignores the fact that the 1840 Constitution was repealed by the 1852

Constitution (see discussion in text below, page 342). Also, the opinion does not state that the 1840 Constitution operated so as to vest title to the Crown and Government lands in the native Hawaiians. To the extent that it may imply that the 1840 Constitution did vest title, such an interpretation cannot be reconciled with the language of Thurston v. Bishop.

100/ Thurston v. Bishop, 7 Haw. 421, 433 (1888).

10V (1847) Hawaii Laws 107 (2 Revised Laws (1925) at 2120); cited by Levy, p. 853.

102/ Thurston v. Bishop, 7 Haw. 421, 428-429 (1888).

103/ Hobbs, p. 41, note 17.

104/ Ibid.

105/ Lorrin A. Thurston, The Fundamental Law of Hawaii, 155, 156-168 (1904). Nor is it found in the Constitutions of 1864, 1887 or 1894 (Thurston, 169-194, 201-242). See also Hanifin, pp. 26-27.

106/ 16 C.J.S., Constitutional Law, §42 (1956).

107/ Ex parte Palm, 238 N.W. 732, 733 (S.Ct. Mich. 1931), cert. denied, 285 U.S. 547 (1932). This case rejected the argument that a provision in the first State Constitution of 1835 that was not found in any of the subsequent State Constitutions was still in force. See also In re Advisory Opinion to the Governor, 112 So. 2d. 843, 847 (S.Ct. Fla. 1959) which held that the omission of language from the State Constitution that had appeared in the State's previous constitutions should be presumed to be an intentional omission.

10b/ Rex v. Booth, 2 Haw. 616, 524-625 (1863).

109/ Ahlo v. Smith, 8 Haw. 420, 423 (1892). "...loss of...[a right] through promulgation of a new Constitution is by 'due process of law' of the most pronounced character" (8 Haw. at 424). It should be noted that Article 91 of the 1894 Constitution expressly abrogated "all other Constitutions" of Hawaii (Thurston, p. 235). [Emphasis added].

110/ Hobbs, p. 41, note 17, and p. 40.

111/ Rose v. Yoshimura, 11 Haw. 30, 32 (1897); Kenoa v. Meek, 6 Haw. 63, 67 (1872); and Kanaina v. Long, 3 Haw. 332, 334-335 (1872). In Territory v. Gay, 26 Haw. 382, 402 (1922), the Great Mahele was held to have itself created "no estate in lands." While this language may refer principally to individual Hawaiians, it strongly implies that the Great Mahele did not operate so as to vest title in native Hawaiians as a group. Moreover, the opinion in State v. Zimring, 58 Haw. 106 (1977) implies that the sole source of title, if any, was the 1840 Constitution and not the Great Mahele (58 Haw. at 111-112).

112/ Kenoa v. Meek, 6 Haw. 63, 66-67 (1872); and Kanaina v. Long, 3 Haw. 332, 334-335 (1872). See also In re Austin, 33 Haw. 832, 838-839 (1936); and Territory v. Gay, 26 Haw. 382, 402-403 (1922). In Kenoa v. Meek, reference is made to the right of the particular claimant "in common with all other Konohikis" as having been barred (6 Haw. at 66). Commenters did not cite any of the decisions of the Hawaiian Supreme Court (see, e.g., OHA's Comments, "Footnotes").

This common right was subject to statutes of limitations. Claims of native tenants not presented and proven by May 1, 1854, were "forever barred" (Act of May 26, 1853 [1853] Hawaii Laws 26 (2 Revised Laws (1925) at 2145); cited by Levy, p. 856. Claims of konohiki that were not presented by January 1, 1895, were

barred (Act of December 16, 1892, Session Laws, Ch. 68 (2 Revised Laws (1925) at 2151-2152)).

113/ Kahoomana v. Moehonua, 3 Haw. 635, 639 (1875); and Kenoa v. Meek, 6 Haw. 63, 67 (1872). This was true also before the Great Mahele (see Thurston v. Bishop, 7 Haw. 421, 438 (1888)).

This does not mean that title was vested in the native Hawaiians because the Hawaiian Government and native Hawaiians were not one and the same entity (see discussion above, p. 341).

114/ In the Matter of the Estate of His Majesty Kamehameha IV, 2 Haw. 715 (1864).

115/ 2 Haw. 715 (1864).

116/ Liliuokalani v. United States, 45 Ct.Cl. 418, 427-428 (1910).

117/ 45 Ct.Cl. at 427-428.

118/ See Hanifin, pp. 12-13. Article 95 of the 1894 Constitution expressly provided that the former Crown lands were Government lands (see Thurston, p. 237).

119/ OHA's Comments, Alternate Chapter III, p. 12.

120/ OHA asserts under its comments on aboriginal title that after the Mahele the Hawaiian Kingdom held title to the Government and Crown lands "for the benefit of the chiefs and people" (OHA's Comments, p. 23). OHA also alleges that the Crown and Government lands were held in trust (OHA's Comments, pp. 4-5). This theory suffers from serious defects. A trust could have first arisen only under the provisions of the 1840 Constitution (upon which OHA relies) since, as a general rule, a fiduciary relationship arises only under the provisions of a treaty, statute or agreement (e.g., United States v.

Mitchell, 445 U.S. 535, 542-546 (1980)). Even assuming that the 1840 Constitution did establish a trust, the repeal of the 1840 Constitution by the 1852 Constitution terminated the trust. Moreover, Article 91 of the 1894 Constitution (Lorrin A. Thurston, The Fundamental Law of Hawaii, 235 (1904) specifically abrogated "all other [i.e., former] Constitutions" of Hawaii.

OHA states that the Great Mahele "continued" this trust concept because the lands conveyed to the Hawaiian Government were to be set "apart 'forever to the chiefs and people of my Kingdom'" (OHA's Comments, pp. 4-5). However, this language did not apply to the Crown lands (see Levy, p. 855). Accordingly, the Great Mahele clearly established no trust with respect to the Crown lands (e.g., United States v. Mitchell, *supra*). OHA contends that since the Crown lands eventually became Government lands, the provisions of the Great Mahele with respect to Government lands (i.e., that they be set 'apart forever to the chiefs and people of my Kingdom') automatically applied to the former Crown lands (OHA's Comments, p. 5). However, Article 95 of the 1894 Constitution (pursuant to which the former Crown lands became Government lands) specifically declared that the Crown lands were to be "...free and clear from any trust of or concerning the same..." [Emphasis supplied] (Thurston, p. 237). Although this language was primarily intended to terminate any trust in favor of Liliuokalani with respect to these lands (45 Ct.Cl. at 428-429), it is sufficiently broad so as to have barred the automatic creation of any new trust (in favor of the native Hawaiians) with respect to the Crown lands. Moreover, if OHA's interpretation of the provisions of the Great Mahele with regard to the Government lands is correct (i.e., that they automatically imposed a trust on the former Crown lands), then the provisions of Article 95 and the Act of June 7, 1848 (which adopted the

provisions of the Great Mahele) could be viewed as being inconsistent. Since the 1894 Constitution **was** the fundamental law of Hawaii in 1894, **its** provisions took precedence over inconsistent provisions of preexisting statutes (see Article 91 of the 1894 Constitution (Thurston, p. 235); Ahlo v. Smith 8 Haaw. 420, 423 (1892)).

The provisions of the Great Mahele with respect to the Government lands became effective when adopted by the Act of June 7, 1848 (Hanifin, p. 28). Even assuming, arguendo, that the language of the 1848 Act was intended to create a trust with respect to the Government lands, the language of subsequent statutes (which concerned Government lands) is not consistent with a trust theory. For example, the Act of July 11, 1851 (1851) Hawaii Laws 52 (2 Revised Laws (1925) at 2196-2197) and the Act of July 6, 1853 [1853] Hawaii Laws 55 (2 Revised Laws (1925) at 2197) concerning the sale of Government lands did not provide that proceeds from the sale of Government lands were to be paid over to the native Hawaiians or deposited to their credit in a separate account in the Hawaiian Treasury (Compare cf. Ash Sheep Company v. United States, 252 U.S. 159, 165-166 (1920); United States v. Brindle, 110 U.S. 688, 693 (1884); and Colorado River Indian Tribes, et'al. v. United States, 39 Ind.Cl.Comm. 42, 48-49 (1976) involving cessions of tribal land to the United States in trust which provided that the land be sold for the benefit of the tribe(s) making the cession and that the sales proceeds be paid over to the tribe(s) in question and, in one instance, that there be a semi-annual accounting of the sales proceeds.) Nor did subsequent statutes contain any provisions requiring proceeds from sales of Government land to be paid over to native Hawaiians (or set aside for them in the Treasury) or requiring periodic accountings of these receipts. In sum, the language of these subsequent statutes was, in

effect, not consistent with the language of the Act of June 7, 1848, to the **extent** that the language of the 1848 Act may have been intended to create a trust as to the Government lands (Cf. Oni v. Meek, 2 Haw. 87 94-95 (1858) holding that a statute effected an implicit repeal of a prior inconsistent statute). Accordingly, these subsequent statutes could be viewed as effecting an implicit repeal of the 1848 Act to the extent that said Act may have imposed a trust on the Government lands.

Furthermore, the failure of a series of statutes to provide that proceeds from sales of Government lands be paid over to native Hawaiians or that periodic accountings of the sales receipts be rendered tends to negate the existence of any trust duties (compare cf. Aleut Community of St. Paul Island v. United States, 202 Ct. CI. 182, 196-198 (1973)). Failure of the Hawaiian legislature to so provide is significant in light of the fact that the Hawaiian law of trusts clearly recognized the duty of a trustee not to commingle trust funds with monies belonging to the trustee (In re Neville's Estate, 4 Haw. 289, 290-291 (1880)) and the duty of a trustee to account for receipts and profits from trust property (Jarrett v. Manini, 2 Haw. 667, 677 (1863)). In addition, the Land Law of 1895 provided that proceeds from the sale of public lands were to be set apart as a "special fund for the payment of the Bonded Indebtedness of the Government or for the purchase of other lands as provided by § 194" (Civil Laws of the Hawaiian Islands, Ch. 7, § 202 (1897)), rather than set apart for the use and benefit of the native Hawaiians or set apart to be paid over to the native Hawaiians.

If the Government and Crown lands had been held in trust, then the native Hawaiians would have held some title to these lands—namely a "beneficial" title (e.g., Colorado River Indian Tribes, et al. v. United States, 39 Ind.Cl.Comm. 42, 49

(1976)). Yet neither the landmark decision in Thurston v. Bishop, 7 Haw. 421 (1888) (interpreting the 1840 Constitution) nor the other decisions discussed previously (interpreting the Great Mahele) hold that the native Hawaiians held a "beneficial" title to the Government and Crown lands. This is especially significant in light of the fact that the Hawaiian law of trusts expressly recognized the concept of "beneficial" title to land (Kanoelehua v. Cartwright, 7 Haw. 327, 329-330 (1888); cf. Montgomery v. Montgomery, 2 Haw. 563, 569 (1862)). Presumably, if the Hawaiian Supreme Court had believed that the native Hawaiians had a beneficial title, it would have so held.

Finally, native Hawaiians do not point to any suits prior to annexation alleging a violation of some fiduciary duty of the Government with respect to the Government and/or Crown lands. Yet there is no doubt that up to 1892 such a suit could have been filed in the Hawaiian Supreme Court (which had original equity jurisdiction until 1892) and, thereafter, in the First Circuit Court (In re Bishop's Estate, 11 Haw. 33 (1897)).

121/ OHA's Comments, p. 26. As noted, this argument assumes that the native Hawaiians and the Hawaiian Government are one and the same entity.

122/ MacKenzie, pp. 83-85.

123/ Sac and Fox Tribe of Indians of Oklahoma v. United States, 161 Ct. Cl. 189, 192, 197 (1963), cert. denied, 375 U.S. 921 (1963).

124/ Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 278-279 (1955). This analogy is apt since the Hawaiian Government and native Hawaiians are alleged to be one and the same entity. This has nothing to do with the doctrine of "permissive use."

125/ 348 U.S. at 278-279. In such a situation there is an absence of a

"definite intention by congressional action or authority to accord legal rights."

126/ Sac and Fox Tribe of Indians of Oklahoma v. United States, 161 Ct.Cl. 189, 192-193 (1963), cert. denied, 375 U.S. 921 (1963); and Northwestern Band of Shoshone Indians v. United States, 95 Ct.Cl. 642, 657-661, 681-684 (1942).

127/ Coos Bay, Lower Umqua, and Siuslaw Indian Tribes v. United States, 87 Ct. Cl. 143, 153 (1938), cert. denied, 306 U.S. 653 (1939).

128/ This paragraph treats the native Hawaiians as an entity separate from the Hawaiian Government. See United States v. Mowat, 582 F.2d 1194, 1206 (9th Cir. 1978), cert. denied 439 U.S. 967 (1978) which implies that the native Hawaiians had no recognized title to the Crown and Government lands.

129/ After annexation there existed only one entity whose title to the Government and Crown lands could, in theory, have been recognized—namely, the native Hawaiians as a group.

130/ See Joint Resolution No. 55 of July 7, 1898, 30 Stat. 750, which provides, in pertinent part:

The existing laws of the United States relative to public lands shall not apply to such lands [the ceded lands] in the Hawaiian Islands; but the Congress shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same...[with certain exceptions] shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Treaties of cession do not generally establish recognized title to ceded

Iand9 (Sioux Tribe, et al. v. United States, 205 Ct.Cl. 148, 171 (1974)).

131/ The legislative history is full of references to the native Hawaiian9—"native population" (Sen. Doc. No. 214, 55th Cong., 2nd Sess. p. 8 (1898)); "native Hawaiians" (H.R. Rep. No. 1355, 55th Cong., 2nd Sess., pp. 43, 49, 56 (1898)); "native race," "aborigines," "natives" (31 Cong. Rec, pp. 5982, 6010, 6142, 6144, 6260, 6526, 6663, 6702 (1898)). [Emphasis supplied.]

132/ See H.R. Rep. No. 1355, 55th Cong., 2nd Sess. p. 49 (1898) (two paragraph discussion and definition of "native Hawaiians"); 31 Cong. Rec, p. 6189 (reference to "the Hawaiians proper," i.e., "full-blooded" and "part" Hawaiians, as one of three "important races"); and 31 Cong. Rec, p. 6573 (distinction drawn between "inhabitants of the Hawaiian Islands" and the "native Hawaiians").

133/ 31 Cong. Rec, pp. 6189, 6260-6261, 6526 (1898).

134/ Act of April 30, 1900, 31 Stat. 141 (1900).

135/ Section 73, 31 Stat. 141, 154.

136/ Act of May 17, 1884, 23 Stat. 24, 26.

137/ Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 278 (1955).

138/ Ibid.

139/ Nor does Section 91 of the Organic Act of 1900 evidence any intention by Congress to grant native Hawaiians the right to use and occupy Crown and Government lands permanently.

140/ OHA's Comments, pp. 26-27. Similarly, Senator Inouye refers to the "historical treatment of land titles conferred by foreign

governments to lands subsequently annexed by or ceded to the United States" (Senator Inouye's Comments, p. 39).

141/ E.g., Interstate Land Company v. Maxwell Land Grant Company, 139 U.S. 569, 588 (1891).

142/ See 45 Am Jur 2nd, International Law, §33 (1969). See also McMicken v. United States, 97 U.S. 204, 209 (1877); Hornaby v. United States, 77 U.S. (10 Wall.) 224, 234 (1869); and Fremont v. United States, 58 U.S. (17 How.) 542, 560 (1854).

143/ United States v. Fullard-Leo, et. al., 331 U.S. 256, 266 (1947); and Hornaby v. United States, 77 U.S. (10 Wall.) 224, 242 (1969).

144/ Thurston v. Bishop, 7 Haw. 421, 438 (1888); Kahoomana v. Moehonua, 3 Haw. 635, 639 (1875); and Kenoa v. Meek, 6 Haw. 63, 67 (1872).

145/ Liliuokalani v. United States, 45 Ct.Cl. 418, 426-428 (1910).

146/ Thurston v. Bishop, 7 Haw. 421, 438 (1888).

147/ State v. Zimring, 58 Haw. 106, 113 (1977). See also Senator Inouye's Comments (p. 41, note 20) which concur with this statement.

148/ Barker v. Harvey, 181 U.S. 481, 498-499 (1901) (property rights under Mexican law); Indians of California v. United States, 98 Ct. CI. 583, 591-592 (1942), cert, denied, 319 U.S. 764 (1943) (property rights under Mexican law); and Hayt v. United States, 38 Ct. CI. 455, 461-464 (1903) (property rights under Mexican law). Cf. Carino v. Insular Government of the Philippine Islands, 212 U.S. 449 (1909) (land claimed as property of

an individual native of the Philippines found to have been segregated from public lands of the prior sovereign, Spain, and held protected under the Philippine Organic Act). See also, State of New Mexico v. Aamodt, 537 F.2d 1102, 1108-1109 (10th Cir. 1976), cert, denied, 429 U.S. 1121 (1977) (Pueblo grants under Spanish and Mexican law).

Under the Alaska Native Claims Settlement Act of 1971 the resolution of the existence of the Alaska Natives' claims did not rest on the existence of a valid claim under Russian law. Aleut Community of St. Paul Island v. United States, 27 Ind.Cl.Comm. 177, 181 (1972), aff'd, 202 Ct.Cl. 182 (1973).

149/ Barker v. Harvey, 181 U.S. 481, 498 (1901); Interstate Land Company v. Maxwell Land Grant Company, 139 U.S. 569, 588 (1891); and Fremont v. United States, 58 U.S. (17 How.) 542, 560-562 (1854). Cf. United States v. Chaves, 159 U.S. 452, 464 (1895); Hornsby v. United States, 77 U.S. (10 Wall.) 224, 238 (1869); and United States v. Pico, 72 U.S. (5 Wall.) 536, 540 (1866).

150/ See discussion above, p. 342.

151/ See discussion above, p. 342.

152/ United States v. Sioux Nation of Indians, 448 U.S. 371, 415, note 29 (1980).

153/ Cf. Caddo Tribe of Oklahoma v. United States, supra, 35 Ind. Cl.Comm. at 339.

154/ See, e.g., United States v. Creek Nation, 295 U.S. 103, 109-110 (1935); United States v. Klamath and Modoc Tribes of Indians, 304 U.S. 119, 124-125 (1938); and cf. Coast Indian Community v. United States, 213 Ct.Cl. 129, 147-148 (1977)).

155/ 31 Stat., at 159. [Emphasis added.]

United States v. Fullard-Leo, F. Supp. 782, 787 (D.C. Hawaii, 1944), aff'd 156 F.2d 756 (9th Cir. 1946), aff'd, 331 U.S. 256 (1947). [Emphasis added.]

The cited language shows that under Section 91 of the Organic Act the Territory of Hawaii was not merely an agent of the United States; therefore, such "agency" does not form the basis for a Fifth Amendment taking of the Government lands. Also, Inter-Island Steam Navigation Co. v. Territory of Hawaii, 305 U.S. 306 (1938), on which commenter relies makes reference only to Section 33 of the Organic Act, but no reference to Sections 73 or 91 of the Act.

157/ See 25 U.S.C. § 70(k). Similarly, the native Hawaiians cannot obtain compensation under Section 2 of the Indian Claims Commission Act because such claims must have been filed by 1951.

158/ MacKenzie, pp. 57, 61-62.

159/ United States v. Wheeler, 435 U.S. 313, 322-323 (1978). As to the applicability of principles of Indian law to native Hawaiians, see footnote 165, below.

160/ 435 U.S. at 326.

161/ 435 U.S. at 326. See also Oliphant v. Suquamish Indian Tribe, et al., 435 U.S. 191, 195 and 208-212 (1978).

162/ Montana v. United States, 450 U.S. 544, 564 (1981), rehearing denied, 452 U.S. 911 (1981).

450 U.S. at 564.

164/ Of course, the United States exercised no sovereignty over the Hawaiian Islands in 1893. Additionally, the native Hawaiians were represented in the Territorial Government. See preceding chapter above.

165/ United States v. Wheeler, 435 U.S. 313, 323 (1977). OHA submits that the concept of sovereignty as it relates to Indian tribes is not applicable to the claims of the native Hawaiians, because whereas Indian tribes were "domestic dependent" nations with only powers of a limited sovereignty (OHA's Comments, Alternate Chapter III, p. 15), the native Hawaiians were "citizens of an aboriginal nation with internal and external attributes of sovereignty" (OHA's Comments, p. 28). -One commenter notes that until 1898 Hawaii was a separate, independent sovereign. Another commenter suggests that Hawaiians have a "claim to self-determination as a sovereign people." While it is true that Indian tribes had only internal attributes of sovereignty, the salient fact remains that under traditional principles of Indian law, Indian tribes have not been allowed to recover for the loss of those attributes of sovereignty that they do possess, even under Section 2, Clause (5) of the Indian Claims Commission Act (25 U.S.C. §70 (a)) which encompasses "moral" claims (Confederated Tribes of the Colville Reservation v. United States, 25 Ind.Cl.Comm. 99, 103 (1971)). Moreover, native Hawaiians are citizens of the United States and the State of Hawaii, their sovereigns.

166/ Such matters are regarded as a political question. • See, e.g., Baker v. Carr, 369 U.S. 186, 212 (1962).

167/ See, e.g., Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 285 (1955). The Fifth Amendment provides that the United States shall not take property without just compensation.

168/ Confederated Tribes of the Colville Reservation v. United States, 25 Ind.Cl.Comm. 99, 104 (1971).

169/ Fort Sill Apache Tribe of the State of Oklahoma v. United States, 201 Ct.Cl. 630, 640-642 (1973).

170/ See Section 12 of the Act, 25 U.S.C. § 70(k).

171/ United States v. Mowat, 582 F.2d 1194, 1206-1207 (9th Cir. 1978), cert., denied, 439 U.S. 967 (1978).

172/ Inupiat Community of the Arctic Slope v. United States, ___ Ct.Cl. ___, 680 F.2d 122, 129 (1982), cert., denied, 103 S.Ct. 299 (1982).

173/ Aleut Community of St. Paul Island v. United States, 202 Ct.Cl. 182, 195 (1973).

174/ OHA does not dispute this conclusion (OHA's Comments, Alternate Chapter III, p. 16) and concedes that "...no Constitutional or statutory provision requires the United States to recognize a claim for loss of sovereignty" (CHA's Comments, p. 29). However, OHA asserts that there may be a "moral duty on the part of the United States to provide reparations or restitution" (OHA's Comments, Alternate Chapter III, p. 16).

175/ MacKenzie, p. 57.

176/ E.g., United States v. Mitchell, 445 U.S. 535, 542-546 (1980), rehearing denied, 446 U.S. 992 (1980).

177/ MacKenzie, pp. 85-86.

178/ Ibid., p. 87.

179/ United States v. Mitchell, 445 U.S. 535, 542-546 (1980), rehearing denied, 446 U.S. 992 (1980); Gila River Pima-Maricopa Indian Community, et al. v. United States, 190 Ct.Cl. 790, 797-800 (1970), cert. denied, 400 U.S. 819 (1970); White v. Califano, 437 F. Supp. 543, 554-555 (D.C.S.D. 1977), aff'd 581 F.2d 697 (8th Cir. 1978); Confederated Tribes of the Colville Reservation v. United States, 25 Ind.Cl.Comm. 99, 107 (1971); and Creek Nation v. United States, 20 Ind.Cl.Comm. 44, 60 (1968).

OHA cites Duncan v. United States, 667 F.2d 36 (1981) in support of its comment that the draft report erred in stating that fiduciary relationships can arise only under a treaty, statute, or agreement. However, certiorari has been granted in the buncan case; the decision of the Supreme Court on review is anticipated in the Spring of 1983. OHA also cites White v. Califano, 437 F.Supp. 543 (D.C.S.D. 1977), aff'd 581 F.2d 697 (8th Cir. 1978). However, the district court's finding of a fiduciary relationship was based upon Congress' declaration of policy found in the Indian Health Care Act, 25 U.S.C. §1601, et Beg. (437 F.Supp. at 554-555). The policy declaration referred to the nation's "fulfillment of its special responsibilities and legal obligations to the American Indian people."

180/ Importantly, courts regard the determination of who is the sovereign of a country as a political question left to the determination of the political departments of government. Oetjen v. General Leather Co., 246 U.S. 297, 302 (1918);

see also Baker v. Carr, 369 U.S. 186, 212 (1962). Regardless of whether the Hawaiian Government was in place during the 1890's because of the United States' influence, as long as the United States did not consider itself the sovereign of Hawaii it was not the sovereign. Therefore, the views of commenters that the Hawaiian Government of 1897-1898 was illegitimate does not change the foregoing analysis. See also United States v. Mowat, 582 F.2d 1194, 1206-1207 (9th Cir. 1978), cert. denied, 439 U.S. 967 (1978), which rejected the argument that the Joint Resolution of Annexation was illegal because its use was made possible by the Provisional Government that was allegedly a revolutionary and illegal government. Similarly, the "alleged illegality of the quitclaim ceremony of 1897" (see comments of Louis Agard, p. 25 and other commenters) was in fact the Hawaiian legislature's adoption of the law approving annexation and was perfectly lawful.

181/ Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 16-18 (1832).

182/ One commenter states that the "primary source from which a trust duty arises" is the "role of the United States and its agents in overthrowing the Hawaiian Government and the subsequent acquisition of almost 1.75 million acres of native land;" a "wrongdoing" that the United States never acknowledged (CHA's Comments, p. 30). It is further contended that "once the wrong was acknowledged, a duty would arise" (OHA's Comments, p. 30). Other commenters gave similar views in more general terms.

This theory simply ignores the fact that since the Federal Government did not have sovereignty over the Hawaiian Islands prior to 1898, no fiduciary relationship could have existed with the native Hawaiians. Furthermore, acts of the Federal Government that might be deemed less than "fair and honorable" within the meaning of Section 2, Clause (5) of the Indian Claims Commission Act (the "fair and honorable dealings" clause) do not give rise to any fiduciary duty (Gila River Pima-Maricopa Indian Community, et al. v. United States, 190 Ct. Cl. 790, 800 (1970), cert, denied, 400 U.S. 819 (1970)).

183/ Cf. Aleut Community of St. Paul Island v. United States, 202 Ct.Cl. 182, 196-198 (1973). Here the Court of Claims found that a "special relationship" (under Clause (5) of Section 2 of the Indian Claims Commission Act) existed between plaintiffs and the United States by virtue of duties assumed in statutes that consistently referred to "natives" or "native inhabitants" of the Pribilof Islands.

184/ See Navajo Tribe v. United States, 224 Ct.Cl. 171, 183-185 (1980). See also, to the same effect, American Indians Residing on the Maricopa Ax-Chin Reservation v. United States, ; Ct.Cl._____, 667 F.2d 980, 990 (1981), cert, denied, 102 S.Ct. 2269 (1982).

185/ Navajo Tribe v. United States, 224 Ct.Cl. 171, 183-185 (1980).

186/ Act of July 9, 1921, 42 Stat. 108.

187/ Act of March 18, 1959, 73 Stat. 4.

188/ OHA's Comments, p. 30»
Comments of Clarence Kamai.

189/ The correctness is in doubt in light of Section 5 of the Admission Act discussed in the text above.

190/ See, e.g., United States v. Oneida Nation of New York, 217 Ct.Cl. 45, 55-59 (1978).

191/ Gila River Pima-Maricopa Indian Community, et al. v. United States, 190 Ct.Cl. 790, 800 (1970), cert, denied, 400 U.S. 819 (1970).

192/ 22 Op. Att'y Gen. 574, 576 (1899).

193/ United States v. Mitchell, 445 U.S. 535, 542 (1980), rehearing denied, 446 U.S. 992 (1980). Section 99 of the Organic Act (31 Stat. at 161) provided that the Crown Lands were "free and clear" of any trust.

194/ Compare with the situation in United States v. Oneida Nation of New York, 217 Ct.Cl. 45 (1978). There the Court of Claims held that there was a "special relationship" (under Clause (5) of Section 2 of the Indian Claims Commission Act) between the Federal Government and the Oneida Nation. The court held that by virtue of a 1784 treaty in which the Federal Government had promised to protect the Oneidas in the possession of the lands they occupied as of 1784, the United States had assumed a fiduciary relationship with the Oneida Nation with respect to such lands.

195/ Some commenters suggest there is a close analogy between **Alaska** Native claims and Hawaiian native claims.

196/ Regarding the history of native claims in Alaska, see generally United States v. Atlantic Richfield Co., 435 F. Supp. 1009, 1014-1019 (D. Alaska, 1977), aff'd 612 F.2d 1132 (9th Cir. 1980), cert, denied, 449 U.S. 888 (1980).

197/ One commenter states that the United States acquired fee title to over fifty percent of the land in Hawaii upon annexation and that, by contrast, the Federal Government obtained fee title to much less than fifty percent of the land in Alaska when it purchased Alaska in 1867. In fact, by the Treaty of Cession in 1867, the United States acquired well over 90% of the land in Alaska, and continues to hold over 90% of Alaska land.

198/ Alaska Statehood Act, P.L. No. 85-508, 72 Stat. 339, as amended, 73 Stat. 141, 48 U.S.C. Chapter 2.

Review of Hawaiian Homes Commission Programs

The following pages contain information on the Hawaiian Homes Commission Programs. The main text of the chapter was prepared by the Inspector General of the U.S. Department of the Interior. ("Review of Hawaiian Homes Commission Programs," W-OS-OSS-12-82, September 1982.) The text is preceded by: first, a comment received by the Native Hawaiians Study Commission from the Federal/State Task Force on the Hawaiian Homes Commission Act; and, second, a transmittal memorandum from the Inspector General to the Secretary of the Interior. The text is followed by an appendix containing the comments of the Governor of Hawaii pertaining to the Inspector General's report. With the exception of the addition of the comment by the Federal/State Task Force (and placement of all tables at the end of the chapter), this chapter has not been changed from the way it appeared in the Draft Report of Findings of the Native Hawaiians Study Commission.

Federal/State Task Force Comment ^/

"This chapter is a report prepared by the Office of Inspector General, U.S. Department of the Interior. The Inspector General has independent audit and investigative authority and reports directly to the Secretary and the U.S. Congress. The Inspector General was asked to review selected aspects of the Hawaiian Homes Commission programs to be used as a basis for the Federal/State Task Force Study.

_*/ Amendments to the Draft Report of the Native Hawaiians Study Commission adopted by the Federal/State Task Force on the Hawaiian Homes Commission Act on December 2, 1982.

"The Federal/State Task Force was created on July 14, 1982 as a joint effort of the U.S. Department of Interior and the State of Hawaii. Its express purpose is 'to recommend to the Secretary of the U.S. Department of Interior and Governor of the State of Hawaii, ways to better effectuate the purposes of the Hawaiian Homes Commission Act (HHCA) and to accelerate the distribution of HHCA assets to beneficiaries.' The Task Force has conducted a comprehensive review of the HHCA and the programs of the Department of Hawaiian Home Lands (DHHL). Its investigations, studies, and recommendations are being forwarded to the Governor of Hawaii and the Secretary of the Interior.

"The Inspector General's report, along with the reply from the Governor of the State of Hawaii is included in its entirety; only the page numbers have been changed [and the tables placed at the end of the chapter]. It should also be noted that since the Inspector General's report was issued various problem areas have been addressed in a separate effort by the Task Force and the Department. The report of the Federal/State Task Force identifies the work accomplished, underway, and planned to meet the requirements of the Inspector General's report."

Transmittal Memorandum, Dated
September 8, 1982

To: Secretary

From: Inspector General

Subject: Audit Report, "Review of
Hawaiian Homes Commission
Act Programs Operated by
Department of Hawaiian Home
Lands, State of Hawaii"

This report, in response to the request of February 1982, contains the results of our review of selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii.

The report discusses problems concerning status of the Hawaiian Home lands, program accomplishment, financial management, applicant eligibility lists and leasing activities.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters discussed in the report where we believe that positive action is both necessary and feasible regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Hawaiian Homes Commission Act, 1920, as amended.

The Governor of the State of Hawaii, in his August 4, 1982 letter commenting on the draft of this report, generally agreed with the

problems addressed. However, the Governor commented that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. The complete text of the Governor's comments are included as an appendix to this report.

We agree with the Governor's assessment and his proposal that the issues relative to the responsibilities of the Federal establishment, including the Department of the Interior, should be addressed by the recently created Federal-State Task Force on the Hawaiian Homes Commission Act. We further believe that the problems identified in the report are matters that should also be redressed by the Task Force.

Based on comments from the Secretary's Office, we understand that the Federal-State Task Force will be in existence for six months and will analyze and address each issue raised in our report.

We would be pleased to provide any additional information you or the Task Force may need. We understand that the Task Force will be using our report as input to their study and may incorporate our results in their overall Task Force report. Consequently, we are not including this special report in our normal follow-up system, but we would appreciate being apprised on the Task Force actions.

(signed) Richard Mulberry

Abbreviations and Acronyms

Act - Hawaiian Homes Commission Act, 1920, as amended, which was enacted to enable native Hawaiians (descendants of not less than one-half part blood of the races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control some of the public lands of the Territory of Hawaii as homesteads.

Commission - Hawaiian Homes Commission, composed of eight members appointed to 4-year terms by the Governor, formulates policy and exercises control over the functions of the Department of Hawaiian Home Lands. In addition to the Chairman, three commissioners are to be residents of the island of Oahu and one commissioner will be from each of the islands of Molokai, Maui, Hawaii, and Kauai. At least four of the Commissioners are required to be not less than one-fourth Hawaiian.

DHHL - Department of Hawaiian Home Lands, the State of Hawaii agency responsible for administration and operation of the Hawaiian Homes Commission Act programs.

DLNR - Department of Land and Natural Resources, the State of Hawaii agency responsible for administration of State public lands. Prior to 1966 this agency was responsible for the administration of Home lands which were not needed for homesteading purposes.

GEO's - Governor's Executive Orders.

Home lands - Hawaiian Home lands set aside by the Act for homesteading.

A. INTRODUCTION

The Office of Inspector General has reviewed selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii. The review was requested by the Under Secretary, Department of the Interior, in February 1982 to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920 (Act) and the Hawaii Admission Act of 1959.

The actual role of the Department of the Interior in the affairs of the Hawaiian Homes Commission after Hawaii achieved statehood in 1959 has been very limited. The Assistant Secretary of the Interior, in a 1972 memorandum to the Director, DHHL, considered the Department of Interior's role as a "ministerial" function. Specifically, this "ministerial" role related to approval of the exchange of title to available lands for publicly or privately-owned lands of an equal value, as allowed under the Act. The Assistant Secretary commenting on the Secretary's approval role under Section 204(4) of the Act stated in the memorandum that...

Such approval by the Secretary is considered by the Department to be a ministerial, nondiscretionary act which he cannot perform until after the Governor has acted. The lack of suitable personnel representing the Department of the Interior in Hawaii to

investigate the proposed land exchanges reflects the ministerial nature of the Secretary's function. Thus, Section 204(4), insofar as it requires the Secretary's approval in cases involving land exchanges, represents something of an anachronism which has carried over from the days of territorial status when Hawaii was under the jurisdiction of the Department of the Interior.

Thus, the Secretary's role since statehood appears to have been of a ministerial nature until March 17, 1980, when attorneys representing native Hawaiian individuals petitioned the Secretary of the Interior and the United States Department of Justice to take action to enforce the provisions of the Act.

Our review conducted in Hawaii from March 9, 1982 through May 13, 1982, was primarily directed to determining how well the intent and provisions of the Act have been carried out, whether all of the land provided by the Act has been properly accounted for, whether the procedures followed in leasing lands were being conducted in the best interests of the program, and whether financial accountability over the financial affairs of the DHHL is adequate. Due to time constraints, complexity of the programs, lack of financial statements, and the number of years the Act has been in existence, we did not review certain aspects of DHHL activities in the depth we originally anticipated. For example, we limited our financial audit effort because complete financial statements had not been prepared for all funds since 1972.

Also, we limited our review of commercial leasing of land to recent activities.

Further, as pointed out by the Governor of the State of Hawaii in his reply to a draft of this report, we did not address issues related to the specific responsibilities of the Department of Interior, its execution thereof or the policy matters that are interrelated to such responsibilities.

B. BACKGROUND

The Act was enacted to enable native Hawaiians (descendants of not less than one-half part blood of races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control of the public lands of the Territory of Hawaii as homesteads. The Act was designed to fulfill four principal objectives:

- 1) the Hawaiian must be placed on the land in order to insure his rehabilitation;
- 2) the alienation of such land, now and in the future, be made impossible;
- 3) accessible water in adequate amounts must be provided for all tracts; and
- 4) the Hawaiian must be financially aided until his farming operations are well under way.

The Act set aside approximately 200,000 acres of public lands as available lands for administration by the Hawaiian Homes Commission (Commission) for homestead purposes. The available lands were described in the Act as excluding: "(a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c)

all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement." The descriptions of acreage were vague, such as, "(1) on the island of Hawaii: Kamao-Puueo (eleven thousand acres, more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae I (ten thousand acres, more or less),...in the district of South Kohala;..."

The Act originally was intended for rural homesteading, where native Hawaiians become subsistent or commercial farmers or ranchers. However, in 1923 the United States Congress amended the Act to permit residential lots. Ever since, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastoral lots.

In 1959, the Hawaii Admission Act provided that ownership of the Hawaiian Home lands (Home lands) be transferred from the United States to the State of Hawaii. The Admission Act also provided that the Home lands, as well as proceeds and income therefrom were to be held by the State in trust for native Hawaiians and administered in accordance with the Act, and that use of the Home lands for any other purpose would constitute a breach of trust for which suit may be brought by the United States. The Act, as amended, was adopted as a provision of the constitution of the State of Hawaii, and the DHHL was established to administer the Home lands under the Commission.

According to the DHHL annual report, approximately 190,000 acres were being managed by DHHL as of June 30, 1981, and were used as shown in Table 65. (All tables are at the end of the chapter.)

DHHL activities involved in the management of the Home lands include: establishment or tanning and ranching programs; roaci maintenance; operation

of a domestic water system on Molokai; commercial leasing; development, design, and construction of residential subdivisions; and financing loans for homes, ranches, and farms. DHHL also recently began to provide economic development services to native Hawaiians. DHHL employs a staff of approximately 90 people and contracts for certain services such as the planning, design, and construction of residential subdivisions improvements, and agricultural technical expertise.

Funding for DHHL programs is provided by State of Hawaii general obligation bonds and DHHL's revenue receipts. The State of Hawaii provided approximately \$6.2 million during fiscal year 1981 and DHHL's receipts totaled about \$6.4 million. The five primary sources of DHHL receipts are interest income, lease rent, principal repayments, receipts from sugar cane land leases and water licenses now specifically earmarked for the Native Hawaiian Rehabilitation Fund, and miscellaneous receipts (primary rock and sand sales and pasture and water fees). Receipts for fiscal year 1981 were as follows:

<u>Source</u>	<u>Amount</u>
Interest-loan funds	\$1,884,181
Interest-investments in time certificates of deposit	740,260
Lease rentals	1,418,803
Native Hawaiian Rehabilitation Fund	1,015,916
Miscellaneous	231,673
Loan principal repayments	<u>1,139,090</u>
Total receipts	\$6,429,923

Seven revolving funds and eight special funds have been established to account for revenues and expenditures under the Act. The funds and sources of revenues for each are shown in Table 66. In addition, DHHL is responsible for approximately 50 bond fund accounts.

DHHL's administrative and operational activities are funded by commercial leasing revenues subject to budget approval by the State legislature. As previously shown, DHHL has 92,239 acres of land under general leases, for which income of about \$1.4 million was received in 1981. Thus, about 50 percent of the available land is currently used to obtain funds for DHHL administrative needs. The DHHL has a stated goal to substantially reduce the acreage of lands under general lease and make these lands available for direct use by native Hawaiians. In order to maintain sufficient income to administer the program and yet reduce acreage under general lease, the DHHL plans to focus on high revenue commercial and industrial use leases.

C. HIGHLIGHTS

1. Although land is the essential element of the Home lands program, effective accountability for the land has not been established.

- a. The DHHL does not have a complete or accurate inventory of the 203,500 acres of "available lands" as designated under the Act, nor of the 190,000 acres that DHHL now claims responsibility for. A major obstacle in establishing accountability for the lands is the absence of a definitive description of "available lands" and a complete survey of the lands. DHHL does not have the necessary resources to research and develop a comprehensive land inventory system.

The Attorney General (State of Hawaii) has ruled that certain DHHL lands were illegally set aside by Governor's Executive Orders. A State Court confirmed this. Progress on resolving this situation, either by exchange of lands or by receiving compensation, is moving very slowly. Except in two cases, there does not appear to be a concerted effort to resolve this problem. Although the listing of lands set aside under Governor's Executive orders was not complete, DHHL had identified approximately 13,600 acres set aside under such orders. The lands are being used by Federal, State, and county agencies for purposes such as public airports, defense installations, schools, parks, or forest and game reserves. DHHL has been working on two cases of land withdrawals involving an airport in Hilo and a flood control project. The airport case has resulted in a general lease providing for a one-time payment of \$401,185 for past use and an annual rental of \$481,422. The other case will apparently be resolved with a land exchange.

There have been seven land exchanges under provisions of the Act, all of which were approved by the (then) Secretary of the Interior. Two of the exchanges, involving 194 acres, were on an acre-for-acre basis, but

we were unable to find any appraisals to support that the exchanges were on the basis of equal value as required by the Act. A third exchange of 268 acres of Home lands for about 5,078 acres of State lands was based on tax assessment values of differing periods. The Home lands were valued primarily on 1962 assessments while State lands were valued on 1966 assessments. In addition, available records did not show whether retention of mineral rights by the State was considered in establishing "equal" values.

2. The objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. Only 20 percent of the lands made available by the Act are now in the possession of or used by native Hawaiians. There are over 7,000 native Hawaiian applicants on the homestead eligibility lists and some of the applicants have been on the lists for as long as 30 years. The State of Hawaii has provided over \$42 million in funds during the past 5 years in addition to the funds generated by the Commission mainly from leases and interests on lease proceeds. Prior to 1973, the amount of funds provided by the State or Territory from outside of the Commission was insignificant.

Despite this stepped-up effort, we estimate it will take over 50 years and over \$600 million to satisfy the applicants on the present eligibility lists.

- a. The residential homestead program accomplishments were restricted by availability of funds. The residential program is under a subdivision concept with DHH providing site improvements, such as roads, utilities, and other facilities at no cost to the homesteader. In addition, DHH provides financing at favorable interest rates for home construction and repairs because homesteaders are not normally able to obtain conventional financing.
- b. The farm and ranch homesteading program to encourage native Hawaiians to take up farming as a means to achieve social and economic well-being has not been a success. While there are some successful ranchers and farmers, over 60 percent of the awarded farm tracts are not in full cultivation, including 42 percent that are not under any cultivation at all. It is estimated that at least 34 percent of the homestead ranch lots are subleased by the homesteaders to others for grazing. According to some native Hawaiians the sublessees include individuals who are not native Hawaiians. By 1951, 5,800 acres of the 7,619 farm acres awarded to homesteaders were subleased to pineapple

companies under contracts negotiated prior to Statehood. The homesteaders, thus, were not farmers but landlords. The pineapple companies involved discontinued operation on these lands in 1975-1978 and much of the land is unused.

3. Complete financial statements for all of DHH's funds are not being prepared. As a result, the financial data reported to the Commission and included in the annual report does not provide information necessary to assess management's performance of its trustee responsibility. A complete financial audit of all funds which include over \$32 million in loan and accounts receivable and \$10 million in cash as of February 28, 1982, has not been performed for periods subsequent to 1972. Also, cash management has not been effective. DHH maintained large cash reserves in noninterest bearing accounts during a 9-month period ending February 28, 1982. For example, we estimate that an average cash balance of \$1,250,000 per month for the Hawaiian Development fund was not in interest bearing investments and, based on the average rate of return, we estimate that over \$100,000 in interest was not earned that would have provided additional funds for the purposes of the Act. We noted cash balances at the end of each month for three other funds averaged about \$2 million for the 9-month period, and conclude that substantial amounts of additional interest could have been earned on these and other funds that were excess to needs.

4. The eligibility lists, containing over 7,000 applicants' names, need to be verified and additional procedures to remove applicants from the lists need to be considered. DHHL does not have current addresses for a large number of applicants and attempts to contact individuals have not been successful. Many applicants, when offered a homestead lease, defer their right until sometime later for various reasons. There is no limit on how many times an applicant may defer an award, yet the applicants retain their place (ranking) on the list. For example, DHHL recently (1981-1982) screened 1,000 applicants for awarding 230 lots on Oahu. Of the 1,000 applicants, 87 requested that their award be deferred, the notification letters for 371 applicants were returned undelivered, and 10 applicants were deceased. Names are removed from the list only at the request of the applicant. If a person dies, their ranking on the list is assigned to their designated qualified native Hawaiian heirs.

The DHHL has not notified applicants who filed since June 1981 whether their applications have been approved. And, DHHL has not established an accountability system to assure that all applications are accounted for or that some applications have not been lost.

5. Revocable permits have been continued when general leases would be more appropriate. The permits should be used only for temporary use of land but at least two revocable permits have continued for long periods of time.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters, discussed in the report and highlighted herein, where we believe that positive action is both necessary and feasible, regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Act. However, we have suggested that consideration be given to revising the residential program policies in order to reduce the financial requirements of this program.

The Governor, State of Hawaii, provided comments on a draft of this report to the Under Secretary of the Department of the Interior. These comments are included as an appendix to this report. The Governor stated that generally the draft is accurate in its description of the problems facing the Commission and DHHL. However, the Governor stated that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. And, therefore, the Governor proposed that the "recently created Federal-State Task Force on the HHCA" cover the roles and responsibilities of each involved entity in its final and comprehensive study with detailed recommendations to resolve the problems in a cooperative manner.

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We agree that issues relative to the responsibilities of the Department of the Interior were not addressed in the report and that such issues should be included in the scope of the Task Force study. We further believe that the problems identified in this report are matters that should also be addressed by the Task Force.

The Secretary's Office commented that the Federal/State Task Force will be in existence for six months and they will perform an indepth analysis of each of the issues and recommendations raised by the Inspector General.

D. FINDINGS AND RECOMMENDATIONS

1. Land Status

Although land is the essential element of the Home lands program, effective accountability for the land has not been established. The problems leading to the present situation are many, beginning with an absence of a definitive description of "available lands" designated by the Act; continuing with apparently illegal land withdrawals or diversions; and complicated by inadequate maintenance of land inventory records. As a result, DHHL does not have a complete or accurate inventory of the 203,500 acres designated under the Act, nor of the 190,000 acres for which DHHL now claims responsibility. Further, the State of Hawaii has never developed and maintained a current and comprehensive inventory of State and public lands, including Home lands, for which the State of Hawaii is the trustee. These problems, in part, have given rise to allegations of "missing" lands by riative Hawaiians and organizations, and by other interested parties.

We conclude that positive and aggressive action is required to establish complete and accurate records of Home lands and to resolve issues related to land withdrawals, and exchanges.

Land Inventory

DHHL land inventory records consist of a listing of parcels of land corresponding to the State of Hawaii, Department of Taxation, property tax maps to which hand-written adjustments have been made by DHHL personnel. This listing, prepared in November 1979 by a commercial data processing firm, shows parcel identification, location, acreage, use, lease data, and annual rental amounts. In addition to this land listing, known as the "blue book," DHHL also has copies of the tax maps for the areas where Home lands are located.

The DHHL blue book does not provide acre totals or summarizations. DHHL personnel manually prepare data to summarize acreage, use of land, homestead acreage, and other data for the annual report. We found errors in the blue book such as the inclusion of easements as additional acreage, omitted parcels of Home lands, and differences between the blue book and the tax maps.

The use of tax maps as a basis for DHHL land records is also questionable because the Legislative Auditor of the State of Hawaii, in a January 1979 report, criticized the Department of Land and Natural Resources (DLNR) for relying on tax maps for determining the status of State land ownership. The Legislative Auditor stated that the property tax records do not constitute an inventory of public lands nor all lands owned by the State. The Legislative Auditor reported that the records are intended for real property tax purposes and are concerned with who is to be billed for the taxes and not necessarily the true, ultimate, or reversionary owners of the land. Instead, the records may show the name of a lessee or other persons having some interest in the land.

An inventory of Home lands titled "A Land Inventory and Land Use Study

for the Department of Hawaiian Home Lands" was performed in 1972. The study (hereafter referred to as the Akinaka Study) was performed by Arthur Y. Akinaka, Ltd., Consulting Engineers, and James H. Dunn, former State Surveyor. The Akinaka Study included an overview of Home lands as well as identifying the obstacles to establishing accountability over the lands designated by the Act. There are some errors in the identification of acreage in the Akinaka Study, but, in our opinion, it represents the best available starting point in identifying the lands for which the Commission is responsible as a trustee. We note, however, that DHHL has not attempted to explain the differences between the land acreage as reported in the Akinaka Study and the acreage included in the blue book.

The original Act set aside approximately 203,500 acres and the United States Congress added 564 acres and withdrew 272 acres during the years 1934 through 1952. In addition, there have been seven exchanges of lands approved by the Secretary of the Interior. The exchanges resulted in a net increase of 3,903 acres and an adjusted total of 207,695 acres as shown in Table 67.

A comparison of the Home lands acreage, as adjusted above, and as summarized in the Akinaka Study and in DHHL's fiscal year 1981 annual report is shown in Table 68. This table shows that there are differences in totals and in acreage by island. While there is only a 154-acre difference between total acreages of the Akinaka Study and the 1981 Annual Report, there are more significant differences in the island acreages, i.e., Hawaii 396 acres, Kauai 722 acres, Molokai 585 acres, and Oahu 176 acres. Although there have been no approved exchanges or disposals of Home lands since 1967, there are

inconsistencies in the acreages reported in the DHHL annual reports as shown below.

<u>Annual Report</u>	<u>HHL Acreage</u>
1981	189,724
1980	190,000
1977	190,414
1976	189,875
1971	190,920

An understanding of the events which led to the passage of the Act is necessary to understand some of the problems associated with the land inventory. The proposals for the lands to be included were contradictory. The major resolution to amend land laws proposed that the highly developed sugar cane lands under Territory leases, which were to expire between 1917 and 1921, were not to be included as homestead lands but were to be continued for lease to the highest bidder. This would have retained the agricultural lands in the hands of the sugar interests. The original Hawaiian rehabilitation proposal, however, would have made these lands available for homesteading. A compromise was worked out between sponsors of the rehabilitation measure and the sugar interests whereby all acreage cultivated for sugar or held under special leases were to be excluded from Home lands, but 30 percent of the revenue derived from the leasing of sugar cane lands was earmarked as income for the rehabilitation program.

This compromise then resulted in the first obstacle to establishing accountability of all Home lands, designated as "available lands" under the Act. Section 203 of the Act set aside as "available lands" certain public lands, which according to the Act totaled 203,500 acres, excluding "... (a) all lands within any forest reservations, (b) all cultivated

sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement..." DHHL and DLNR officials informed us that they are not aware of any maps showing lands available and designated as Home lands at the time the Act was passed or at the time the State of Hawaii assumed responsibility for the lands upon Statehood. According to DHHL this lack of accurate descriptions of available land is demonstrated in Table 69.

The exclusions of the Act are also factors that make it difficult to define the Home lands acreage because of the imprecise information concerning the lands under the exclusions at the time of the Act. According to DHHL, there were approximately 9,704 acres in forest reserve at the time of the Act. According to the cognizant Deputy Attorney General there may be approximately 14,197 acres of additional forest reserve land that were designated as such after the Act. And, approximately 44 of the 14,197 acres were not included in the Akinaka Study or the DHHL land inventory records, and another 466 acres were included in the Akinaka Study but not the DHHL land inventory.

The exclusion of public lands under sugar cane cultivation, according to DHHL, accounts for a "loss" of approximately 4,000 acres in the areas of Waimanalo and Lualalei on the island of Oahu, and Anahola-Kamalomalo on the island of Kauai. The identification of lands under sugar cane cultivation at the time of the Act was not documented. The process of identifying these lands involves a detailed review of sugar cane leases that were in effect when the Act was passed. DHHL has identified 809 acres that may have been improperly excluded from Home lands in the Anahola-Kamalomalo area, partly because

of their questionable identification as sugar cane lands.

Other examples of discrepancies or problems relating to the land inventory are as follows:

1. The blue book maintained by DHHL included many adjustments of acreages made by DHHL personnel and the adjustments did not contain explanations of adjustments or make reference to supporting documents.
2. The Akinaka Study did not include an area known as South Point in Kamaoa-Puueo on the island of Hawaii. According to DHHL the excluded area consists of 699 acres.
3. The Humuula area on the island of Hawaii, according to the Akinaka Study, consists of 52,764 acres of Home lands while the DHHL blue book shows 52,781 acres. Further, a question has been raised as to whether this Home lands area should only be 49,100 acres. According to a Deputy Attorney General, State of Hawaii, the Commission only selected 49,100 acres in the required time period, 1921 through 1929.
4. Lands used for roads in some cases have been included in the DHHL blue book and in other cases the road acreages were excluded. We were unable to satisfy ourselves as to the rationale of the exclusions or inclusions and were unable to determine the amount of excluded road acreage.
5. Our limited comparison of tax maps with the DHHL blue book identified two parcels of land

totaling 456 acres as Home lands that were not included in the blue book.

6. There are Home lands which have been withdrawn from use by DHHL under various Governor's Executive Orders. As discussed in detail elsewhere in this report, the Attorney General and the courts have ruled that the Governor's Executive Order powers do not apply to Home lands; therefore, the withdrawals were not legal. The Akinaka Study and the DHHL blue book have excluded some of the acreage covered by Executive Orders. For example, 1,356 acres set aside by Executive Orders 382 on January • 21, 1930 and 599 on December 22, 1933, are not included in either the Akinaka Study or the DHHL blue book. These lands in Lualualei, on the island of Oahu, are used by the United States Navy as part of radio transmitting station and an ammunition depot.
7. The Akinaka Study included 40 acres in Kealakehe and 48 acres in Milolii which represented acreage to be obtained in an exchange that was never consummated.
8. The tax maps show three parcels of land totaling approximately 148 acres of State of Hawaii lands. According to a Deputy Attorney General it appears that the parcels should be Home lands. The parcels were returned to the control of the Commissioner of Public Lands of the Territory of Hawaii to be used for the Molokai Airport. under Hawaiian Homes Commission Resolution 61, October 12,

1938, and Resolution 77, May 13, 1942. The parcels were not included in the DHHL blue book inventory of public lands.

9. One parcel of Home lands is now under private ownership and no lands were received by the Commission in exchange. The land consisting of 8 acres was withdrawn under Governor's Executive Order 545 for a tree nursery and forest ranger station. Then in 1947, the Territory Board of Public Lands included the land in a larger parcel of land exchanged for private-owned land to be included in the Kohala Forest Reserve. The DHHL land records do not include the exchanged lands in the Home lands inventory.
10. The Act's use of the term "more or less" has created problems. For Home lands in an area where the acreage received by DHHL was less than the acreage provided by the Act no adjustment was made. To illustrate, in the area of Kalaupapa on the island of Molokai, DHHL received only 1,247 of the 5,000 acres "more or less" mentioned in the Act because the area contained only this amount of acreage. On the other hand, when the available acreage was more than the acreage mentioned in the Act, such as was the case in the Kawaihae I area on the island of Hawaii, DHHL did not receive the benefit of all of the acreage in excess of the Act amount. For the Kawaihae I area, DHHL was informed by the Attorney General in a July 19, 1966 memorandum that because the area of Kawaihae I

consisted of more than 10,000 acres and the Commission did not make a selection from the acreage available, the grants of public lands in the area were valid. The Act, however, provided that the Commission must make selections of land in only three areas and Kawaihae I was not one of these. Thus, public grants were made of lands in the Kawaihae I area for which DHHL may have a claim because they did not acquire the total acreage mentioned in the Act. The present Deputy Attorney General stated that the 1966 opinion would be reviewed.

There are two major reasons for DHHL not establishing a current and accurate inventory of Home lands for which it is the trustee. First, DLNR never established a current and comprehensive inventory of the State, public, and Home lands. Until 1966, DLNR administered the Home lands that we're not yet homesteaded. DHHL began assuming full responsibility for all Home lands in 1965 but did not receive an accurate, current, and comprehensive inventory of the lands from DLNR. Second, due to limited financial resources and other priorities, DHHL has not expended the resources necessary to establish a complete, accurate, and comprehensive land inventory.

According to the Akinaka Study, there remain Home lands for which boundaries and areas are based on very early surveys and determinations and until such lands are accurately resurveyed, doubts will necessarily linger as to the true boundaries and acreages of the available lands. A rough estimate by DHHL is that 40 percent of these lands have not been accurately surveyed.

Land Withdrawals

There needs to be an aggressive and accelerated approach to resolve the issue of Home lands which have been withdrawn for public use. According to DHHL there are approximately 17,270 acres of Home lands that are being used by Federal, State, and county governments for public purposes. Approximately 13,600 acres of these lands have been withdrawn under Governor's Executive Orders (GEO's) issued by the Territorial and State Governors.

The State of Hawaii Attorney General has determined that the GEO powers did not extend to Home lands; therefore, the withdrawals were not in accordance with the Act. This opinion was confirmed in a court case involving Home lands withdrawn for the General Lyman Airport on the island of Hawaii. According to DHHL records, the Home lands under GEO's and their use are as follows:

<u>Public Service</u>	<u>Acres</u>
Airports	176
Schools	17
Parks	30
Forest/Conservation	767
Game Reserve	11,123
Public Service	128
Right of Way	4
Military	1,356
	<u>13,601</u>

Although the Attorney General in 1975 issued the opinion that GEO powers were not applicable to Home lands, DHHL, because of limited resources, has not made the effort necessary to identify all lands that have been withdrawn for public use, determine the issues related to the withdrawals, and develop recommendations for the Commission to consider in determining the course of action to

take. Therefore, the above listing does not necessarily cover all of the acreage under GBO's.

DHHL has been pursuing action to resolve two cases of withdrawn lands because of related lawsuits. One of the cases involves a lawsuit filed by the Keaukaha-Panaewa Community Association, a group of native Hawaiians, against the Commission and other defendants. The case involves approximately 25 acres of Home lands withdrawn for a flood control project. The second lawsuit involved approximately 92 acres of Home lands withdrawn for the General Lyman Airport and was filed by the Commission.

The flood control project case resulted in a September 1, 1976 declaration and conclusion of law by the U.S. District Court for the District of Hawaii which stated that the Commission had breached their trust or fiduciary duties by: (1) allowing the use of more than 25 acres of Home lands under the land exchange provisions without first satisfying the prerequisites for an exchange, (2) issuing a license for an unlawful purpose, (3) permitting the uncompensated use of these lands, and (4) allowing the needs of the general public, as opposed to the needs of the native Hawaiians, to control decisions made concerning the project.

The Court also ruled that the transfer of these lands was unlawful, in part, because the Commission had failed to obtain the approval of the Secretary of the Interior prior to allowing use and alteration of the lands, thereby depriving native Hawaiian beneficiaries of the protection afforded by his independent review. And, it ruled that Home lands cannot be used for the benefit of persons who are not beneficiaries under the Act without first obtaining reasonable compensation for such use, when otherwise permissible, based upon

sound economic and accounting principles.

The Ninth Circuit Court of Appeals reversed the District Court, not on the merits of the case, but on jurisdictional grounds, holding that only the United States has the right to enforce the State's obligation by a breach of trust suit.

The Deputy Attorney General, State of Hawaii, informed us that DHHL and DLNR are now in the process of identifying lands to be exchanged for the lands used in the flood control project and that the DLNR Board will be acting on the proposal soon. The target date to submit an exchange to the Secretary of the Interior for approval is December 1982.

The Third Circuit Court of the State of Hawaii issued on September 24, 1980, an order granting a partial summary judgment for DHHL, the plaintiff in the case involving the General Lyman Airport in Hilo, Hawaii. The Court in this case ruled that the executive order powers of the Governor in respect to the lands of the Territory or State did not, and do not now, extend to Home lands.

As a result of the court's judgment in the General Lyman Airport case, the State of Hawaii Department of Transportation and DHHL have negotiated a 30-year lease for the 91.6 acres of Home lands withdrawn under GBO's. The lease provides for a one-time payment of \$401,185 for all past use of the land, and annual lease rental of \$481,422 retroactive to April 1, 1975, with the rentals to be redetermined at 10-year intervals. This lease will result in a substantial increase in revenues for DHHL operations- and development of Home lands.

In regard to other withdrawn land, the Commission initiated negotiations with DLNR in 1977 to exchange approximately 30,000 acres of lands which DHHL purported to be Home lands,

for State lands of equivalent value. Approximately 11,927 acres of the Home lands were lands withdrawn under GEO's. According to testimony of the (then) Chairman of the Commission, action by DLNR in responding to the exchange proposals was taking time because of other priority workload considerations* And, according to the current Chairman, this exchange proposal has been withdrawn by DHHL because it does not have a complete and comprehensive land inventory and the Commission did not want to give up land that they knew nothing about.

Home lands in the Puukapu area on the island of Hawaii were withdrawn under GEO's in 1955 and 1958 for development of reservoirs as part of the Lalamilo Irrigation System operated by the State. Although the reservoirs are on Home lands, native Hawaiian homesteaders received no benefits, until 1982, and DHHL received no compensation for use of these lands for the irrigation project even though the State receives revenue from delivery of the irrigation water.

The irrigation system was designed to serve the Lalamilo farm lots area consisting of 670 acres. According to the DHHL Homestead Project Manager, the Lalamilo farm area is a State of Hawaii project on State lands and the farms are leased to individuals who are not necessarily native Hawaiians. The irrigation system includes the two reservoirs situated on Home lands; the 60-million-gallon Waimea Reservoir situated on 22.7 acres under GEO 1707 issued December 1, 1955; and a 135-million-gallon lake (Puu Pulehu Reservoir) originally under GEO 1869, November 28, 1958, which was canceled on July 11, 1980. We were told that the lake receives the overflow water from the Waimea Reservoir and, at the time of our review, there was no water delivery system from the lake to any farms. A transmission pipe delivers

water to the Lalamilo farms from the Waimea Reservoir and runs through Home lands under an easement covered by GEO 1707.

Until recently, homestead farms in the Puukapu area were served only by domestic water which costs more than irrigation water. According to a March 1982 study prepared by the United States Department of Agriculture, the monthly water bill for an average size truck farm using domestic water would be about \$230, compared to \$60 if agricultural water was used. We were told that the homesteaders were given an opportunity to be connected to the irrigation system at the time the system was put into operation. We were unable, however, to satisfy ourselves as to the reasons why the homesteaders were not connected to the system at that time.

We conclude that, unless the Commission and the State of Hawaii assign a high priority and provide the staff and resources necessary for resolving the withdrawn lands issue, it will take many years before DHHL receives compensation or lands in exchange for Home lands that have been withdrawn for public use.

Land Exchanges

There have been seven exchanges of land under the provisions of Section 204 of the Act which have been submitted to and approved by the (then) Secretary of the Interior or an authorized agent. The Act allows exchanges of land for other publicly or privately-owned lands of equal value in order to consolidate Home land holdings or to better serve the purposes of the Act. The seven approved exchanges involved 3,021 acres of Home lands for 6,924 acres of other public or private lands. The last such exchange was approved by the Secretary of the Interior on

March 16, 1967. About 19.5 percent of the land (1,348 acres) received by DHHL in these exchanges is used for homesteading purposes, and about 75 percent (5,193 acres) is under general leases and revocable permits that generate approximately \$30,000 in annual revenues. One general lease covering 5,078 acres was being renegotiated and could result in a substantial increase in revenues.

The propriety of three of the seven exchanges is questionable as the provisions of the Act apparently were not complied with. Two exchanges involving 194 acres of Home lands, one exchange for 192 acres and the other involving 2 acres, were exchanged for 194 acres of public lands in 1962. The exchanges were on an acre-for-acre basis and involve lands in the vicinity of the General Lyman Airport in Hilo, Hawaii. DHHL and DLNR officials could not, at the time of our review, locate any appraisals to support that the exchanges were on an equal value basis as required by the Act. In addition, we noted that the 194 acres received by DHHL in the exchanges were located near a county dump and landfill and were not being used for homesteading purposes.

The third exchange involved a total of 268 acres of Home lands on the islands of Hawaii, Kauai, Molokai, and Oahu that had been made available to the State for various purposes. DHHL received 5,078 acres of public lands in the Piihonua area on the island of Hawaii. According to a letter dated May 17, 1966, from the Chairman of the Board of Land and Natural Resources, which outlined the basis of the exchange, the values of lands to be conveyed by DHHL were based on the tax-assessed values in the year each area was available for State use (1962 through 1966), and the value of lands to be conveyed by the State were based on the 1966 tax-assessed values. We question the equality of values when Home lands are based on assessed values before 1966 and exchanged lands

are based on 1966 assessed values. In addition, the State retained the mineral rights to the State lands exchanged. There was no evidence available that DHHL had obtained independent appraisals of the land exchanged, nor was any documentation provided to show that retention of the mineral rights was considered in the tax assessment values.

Recommendation

We recommend that the Hawaiian Home Lands Commission take the steps necessary to establish accountability for the lands that it is charged with administering. Although the resolution of land status problems will require a commitment of resources, including money, we believe that such a commitment is necessary for the Commission to meet its trust responsibilities under the Act. We further recommend that the Commission take the steps necessary to regain control of Home lands which are now used, without compensation, for purposes not compatible with the intent of the Act.

2. Program Accomplishment

The Act's objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. According to DHHL's annual report, as of June 30, 1981, a total of 3,034 native Hawaiians have been given possession of approximately 26,062 acres. An additional 13,706 acres of community pasture have also been provided to native Hawaiians. Thus, less than 40,000 acres or about 20 percent of the lands made available by the Act are now controlled by native Hawaiians. Further, there are over 7,000 native Hawaiian applicants on the homestead eligibility list and some of these applicants have been on the lists for as long as 30 years.

Among the factors that have impeded implementation of the Act. are the lack of money, the nature and location of the land and the interests and desires of native Hawaiians.

Nevertheless, progress has improved in recent years. During the past 10 years the number of homesteaders increased by 1,015. Thus, approximately 33 percent of the present homesteaders have been placed on the land during the last 10 years of the 60-year history of the Act. Further, during the past 6 years the State has provided over \$42 million of State funds for planning, design, construction, and financing of development improvements and during the same 6 years 669 homesteads have been placed on the land and 373 replacement homes have been built and financed. The records indicate that prior to 1973 there was very little funding outside of DHHL generated revenues from leases, royalties, and interests.

The original intent of the Act was for native Hawaiians to become jobs tenants or commercial farmers and ranchers. However, less than 2 years after the passage of the Act, Congress amended the Act to permit residential lots. Since then, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastoral lots. For example, 87 percent of the applicants on the June 30, 1981 eligibility lists desire residential lots. However, 64 percent of the applicants for residential lots have applied for lots on the island of Oahu, but only about one percent of the available land suitable for residences is on Oahu.

DHHL developed a 10-year general plan in 1975, that established four major goals and objectives for the 10-year period ending in 1985. A comparison of the results achieved during the first 6 years with the objectives indicates that three of the goals are not being achieved: housing

for new homesteaders, allocating agricultural lands, and reducing the acreage of lands used for income purposes. (See Table 70.) During the 6-year period, over 1,000 homes were built, including the 669 homes in Table 70 and 373 replacement homes. Also, the 793 acres of increased agricultural land do not include 5,800 acres of pineapple land taken out of production during the 1975-1978 period.

A measure of program accomplishment is the number of homesteaders served and the amount of the land in the possession of native Hawaiians. According to the DHHL 1981 annual report, the number of homesteaders and the amount of acreage utilized is as follows:

Type of Homestead	Number of Homesteaders	Number of Acres
Residential	2,618	1,330
Farms	347	7,619
Ranches	69	17,113
Community pasture	*J	13,706
Total	3,034	39,768

* Community pastures are available for use by all the homesteaders living in the area of a community pasture.

The Chairman, DHHL, stated that in evaluating their accomplishments it should be noted that Hawaiian families tend to be large, averaging five or six members per family and, therefore, each homestead could be benefitting several Hawaiians.

Another measure of program accomplishment is obtained by a review of the eligibility lists for homesteads. There were 7,225 eligible applicants for homesteads as of March 15, 1981, summarized in Table 71. Our analysis of the lists showed that over 18 percent of the applicants had been on the eligibility lists for more than 15 years. This analysis is summarized in Table 72.

Although, as discussed elsewhere in the report, the complete validity of the eligibility lists is questionable, it is the only available means of determining the number of native Hawaiians who wish to be but have not been placed on the lands. Using an average family size of five to six members per family would mean that as many as 43,000 people are waiting to be placed on the land, recognizing, however, that not all family members meet the criteria necessary for classification as native Hawaiians. There is apparently no accurate data on the number of native Hawaiians who could be beneficiaries under the Act. There was an attempt in 1980 to identify the number of native Hawaiians by using data available in the State of Hawaii, Department of Health, Research and Statistics Office. However, because of the methods used, the result which totaled 45,827 native Hawaiians is considered to be low.

Housing Program

The housing homestead program accomplishments under the Act are, in part, restricted by the availability of funds. The major emphasis under the program is the subdivision concept under which single family residences are built on all islands, with lots ranging from about 7,500 square feet on the island of Oahu to one acre on the island of Molokai. Under this concept and the Act, DHHL contracts and pays, at an estimated cost of \$30,000 per lot, for design and development of the subdivision which includes streets, curbs, sidewalks, drainage, street lights, utility access, sewer or cesspool systems, and other facilities. In addition, DHHL provides or arranges the financing, currently estimated at \$40,000 per

home, at favorable interest rates, for the construction of the homes because the applicants are normally unable to obtain conventional financing. For example, the financing for the 230 homes to be constructed on the island of Oahu during 1982 will be from two sources with interest rates ranging from 8 3/4 percent to 13 percent. The United States Farmers Home Loan Administration will provide \$1.6 million for 40 loans and the State of Hawaii will provide \$7.7 million for 190 loans.

Also, as part of the housing program, DHHL uses its available funds to maintain a home repair loan fund, again because of the homesteader's inability to obtain conventional financing.

It is for note that at the time of our audit DHHL was in the process of screening and selecting 230 applicants for awards of new residential lots and homes on the island of Oahu. In this instance, DHHL is initiating a new approach by building seven model homes so that the applicants can select the model best meeting their needs. DHHL has tentatively scheduled the development of 710 additional residential lots by 1987.

Farm and Ranch Homesteading Program

The farm and ranch homesteading program, which under the Act was intended to encourage native Hawaiians to take up farming and ranching as a means to achieve social and economic well-being has not yet been very successful. While there are some successful farmers, over 60 percent of the farm tracts are not in full cultivation, including 42 percent that are not under any cultivation. Also, it is estimated that at least 34 percent of the homestead ranch acres

are subleased by the homesteaders to others, not necessarily native Hawaiians, in the form of grazing agreements. We estimate that only 16 percent of total available acreage is now under cultivation or being used as ranch land by homesteaders.

There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly. The reasons cited include: (1) the inadequate financial resources of homesteaders; (2) the lack of farming expertise; (3) the lack of a serious commitment to farming on the part of the homesteaders; (4) the failure of the Commission to enforce its own rules and regulations concerning the use and cultivation of the land, and the provision of the Act concerning subleases; (5) the priority of DHHL during the past 6 years to concentrate on the residential program; (6) the character of land provided by the Act; (7) water availability problems; and (8) the reluctance of native Hawaiians to undertake the inherent risks associated with agricultural enterprises.

DHHL has, admittedly, not concentrated its limited staff and financial resources on the development and implementation of its farming and ranching programs.

Molokai Farming Problems: The most striking example of the difficulties of implementing a successful farming program occurred on the island of Molokai. The original Act had a 5-year limitation period and allowed only lands on Molokai, and the Waimanu, Keaukaha, and Panaewa lands on the island of Hawaii to be used for the purposes of the Act. The first homesteader moved to Molokai in July 1922 and in 1924 the first residential homestead awards were made on the island of Hawaii. According to a 1975

study known as the Kanahele report, during the first 4 years diversified farming on Molokai achieved unexpected results. Alfalfa, tomatoes, corn, watermelons, sweet potatoes, and cucumbers were planted with success in the Kalamaula area. In addition to the crops, the homesteaders raised livestock of which pigs turned out to be the most profitable. By the end of the first 4 years the program became the "Molokai miracle." In the meantime, homesteaders in the Hoolehua area of Molokai began diversified dryland farming with some success. The Territorial Legislature, in 1927, found that the homestead programs on the island of Molokai and Hawaii were a success and requested the Secretary of the Interior and the United States Congress to extend the homestead program to all of the other islands. The Act was amended on March 7, 1928 to remove the 5-year limitation.

The "Molokai miracle" turned into a failure by 1930 because, according to the Kanahele report, the high saline content of the irrigation water combined with evaporation had ruined the fields and there was no other adequate water source. Also, fruit flies had destroyed the watermelon crop, and cucumbers were not successfully marketed. Diversified dryland farming in the Hoolehua area continued without much success due to drought and low yield. The Commission, in 1945, concluded that diversified farming in Hoolehua would not be successful because the cost of developing water for irrigation was too high and too many homesteaders were unable to farm because of age. The Commission recommended to the Territorial Legislature that the policy of diversified farming in Hoolehua be abandoned.

According to the Kanahele report, there was one crop, pineapple, that was achieving success in the Hoolehua

area because it required less water than other crops. Contracts with a pineapple company were signed in 1926 whereby homesteaders were to supply the company with fruit at a minimum guaranteed price. The company was to also provide financing and the necessary technical assistance for cultivating and harvesting the fruit.

The Kanahele report states that the Commission and the homesteaders had, by 1945, turned to pineapple as the only viable hope for the homestead economy. Many homesteaders were employed by the pineapple companies. Pineapple was growing on 4,000 acres by 1943 and by 1951 on more than 5,800 acres, or almost all of the available homestead agricultural lots in Hoolehua. The companies which had the marketing expertise provided an income source that no other crop had provided. Net income to homesteaders in 1938 was \$430,000, and some homesteaders received as much as \$10,000 in a single season during the depression. Pineapple did so well that before long the homesteaders were, in effect, leasing the land and the pineapple companies were farming the homestead acres.

On October 10, 1972, one of the pineapple companies announced that because of economic considerations it was going to close its pineapple operations on Molokai at the end of 1975, and several months later the other company announced that it would substantially reduce its pineapple operations in 1977. Thus, as a result of relying on a one-crop and two-company supported economy, 3,100 acres went out of production in 1975 and another 2,700 acres in 1978. Thus, 168 homesteaders no longer had income from planters agreements, and 75 homesteaders, who also worked for the pineapple companies, had lost their jobs. Currently, most of the 5,800 acres are unused. The "Molokai miracle," which showed that the

agriculture program could be successful and justified expansion of the Home lands program, dissolved into an economic disaster 50 years later.

According to representatives of the Soil and Conservation Service, U.S. Department of Agriculture, farming can be a success on Molokai, but there are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success. Among these are: planting of windbreaks to protect crops from Hoolehua's high winds; breaking up of the soil compacted by the roads developed by the pineapple companies; determining the effects of the pesticides used by the pineapple companies on the soil; upgrading the soil quality; obtaining assurances that there is a commitment on the part of the homesteaders to develop farms; and a redesigning of the 35-acre farm lots which are not conducive to family type farming because they are long and narrow. Other problems identified with farming on Molokai include the lack of marketing facilities and expertise and a dependable transportation system to get the products to market. DHHL hired an agricultural expert in 1981 and is now in the process of studying the problems.

In addition, DHHL has been one of the principal supporters of Maui Community College's development of a 60-acre farm project started with \$2.5 million in Federal funds. The project was initially established to work with teenagers, many of whom were from homesteading families, in order to introduce them to farming. DHHL anticipates that the project will be established as an institute to provide "hands on" technical knowledge to the native Hawaiians on the island of Molokai.

DHHL is also working on a development program for farms which are not under cultivation located in the

Puukapu and Panaewa areas on the island of Hawaii.

In summary, while attempts are being made to improve the farming homestead potential, it is our conclusion that time, and a substantial increase in resources, is needed in order to develop and implement a viable farming program.

Subleasing of Ranch Land: The subleasing of ranch lots by homesteaders to other individuals, some of whom, reportedly, are not native Hawaiian, is being accomplished through the use of grazing agreements that provide for the payment of a fee for the grazing of cattle. There are at least 20 homestead ranch lots with 5,893 total acres in the Waimea area on the island of Hawaii that are subleased to other individuals.

DHHL personnel in Waimea have submitted the grazing agreements they have been able to obtain for such lots to DHHL headquarters for approval. However, we were told by the Chairman of the Commission that the agreements have not been approved because to do so would acquiesce to the use of homestead lands by non-native Hawaiians which is not compatible with the intent of Act. DHHL or the Commission have not taken action to stop this practice. According to section 208 of the Act, as amended, the homestead lessee "...shall not sublet his interest in the tract or improvements thereon."

Conclusion

Progress toward the Act's objective of placing native Hawaiians on the land has been slow during the 60 years since enactment. And, although progress has improved during recent years, the ultimate objective does not appear to be near.

Under current concepts the needs for financial resources appears to be one of the primary obstacles to rapid progress toward the end objective. For example, we estimate that over \$190 million will be needed to provide fully improved lots for each of the applicants for residential lots on the current eligibility lists and another \$254 million of funds will be needed to provide residential construction loans to these people. Add to this the cost of improvements and loans for farm and ranch applicants and the cost of administering the program and the total costs could easily exceed \$600 million. Considering that the State is currently contributing between \$6 and \$7 million annually and lease income is averaging about \$1.4 million per year, it will require over 50 years to meet the Act's objectives for the native Hawaiians on the current eligibility lists.

Recommendation

1. In our opinion, the circumstances indicate that there is a need to consider conceptual alternatives. We, therefore, recommend, together with the other recommendations in this report, that the following alternatives be considered:

- a. Determine whether it is necessary to provide fully improved residential lots at no cost to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay for certain improvements.
- b. Determine if an alternative to direct loans is feasible, such as some type of guaranteed subsidized loan program using commercial funding sources.

2. In addition, we recommend that the issue of whether native Hawaiian ranchers can award grazing permits to non-native Hawaiians be resolved.

3. Financial Management and Reporting

Improvements are needed in the financial management and reporting systems to provide for the maximization of revenues as well as providing DHHL with the means of making sound management decisions and for providing accurate and timely reporting on the discharge of its trust responsibilities. Our review disclosed that cash management has been ineffective, complete financial statements were not prepared, the accounting system was unauditable, and the required annual report was not based entirely on accurate and supported data.

Cash Management

DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue-producing investments. We estimate that DHHL lost in excess of \$100,000 of interest revenue for the 9 months ending February 28, 1982, from uninvested cash of just one DHHL fund and another \$180,000 from three other funds.

The Hawaii Department of Budget and Finance invests "excess" cash in time certificates of deposit when so requested by the DHHL fiscal officer. These investments are authorized by Section 225 of the Act. Section 225 also specifies the DHHL fund accounts to which the interest revenues are to be credited. The certificates of deposit can be purchased for periods as short as 30 days in the amount of \$100,000 or more. During the 9 months ending February 28, 1982, the rate of return has varied on such certificates

from about 10.5 percent to 16.2 percent.

We reviewed the cash balances of the Hawaiian Home Development Fund for the 9 months ending February 28, 1982. During this period, the development fund had an average uninvested cash balance of about \$1.2 million. Investments were made in only 2 out of these 9 months. In our opinion, the uninvested cash balance was greatly in excess of current operating needs, especially considering that revenues exceeded expenditures during the 9-month period. We estimate that DHHL could have generated additional revenues of over \$100,000 by investing the development fund cash that was excess to immediate needs.

We also reviewed the cash balances for the Hawaiian Home Administration Account, the Hawaiian Home General Loan Fund, and the Native Hawaiian Rehabilitation Fund. The average uninvested cash balances in these three funds totaled about \$2 million for the 9 months ending February 28, 1982. If this money was fully invested, we estimate that DHHL could have generated additional revenues of about \$180,000.

We did not attempt to determine the total amount of interest for all DHHL fund accounts, nor did we determine how long this situation existed. But

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we believe that inadequate cash management is a major problem, since DHHL must rely largely on internally-generated monies to fund its programs.

We believe this problem exists because aggressive cash management has not been stressed as a high priority by the Commission. We also believe that the lack of adequate financial statements as discussed below may have caused the Commission to be unaware of the situation.

Financial Statements

Complete financial statements are not prepared; therefore, the overall financial condition of DHHL is not readily apparent. Partial statements are prepared for the DHHL annual report and for the monthly Commission meetings. But these statements only contain selected financial data for certain fund accounts. The last complete financial statements that we could locate were for the fiscal year ended June 30, 1972.

Because the overall financial condition is not apparent, inappropriate management decisions may have been made. An example is the previously discussed management of DHHL's cash resources.

Complete financial statements provide a degree of visibility pertaining to the management of DHHL resources, from the perspective of both management and outside parties. And, review of financial statements by management can serve as the basis for questions concerning certain account balances or other sensitive financial matters.

One such account balance that should have raised a question was an accounts receivable balance of \$365,781 in the Hawaiian Home Loan Fund, that is due from the Borrowed Money Fund. This type of interfund transaction is questionable because it is conceivable that the Borrowed Money Fund was used so the funds could be loaned at a higher rate of interest, since the Act sets the rate of interest on loans from the Hawaiian Home Loan Fund at 2.5 percent. DHHL fiscal office personnel could not provide us with information as to when or why the transaction(s) was made.

Another problem related to the financial reports and records is that they do not separately identify the expenses of the Molokai water system.

Thus, there is no assurance that water rates are adequate to recover the operating expenses of the water system.

We were informed by DHHL officials that there have not been any requests for DHHL financial statements, and that DHHL has higher priorities for its limited staff resources. However, we believe that annual financial statements, and quarterly or monthly statements, if practical, should be available, especially for a governmental organization with cash balances of about \$10 million and loans/accounts receivable in excess of \$32 million.

Accounting System Is Not Auditable

There has not been any financial audit of DHHL's funds and accounts conducted since the Hawaii Legislative Auditor attempted to audit the DHHL loan funds for the fiscal year ended June 30, 1978. The last audit of all DHHL funds and accounts was performed by the Hawaii Comptroller, for the 10-year period ended June 30, 1972.

The Legislative Auditor's report on the attempted audit of the fiscal year 1978 loan funds concluded that "the department's financial records are inaccurate and unverifiable," and that the records "were not in an auditable condition." Accordingly, the auditors were unable to express an opinion on the financial statements.

In our opinion, the accounting system is still in an unauditable condition. In addition, there are no financial statements (combined balance sheet, statement of revenues and expenses, and statement of changes in fund balances) prepared by DHHL upon which an opinion could be expressed.

The main deficiency in the accounting system is that key reconciliations are not performed. As noted in the Legislative audit report, there were

discrepancies between the accounting records maintained by the Hawaii Department of Accounting and General Services and the records of DHHL. In addition, there were discrepancies between DHHL's general ledger and subsidiary ledgers.

The task of performing reconciliations has been assigned to temporary DHHL personnel, and there has been a loss of continuity when positions are vacated and refilled. At the time of our audit, no reconciliations had been attempted for about 8 months.

The audit function is an important part of good financial management. It helps to provide assurance to management and interested outsiders concerning the safeguarding of assets and the reliability of financial data. Accordingly, we believe that it is important that (1) the recommendations of the Legislative Auditor be implemented, (2) the accounting system be maintained on a current basis, and (3) regular audits be performed.

Accuracy of Annual Report Data

DHHL needs to improve the management information system so that data included in DHHL's annual report is accurate and supported. The Act requires that DHHL submit an annual report to the State Legislature. This report is also widely distributed to the Hawaiian community and provides information by which the Hawaiian community can evaluate the DHHL, and so it is imperative that the data is accurate.

Most of the quantitative data in the report is extracted from various records and monthly reports, but the data has not been reconciled with the source records for some time and there are differences between the records and the annual report. Also, we noted that some of the records were not accurate or complete.

For example, the DHHL listing of homesteaders showed that there were 165 more homesteaders on June 30, 1981, than the 3,034 reported in the fiscal year 1981 annual report, and there were significant differences by island and type of homesteader (see Tables 73 and 74).

We also noted that two individuals with pastoral or agricultural lots were not included as such in the homesteader list. Due to the amount of effort it would entail, we did not attempt to reconcile the list to the annual report, or verify the list. However, we noted one major cause of the differences was that homesteaders who had 35-acre farms and 5-acre residential lots on Molokai were counted twice. Also the problems with the varying unreconciled sources of acreage data previously discussed under "land inventory" contribute to the problems of the validity of the data in the annual report.

Recommendations

We recommend that the DHHL improve **its financial management and reporting system to correct the deficiencies we noted in cash management, financial statements, the accounting system, and the annual report. Specifically, this includes:**

1. **The timely investment of all available monies not immediately needed for current operations.**
2. **The proper and timely maintenance and reconciliation - of accounting records.**
3. **The preparation of financial statements and the independent audit thereof.**

4. Verification, to the extent possible, of the accuracy of homesteader and acreage data to be included in the annual report.

4. Eligibility Lists

Our review has disclosed that certain improvements are needed in the procedures used to maintain the existing lists of eligible applicants for Home lands. But more important changes are needed to assure the currency and applicability of the list and to remove uninterested applicants from the lists.

In order to qualify for inclusion on the lists a person must be 21 years of age and have at least a 50 percent native Hawaiian blood quantum. In addition, in order to actually receive a homestead lease, the person must be qualified to perform the conditions of the lease and be in need of financial assistance and not be delinquent in payment of any obligation to the State or its political subdivisions. One of the conditions of the lease is that the applicant is financially able to assume the indebtedness outstanding against the premises to be leased or to assume the indebtedness that must be incurred to enable the applicant to occupy the premises within one year after award of the lease.

The methods used to select applicants for awards from the eligibility lists have gone through various changes. According to the DHH Annual Report for 1976-1977 there were no established or consistent procedures followed prior to 1963. Some awards were made by lottery, and other various procedures and criteria were used.

A priority system was established in 1963 where certain land areas were defined and eligible applicants were placed on an area list in priority

ranking by the Hawaiian blood quantum of the applicant successor and the date of application. Three blood quantum priorities were established: Priority I successor to be 100 percent Hawaiian, Priority II successor to be from 50 up to 100 percent Hawaiian, and Priority III no qualified successor. The applications were ranked within the three priorities by date of application. In this system, applicants in Priorities II and III were not being awarded any land when there was an applicant in Priority I, regardless of the date of application.

A new system was established in 1972 whereby future applicants would no longer be ranked by blood quantum. Applicants on the existing lists would retain their ranking, but as of August 1972 all new applicants were ranked by date and time of application.

A problem with this method developed when new homestead areas were made available. The rules required that any applicant requesting transfer to another area list had to forego the original application date and be placed at the bottom of the list.

The present system was established in 1977 with the initiation of island-wide eligibility lists for all types of awards. The existing priorities and area lists were retained, and all of the previous applicants were also placed on the island-wide list in chronological order. New applicants are placed only on the island-wide list in chronological order. Any awards in an existing area must be selected from the old area list first. If new areas are opened, the awards are to be made from the island-wide list and the earliest applicants are considered first. Another change was that a qualified spouse or child could assume the application rank of a deceased applicant.

We noted that DHH has not notified applicants who had filed since June 1981 whether their applications had been approved. DHH rules and regulations provide that DHH determine if an applicant is qualified within 30 days after all required application documents have been supplied. Thus, recent applicants did not know if their applications have been accepted and approved. Near the end of our review, DHH began notifying applicants who have filed since June 1981.

Throughout the various ranking systems, there has not been a system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application. As a result, there is no system to assure that all applications have been accounted for or that some applications have not been lost. A numerical log of applications showing status of applications and award would provide DHH with a method of accounting for applications.

Applications are removed from the eligibility lists only by specific request of the applicant or by death of the applicant without qualified successor. DHH does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful. DHH rules and regulations require applicants to notify DHH of any address changes and require that applicants be placed in a deferred status when there has not been a response after two attempts to contact an applicant. This means that applicants will not be considered for future awards but are not removed from the lists and their ranking is maintained.

The magnitude of the problem is illustrated by the attempt in 1978 to contact 1,318 applicants whose last known address was considered questionable. The 1,318 applicants were listed in a major newspaper on May 31, 1978, and were requested to contact

DHH and update their applications. Responses concerning 554 applicants were received and their files were updated. However, according to DHH personnel, no action was taken to remove the remaining 764 names from the eligibility lists.

Another example is the screening of 1,000 applicants for the 230 lots to be awarded on the island of Oahu in 1982. The screening process, which began in October 1981, resulted in 371 undelivered letters apparently because the addresses were not current.

In August 1981, DHH for the first time began classifying applicants as inactive after two unsuccessful attempts to contact the applicant. DHH's attempt to identify all applicants without current addresses is continuing and it hopes to complete the process during 1982.

There are also a significant number of applicants who for various reasons defer their application for an award of a lot until some future date. When this happens, the applicants remain on the list and retain their positions on the list. There is no limit as to the number of times they may defer their application for lot awards, nor is there any requirement that the reasons for deferment be disclosed. Some of the reasons relate to economic matters such as location of their present jobs, while others defer with the hope that they will receive a more attractive award in the future. Of 1,000 applicants screened for the 1982 award of lots on Oahu, 87 requested deferments of their awards until some future date.

Another problem affecting the viability of the eligibility lists is demonstrated by the fact that there are 194 applicants for Papakolea and 1,755 applicants for Waimanalo, both on Oahu. There is, however, little available land in Papakolea, and not enough land to satisfy the applicants on the Waimanalo lists. According to the Chairman, DHH, many of these applicants will not accept lots in other areas.

DHHL also has a potentially sensitive issue to resolve before future awards are made in the Waimea area on the island of Hawaii. The issue relates to the cancellation of the 1952 list for the awarding of leases in the vicinity of Waimea. The Commission, in 1952, selected 187 applicants for the award of 48 pastoral lots and 27 applicants for the award of 8 farm lots. The names selected were then drawn by lottery in order to establish the priority from which the final selection was made. The list created by the 1952 lottery was cancelled on May 14, 1956 and, at the same time, the staff of the Commission was instructed to accept new applications for Waimea homesteads.

Some of the 1952 applicants reapplied at that time (1956), and others reapplied later. Some of these latter applicants contend that they should be allowed preference over applicants who were not on the 1952 list. The basis of their contention is that they never received notification that the 1952 list had been cancelled. We noted that there were three awards to individuals in 1962 that were not on the 1952 list. DHHL personnel were reviewing the problem at the time of our review, and had not yet determined if all applicants had been properly notified.

The Legislative Auditor of the State of Hawaii, in a September 1979 audit report, also reported that the eligibility lists contained many applicants whom the DHHL had not been able to contact. The Legislative Auditor recommended that DHHL amend its rules and regulations to provide for removal from the lists those applicants who continually fail to respond. DHHL has been reluctant to make such a change, and at the present time the applicants are being placed in an inactive status rather than dropped from the lists.

Since the eligibility lists are the basis for planning of future projects and awards, we believe there should be a more concerted effort to establish a listing that represents real demand.

Recommendations

1. We recommend that the Hawaiian Homes Commission establish policies and procedures wherein applicants are:

- a. Dropped from the eligibility lists when reasonable efforts to verify their whereabouts and interests are unsuccessful.
- b. Assigned a lower preference priority when offers are rejected and that they be dropped from the listings after a reasonable number of rejections.

2. We further recommend that DHHL:

Notify applicants as to the approval or rejection of their application within 30 days of the receipt of the applications.

- b. Establish a numerical accountability system aimed at providing assurance that all applications are properly accounted for.

5. Leasing Activities

Section 204 of the Act authorizes DHHL to lease to the public any lands that are not required for homesteading purposes. The revenues from these activities, which include general leases, revocable permits, licenses, easements, and rights of entry permits, were about \$1.5 million

during the year ended June 30, 1981. As a result of the tentative settlement of the Lyman Airport case, the revenues will increase to over \$2 million a year. The monies from the leases are currently used for DHHL administrative and operating costs.

DHHL follows State law and regulations in its leasing activities, with one exception, requiring that the lands be leased at a public auction to the highest bidder with a minimum rental (upset rental) determined by independent appraisers. Leases are generally limited to a term of not more than 65 years.

The one exception involves a 1978 amendment to the Act which gives preferences to native Hawaiians in a general lease at the upset rental and without public auction. DHHL has not, with the exception of the Lyman airport lease, awarded any general leases since 1978, pending the establishment of rules and procedures for native Hawaiian preference leases. The rules and procedures have been completed and approved and DHHL was, at the time of our review, obtaining appraisals for future awards under these procedures.

Hawaii land statutes also provide for licenses and permits in certain cases and under certain conditions. Land licenses grant a privilege to enter Home lands for special purposes such as the removal of stone or gravel and may be granted for a period of not more than 20 years. Permits are issued for temporary occupancy of Home lands on a month-to-month basis which may continue for a period not to exceed one year from the date of issuance, with a provision that allows for the continuance of the permit on a month-to-month basis for additional one-year periods.

Prior to 1966, the general leases for Home lands were issued by DLNR. In 1965, the State legislature empowered DHHL to lease Home lands. With the exception of 18 leases

covering 16,500 acres still administered by DLNR, DHHL now administers all leases of Home lands. As of June 30, 1981, a total of 93,363 acres of Home lands, including the 16,500 acres noted above, were under leases, revocable permits, or licenses.

The Legislative Auditor of the State of Hawaii, in a January 1979 report, was critical of DLNR's leasing practices for lands. The Legislative Auditor reported that appraisals for establishment of upset rentals were inadequate and not properly documented; there was insufficient use of percentage leases for lands let for business purposes; there were unreasonable delays in reopening of leases and redetermining lease rentals; lands were being leased under permits for long periods of time in violation of the intent of statute; and revenues derived from public lands were not being deposited into the proper fund accounts.

Based on our limited review we found that DHHL was obtaining independent appraisals for general leases and lease rental redeterminations. DHHL lease redeterminations were scheduled at varying intervals of 5 to 20 years and generally were being initiated in a timely manner. Also, DHHL recently began obtaining independent appraisals for significant permits and using tax assessed values for other less significant permits.

We did note two instances where it appears that revocable permits have been continued when general leases would be more appropriate. Revocable permits are to be used for temporary use of land, but DHHL had at least two revocable permits that had been continued for long periods of time. For example, one permit covered the use of lands for a store and improvements on approximately two acres of land. This revocable permit, effective June 1977, has been renewed through May 1982, and we believe that

under such circumstances a general lease with lease payments based on operating revenues would be more appropriate. The other example involves a revocable permit for lands under sugar cane cultivation. The revocable permit covers 266 acres of land and contains a clause which is not compatible with the one-year period allowed under the State's statute applicable to revocable permits. The clause allows the lessee up to 25 months before surrendering the lands, so that the lessee would be assured of having a crop mature and be harvested. Thus, a general lease also appears more appropriate to this case.

DHHL personnel stated that these revocable permits were inherited from DLNR in about 1977. They stated **that** some of the land may be withdrawn for homesteading; therefore, DHHL will probably continue to use revocable permits. However, we did note that DHHL was in the process of obtaining an independent appraisal for the revocable permit involving the store.

Recommendation

In view of the corrective action taken by DHHL, our only recommendation involving leasing is that the two noted revocable permits be converted to general leases because of the stability they offer to the lessee, which in turn can result in increased revenue.

APPENDIX TO
REVIEW OF HAWAIIAN HOMES COMMISSION PROGRAMS"

This appendix consists of:

- A letter dated August 4, 1982, from George R. Ariyoshi, Governor of Hawaii, to Donald Paul Hodel, (then) Undersecretary, U.S. Department of the Interior; and
- Comments on the Inspector General's draft report, submitted by Governor Ariyoshi.

A. LETTER FROM GOVERNOR GEORGE
ARIYOSHI

Dear Mr. Hodel:

Thank you for your letter of July 7, 1982, and the copy of "Review of the Hawaiian Homes Commission Programs," prepared by the Office of the Inspector General, U.S. Department

Generally, the draft is accurate in its description of the problems facing the Hawaiian Homes Commission (HHC) and the Department of Hawaiian Home Lands (DHHL). Detailed comments are enclosed for your review. A copy will also be submitted to the Office of the Inspector General, and to the Federal State Task Force on the Hawaiian Home Commission Act, which is charged with conducting a comprehensive review of all aspects of the act.

In the letter I received March 5, 1982, you stated that the purpose of the independent study was "to determine if the Department of the Interior has adequately executed its trust responsibilities" with respect to the Hawaiian Homes Commission Act (HHCA), the DHHL, and Section 5(f) of the Admission Act of 1959.

This basic and essential issue was not addressed and actually excluded

from the draft report. Needless to say, I was disappointed that the very purpose of the independent study is totally omitted.

Hawaii has cooperated with your staff, based on the premise that the state and federal governments share in trust responsibilities. The exclusion of the federal role is a serious concern.

The federal government has been involved in the HHCA from its inception. The HHCA was created by Congress. The focus of the program, the emphasis on rural homesteading, and the setting aside of public lands for the HHCA were determined by the federal government.

The Territory of Hawaii, including the HHCA, was under the direct jurisdiction of the United States until statehood. The Congress and Departments of Justice and the Interior retained trust responsibilities over the HHCA through provisions in the Admission Act of 1959. These trust responsibilities remain in effect today. The federal government must not ignore its role in this matter.

The draft report includes a list of well-known problems. Hawaii continued to address these problems without diverting limited funds from direct services to native Hawaiians. Ignoring the federal government's and the level of resources required to resolve these problems is a major deficiency of the draft report.

In essence, the draft report as it exists will have a serious negative impact on the native Hawaiian beneficiary group, the program, and the general community. It will result in greater misunderstanding and a deterioration of community and legislative support which has taken 60 years to build.

The federal and state government must pursue the identification,

analysis, and resolution of these problems in a cooperative manner, with full recognition of the role and responsibility of each entity throughout the 60-year history of the HHCA. The recently-created Federal-State Task Force on the HHCA provides a timely and appropriate opportunity to achieve this. The task force has a broad mandate and is composed of federal, state, and community representatives.

I propose that the responsibility for developing a final independent study on the HHCA be transferred to this task force. In other words, the task force would continue the work of the Office of the Inspector General in developing a complete final report, comprehensive in scope, and with detailed recommendations for action.

Areas which may be examined by the task force which are not addressed in the existing draft report include recommended revisions to the HHCA, a clear definition of the purpose of the HHCA with a proper blend of powers and functions, clarification of the federal government's role and responsibilities, alternative methods of funding, and detailed recommendations to address problems.

The draft report can serve as a starting point for the task force. The Office of the Inspector General would retain its functions in terms of assisting the task force in developing a final report and in monitoring its implementation to provide periodic reports to Congress. Hawaii stands committed and prepared to provide resource persons and assistance for such an endeavor.

My administration has made significant commitments to the DHHL in terms of financial resources and overall assistance. More than \$40 million in state funds have been funneled into the DHHL in the past six years. Over 1,300 homes have been constructed during this period, which

nearly equals the total number of homes constructed in the previous 54 years.

The DHHL agricultural program has been improved through water development, increased loan limits and expanded loan purposes, and technical assistance. Progress is being made by homestead farmers and this trend is expected to continue. The DHHL is making negotiated general leases available to native Hawaiians to increase opportunities for business development and job creation, as well as making its land base and resources more accessible to native Hawaiians. The new DHHL economic development program will provide business assistance and small business loans to support this effort.

I believe in the Department of Interior's sincerity about making a contribution to the advancement of the native Hawaiian beneficiary group. I look forward to our joint commitment to this effort. Your comments on my proposal would be appreciated.

With warm personal regards, I remain,

Yours very truly,

(signed)
George R. Ariyoshi

Enclosure

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B. COMMENTS SUBMITTED BY GOVERNOR
ARIYOSHI

Overall Comments

Purpose of the Hawaiian Homes
Commission Act

The draft report ^J does not discuss the Hawaiian Homes Commission Act (HHCA) itself. It does not identify areas of the Act for revision and improvement. Created by the U.S. Congress in 1921, implemented by the Territory of Hawaii under U.S. government jurisdiction for 38 years, implemented by the State of Hawaii for 22 years under a compact with the U.S. Government, the HHCA has remained essentially unchanged during this entire period.

The intent and purpose of the HHCA is not clear. The concept of native Hawaiian "rehabilitation" is vague. A contemporary mix of statutory powers and functions is lacking. As a consequence, it is difficult to evaluate the performance and results of the Department of Hawaiian Home Lands (DHHL). The HHCA focuses on the land base rather than the changing needs of native Hawaiians and methods to address these needs.

Statutory Provisions

A Congressional Committee Report at the time of the HHCA's passage lists these principle objectives:

- The Hawaiian must be placed on the land to insure his rehabilitation;
- Alienation of the land must be made impossible;

V All references in this appendix to the "draft report" refer to the Inspector General's draft report, and not to the Draft Report of the Native Hawaiians Study Commission.

- Accessible water in adequate amounts must be provided for all tracts; and
- The Hawaiian must be financially aided until his farming operations are well under way.

Experience has demonstrated that land is not the panacea for native Hawaiian advancement. Comprehensive and balanced programs are required to assure success. The HHCA does not address the social, economic, and educational needs of the beneficiary group. Adequate and sustained funding is not provided.

The non-alienation clause makes it impossible for native Hawaiian homestead lessees to secure financing without DHHL's continuous support in the form of direct loans and loan guarantees. DHHL financing is, and will continue to be, limited unless new sources and methods are identified and made available. A significant share of the equity created by the lessee cannot be released until the lessee surrenders the lease or passes away. Further, the non-alienation clause and the inability to leverage other funds create a general disincentive for land improvement. Native Hawaiian homesteaders are unable to pass on leases and improvements to non-native Hawaiian direct heirs.

The HHCA exclusion of sugar cane lands, forest reserves, and the remote location of lands results in a land base isolated from population centers, often in dry areas with poor soil conditions. Cost of developing water • sources and distribution systems is prohibitive. Funds for water planning, design, and construction are not readily available.

The provision of land, water, and financing for farmers is not adequate to ensure success. Technical assistance in farm production and business management is required. Remote DHHL farming areas face transportation and marketing problems

and lack a full complement of agricultural support services.

DHHL Land Base Serves Two Purposes

The DHHL land base is used to develop native Hawaiian homesteads and to generate revenues for administration and other costs. These conflicting purposes for the land have been a continuous source of confusion and controversy. Expanded homestead programs experienced since 1975 create additional demands for staff to provide services and maintain quality standards. Planning, design, and construction of homestead improvements are largely dependent on State funds. It has been suggested that DHHL allocate raw land without services or improvements. However, experience has shown, that a balanced program of services and improvements is required. DHHL is caught in a continual bind—it cannot develop homestead improvements fast enough to use large tracts of land and it needs to use the same land base to generate revenues for expanded services.

Federal Role Omitted

The draft report introduction states that the purpose of the investigation was:

...to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920, and the Hawaii Admission Act of 1959. (page 1)

The draft report does not attempt to define federal responsibilities, nor does it include an evaluation of the

performance of the federal government in its trustee capacity. This is a serious deficiency of the draft report.

The federal government has played an active role throughout the history of the HHCA. The U.S. Congress created the HHCA. The federal government had jurisdiction over its implementation when Hawaii was a Territory and retained trust responsibilities outlined in the HHCA and Admission Act that are still in effect.

The basis for interpreting the U.S. Department of the Interior (USDI) role as "ministerial" in a 1972 memorandum of DHHL is not clarified. The draft report does not discuss whether this passive role is still considered adequate or whether the federal government's trustee responsibilities are more extensive in scope and active in nature.

The draft report describes specific actions by the federal government that are questionable without recommending corrective actions. This refers to the USDI approval of HHCA land exchanges and the illegal use of 1,356 acres at Lualualei, Oahu, by the U.S. Navy.

Alternative Funding Sources Not Explored

The draft report contains no substantive and detailed recommendations on alternative funding sources, including federal funds, that may be channeled to DHHL. It is clear that many of the problems faced by the DHHL and documented in the draft, report are related to the lack of funds for site improvements, construction, financing, programs, and operations.

DHHL has made significant strides under the present State Administration

because of a substantial infusion of State funds. DHHL's ability to continue in this positive direction has been reduced by the 1978 State Constitution limit on State spending, impact of current economic conditions on State and DHHL revenues, and inflation. The omission of the federal government's role in providing funds to DHHL is a serious concern. As far as can be determined, federal funds have never been allocated to the DHHL in the 60 year history of the HHCA.

Draft Report Findings Misleading

Draft report findings leave the impression that the problems can be resolved simply. Recommendations in the draft report are so general as to be meaningless and not useful in terms of taking corrective action. The exact scope of work required and costs are not outlined. Many of the detailed comments that follow are intended to clarify the complex and difficult nature of these problems and needs.

The draft report in its present form is deficient and incomplete, does not fulfill its stated purpose, and will not result in the fundamental and far-reaching improvements needed. The federal government must acknowledge its proper role with respect to the HHCA and DHHL.

Petal led Comments

Land Status

1. Land Inventory

xinding: The draft report cites the lack of descriptions of "available lands" as a problem including the lack of a complete and accurate land inventory (page 13).

Comment. The land inventory problem is complex, due in part to Congressional withdrawals, land exchanges, Executive Orders, and vague descriptions in the HHCA. All of these problems were noted in the report (pp. 15-29).

Original maps used by USDI in designating "available lands" in the 1920's would be a useful reference point for development of a complete and accurate inventory. The draft report does not contain specific recommendations for USDI to pursue in this effort.

without adequate original reference maps, background research required prior to actual surveying is exhaustive and costly. Presently, this research involves examining each parcel in terms of HHCA provisions, the ahupua'a (land division extending from mountains to the sea) within which it exists, deducting sugar and forest lands, etc., in accordance with Section 203 of the HHCA. Reliance on the validity of existing documents has been necessary. This process is lengthy and can lead to inaccuracies.

Differences in acreages among various DHHL sources are, in part, accounted for in that these sources each reflect the most recent information available. There are differences due to poor descriptions in the HHCA. As lands are developed, more accurate descriptions are produced, generally on a case by case basis. As parcels are brought into use, surveyed, and developed, reports are improved and updated. Given existing staff and resources, DHHL has used this method of addressing the 60-year old problem concerning lack of an adequate land inventory.

Approximately 40% of the DHHL lands have not been surveyed. These lands generally have not been those best suited for homestead or leasing purposes. It is difficult to justify the high survey expense when specific uses for these lands are not yet identified.

2. Land Withdrawals

Finding: There needs to be an aggressive and accelerated approach to resolve the issue of home lands which have been withdrawn for public use (page 22).

Comment: A total review will be required to determine policy and procedures. The matter of airports on DHHL lands is in the process of being resolved. It is clear that airport use is not in keeping with the purposes of the HHCA.

The question of schools and parks is not so easily answered in that these uses are part of an overall community in which homesteaders reside. Another policy or approach may be required. One possible impact is that other agencies will refuse to maintain parks or school properties without clear authority to occupy the land. This raises several questions which must be given serious consideration including the soundness of a policy to move into the area of maintenance of facilities which may or may not directly benefit homesteaders. With limited resources and manpower, focusing on direct services to beneficiaries is more prudent. DHHL does not have the resources or manpower to maintain these facilities.

Other land uses such as game reserves, forests, and conservation areas may require yet another policy or approach. The extent and type of uses of these areas by native Hawaiians are not documented. It is clear that the issue of maintenance and management of these lands by other agencies may result in additional costs to DHHL. DHHL lacks sufficient resources and manpower to adequately carry out these responsibilities or functions.

It should be noted that of the 13,601 acres in Governor's Executive Orders, one of these game reserve lands encompasses 81.8 percent of the total.

Prior to proceeding with any land exchange, a clear understanding of DHHL land values must be determined in terms of resources present on the land and potentials for future land development. Land exchanges are based on a value for value exchange. It is imperative that DHHL have thorough knowledge of its own lands as well as lands which are being sought from other parties. Technical studies will be undertaken within the next two years to provide such information.

Resolution of Governor's Executive Orders is not unilateral on the part of the DHHL. If funds are involved for compensation, legislative appropriations may be required. If land exchanges are considered as a method of compensation, the Department of Land and Natural Resources and sometimes a third party are necessary to consummate an exchange.

This negotiation process requires agreement on appraisal methods, land values, and money. Resolution may involve arbitration or litigation.

Of course, USDI approval of the land exchanges will be required.

3. Past Land Exchanges

Finding: The propriety of three of the seven exchanges is questionable as the provisions of the Act (HHCA) apparently are not compiled with (page 28).

Comment: Note that USDI approved each land exchange. USDI and DHHL share responsibility in this area and must work together to resolve this matter. The draft report raised questions, but does not recommend corrective action.

4. Corrections to Draft Report Information

In the table on page 15, in the fourth column under "Congressional additions" the 402 acres listed on Molokai should be on Kauai; -0- would be the correct figure for Molokai. These changes affect the last column, "Adjusted Act Total." Kauai's total should be 22,948; Molokai's total should read 34,980.^/

In the table on page 18, the correct Akinaka Study Acreage for Hawaii; Kamoku-Kapulena should be 3,509 rather than 4,725 which would adjust the acreage difference from 275 to 1,491. The 4,725 acres as it reads in the draft report included 1,216 acres for a land exchange that should not have been included here.*/

In addition, a last example should be included in the following manner on this table:

Island:	Kauai
Area:	Molooa
<u>Acre Per</u>	
Act:	2,000
<u>Akinaka Study</u>	
<u>Acreage:</u>	316
Differences:	1,684

On page 19, number 2., "The Akinaka Study did not include...", the figure should read 699 acres, not 670 as stated.^/

*y [Inspector General's] Report corrected.

Program Accomplishments

1. Background

Finding: 1975 DHHL General Plan goals are not being achieved (page 31).

Comment: The DHHL General Plan is a policy document that indicates general directions to be pursued. The General Plan is further refined by Development Plans, detailed design and engineering plans, and Program Plans. Implementation is tied to several factors, including the availability of funds. The General Plan reflects the favorable economic conditions of the early 1970's. It does not reflect the 1978 State spending limit and its impact on State allocations of General Obligation Bond funds to DHHL, the impact of inflation or the reduction in the rate of revenue increases to the State and DHHL due to the sluggish economic conditions.

DHHL recognizes the need to re-examine the General Plan based on new information, projections, and recent amendments to the HHCA. Work on technical studies to support this effort is scheduled within the next two years.

At the time this audit was being conducted, five Development Plans were in process for the areas of Kawaihae and Puukapu (Hawaii), Kalamaula (Molokai), Kula (Maui), and Nanakuli (Oahu). Development Plans identify the highest and best uses for DHHL lands, total costs, and phases of development. These documents are used to justify requests for capital improvement project funds from the State legislature, as well as for internal planning and management purposes.

The draft report estimates that \$600 million will be required to satisfy the present waiting list of 7,500. This total cost is probably underestimated. It does not include the cost for planning, design, and detailed engineering. It does not include the cost for major infrastructural improvements, such as water source development, required to open up new areas for homesteading purposes. The draft report does not mention any federal role in assisting the DHHL to finance these costs. Obviously, a reliance on State funds and DHHL's ability to generate revenues from its land base are not sufficient.

2. Housing Programs

a. Finding: Determine whether it is necessary to provide fully improved residential lots to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay for certain improvements (page 42).

Comment: with a waiting list of 7,500 native Hawaiians, it would be a simple task to subdivide DHHL's lands and allocate these raw lands to all. The approach to "solving" native Hawaiian problems would be irresponsible and detrimental to the beneficiary group.

DHHL follows a deliberate practice of assuring that residential and agricultural lots and improvements meet County standards, fully cognizant of the tradeoffs involved in terms of higher costs and constraints on DHHL's ability to satisfy the waiting lists. This course of action is followed for several reasons, which the draft report will not cover:

- It allows DHHL to dedicate certain improvements to the County for repair and maintenance;
- This allows homesteaders to obtain homeowner's and other forms of insurance, health and safety services such as fire protection)
- Depending on the source of financing, certain minimum standards must be met. Loan guarantees through the Farmers Home Administration, for example, are available if DHHL meets building standards that are more restrictive than County standards.
- If DHHL had an independent source of financing, residential and agricultural leases could be awarded without meeting County standards. However, DHHL would be responsible for infrastructure maintenance and repair, providing insurance, and health and safety services. Native Hawaiians would have difficulty securing loans and services. In most cases, the native Hawaiian beneficiary would suffer.

The draft report failed to examine these issues in relation to the tradeoffs involved and the full impacts of their recommendations. It is likely that draft report recommendations will provide marginal benefits. The key concern is the need for additional funding from federal agencies.

DHHL has discussed the need for a comprehensive study of the native

Hawaiian housing market, types of housing units desired and affordable to this market, alternative methods of financing, alternative methods of reducing costs, passing certain improvement costs to the applicant (possibly on ability to pay basis), and an assessment of the impact on current methods of appraising homes at the time of surrender or death with no qualified/interested heirs. DHHL does not have sufficient funds to cover this cost at present.

b. Finding: Determine if alternatives to direct loans are feasible such as some type of guaranteed subsidized loan program using commercial funding sources (page 42).

Comment: DHHL recognizes the need to identify and pursue alternative methods of financing. DHHL currently provides direct loans and loan guarantees. Public program funds are very limited. The situation is not likely to improve. Informal discussions with commercial funding sources over the past year have not been successful. Major concerns raised are the non-alienation lease provisions and closed native Hawaiian market. It is agreed that this area must be examined further. Other alternatives may exist and need to be explored and developed. Certain options may be available to select segments of the native Hawaiian market. A complete study of sufficient scope and depth is necessary and costly.

2. Farm and Ranch Homesteading Programs

a. Finding: There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly (page 35).

Comment: The discussion of farming and ranching homesteading program in the draft report demonstrates a general lack of understanding of the

dynamics of agriculture in Hawaii. Simple and incomplete indicators of success are used. Agriculture in Hawaii, primarily in the form of family-run operations, is constantly in a state of flux and is highly sensitive to market and general economic conditions. Corporate agribusiness on the mainland is highly mechanized, located on large tracts of land, enjoy the benefits of economies-of-scale, and are supported by a wide range of governmental support services including price supports.

Native Hawaiian homestead farmers and ranchers and DHHL's program are affected by many factors which are beyond direct control. There are risks involved in any business venture. The native Hawaiian lessee, of course, assumes responsibility for decisions made in the normal course of business operations.

The list of eight reasons cited on pp. 35-36 are not complete. Other factors include:

- Weather conditions such as severe flooding and drought experience over the past three years by native Hawaiian lessees in Hilo and Puukapu.
- A small local market and competition from other Hawaii farmers and ranchers, mainland and foreign operators. Panaewa farmers are experiencing a difficult marketing problem for guavas.
- The absence of economies-of-scale, high labor costs, and high per unit production costs.
- The lack of agricultural support services in certain locations such as research and experimental facilities, private credit, monitoring of disease and pest problems.

- Distribution and marketing problems such as poor air and barge service, distance to market.

The draft report is based on a rather narrow perspective. Over the 60 year history of the HHCA, farming and ranching has been a priority concern. The draft report focuses on recent events which in many ways do not reflect a long-term trend. Current economic conditions, for example, have affected native Hawaiian lessees (as well as other farmers and ranchers). Certain crops are seasonal in nature, therefore, site visitations may have been misleading. Big Island [i.e., island of Hawaii] lessees are adjusting to the impact of severe weather problems.

DHHL views the farming and ranching homestead programs as an investment in native Hawaiians who make significant contributions to the economy of Hawaii. DHHL plays a supportive and advisory role; DHHL will not dictate what to grow, when and how. Each native Hawaiian farmer and rancher makes the final decision.

DHHL has actively pursued measures which are consistent with its proper role, which will support native Hawaiian farmers and ranchers in their endeavors. Farm agents and technical assistance are provided, rules have been promulgated to clearly define applicant qualifications and farm/ranch plan requirements. Recently, DHHL sought and received authority to increase loan limits and expand purposes for loans, to allow a residence on an agricultural lot, and to provide aquaculture homestead leases. DHHL has connected Haimea farmers to the State Lalamilo Irrigation System, has encouraged lessees to transfer lots to more suitable locations, expanded the definition of agriculture to include poultry and livestock (pigs), and

is investigating potentials for DHHL agricultural loan guarantees with other Federal and State sources.

These efforts have demonstrated DHHL's commitment to agriculture. Many native Hawaiian agricultural lessees have responded positively by increasing acreage under cultivation, increasing levels of production, examining new products and markets. Many young native Hawaiians are expressing a strong commitment to agriculture. These trends are expected to continue and add to the momentum. DHHL must be prepared to respond.

b. Finding: Over 60% of the farm tracts are not in full cultivation, including 42% that are not under any cultivation (page 35).

Comment: These figures reflect the number of farm leases, not the number of acres. Most leases are not under full cultivation, however, most are under some cultivation. Table [75] shows information compiled for the 1981 District Manager Reports. It is a more accurate description of the farming activity. [Table 75 appears at the end of this chapter]. DHHL is focusing more attention on the problems and needs at Hoolehua, Molokai, that impede farm production. This is discussed in another section.

4. Molokai Farm Problems

Finding: Farming can be a success on Molokai, but there are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success (pp. 38-40).

Comment: Other problems should be added to the eight listed, including, lack of research and experiment facilities on the island, inadequate water to supply the entire homestead farm area and high cost to link system to new source(s) of water, lack of farming expertise, and inability of some homesteaders to farm due to age

and health conditions. Major DHHL farm initiatives were outlined in a previous section. In addition, certain positive actions are taking place on Molokai:

- DHHL will initiate a farm development planning effort to compile and analyze data on land characteristics, lessee demographic profiles, infrastructure, water, and marketing and distribution problems and needs. This will form the basis for future action.
- The Molokai Electric Company will pay for cuttings of homestead biomass (e.g., trees, shrubs, grass). Early reports indicate that biomass may realize higher returns than previous pineapple agreements. Concerns that need to be examined are the long-term impact of repeated cuttings on the soil, productive use of fertile agricultural lands, and dependence on one product and one outlet.
- > The bHHL technical assistance project has made significant impact on farming activity on Molokai. The project provides on-the-farm consultation, workshops, disease and tissue analysis, and variety trials. The project was recently extended for two more years.
- > The new Maui Community College Molokai Farm Project which will offer college coursework, workshops, fieldtrips, and hands-on field experiences will complement the DHHL technical assistance project.

5. Subleasing of Ranch Land

Finding: The issue of whether native Hawaiian ranchers can award grazing permits to non-native Hawaiians needs to be resolved (page 42).

Comment: The subleasing of ranch land raises basic issues that relate to homestead uses whether residential, farming, ranching, or aquaculture. Is the use of DHHL lands by native Hawaiians to be considered a right or a privilege? If it is a native Hawaiian right, it is questionable whether the DHHL should place unreasonable restrictions on use of the land. The DHHL should not prevent native Hawaiians from using the land to assure his advancement, for example, by seeking third party investors. This may require that the non-alienation clause be re-examined. HHCA provisions should not hamper efforts by native Hawaiians to secure non-governmental assistance, provide workers' quarters on the land, and taking the initiative to operate in the free enterprise system. Unfortunately, there are cases where HHCA provisions have been a deterrent, rather than a positive factor, to providing native Hawaiians with individual control and responsibility over their future.

In the case of sublease ranching agreements, several factors need to be considered. Some lessees have been ranchers for many years. Due to age, these lessees are not fully productive on their own; their children are not interested in continuing the ranch. , It is unreasonable to evict these lessees after many years of developing and operating full-scale ranches.

Other lessees have invested heavily into ranching and have failed because of a lack of experience or the inability to leverage needed capital. It is questionable whether eviction

from the land will lead to a positive gain for any party involved, other solutions can be explored to support the native Hawaiians' commitment to, and interest in, ranching.

Various extenuating circumstances need to be understood before lease provisions are enforced. This may be appropriate in some cases, not in others. A flexible approach is required that offers opportunities for success and recognition of lessee commitment and initiative.

Financial Management and Reporting

1. Cash Management

Finding: DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue producing investments (page 43).

Comment: DHHL is examining the role of other central staff agencies to determine whether external systems of control can prevent this situation from occurring. It is acknowledged that DHHL is responsible for management of its available cash. An external control system would be helpful, especially in a situation of high staff turnover.

DHHL cash investment, generally before and after the period included in the draft report, have consistently ranged between 75 and 85 percent of available cash. During the period covered in the draft report audit, DHHL experienced high staff turnover. Vacant positions existed.

Hiring and staff training has received high priority. Serious efforts have been made in this area and a proper level of investment achieved since completion of the draft report.

Cash management is also influenced by the nature of various funds involved. Certain funds are predictable in terms of income and disbursements. Others are subject to

large periodic, fluctuations. Estimating available cash for investment purposes can be very difficult.

2. Financial Statements

Finding: Complete financial statements are not prepared, therefore the overall financial condition of DHHL is not readily apparent. Inappropriate management decisions may have been made (page 43).

Comment: DHHL recognizes that improvements are needed in this area. Reconciliation of accounts is being pursued. DHHL will also explore the possibility of additional assistance from the State Department of Accounting and General Services (DAGS) and from the Department of Budget and Finance (DB*F). Further, consultant services may be required to determine a feasible method of initiating proper accounting systems equipment so that complete financial statements can be developed.

3. Accounting System is Not Auditable

Finding: The main deficiency in the accounting system is that key reconciliations are not performed (page 47).

Comment: An ongoing effort continues in this area. The reconciliation process may require another one and a half to two years to complete.

4. Accuracy of Annual Report Data

Finding: DHHL needs to improve the accuracy of data included in its annual report (page 48).

Comment: The annual reports reflect the most current and accurate information available. Changes will continue to be made as progress is made.

A related concern is the need for a broad-based management information system which can accommodate fiscal,

accounting, loan, applicant and lessee lists, land inventory, beneficiary demographic data, and leasing activities. The first step would include retaining a consultant's services to assess DHHL's data and analysis needs and to recommend a feasible management information system. The system is needed for daily operations, periodic reporting. Such a system would provide more timely data. As the accuracy of data input increases, the system will reflect this.

Eligibility Lists

a. Finding: DHHL has not notified applicants who filed since June 1981 as to whether their applications have been approved (page 53).

Comment: Letters of notification to each applicant not previously notified will be sent as the process of verification of native Hawaiian ancestry is completed. This process was delayed at the time of the draft report audit because DHHL applicant data base information was being transferred from one system to a word processor. DHHL is currently making positive progress in terms of resolving this problem.

b. Finding: There is no system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application (page 53).

Comment: A new application procedure is being established which will satisfy this concern. Internal procedures need to be finalized before implementation.

c. Finding: DHHL does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful (page 53).

Comment: A key problem has been maintaining updated addresses for DHHL applicants. Rules provide that each

applicant be contacted every two years. These biennium contacts and periodic area screenings help to identify applicants whose mail cannot be delivered because of a change of address.

DHHL maintains a mail return file for followup by staff. Lack of manpower has been a problem. The current plan is to conduct segmented screenings to comply with the biennium contact requirement and keep the mail return followup manageable. For example a segmented system of contacts would result in 300 mailings each month, rather than 7,500 mailings at one time every two years.

d. Finding: The Hawaiian Homes Commission should establish policies and procedures to drop applicants from the eligibility lists or penalize them after reasonable efforts to verify whereabouts and confirm interest are unsuccessful (pp. 56-57).

Comment: Interest and commitment are at a high level at the time of application. This decreases as the length of time on the waiting list increases. When leases are made available, the applicant is asked to decide interest within 30 days after waiting for several years. This is a major decision involving a large financial investment and possibly relocation. The current procedure of placing applicants on an inactive status provides DHHL with opportunities to identify the effective (i.e., interested and committed) waiting list.

This procedure was authorized in 1977, became operational in 1980, and provides for an inactive list. At the present time, DHHL has no desire to drop applicants entirely from eligibility lists.

e. Finding: Question as to whether 1952 list of Waimea ranch applicants received proper notification when the list was cancelled on May 14, 1956 (pp. 55-56).

Comment: DHHL is aware of this issue. Staff is reviewing historical data to determine a final resolution.

Leasing Activities

1. Revocable Permits

Finding: Revocable permits continued when general leases would be more appropriate (page 61).

Comment: Development Plans need to be completed before commitments are made to any general leasing activities. One of the revocable permits cited will be affected by the Kawaihae Development Plan now in process. Pending completion of this Development Plan, a general lease may be issued if the proper zoning is in place.

Plans for homestead use of the other revocable permit parcel may preclude issuing a general lease.

REVIEW OF HAWAIIAN HOMES COMMISSION PROGRAMS

TABLES

TABLE 65

ACREAGE AND TYPE MANAGED BY DHHL
AS OF JUNE 30, 1981

		<u>Acres</u>
Homestead leases:		
Residential	1,330	
Farms	7,619	
Ranches	17,113	26,062
Community pastures		13,706
General leaaes:		
Administered by DHHL	75,739	
Administered by Dept. of Land and Natural Resources	16,500	92,239
Licenses		1,124
Revocable permits		15,844
Conservation lands		17,690
Governor's Executive Orders		12,245
Unencumbered lands		10,805
Right-of-entries		9
<u>Total</u>		<u>189,724</u>

TABLE 66

FUNDS AND SOURCES OF REVENUES-DHHL

<u>Revolving funds</u>	<u>Funding source</u>
Home Loan Fund (\$5 million ceiling)	30 percent monies <u>1</u> /
Additional Receipts	
Loan Fund	30 percent monies <u>1</u> /
Replacement Loan Fund	General obligations bonds
General Home Loan Fund	General obligations bonds
Repair Loan Fund	General obligations bonds
Farm Loan Fund	General obligations bonds
Operating Fund	Feature, water and misc. fees and interest in- come
<u>Special funds</u>	
Education Fund	30 percent monies <u>1</u> /
Development Fund	30 percent monies <u>1</u> /
Native Hawaiian Rehabilitation Fund	30 percent monies <u>1</u> /
Loan Interest Fund <u>II</u>	Interest income
Administration Account	General lease revenues
Borrowed money	Hawaiian Housing Authority and The Model Cities Program
Trust Fund	Cifts for which no purpose is specified
Loan Guarantee Fund	State general revenues

T 7 3 0 percent of receipts from leasing of
sugsr cane lands and water licenses (State lands
receipts).

II Repository fund established in 1979 for
interest monies pending transfer to other funds.

TABLE 67

CHANGES IN LAND INVENTORY-HAWAIIAN HOME LANDS

Is land	Original Act	<u>Acreage</u>		Given in Exchange	Received in Exchange	Adjusted Act Total
		Withdrawals	Additions			
Hawaii	107,300	53	17	1,244	6,488	112,508
Kauai	22,500		402	26	20	22,896
Maui	31,000		12		61	31,073
Molokai	33,700	219		1,061		32,420
Oahu	9,000		133	690	355	8,798
<u>Total</u>	<u>203,500</u>	<u>272</u>	<u>564</u>	<u>3,021</u>	<u>6^924</u>	<u>207,695</u>

COMPARISON OF LAND INVENTORY FIGURES

Island	Acreage		
	Act as Amended by Congress	1972 Akinaka Study	1981 Annual Report
Hawaii	112,508	110,971	110,575
Kauai	22,494	17,967	18,689
Maui	31,073	29,076	29,005
Holokai	32,822	26,795	26,210
Oahu	8,798	5,069	5,245
Total	207,695	189,878	189,724

17 Includes seven land exchange approved by the Secretary of the Interior.

COMPARISON OF ACREAGE DESCRIPTIONS

Island	Area	Acreage Per Act	Akinaka Study	Acreage
Holokai	Calauca	9,000	1,247	3,753
Maui	Eahlehu	25,000	22,911	2,109
Molokai	Ehene	7,350	7,169	181
Maui	Kaoku-Caputoa	5,000	3,509	1,491
Oahu	Pauahi	750	555	195

17 Exclude 1,216 acres which were obtained through an exchange.

TABLE 70

COMPARISON OF DHEC OBJECTIVES AND RESULTS

Description	10 Year Objective	6 Year Accomplishment
Repeal for new home areas (houses)	2,600	669
Allocate agricultural lands to native Hawaiians (acres)	40,000	793
Reduce the acreage of lands used for income purposes (acres)	20,000 Decrease	5,843 Increase
Maximize income through more effective land management	More Act Amount	51.62 Increase

TABLE 71

SUMMARY OF ELIGIBLE HOMESTEAD APPLICANTS

Island	Residential	Agriculture	Ranch	Total
Hawaii	1,104	375	247	1,726
Kauai	391	77	41	509
Maui	470	21	14	505
Molokai	277	114	20	411
Oahu	4,066	8	0	4,074
Total	6,308	595	322	7,225

TABU 72

HOMESTEAD APPLICANTS BY YEARS ON ELIGIBILITY LISTS

Type of Application	Type of Application			
	Residential	Farm	Agricultural	Total
30 or more	54	0	2	56
25 to 29	134	1	0	135
20 to 24	197	2	3	202
15 to 19	843	77	34	954
10 to 14	713	57	19	789
5 to 9	1,506	55	79	1,640
0 to 4	2,861	130	458	3,449
Total	6,308	322	595	7,225

TABLE 73

COMPARISON OF DHHL ANNUAL REPORT AND LISTING OF HOMESTEADERS, BY ISLAND

Island	Number of Homesteaders		
	1981 Annual Report	Listing A* of 6/30/81	Difference
Hawaii	726	762	36
Molokai	380	601	221
Maui	89	90	1
Oahu	1,649	1,610	(39)
Rauai	190	136	(34)
Total	3,034	3,199	165

TABLE 74

COMPARISON OF DHHL ANNUAL REPORT AND LISTING OF HOMESTEADERS, BY TYPE

Type	Number of Homesteaders		
	1981 Annual Report	Listing A* of 6/30/81	Difference
Residential	2,618	2,703	85
Farm	347	421	74
Ranch	69	75	1
Total	3,034	3,199	165

TABLE 75

DHHL FARMLANDS CULTIVATED/CLEARED

Area	Acre* Cultivated/Cleared		
	Total Acres	#	Z
Panalea	641	407	63.5
Waialea	285	187	65.6
Hoolebua	6,355	900	toil
Total	7,261	1,494	« M

Federal Responses To The Unique Needs Of Native Hawaiians

The preceding two chapters have analyzed and reviewed two suggested federal responses to the unique needs of native Hawaiians. The chapter entitled "Existing Law, Native Hawaiians, and Compensation" concludes that the response of compensation for any possible loss of land or sovereignty is not available under present law. The "Review of Hawaiian Homes Commission Programs" reviews the Hawaiian Home Lands program, including ways to ensure better administration of the program. This chapter sets forth other federal responses that are available or being undertaken.

A. IDENTIFICATION OF FEDERAL PROGRAMS FOR WHICH NATIVE HAWAIIANS MAY BE ELIGIBLE

The Federal Government sponsors a vast array of programs administered through a large number of agencies. Five federal programs specifically assist native Hawaiians. ^{±J} These are: Title VII of the Native Americans Program Act; ^{2/} Title III of the Comprehensive Employment and Training Act; ^{ZJ} the American Indian Religious Freedoms Act; ^{4/} the Mental Health Systems Act; ^{5/} and the Hawaiian Homes Commission Act of 1921.

The section that follows lists a representative sample of existing federal programs that meet some of the needs of native Hawaiians that have been identified in this Report. Information on the majority of the federal programs listed on the following pages (except where otherwise noted) was obtained from the 1982 edition of the Catalog of Federal Domestic Assistance. [The next edition of the Catalog is scheduled to be released on July 1, 1983.] The Catalog is a Government-wide compendium of federal programs, projects, services, and activities

that provide assistance or benefits to the American public. It contains financial and non-financial assistance programs administered by departments and establishments of the Federal Government, and is published annually by the Federal Government. As the basic reference source of Federal programs, the primary purpose of the Catalog is to assist users in identifying the programs that meet specific objectives of the potential applicant, and to obtain general information on federal assistance programs.

The following list is not meant to be exhaustive—the Catalog itself contains hundreds of programs that may be of use to individual native Hawaiians. The list is meant to be indicative, however, of the range of Federal Government programs now available that may meet some of the needs of native Hawaiians. The numbers following the program title are the reference numbers used in the Catalog.

Education: Elementary and Secondary

Compensatory Education for the Disadvantaged; Chapter 1 Grants to Local Educational Agencies ^V Description of Grant Process:

Authorization for Basic Grants are computed for States and counties by multiplying the number of children • 5-17 years of age from low-income families by 40 percent of the State's average per pupil expenditure (but not less than 80 percent nor more than 120 percent of the national average). These children include: (1) children in families with incomes below the poverty level (1980 census data but

^{^J} Information on this program obtained from the Office of Management and Budget, February 1983.

using the definition of poverty used in compiling the 1970 census); (2) children in families receiving AFDC payments in excess of the poverty level for a non-farm family of four (updated annually); (3) neglected or delinquent children residing in institutions which are not State-operated; and (4) foster children supported with public funds. Authorizations are ratably reduced to the appropriated amount. In addition each county is guaranteed an amount which is not less than 85 percent of the amount received in the previous year.

One-half of the funds appropriated for the basic Chapter 1 program in excess of the amount appropriated for school year 1978-79 will be allocated to the States and counties on the basis of the number of children from families below 50 percent of the median national income for four-person families, as determined by the 1975 Survey of Income and Education. Within States, each local educational agency will receive an amount based on its percentage of the State's basic Chapter 1 allocation.

Definition of Eligibility: Local educational agencies (LEAs) are eligible to receive funds under this program. Individuals must be educationally disadvantaged to receive services. The LEA determines this.

**Educationally-Deprived
Children-State Administration
(84.012)**

Office of Assistant Secretary for Elementary and Secondary Education, Department of Education.

Objectives: To provide financial assistance to State educational agencies to meet the special needs of educationally-deprived children.

Types of Assistance: Formula Grants.

Head Start _V

Head Start provides comprehensive developmental services designed to improve the quality of life for children and their families. Intended primarily for preschoolers from low-income families, the program seeks to foster the development of children and to enable them to deal more effectively with both their present environment and later responsibilities in school and community life. Head Start programs emphasize cognitive and language development, socio-economic development, physical and mental health, and parent involvement, to enable each child to develop and function at his or her highest potential. At least ten percent of enrollment opportunities in each State are made available to handicapped children.

Head Start provides a variety of learning experiences that lay the framework for success in elementary school. Head Start children receive comprehensive health services, including immunizations and physical and dental exams and treatment, and hot meals to help meet daily nutritional needs. The program also emphasizes significant involvement of the children's parents in their early childhood development. Technical assistance and training activities are provided to local program staff to enhance the quality and effectiveness of the services offered. Grants to carry out Head Start are awarded to public and private non-profit agencies. Head Start's legislation includes a formula that determines basic State allocations. The two factors in the formula are the relative number of poor children and the number of recipients of Aid to Families with Dependent Children in each State as compared to all States.

*/ Information on this program obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

In FY 1982 five local Head Start projects were funded in Hawaii. Comprehensive child development services were provided to 11,010 children for a total of \$3,190,180 Head Start dollars. Approximately 2,092 staff are employed.

Higher Education: Adult and Vocational Education

Special Services for Disadvantaged Students (84.042)

Office of Assistant Secretary for Postsecondary Education, Department of Education.

Objectives: To identify qualified low-income, first-generation college students or physically-handicapped students, who are enrolled or accepted for enrollment by institutions that are recipients of grants, and to provide supportive services for these students who are pursuing programs of postsecondary education. (Funds may be used to provide eligible project participants personal and academic counseling, career guidance, tutoring, instruction in reading, study skills, and mathematics, and to facilitate the entrance of project participants into graduate and professional programs.)

Types of Assistance: Project Grants.

Adult Education-State-Administered Program (84.002)

Office of Assistant Secretary for Vocational and Adult Education, Department of Education.

Objectives: To expand educational opportunities and to encourage the establishment of programs for adult education that will enable educationally-disadvantaged adults to acquire basic skills necessary to function in society, to complete secondary school, and to profit from employment-related training. (Special

emphasis is given to programs of instruction in computational skills and in speaking, reading or writing English for those adults who are least educated and most in need of educational assistance.)

Types of Assistance: Formula Grants. (For FY 83, program proposed for funding as part of a consolidated block grant program.)

Vocational Education-Special Programs for the Disadvantaged (84.052)

Office of Assistant Secretary for Vocational and Adult Education, Department of Education.

Objectives: To provide special vocational education programs for persons who have academic, or economic, handicaps and who require special services and assistance in order to enable them to succeed in vocational educational programs.

Types of Assistance: Formula Grants. (Note: This program is proposed for funding as part of a consolidated block grant program.)

Business: Economic Development *J

Economic Opportunity Loans for Small Businesses (59.003)
Small Business Administration.

Objectives: To provide loans up to \$100,000 with maximum maturity of 15 years, to small businesses owned by

^J Native-born Hawaiians are considered minorities and are eligible for all minority programs as socially-disadvantaged. However, to receive minority assistance, they must also demonstrate that they are economically disadvantaged. The Small Business Administration has regional offices and a district office is located in Honolulu. [Information obtained from the Office of Management and Budget, February 1983.]

low-income or socially or economically disadvantaged persons.

Type of Assistance: Direct Loans; Guaranteed/Insured Loans; Advisory Services and Counseling.

Management Assistance to Small Businesses (59.005)

Small Business Administration.

Objectives: To help the prospective as well as the present small business person improve skills to manage and operate a business.

Types of Assistance: Advisory Services and Counseling; Dissemination of Technical Information; Training.

Minority Business Development-Procurement Assistance (59.006)

Small Business Administration.

Objectives: To insure participation of businesses, which are owned and controlled by disadvantaged persons, in Federal contracting and establishing small manufacturing, service and construction concerns that will become independent and self-sustaining in a normal competitive environment.

Types of Assistance: Provision of Specialized Services (Section 8(a) of Small Business Act-SBA enters into procurement contracts with other Federal Agencies and subcontracts to others the performance of contracts SBA has obtained).

Management and Technical Assistance for Disadvantaged Businessmen (Development Assistance Program (59.007)

Small Business Administration.

Objectives: To provide management and technical assistance through public or private organizations to existing or potential businesses that are economically or socially disadvantaged or that are located in areas of high concentration of unemployment or are participants in activities authorized by sections 7(i)

and 8(a) of the Small Business Act.

Types of Assistance: Project Grants.

Procurement and Technical Assistance to Small Businesses (59.009)

Small Business Administration.

Objectives: To assure small business a fair share of contracts and subcontracts for Federal Government supplies and services and a fair share of property sold by the Government.

Types of Assistance: Provision for Specialized Services.

Small Business Loans (59.012)

Small Business Administration.

Objectives: To aid small businesses owned by low income individuals or located in areas of high unemployment which are unable to obtain financing in the private credit marketplace, including agricultural enterprises.

Types of Assistance: Direct Loans; Guaranteed/Insured Loans (including Immediate Participation Loans).

Minority Business Development-Management and Technical Assistance (11.800)

Minority Business Development Agency, Department of Commerce.

Objectives: To provide management and technical assistance to minority businesses through use of professional management consulting organizations with proven methods of professional assistance; to increase the availability of capital from public and private sources for the formation and expansion of minority businesses; to increase the level of private sector purchases from minority-owned businesses; to increase the participation of minority entrepreneurs in growth sectors of the economy, including high technology industries.

Types of Assistance: Project Grants (e.g., State could get funds to provide services to minority businesses).

Administration for Native Americana,
U.S. Department of Health and Human
Services jy

The Administration for Native Americans (ANA) promotes the social and economic self-sufficiency of American Indians, Alaska Natives, and native Hawaiians by encouraging and sponsoring local strategies in economic and social development. ANA defines self-sufficiency as the level of development at which a Native American community can control and internally generate resources to provide for the needs of its members and meet its own short- and long-range social and economic goals.

ANA programs and policies foster a balanced developmental approach at the community level through three major goals: (1) to develop or strengthen tribal governments, local decision-making, and Native American leadership; (2) to encourage the development of stable, diversified local economies or economic activities that provide jobs, promote economic well-being, and reduce dependency on welfare services; and (3) to support local control and/or access to health and well-being of people and which are essential to a thriving and self-sufficient community.

ANA efforts in Hawaii for fiscal years 1982 and 1983 consist of discretionary financial assistance grants and interagency agreements.

The following grants have been awarded:

- Just over three years ago native Hawaiians on the island of Molokai were given an opportunity to retain agricultural land, provided the land was put to productive use following the phase-out of the pineapple industry on that island. To assist the native Hawaiians to retain their ancestral land the Hikiola Cooperative of Hoolehua was awarded a grant. The ANA grant assistance provided has enabled native Hawaiian products to be marketed competitively; it has improved management, supported effective inventory control of products, and adequate servicing, as well as assured the receipt of technical assistance on modern agricultural techniques. This economic development project will be self-sustaining and will be a major step for the native Hawaiians on Molokai toward social and economic self-sufficiency. Hikiola completed the third year of ANA financial assistance January 31, 1983.
- Alu Like, Inc., has been the principal ANA Hawaiian grantee since 1976 when Hawaiian native organizations first became eligible to receive direct assistance. This statewide grantee has progressed from

2J Information on these programs obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

conducting needs assessment and long-range planning to becoming a primary mechanism for social and economic development in the native Hawaiian communities. Alu Like currently administers semi-autonomous multi-service island Centers on Oahu, Molokai, Maui, Lanai, Kauai, and Hawaii. It provides technical assistance to community organizations and individuals on a broad range of social and economic endeavors.

- The Office of Hawaiian Affairs (OHA) is an independent agency of the State executive branch yet given the status of an agency in State government with the authority to work with various levels of government. The purpose of the grant to OHA is to establish community mechanisms for accessing human services, and to establish linkages between Hawaiians and servicing agencies. This human services management effort includes a centralized inventory of available agencies providing services to native Hawaiians as well as the identification of service gaps.

Employment Training

Employment and Training-Indians and Native Americans (17.234)

Employment and Training

Administration, Department of Labor.

Objectives: To reduce the economic disadvantages among Indians and others of Native American descent [including native Hawaiians] and to advance the economic and social development of such people in accordance with their goals and life styles. [Funds may be

utilized for employment and training programs and services, including institutional training, on-the-job training, public service employment, work experience, youth employment programs, day care, health care, job search, and relocation and transportation allowances designed to aid the beneficiary to obtain and retain employment.]

Types of Assistance: State will receive 3.3 percent of total amount of block grant for this purpose (above the block grant amount).

Housing: Homebuying/Ownership

Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans) (10.410)

Farmers Home Administration, Department of Agriculture.

Objectives: To assist rural families to obtain decent, safe, and sanitary dwellings and related facilities. (Loans may be used: for construction, repair or purchase of housing; to provide necessary and adequate sewage disposal facilities; for water supply for the applicant and his family; for weatherization; to purchase or install essential equipment which upon installation become part of the real estate; and to buy a site on which to place a dwelling for applicant's own use.)

Types of Assistance:
Guaranteed/Insured loans.

Interest Reduction-Homes for Lower Income Families (14.105)

Housing, Department of Housing and Urban Development.

Objectives: To make homeownership more readily available to lower income families by providing interest

reduction payments on a monthly basis to lenders on behalf of the lower income families. (HUD insures lenders against losses on mortgage loans. These loans may be used to finance the purchase of a new or substantially rehabilitated single-family dwelling or condominium unit approved prior to beginning of construction or beginning of substantial rehabilitation.)

Types of Assistance: Direct Payments for Specified Use; Guaranteed/Insured Loans.

Mortgage Insurance-Homes for Low and Moderate Income Families
(14.120)

Housing, Department of Housing and Urban Development.

Objectives: To make homeownership more readily available to families displaced by urban renewal or other government actions as well as other low-income families. (HUD insures lenders against loss on mortgage loans. These loans may be used to finance the purchase of proposed or existing low-cost, one- to four-family housing or the rehabilitation of such housing.)

Types of Assistance: Guaranteed/Insured Loans.

Low Income Housing-Homeownership Opportunities for Low Income Families (14.147)

Housing, Department of Housing and Urban Development.

Objectives: To provide, through local Public Housing Agencies (PHA's), including Indian Housing Authorities, low-income families with the opportunity for owning their own homes.

Types of Assistance: Direct Payments for Specified Use; Direct Loans.

Housing: Home Improvements and Rental and Cooperative Units

Very-Low Income Housing Repair Loans and Grants (10.417)

Farmers Home Administration, Department of Agriculture.

Objectives: To give very low-income rural homeowners an opportunity to make essential repairs to their homes to make them safe and to remove health hazards to the family or the community.

Types of Assistance: Direct Loans; Project Grants.

Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families (14.103)

Housing, Department of Housing and Urban Development.

Objectives: To provide good quality rental and cooperative housing for persons of low- and moderate-income by providing interest reduction payments in order to lower their housing costs. (HUD insures lenders against losses on mortgage loans. Insured mortgages may be used to finance the construction or rehabilitation of rental or cooperative detached, semidetached, row, walk-up, or elevator-type structures.)

Types of Assistance: Direct Payments for Specified Use; Guaranteed/Insured Loans.

Mortgage Insurance-Rental Housing for Moderate Income Families
(14.135)

Housing, Department of Housing and Urban Development.

Objectives: To provide good quality rental housing within the price range of low and moderate income families. (HUD insures lenders against loss on mortgages. Insured mortgages may be used to finance construction or rehabilitation of detached, semidetached, row, walk-up, or elevator-type rental housing containing 5 or more units.)

Types of Assistance: Guaranteed/Insured Loans.

Mortgage Insurance-Rental and
Cooperative Housing for Low and
Moderate Income Families, Market
Interest Rate (14.137)

Housing, Department of Housing and
Urban Development.

Objectives: To provide good
quality rental or cooperative housing
within the price range of low- and
moderate-income families. (HUD
insures lenders against loss on
mortgages. Insured mortgages may be
used to finance construction or
rehabilitation of rental or
cooperative detached, semidetached,
row, walk-up, or elevator structures,
with 5 or more units.)

Types of Assistance: Guaranteed/
Insured Loans.

Rent Supplements-Rental Housing
for Lower Income Families (14.149)

Housing, Department of Housing and
Urban Development.

Objectives: To aid lower-income
families in obtaining decent, safe,
and sanitary housing in private
accommodations and to promote
economically mixed existing, newly
constructed, and substantially and
moderately rehabilitated housing.
(Provides housing assistance payments
to participating private owners and
Public Housing Agencies on behalf of
eligible tenant to provide decent,
safe, and sanitary housing for lower
and very low income families at rents
they can afford.)

Types of Assistance: Direct
Payments for Specified Use.

Housing for the Elderly or
Handicapped (14.157)

Housing, Department of Housing and
Urban Development.

Objectives: To provide for rental
or cooperative housing and related
facilities (such as central dining)
for the elderly or handicapped.
(Direct loans may be used to finance
rental or cooperative detached,
semidetached, row, walk-up, or
elevator-type structure.)

Types of Assistance: Loans to

private nonprofit corporations and
consumer cooperatives.

Public Housing--Comprehensive
Improvement Assistance Program
(14.158)

Housing, Department of Housing and
Urban Development.

Objectives: To provide annual
contributions to improve the physical
condition and upgrade the management
and operation of existing public
housing projects to assure that they
continue to be available to serve
low-income families.

Types of Assistance: Direct Loans;
Project Grants; Direct Payments for
Specified use.

Low Income Housing-Assistance
Program (14.146)

Housing, Department of Housing and
Urban Development.

Objectives: To remedy the unsafe
and unsanitary housing conditions and
the acute shortage of decent, safe,
and sanitary dwellings for families of
lower income through an authorized
Public Housing Agency.

Types of Assistance: Direct
Payments for specified Use; Direct
Loans.

Rural Self-Help Housing Technical
Assistance (10.420)

Farmers Home Administration,
Department of Agriculture.

Objectives: To provide financial
support for the promotion of a program
of technical and supervisory
assistance which will aid needy
low-income individuals and their
families in carrying out mutual
self-help efforts in rural areas.
(Organizations may use technical
assistance funds: to hire the
personnel to carry out a program of
technical assistance for self-help
housing in rural areas; to pay
necessary and reasonable office and
administrative expenses; to make
essential equipment such as power
tools available to families
participating in self-housing)

construction; and to pay fees for training self-help group members in construction techniques or for other professional services needed.)

Types of Assistance: Project Grants.

Health

Human Nutrition Information Service (10.375)

Human Nutrition Information Service (HNIS), Department of Agriculture.

Objectives: To provide information relative to research conducted by HNIS on food consumption, food composition, and nutrition education. To provide human nutrition information to government agencies with missions related to nutrition, private industry, consumers, and consumer groups.

Types of Assistance: Dissemination of Technical Information.

Health Services Research and Development--Grants (13.226)

Office of the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services.

Objectives: To support research, development, demonstration and evaluation activities designed to ensure that comprehensive and systematic efforts are made to develop new options for health services delivery and health policy, to test the assumptions on which current policies and delivery practices are based, and to develop the means for monitoring the performance of the health care system. Also to support research for the development of valid and useful information to communities which are implementing Emergency Medical Service Systems. As part of its broad legislative mandate, the National Center for Health Services Research supports research studies in the following categories of concern: Health Promotion and Disease Prevention; Service Delivery for the Disadvantaged; Health Care Cost and

Expenditures; Health Insurance, Health Manpower; Planning Regulation; Technology and Computer Science Applications; Quality of Care; Emergency Medical Services; Long-Term Care; and Special Studies.

Types of Assistance: Project Grants.

Special Supplemental Food Program for Women, Infants, and Children (10.557)

Food and Nutrition Service, Department of Agriculture.

Objectives: To supply supplemental nutritious foods and nutrition education as an adjunct to good health care to low income participants identified to be at nutritional risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both.

(Grants are made to State health or comparable agencies...in order to make supplemental foods available to pregnant, postpartum and breastfeeding women, infants, and children up to five years of age through local public or nonprofit private health or welfare agencies.)

Types of Assistance: Formula Grants.

Health Education

Nutrition Education and Training Program (10.564)

Food and Nutrition Service, Department of Agriculture.

Objectives: To encourage the dissemination of nutrition information to children participating or eligible to participate in the school lunch and related child nutrition programs.

(Grants are made to State education agencies to provide for the nutritional training of educational and food service personnel, the food service management training of school food service personnel, and the conduct of nutrition education activities in schools and child care institutions.)

Types of Assistance: Formula Grants.

National Health Promotion Training Network (13.990)

Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services.

Objectives: To educate the public about environmental, occupational, societal and behavioral factors that affect health in order that individuals may make informed decisions about health-related behavior. The National Health Promotion Program is a federal focal point for the development, implementation, and coordination of programs that promote good health habits and programs that are designed to prevent disease and disability. (Assistance must be used to satisfy program needs of the National Health Promotion Activities Program, including but not limited to: reaching local human service agencies with training in conducting effective health promotion programs; identifying or developing materials for health promotion programs, such as model curricula for use by universities or community health promotion programs; adding to the scientific data base, especially to fill gaps identified in the "Objectives for the Nation" report; identifying the needs of special population groups--such as Blacks, Hispanics, Asian/Pacific Islander Americans, handicapped and elderly Americans--and finding health promotion programs to meet those special needs; and facilitating health promotion activities at the local level from a central, national base, through education and locally organized activity.) Types of

Assistance: Project Grants (Cooperative Agreements).

Social Programs

Administration for Children, Youth and Families--Child Welfare Research and Demonstration (13.608)

Office of Human Development Services, Department of Health and Human Services.

Objectives: To provide financial support for research and demonstration projects in the area of child and family development and welfare. (Grants are for: (1) special research and demonstration projects in the field of child welfare that are of regional or national significance; (2) special projects for the demonstration of new methods or facilities that show promise of substantial contribution to the advancement of child welfare; and (3) projects for the demonstration of the utilization of research in the field of child welfare in order to encourage experimental and special types of welfare services.)

Types of Assistance: Project Grants.

Child Abuse and Neglect Prevention and Treatment (13.628)

Office of Human Development Services, Department of Health and Human Services.

Objectives: To assist State, local, and voluntary agencies and organizations to strengthen their capacities to develop programs that will prevent, identify and treat child abuse and neglect. (Grants or contracts are for: (1) providing technical assistance to public and nonprofit private agencies and organizations; (2) demonstration programs and projects to develop and establish multi-disciplinary training programs; to establish and maintain

centers to provide a broad range of activities including parent self-help in order to prevent, identify, and treat child abuse and neglect; State grants are made to assist States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs; (3) research into the causes, prevention, and treatment of child abuse and neglect; (4) formula grants to States to strengthen State capacities to reduce the incidence of child abuse.)

Types of Assistance: Formula Grants; Project Grants.

Corrections-Research and
Evaluation and Policy Formulation
(16.602)

National Institute of Corrections,
Department of Justice.

Objectives: To conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders. To conduct evaluation programs that study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system. (Provides assistance for upgrading correctional programs, services, and techniques at State and local levels. Services are available to the entire range of correctional agencies, including probation, parole, institutions, jails, and community programs.)

Types of Assistance: Project Grants; Provision of Specialized Services; Dissemination of Technical Information.

Alcohol, Drug Abuse, and Mental
Health Administration, Scientific
Communications and Public Education
(13.243)

Alcohol, Drug Abuse, and Mental
Health Administration, Department of
Health and Human Services.

Objectives: To provide the fullest possible dissemination of alcohol, drug abuse, and mental health

information through a full-scale program of scientific communications and public information and education activities serving both the professional community and the general public. (No grant funds are provided. Assistance is given in response to the printed and electronic media. Types of public information materials and activities include brochures, fliers, fact sheets, pamphlets and exhibits, news releases, news features, films, television and radio productions, articles for national magazines, and daily assistance to representatives of the public media.)

Types of Assistance: Dissemination of Technical Information.

Juvenile Justice and Delinquency
Prevention-Special Emphasis and
Technical Assistance (16.541)

Office of Juvenile Justice and
Delinquency Prevention, Department of
Justice.

Objectives: To develop and implement programs that design, test, and demonstrate effective approaches, techniques, and methods for preventing and controlling juvenile delinquency through development and testing of selected approaches for reducing and controlling violent and serious youth crime; utilization of community-based alternatives to traditional forms of official justice system processing; improvement of the capability of public and private agencies to provide delinquency prevention services to youth and their families; development of new approaches and techniques for reducing school drop-outs, unwarranted suspensions, and expulsions; and through support of advocacy by groups and organizations committed to protection and improvement of the legal rights and welfare of youth. To provide technical assistance to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals, in the planning, establishment, operation or

evaluation of juvenile delinquency programs; and to assist operating agencies having direct responsibilities for prevention and treatment of juvenile delinquency.

Types of Assistance: Project Grants (Contracts).

National Institute for Juvenile Justice and Delinquency Prevention (16.542)

Office of Juvenile Justice and Delinquency Prevention, Department of Justice.

Objectives: To encourage, coordinate, and conduct research and evaluation of juvenile justice and delinquency prevention activities; to provide a clearinghouse and information center for collecting, publishing, and distributing information on juvenile delinquency; to conduct a national training program; and to establish standards for the administration of juvenile justice.

Types of Assistance: Project Grants (Contracts).

Culture

Institute of Museum Services (45.301)

National Foundation on the Arts and Humanities, Institute of Museum Services.

Objectives: To help ease the increased cost borne by museums as a result of their increasing use by the public; to encourage and assist museums in their educational and conservation roles; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage.

Types of Assistance: Direct Payments with Unrestricted Use.

Promotion of the Arts-Museums (45.012)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To provide grants in support of American museums' essential activities. (Grants may be used for mounting special exhibitions, utilization of collections, visiting specialists, conservation, training of museum professionals, collection maintenance, wide availability of museums, independent study for individuals, museum sabbaticals, and cataloging.)

Types of Assistance: Project Grants.

Promotion of the Arts--Challenge Grants (45.013)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To enable cultural organizations and institutions (only nonprofit organizations are eligible, includes local governments and State art agencies) to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions; to provide administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning; to enable cultural organizations and institutions to increase audience participation and appreciation of programs sponsored by such organizations and institutions; to stimulate greater cooperation among cultural organizations and institutions especially designed to better serve the communities in which such organizations or institutions are located; and to foster greater citizen

involvement in planning the cultural development of a community.

Types of Assistance: Project Grants.

Promotion of the Arts—Folk Arts
(45.015)

National Endowment for the Arts, National Foundation on the Arts and the Humanities.

Objectives: To provide grants to assist, foster, and make publicly available the diverse traditional American folk arts throughout the country. To encourage projects involving those community or family-based arts that have endured through several generations and that carry with them a sense of community aesthetic. Available for the presentation of American folk arts, including festivals and exhibits; for media documentation and dissemination of American folk arts, including local and regional programming on television, radio, sound recordings, film, and videotape; and for the development of organizations professionally involved in the support of folk arts and folk artists. (Eligibility: nonprofit organizations, including State and local governments and State art agencies; individuals who possess exceptional talent.)

Types of Assistance: Project Grants.

Promotion of the Humanities—
Humanities Projects in Museums and
Historical Organizations (45.125)

National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

Objectives: To assist museums, historical organizations and other similar cultural institutions to

implement effective and imaginative programs that use material culture to convey and interpret the humanities to the general adult, out-of-school public. (Eligibility: State and local governments and nonprofit museums, historical organizations, historic sites, zoos, plantaria, botanical gardens, and other institutions capable of implementing public programs in the humanities.)

Types of Assistance: Project Grants.

Block Grants +j

The State of Hawaii is also the recipient "block grants" from the Federal Government. The block grants available to the State of Hawaii include the following:

Alcohol, Drug Abuse and Mental
Health Services

- Prevention, treatment and rehabilitation program to deal with alcohol and drug abuse;
- Community treatment services for mental and emotional illness;
- Outpatient care for the chronically mentally ill.

Preventive Health

- Comprehensive public health services;
- Rodent control, fluoridation programs, hypertension, anti-smoking, services to rape victims, and rape prevention programs;

/ Information on Block Grants obtained from Commissioner Carl Anderson, U.S. Department of Health and Human Services.

Planning, establishing or improving emergency medical services, but not operations or equipment;

- Home health service agencies (demonstration).

Primary Care

- Community health centers that serve the medically underserved.

Community Services

(The law replaced the antipoverty programs operated under the Economic Opportunity Act by the Community Services Administration, abolished that agency, and provided for the establishment of an Office of Community Services in the Department of Health and Human Services.)

- Programs that address the causes of poverty and encourage self-sufficiency by assisting low-income people in employment, education, housing, emergency assistance, community participation, and by encouraging the involvement of the private sector in these activities.

Low-Income Energy Assistance

- Assistance to low-income households to meet the costs of home energy (heating or cooling), energy crisis intervention or low-cost weatherization.

Maternal and Child Health

Maternal and child health services, especially for low-income people;

Crippled children's services, Social Security Insurance for disabled children, lead-based

paint programs, genetic disease screening, sudden infant death programs, hemophilia, and adolescent pregnancy.

Social Services

(The law consolidated Title XX Social Services, Day Care, and State and Local Training)

- Programs or services to help those with special needs to achieve and maintain a greater degree of economic self-sufficiency and to prevent neglect, abuse or exploitation of children and adults who are unable to protect their own interest. Services may be particularly directed to the special needs of children, older people, handicapped people, emotionally disturbed people, and those who may be addicted to alcohol or drugs;
- Community-based and home-based care to prevent unnecessary institutionalization; service to persons in institutions.

B. STUDY OF MILITARY PROPERTY REQUIREMENTS IN HAWAII

Periodically, the Department of Defense undertakes a study of military property use requirements in Hawaii. A report growing out of such a study was made in January, 1973 (the FRESH study); another report was completed in April, 1979 (MILPRO-HI Report). 7/ The purpose of these reports is to identify landholdings required to support planned military missions and force levels in Hawaii. As part of the study, the Department of Defense identifies DOD-controlled real property that can be made available for release without degradation of the Defense Department's mission. It also reviews joint military/civil use of DOD-controlled property to evaluate existing joint use and to identify

areas of possible additional joint use. The reviews provide the opportunity for identification of land and facilities that might be made available for native Hawaiian use.

The report notes that total real estate owned by the military in Hawaii is just under 170,000 acres, or about four percent of the total 4,050,000 acres on the eight major islands of the State. Leases, licenses, and easements permit the Defense Department to have non-exclusive use (mostly for training) of about 90,000 acres of open land owned by others. There has been a net reduction of over 25,000 acres from the 1973 Program FRESH total, mostly from the decline in leased training areas. 8/

The MILPR0-H1 Report identifies a number of areas available to be released, totaling over 3,000 acres. 9/ Some of these include ceded lands, which, if released, under the provisions of the P.L. 88-233 (December 23, 1963) must be returned to the State when no longer needed by the Federal Government. 10/ In addition, as part of its analysis of existing and planned land use, the report reviews joint use between the military and civilian users. 11/

To assure that any lands that the Department of Defense releases are considered for use that would meet the unique needs of native Hawaiians, the Commission will provide a copy of its Report to the Department of Defense with a request that attention be paid to those needs. In addition, to assure that similar consideration is given for use of ceded lands which, if released by the Department of Defense, are returned to the State, the Commission will make a similar request of the State. 12/

C. PRESIDENT'S FEDERAL PROPERTY REVIEW BOARD

President Reagan has established a program to review federal landholdings (other than military holdings) throughout the country in order to determine what land and buildings are no longer needed for government use and can be disposed of. The federal members of the Commission have worked with the Executive Director of the Federal Property Review Board to ask that the unique needs of the native Hawaiians be considered when property use is reviewed and when disposition is considered.

D. ESTABLISHMENT OF KALOKO/HONOKOHAU NATIONAL HISTORICAL PARK

The Kaloko-Honokohau National Historic Park has specific historical and cultural significance for native Hawaiians. In 1978, Congress passed legislation authorizing the national historical park based essentially on a 1974 report by the National Park Service and a special study commission for the park (P.L. 95-625). The value of land to be acquired for the park was appraised in 1979 at \$62 million. Only \$25 million has been authorized for acquisition, however. To assist in acquiring land for the park, which is mostly in private ownership, in 1980 Congress passed P.L. 96-514, which authorizes the exchange of federal surplus lands for lands in Kaloko/Honokohau. The Federal Government remains committed to acquisition of the land needed to establish this park, and is continuing to undertake the work and review necessary to establish it. 13/

FEDERAL RESPONSES TO THE NEEDS
OF NATIVE HAWAIIANS

NOTES

V/ Testimony of Winona Rubin to
the Native Hawaiians Study Commission,
January 15, 1982, p. 2.

2/ P.L. 95-568.

2/ P.L. 95-524,

4/ P.L. 95-341.

5/ P.L. 96-398.

6/ 48 U.S.C. § § 691, et seq.

U Military Property Requirements
in Hawaii (MILPRO-HI), State of
Hawaii, April 1979, by the Department
of Defense. The study excludes
evaluation of Fort DeRussy and the
Island of Kahoolawe, in accordance
with Secretary of Defense guidelines,
but includes that property in total
land area evaluations. One commenter
stated that sale of Fort DeRussy would
be "an insensitive move."

i/ MILPRO-HI, Executive Summary,
3.

9/ MILPRO-HI, Section F.

10/ MILPRO-HI, p. A-1.

11/ MILPRO-HI, Section E.

i2/ It has been suggested that any
surplus federal lands be placed in
trust for native Hawaiians. However,
present law requires that ceded lands
be returned to the State. Statutes
regarding federal disposal of surplus
property govern disposition of the
remaining lands and property.

13/ An analysis was made in March
1982 to assist in expediting
acquisition through purchase or
exchange.

State Of Hawaii's Responses To Native Hawaiians' Unique Needs

The State of Hawaii has undertaken a number of steps to meet the unique needs of native Hawaiians. These include acquisition and disposition of revenue pursuant to Section 5(f) of the Statehood Admission Act (48 U.S.C. prec. §491 (P.L. 86-3)); establishment of the Office of Hawaiian Affairs (Act 273, 1980 Legislative Session, codified at Haw. (Rev. Stat. §10-13.5); and establishment of State programs specifically for native Hawaiians through other departments of the State government.

A. ACQUISITION AND DISPOSITION OF REVENUE PURSUANT TO SECTION 5(f) OF THE ADMISSION ACT *J

In 1959, Hawaii was admitted to the union as a state. J/ The special status of Hawaii's public lands was recognized and the intent to return those lands to Hawaii made clear in Hawaii's Admission Act. These lands, formerly the Crown and Government lands, had been ceded to the United States at annexation. In an unprecedented action, the Federal

Government relinquished title to most of the ceded lands held at the time of statehood. 2J

Section 5 of the Admission Act provides the key to understanding Hawaii's ceded lands and the State's responsibilities in relation to those lands. Section 5(a) names the State as successor in title to lands and properties held by the territory. 3/ Section 5(b) then declares that:

...[e]xcept as provided in subsection (c) ai«J (d) of this section, the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title to all the public lands and other property, and to all lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended, within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union. 4/

Section 5(g) of the Act defines public lands and other public property as the "lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation...or that have been acquired in exchange for lands or properties so ceded." 5/

Specifically excepted from the section 5(b) grant were ceded lands • that had been set aside for federal use pursuant to an act of Congress, executive order, presidential proclamation, or gubernatorial proclamation. 6/ Section 5(c) of the Admission Act provided that such lands should remain the property of the United States.

^J Material for this section is taken directly from Melody MacKenzie, Sovereignty and Land: Honoring the Hawaiian Native Claim, pp. 45-53. Footnotes have been renumbered and where necessary specify earlier references. They are otherwise unchanged. Some comments received by the Commission stated that the Native Hawaiians Study Commission Draft Report did not address the ceded lands matter; this chapter, which remains unchanged from the Draft Report, fully responds to those comments.

Section 5(d) of the Act dealt with other exempted lands. It allowed the Federal Government to set aside, within five years, any ceded lands it was using under permit, license, or permission of the territory immediately prior to statehood. Once set aside those lands would also remain the property of the United States. 7/

Section 5(e) required each federal agency in Hawaii having control of land or property retained by the Federal Government under section 5(c) or 5(d) to:

...report to the President the facts regarding its continued need for such land or property, and if the President determined that the land or property is no longer needed by the United States, it shall be conveyed [sic] to the State of Hawaii. 8/

This provision, however, set a five-year deadline for reporting and conveying lands to the State. After August 21, 1964, five years from the date on which Hawaii formally entered the Union, title to ceded lands retained by the Federal Government would vest permanently in the United States.

The final major subsection of section 5 sets forth the State's responsibilities in connection with ceded land⁹. Section 5(f) requires the State to hold all ceded lands returned under Sections (b) and (e), together with the proceeds from their sale or other disposition and the income therefrom:

...as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread

a basis as possible, for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. 9_/

Return of Federally Controlled Lands

At the time of statehood, 287,078.44 acres of Hawaii's public lands had been set aside for the Federal Government. Although section 5(c) of the Admission Act allowed the Federal Government to retain set-aside lands, section 5(e) established a mechanism for conveying some of those lands to the new State. State officials had high hopes for return of substantial portions of federally-held lands, but as Section 5(e)'s five-year deadline approached, only 595.41 acres had been returned. 10/

Furthermore, section 5(d) of the Admission Act allowed the Federal Government to set aside, within five years, lands it was using under lease, permit, or license immediately prior to statehood. Prior to statehood, the Federal Government had permits and licenses on 117,412.74 acres of land. Virtually all of these lands were retained under the Federal Government's control. 87,236.557 acres of land were set aside pursuant to section 5(d) while another 30,176.18 acres were leased to the Federal Government for 65 years at nominal cost. 11/ A 1969 report on Hawaii's public lands described the situation as follows:

Soon after statehood it became apparent that the Defense Department had no intention of immediately giving up control of any of this land, and that this

would quite likely be the final position of the executive branch. Faced with this prospect, Hawaii's Democratic congressional delegation pressed hard for some concessions, but was largely unsuccessful. Serious action by the United States Government was put off until the summer of 1964, when staff members from the Bureau of the Budget went to Honolulu to "negotiate" with Governor Burns regarding this land. The position of the government was uncomplicated. The bulk of the land, 87,236 acres, was definitely to be "set aside" while the remainder of the land was to be leased to the federal government for 65 years at the nominal charge of \$1.00 for each lease. These leases were in fact offered as a kind of concession, for the alternative, as the federal negotiators made clear, would be the "setting aside" of this land as well. The State of Hawaii was clearly bargaining from a position of weakness, and was forced to agree to these terms. ^{12/}

Some of Hawaii's political leaders objected to the five-year deadline set on the return of land that had been set aside for Federal Government use. ^{13/} They contended that Hawaii had a unique claim on these lands and property since they were originally given to the United States by the Republic and were held as a kind of "trust" for the people of Hawaii. As a result, on December 23, 1963, Congress passed Public Law 88-233, a reconveyancing act, effectively amending section 5(e) of the Admission Act. ^{14/} P.L. 88-233 abolished section 5(e)'s five-year deadline and extended, without limitation, the possibility of the Federal Government relinquishing title, without cost to the State, to section 5(c) and 5(d)

ceded lands. However, all lands that had been set aside for national parks (approximately 227,972 acres) became the fee simple property of the Federal Government. Thus, under the provisions of P.L. 88-233 approximately 58,510 acres of land under the section 5(c) category and 87,236 acres under the section 5(d) category, totaling 145,746 acres, became eligible for return to the State of Hawaii at any time. Since 1964, however, less than 500 acres of land have been returned under the reconveyancing act's provisions. ^{15/}

State Responsibilities in Relation to Ceded Lands

Section 5(f) of the Admission Act requires the State to hold the ceded lands, their proceeds, and income as a public trust for any one of five trust purposes:

- (a) Support of public schools and other public educational institutions;
- (b) Betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;
- (c) Development of farm and home ownership on as widespread a basis as possible;
- (d) Making of public improvements; and
- (e) Provision of lands for public use.

Section 5(f) also provides that the use of the ceded lands, their proceeds, and income for any purposes other than those enumerated "shall constitute a breach of trust for which suit may be brought by the United States." ^{16/}

Since statehood, the Department of Land and Natural Resources (DLNR) has

been charged with the receipt and administration of the public land trust established by this section of the Admission Act. ^{17/} However, a 1979 audit of the DLNR indicated that the trust has not been administered in conformance with the Admission Act.

^{18/} The DLNR has failed to properly dispose of the revenue and income from the public land trust. Hawaii Revised Statutes, section 171-18, the implementation legislation for section 5(f) of the Admission Act, established a public land trust fund for the receipt of funds derived from the sale, lease, or other disposition of ceded lands. ^{19/} Hawaii Revised Statutes section 171-19, created a separate fund, the special land and development fund, for all proceeds from the disposition of non-ceded lands (lands which the State may have acquired by condemnation, purchase or other means). ^{20/} This second fund was established for the maintenance and development of all public lands. These two funds were intended to serve different purposes. Monies deposited in the public land trust fund were to come from the disposition of ceded lands and were to be expended in a manner consistent with the directions of section 5(f) of the Admission Act. Monies deposited in the special land and development fund were to come from the disposition of non-ceded lands (lands not subject to the section 5(f) trust) and were to be expended to maintain and develop all public lands.

However, since statehood, DLNR has failed to make this distinction between the two funds and instead has deposited monies from the leases of all public lands into the public land trust fund and monies from the sale of all public lands into the special land and development fund. ^{21/} Thus, in depositing money in the two funds, the distinction between ceded lands (lands subject to the section 5(f) trust) and non-ceded lands (lands not subject to the 5(f) trust) has been ignored;

instead, monies have been deposited on the basis of a lease/sale dichotomy.

The reason given for the failure to conform to the mandate of § 5(f) of the Admission Act is even more disturbing. No inventory of public lands exists and the DLNR has been unable to distinguish between ceded and non-ceded public lands. ^{22/} A recent article on Hawaii's ceded lands observed that:

In fact, between statehood and 1979, no attempt had been made by the Department to compile a comprehensive inventory of the state's public lands, much less one distinguishing between its ceded and non-ceded portions. Notwithstanding the difficulty of assembling such an inventory given the deficiencies in existing records, it is still curious, in light of the requirements of the section 5(f), that such *an* inventory does not exist at the present time. ^{23/}

That same article concluded that the absence of an inventory and the confusion of funds have impeded the administration of the section 5(f) public trust in several ways. ^{24/} First, because the DLNR cannot use the ceded/non-ceded distinction in recording receipts, there is no way of knowing the accuracy of its figures for each fund or of determining which monies belong to which fund. Since most of the income from public lands is derived from ceded lands, this failure to distinguish ceded and non-ceded lands has probably worked to the disadvantage of the public land trust fund. Secondly, the wrongful deposits may have resulted in expenditures of public trust monies for the purposes of the special land and development fund and vice versa. However, it is impossible to know the extent to which the expenditures may have been wrongfully applied until a

comprehensive inventory is completed. Likewise, until an inventory is completed, the total amount of monies available for section 5(f) trust purposes cannot be determined. Finally, because section 5(f) requires the State to hold ceded lands separately in trust, the State's failure to identify ceded lands, like a private trustee's failure to identify and segregate trust assets, constitutes an independent breach of its 5(f) obligations.

B. THE OFFICE OF HAWAIIAN AFFAIRS */

Until the 1978 Constitutional Convention, little attention had been focused on section 5(f) of the Admission Act and its trust language. At the Convention, however, members of the Hawaiian Affairs Committee sought to clarify and implement the Admission Act's trust language as it relates to native Hawaiians. 25/ As a result three new sections were added to the Constitution.

The first section specified that the lands granted to the State by Section 5(b) of the Admission Act (with the exception of the Hawaiian Homes Commission Act's "available lands") were held by the State as a public trust for native Hawaiians and the general public. 26/ The second section established an Office of Hawaiian Affairs (OHA), to be

_V Material for this section was taken directly from MacKenzie, Sovereignty and Land, pp. 53-56. Footnotes have been renumbered and where necessary specify earlier references, but are otherwise unchanged. Definitional clarifications to make this section consistent with the remainder of the Report have been added in brackets.

governed by a nine-member board of trustees, which would hold title to all real or personal property set aside or conveyed to it as a trust for native Hawaiians and Hawaiians. 27/ A final section set forth the power of the board of trustees and made it clear that included within the property that OHA was to hold in trust would be a pro rata portion of the income and proceeds from the lands granted to the State by section 5(b) of the Admission Act. 28/ (An additional section defined the terms Hawaiian and native Hawaiian, but the Hawaii Supreme Court subsequently determined that this section had not been validly ratified in the 1978 general election. 29/)

Although OHA was established to serve all [native] Hawaiians, it is clear from the OHA amendment and the relevant committee reports 30/ that the Constitutional Convention structured OHA as the trust entity to receive and administer the share of the public land trust funds designated for the betterment of the conditions of native Hawaiians [as defined] under the Admission Act. The definition of native Hawaiian in section 5(f) of the Admission Act is tied to the definition of native Hawaiian under the Hawaiian Homes Commission Act. Benefits under the Hawaiian Homes Commission Act are limited to those with fifty percent or more aboriginal blood. 31/ Thus, although the OHA amendment names two beneficiaries of the OHA trust--native Hawaiians (those with fifty percent or more aboriginal blood) and Hawaiians (those with any quantum of aboriginal blood)--OHA is , restricted to utilizing its public land trust funds solely for the benefit of its native Hawaiian [50 percent blood quantum] beneficiaries.

The Admission Act left to State law the allocation of the public land trust proceeds and income among the five trust purposes. 32/ While the

OHA constitutional provision stated that a pro rata share of the proceeds and income should be directed to OHA, the amendment did not define that pro rata share. That determination was left to the State legislature and in 1980, after lengthy discussion, OHA's pro rata share was set at twenty percent. 33/

Securing a pro rata portion of the public land trust fund for native Hawaiians [50 percent blood quantum) was a primary motive for establishing the Office of Hawaiian Affairs. Of equal importance, however, were the objectives of providing all [native] Hawaiians with the right to choose their leaders through the elective process and providing a vehicle for self-government and self-determination. The high level of voter participation in the 1980 OHA elections indicates that those objectives are supported by the [native] Hawaiian people. 34/

OHA is a unique entity combining features of both a public trust and government agency. Under Hawaii law, OHA is a separate state agency, independent of the executive branch. 35/ Its independence is assured by its primary funding mechanism (the public land trust fund), its control over internal affairs, its ability to acquire and manage property, its power to enter into contracts and leases, and the elective process by which the Board of Trustees is chosen. 36/ At the same time, OHA also acts as a trustee in administering its funds for the benefit of native Hawaiians and Hawaiians. OHA's statutory purposes 37/ include:

Promoting the betterment of conditions of all [native] Hawaiians;

Serving as the principal public agency in the State responsible for the performance, development, and coordination of programs and activities

relating to [native] Hawaiians, with the exception of the Hawaiian Homes Program;

3. Assessing the policies and practices of other agencies impacting on native Hawaiians [50 percent blood quantum] and [native] Hawaiians;
4. Conducting advocacy efforts for native Hawaiians [50 percent blood quantum] and [native] Hawaiians;
5. Applying for, receiving, and disbursing grants and donations from all sources for native Hawaiians [50 percent blood quantum] and [native] Hawaiians; and
6. Serving as a receptacle for reparations from the Federal Government.

C. OTHER STATE GOVERNMENT PROGRAMS

Other existing State programs for education, health, and other needs of the native Hawaiians, as well as other state residents, are described in Part I of this Report.

STATE OF HAWAII'S RESPONSES TO
NATIVE HAWAIIAN'S UNIQUE NEEDS

NOTES

1/ Admission Act of March 18, 1959, 735 Stat. 4.

2/ Hawaii's Ceded Lands, 3 U.H.L.R., 101, 102 (1981) [hereinafter cited as "Ceded Lands"].

Admission Act, *supra*, at §5(a). *

i/ Ibid, at §5(b).

1/ Ibid, at 55(g).

y Ibid, at §5(c).

2/' Ibid, at §5(d).

y Ibid at §5(e).

2/ Ibid, at §5(f).

10/ Ibid., R. Horowitz, Public Lands Policy in Hawaii; an Historical Analysis (Legislative Reference Report No. 5, 1969), pp. 70-71.

11/ Ibid, p. 75.

11/ Ibid.

11/ See discussion in Ibid., pp. 72-72.

14/ Pub. Law. No. 88-233, 77 Stat. 242 (December 23, 1963).

15/ Interview with Jack Kaguni, formerly of the Land Management Division of the Hawaii Department of Land and Natural Resources.

16y Admission Act, *supra*, at 5(f).

17/ The DLNR is charged with managing all of Hawaii's public lands. See generally, HRS Chap. 171, and HRS §26-15 and note 86, *infra*.

18/ A Report to the Governor and the Legislature of the State of Hawaii, submitted by the Legislative Auditor of the State of Hawaii, Audit Report No. 79-1 (January 1979) [hereinafter cited as "Audit"].

22/ HRS §171-18 provides: Public land trust. All funds derived from the sale or lease or other disposition of public lands shall be appropriated by the laws of the State; provided, that all lands ceded to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July 7, 1898 (30 Stat. 750), or acquired in exchange for lands so ceded, and returned to the State of Hawaii by virtue of section 5(b) of the Act of March 18, 1959 (73 Stat. 6), and all proceeds and income from the sale, lease or other disposition of lands retained by the United States under sections 5(c) and 5(d) of the Act and later conveyed to the State under section 5(e) shall be held as a public trust for the support of the public schools and other public education institutions, for the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible, for the making of public improvements, and for the provision of lands for public use. (L 1962, c 32, pt of §2; Supp, §103A-181).

20/ HRS §171-19 authorizes the land board to use the special land and development fund for the following purposes:

- (1) To reimburse the general fund of the State for advancements heretofore or hereafter made therefrom, which are required to be reimbursed from the proceeds of sales, leases, licenses, or permits derived from public lands;
- (2) For the incidental maintenance of all lands under the control and management of the board, including the repair of the improvements thereon, not to exceed \$100,000 in any fiscal year;
- (3) To repurchase any land, including improvements thereon, in exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided, that all such reimbursable fees collected by the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter, provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules and regulations adopted by the board;
- (6) For the planning and construction of roads and trails along state rights-of-way not to exceed \$5,000 in any fiscal year;

- (7) For the payment to private land developer or developers who have contracted with the board for development of public lands under the provisions of section 171-60.

11/ A"dlt, pp. 32-33.

22/ Ibid, at 35.

23/ Ceded Lands, pp. 142-143.

ii/ Ibid>

25/ The State has channeled the majority of the public land trust funds toward public education.

26/ State Constitution, Art. XII, §4: PUBLIC TRUST. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public. (Add Const. Con. 1978 and election Nov. 7, 1978).

27/ Ibid., §5: OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall elect a chairperson from its members. (Add Const. Con. 1978 and election Nov. 7, 197b).

28/ Ibid. §6. POWER OF BOARD OF TRUSTEES. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board. (Add Const. Con. 1978 and election Nov. 7, 1978).

29/ The definitional section in the proposed amendment defined Hawaiian as "any descendant of the races inhabiting the Hawaiian Islands, previous to 1778" and native Hawaiians as "descendants of not less than one-half of the blood of races inhabiting the Hawaiian Islands previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended." 1978 Constitutional Convention Proposal No. 13, R.D.2, S.1. Kahalekai v. Doi, 60 Haw. 324, 590 P. 2d 543 (1979), held that this section was not validly ratified.

30/ Constitutional Convention of 1978, Committee on Hawaiian Affairs Standing Comm. Report No. 59 and Committee of the Whole. Report No. 13.

31/ See Hawaiian Homes Commission Act 7-42 Stat. 108.

32/ Admission Act, supra at |5(f).

33/ Act 273, 1980 Legislative Session, codified at Haw. Rev. Stat. §10-13.5.

34/ In the 1980 election, 54,083 Hawaiians registered to vote in the OHA elections representing over 80 percent of the total estimated eligible Hawaiian voters. 78.9 percent of these registered voters cast ballots in the OHA election.

35/ Haw. Rev. Stat. §10-4.

36/ Ibid, sets forth the powers of the OHA trustees.

37/ Ibid, at §10-3.

Private And Local Responses To Special Needs Of Native Hawaiians

A number of private and local organizations have worked to meet the unique needs of native Hawaiians. These include Alu Like, Inc., the Queen Liliuokalani Children's Center, the King William C. Lunalilo Trust, and the Kamehameha Schools established under the Bernice Pauahi Bishop Estate.

A. KAMEHAMEHA SCHOOLS/BERNICE PAUHI BISHOP ESTATE

When Bernice Pauahi Bishop, the last descendant of Kamehameha I, died in 1884, the bulk of her estate of over 373,000 acres was bequeathed to a charitable trust, to be administered by five named persons whose successors were to be appointed by a majority of the justices of the State Supreme Court. 1/ Approximately 90 percent of the estate's land is leased for long terms for residential, agricultural, commercial, and industrial purposes. 2/ The purpose of the trust is to maintain two schools and to support orphans and other indigents "giving the preference to Hawaiians of pure or part aboriginal blood..." The estate has limited its activities almost exclusively to maintaining the Kamehameha School for its students, all of whom have native Hawaiian blood. 3/ Currently, 2,617 students attend School camps. 4/ The school also has an extension education division, involving over 20,000 students in 28 different activities.

1/

B. QUEEN LILIUOKALANI CHILDREN'S CENTER

Queen Liliuokalani established a trust, as amended October 11, 1911, which provided: "From and after the

death of the Grantor, all the property of the trust estate, both principal and income,... shall be used by the trustees for the benefit of orphan and other destitute children...in the Hawaiian Islands, the preference to be given to the Hawaiian children of pure or part aboriginal blood." 6/

At the outset, the trust established an orphanage. In 1934, the Trustee sought to substitute care in foster homes for the outmoded orphanage. At present:

Our staff not only meet the various needs of the children left orphaned by the death of a parent, but also other children whose educational needs are not being met at school and at home, the needs of teenage mothers who are keeping their children, needs of children coming from families which are dysfunctioning and disintegrating, needs of children and families in learning their cultural heritage. These various needs are being met by three agency programs: (1) Individual and Family Services; (2) Community Development; and (3) Group Services. 7/

The Trust operates such wide-ranging projects as counseling, the Children's Center campsite and beach, and agriculture/hydroponics projects to teach life skills to children. The focus is to provide services to children of Hawaiian and part-Hawaiian blood. In 1980, the Trust expended just over \$2 million and provided continuous service to 5,594 children and brief service (one to two interviews) to 5,670 children. 8/

C. LUNALILO HOME _9/

The Lunalilo Home is a custodial care facility funded by the Lunalilo Trust Estate for indigent Hawaiians whose families are unable to care for them. Referral services are provided for those applicants needing nursing care or alcoholic treatment.

Currently, there are fifty-five residents: twenty-two men and thirty-three women. There are nineteen full-Hawaiians, and the majority of the others have more than 50 percent Hawaiian ancestry. They are housed in two large wards with two or three to a room. Twenty-three of the residents are disabled, needing wheelchairs, walkers, or canes, or are blind. Each individual provides his or her own medical care payments: Department of Social Services and Housing, private, Medicare, or other.

The Home attempts to maintain an enriched Hawaiian style of life. Polynesian music and dance are probably the most participated-in activities. The residents have formed their own ensemble and make appearances around the island.

Other disabled and/or interested persons in the community are encouraged to participate in such Home programs as excursions, classes, and religious devotions. Many volunteers spend time assisting and teaching those who have interest.

D. ALU LIKE, INCORPORATED 10/

Alu Like, Inc. is a private, non-profit social change organization that works toward native Hawaiian economic and social self-sufficiency. It administers the Alu Like Native Hawaiian Projects and employment and training programs. Its primary funding sources are the United States Department of Health and Human Services and the Department of Labor;

the State of Hawaii through the Hawaii Office of Economic Opportunity; and private foundations, donations, and volunteers. Alu Like provides a number of services, including: intake and referral to appropriate agencies; advocacy and community development; training and technical assistance; pilot projects to demonstrate resolution of blocks, gaps, and needs; employment and training; and Economic Development Institute activities. Alu Like administers island centers on Hawaii, Maui, Molokai, Oahu, and Kauai.

PRIVATE AND LOCAL RESPONSES TO
SPECIAL NEEDS OF NATIVE HAWAIIANS

NOTES

y Neil Levy, "Native Hawaiian Land Rights," 63 California Law Review 848 (1975), pp. 860, 870-876.

2J Ibid., p. 871. Levy questions whether the investment policy of the trustees produces sufficient return to meet their fiduciary obligations.

2/ Ibid., p. 872. As of 1975, the Kamehameha Schools received 85 percent of their expenses from the Estate; the remainder came from tuition paid by students.

\J Alu Like, Inc., Analysis of Needs Assessment Survey and Related Data, A Team Report (1976), Part B-3.

5/ Ibid.

6/ Information for this part of the Report is taken from the 1980 Annual Report of the Queen Liliuokalani Children's Center-Liliuokalani Trust, and a statement of the Center-Trust "History and Programs."

!./ Ibid., 1980 Annual Report, p. 6.

8/ Ibid., p. 12.

9/ Alu Like, Analysis of Needs, Part B-3. One comment received by the Commission on its Draft Report points out that Kamehameha Schools, Queen Liliuokalani Children's Center and the Lunalilo Home started with a land base, the income from which provide funding. The Lunalilo Home sold its land and is funded by an investment portfolio that is worth a smaller amount than the land that funds the other two organizations. In addition,

this commenter points out that two other services for native Hawaiians use a "land base"—Queen's Hospital and the Kapiolani Maternity Hospital.

10/ Information for this Section is taken from an undated Alu Like report provided to the Commission.



Photo by Robert Goodman.

A Hawaiian elder or kupuna.

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Glossaries

- Selected Glossary of Hawaiian Words
- Glossary of Legal Terms

Selected Glossary Of Hawaiian Words*

ahupua'a: Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a), or because a pig or other tribute was laid on the altar as tax to the chief...

'aia: Ungodly, irreligious, wicked, careless of observing taboos; wickedness.

'ai kapu: To eat under taboo; to observe eating taboos.

'aina: Land, earth.

'ai noa: To eat without observance of taboos.

akaku: Vision, trance; reflection, as in a mirror; to see a vision.

akamai: Smart, clever, expert; smartness, skill*

akua: God, goddess, spirit, ghost, devil, image, idol, corpse; divine, supernatural, godly...

'alana: Offering, especially a free-will offering, contrasting with a mohai that was prescribed by a priest; to offer...

ali'i: Chief, chiefess, king, queen, noble...

aloha: Aloha, love, affection, compassion, mercy, pity, kindness, charity; greeting, regards;

sweetheart, loved one; beloved, loving; to love, show kindness, mercy, pity, charity, affection; to remember with affection; to greet, hail...

'aumakua: 1) Family or personal god;...

ea: ...2) Life, breath, vapor, gas, breeze, spirit...

ha: To breathe, exhale; to breathe upon, as kava after praying and before prognosticating; breath, life...

hakaokao: 1) Decaying, as taro in the field or a few days after choking. 2) Hole for inserting mast in a canoe.

haku ohi'a: Image made of 'Shi'a wood, as used in the luakini ceremonies; god of the 'ohi'a tree.

hala: , Sin, error, offense; to sin...

halau: Long house, as for canoes or hula instruction...

hale 'aina: Restaurant, cafe, eating house; in ancient times, the eating house for women.

hale moe: Sleeping house.

hale pe'a: 1) Tent. 2) Menstrual house.

nana: Work, labor, job, duty, office; activity of any kind, action, act, deed, service, behavior; to work, labor, do, prepare; to develop as a picture; to have a love affair; to induce by sorcery...

^J All definitions are taken from: Mary Kawena Pukui and Samuel H. Elbert, Hawaiian Dictionary (Honolulu: University of Hawaii Press, 1971).

<u>hahai</u> : Foster child, adopted child...	dark and glossy, the petioles reddish with yellow-green stripes.
<u>hanu</u> : To breathe, smell, sniff; breath, respiration; the last breath of life...	<u>'ili</u> : ...5) Land section, next in importance to <u>ahupua'a</u> and usually a subdivision of an <u>ahupua'a</u> .
<u>haole</u> : White person, American, Englishman, Caucasian; formerly, any foreigner.	<u>'ili kupo</u> : A nearly independent <u>'ili</u> land division within an <u>ahupua'a</u> , paying tribute to the king and not to the chief of the <u>ahupua'a</u> . Transfer of the <u>ahupua'a</u> from one chief to another did not include the <u>'ili kupo</u> located within its boundaries.
<u>hapa haole</u> : Part-white...	<u>ilo</u> : ...2) Young shoot; to germinate, sprout.
<u>heiau</u> : Pre-Christian place of worship; some <u>heiau</u> were elaborately constructed stone platforms, others simple earth terraces.	<u>'ino</u> : Wicked; immoral, sinful; sin.
<u>heiau ho'ola</u> : Heiau for treating sick.	<u>ipu</u> : The bottle gourd...Hawaiians have long used gourds as receptacles, small gourds with thin walls to hold water or food, or for rattles for dances (the <u>ipu</u> has a fine tone, halfway between that of <u>niu</u> and <u>la'amia</u>), larger ones with thin to thick walls to hold tapa and other articles or to serve as drums...
<u>heiau oo'okanaka</u> : Heiau where human sacrifices were offered.	<u>kahako</u> : Steep, sheer.
<u>hiohio</u> : 1) To whistle softly; to blow softly; to draw in the breath as of one eating hot food. 2) Gibberish; to jabber. 3) Lure for trolling, said to be named for its whistling sound tripping over the water.	<u>kahu akua</u> : One who takes care of an image or god; priest.
<u>ho'ike</u> : To show, exhibit.	<u>kahuna</u> : Priest, minister, sorcerer, expert in any profession; to act as priest or expert.
<u>ho'olono</u> : To listen, hear, obey, obedient.	<u>kahuna lapa'au</u> : Medical doctor, medical practitioner. Lit., curing expert.
<u>ho'opapa</u> : (a) To touch repeatedly; to feel, as a blind person; a contest in wit or strength; to hold such a contest; repartee...	<u>kaikua'ana</u> : Older sibling or cousin of the same sex; sibling or cousin of the same sex of the senior line, whether older or younger.
<u>ho'oulu</u> : To grow (trans.), sprout, cause to increase, as the surf...2) Possessed by a spirit; inspired by a spirit, god, ideal, person; stirred, excited; to enter in and inspire...	<u>kama'aina</u> : Native-born, one born in a place, host; native plant; acquainted, familiar...
<u>'ie'ie</u> : 1) An endemic woody, branching climber (<u>Freycinetia arborea</u>) growing luxuriantly in forests at altitudes of about 1,500 feet...2) A native variety of taro, with leaf blades and flowers suggesting <u>'ie'ie</u> , 1; the leaves are	

kanaka maoli: Hawaiian person.

kanawai: Law, code, rule, statute;
legal (perhaps so called because
many early laws pertained to water
[wail] rights); to obey a law; to
learn from experience...

kaokao: Syphilis. (Cf. hakaokao).

kaona: Hidden meaning in Hawaiian
poetry; concealed reference, as to a
person, thing, or place; words with
a double meaning that might bring
good or bad fortune...

kapa: Tapa, as made from wauke or
mamaki bark; formerly clothes of any
kind or bedclothes...

kapu: Taboo, prohibition;
sacredness...

kaua: War, battle; army; to make
war.

kauila: ...3) Taboo ceremony
consecrating a temple; ceremonial
readorning of images with
feathers...

kauwa: Untouchable, outcast, pariah;
a caste which lived apart and was
drawn on for sacrificial victims;
slave; servant...

kino: 1) Body, person, individual,
self; main portion; form; fully
formed, as a foetus; bodily,
physical...

kino lau: Many forms taken by a
supernatural body, as Pele, who
could at will become a flame of
fire, a young girl, or an old hag.

kino wailua: Spirit of the dead; dead
person, bodily remains, corpse.

koko: Blood; rambov-hued...

kokua: Help, assistant, helper;
comforter; co-operation; to help,
assist, support; to second a
motion...

konohiki: Headman of an ahupua'a lane
division under the chief...

Ku: ...11) Name of major god...

kuhina nui: Powerful officer in the
days of the monarchy; the position
is usually translated as "prime
minister" or "premier," but
according to Kuykendall, carried
greater power; the kuhina nui shared
executive power with the king.

kukui: Candlenut tree (Aleurites
moluccana), a large tree in the
spurge family bearing nuts
containing white, oily kernels which
were formerly used for lights and
are still cooked for a relish...

kuleana: Small piece of property,
as within an ahupua'a...

kupua: Demigod, especially a
supernatural being possessing
several forms as kama-pua'a (man,
pig, fish), lae-nihi (a woman, a
fish); one possessing mana; to
possess kupua (magic) powers...

kupuna: Grandparent, ancestor,
relative of the grandparent's
generation, grandaunt, granduncle.

lauloa: Long wave or surf, as
extending from one end of the beach
to the other. Also called kakala.

- lehua: 1) The flower of the 'ohi'a tree (Metrosideros macropus, M. co lima); also the tree itself; the lehua is the flower of the island of Hawaii, famous in song and tale. Fig., a warrior, a beloved friend or relative, a sweetheart, an expert...
- lei: Lei, garland, wreath, necklace of flowers, leaves, shells, ivory, feathers, or paper, given as a symbol of affection; beads; any ornament worn around the head or about the neck; to wear a lei; special song presenting a lei; crown...
- lipo: 1) Deep blue-black, as of a cavern, the sea, or dense forest; dim, distant...
- loa: Distance, length, height; distant, long, far; permanent...
- Lono: ...2) One of the four major gods brought from Tahiti, the god of the makahiki harvest festivities and of agriculture. He is also regarded as the god of medicine. Captain Cook was believed to be the god Lono and was thus addressed...
- luakini: Temple, church, cathedral, tabernacle; large heiau where ruling chiefs prayed and human sacrifices were offered.
- lu'au: 1) Young taro tops, especially as baked with coconut cream and chicken or octopus...
- luna: ...2) Foreman, boss, overseer, supervisor, officer of any sort, commissioner.
- mahina: Moon, month; moonlight.
Mahina meli, honeymoon...
- maika'i: Good, well, fine, excellent; good-looking, handsome, beautiful, goodness, righteousness, well-being, morality; good looks, good health...
- maile: A native twining shrub (Alyxia olivaeformis), with shiny fragrant leaves, used for decoration and leis. It is a member of the periwinkle family. Laka, goddess of the hula, was invoked as the goddess of the maile, which was one of five standard plants used in her altar.
- ma'i-'5ku'u, ho'Sku'u: Disease at time of Kamehameha I, perhaps cholera, and perhaps so called because it was dysenteric, and people were squatting ('oku'u) much at stool.
- ma'i-Pake: Leprosy, literally, Chinese disease.
- maka'ainana: Commoner, populace, people in general; citizen...
- Maka-'alohilohi: Name of a star.
Lit., bright eye.
- makahiki: ...2) Ancient festival beginning about the middle of October and lasting about four months, with sports and religious festivities and taboo on war.
- malo: Male's loincloth; chant in praise of a chief's loincloth...
- mana: Supernatural or divine power; a powerful nation, authority...
- mele: Song, chant of any kind, poem.
- Menehune: Legendary race of small people who worked at night, building fish ponds, roads, temples, if the work was not finished in one night, it remained unfinished...

moepu'u: Victim slain at the secret burial of a chief, so as to reduce the number of witnesses; victim who commits suicide or has himself killed in order to show love for a dead chief, death.

moe 'uhane: Dream; to dream.

mo'i: King, sovereign, ruler, queen; a rank of chiefs who could succeed to the government but who were of lower rank than chiefs descended from the god Kane.

moku: ...2) District, island, section; forest, grove; severed portion; fragment, cut...

na'auao: Learned, intelligent, enlightened; learning, science...

namu: 1) Unintelligible muttering, gibberish; any foreign language, especially English; to speak gibberish or a foreign language...

n!'au kani: A true Jew's harp, made of a thin strip of wood, about four inches long and one inch wide, with a coconut midrib (ni 'au) or bamboo strip lashed lengthwise; played something like the 'ukeke.

no 'eau: Cle-ver, skillful, dexterous, wise, artistic.

noho: Seat, chair, stool, bench, saddle...2) To live, dwell; to be in session; to stay, tarry; to marry...

V~.hē: Tare growing from the older root, especially iron the stalk called kalo; tender plant...

'ohana: 1) Family, relative, kin group; related. 2) To gather for family prayers vshort for pule

'6"iwi: Native, native son...

'okina: Cutting off, ending, severance, separation. 2) Glottal stop.

ola: Life, health, well-being, living, livelihood, means of support, salvation; alive, living; spared, recovered; healed, to live; to spare, save, heal, grant life...

'olani: 1) To toast over a fire, broil, warm in sunlight...

'olelo: Language, speech, word; to speak, say, tell; oral, verbatim, verbal...

'opu ali'i: (Same as na'au all'i - kind, thoughtful, forgiving, possessed of aloha. Lit., chiefly heart:.)

papa: Flat surface, stratum, layer, level, foundation, story of a building; class, rank, order, table; ...

pono: 1) Goodness, uprightness, morality, moral qualities, correct or proper procedures, excellence, well-being, prosperity, welfare, true condition or nature, duty; moral, fitting, proper, right, just, fair, beneficial, successful, in perfect order...

po'o kanaka: Hunan head, skill. Cf. heiau po'o kanaka

po'olua: Child sired by other than the husband, but accepted by both husband and sire; this acceptance increased the number of relatives of the child who -?ave their loyalty to him as kinsr.en; it thus fostered the prestige of children of chiefs; translated "adulterous" in the 1843 Bible (Mar. 8.38), but changed in later editions.

p_u: 1) Large triton **conch shell**
(*Charonia tritonis*); **any wind**
instrument, as **horn, trumpet,**
cornet...2) Gun, **pistol...**

wehi: Decoration, adornment; to
decorate.

pu'uhonua: Place of **refuge, asylum,**
place of peace and **safety.**

uakoko: 1) **A low-lying rainbow.**
Lit., blood rain. 2) **A rain so heavy**
that it turns stream **waters**
red-brown with the wash of the
hillside...

'uhane: Soul, spirit, ghost; **dirge** or
song of lamentation (**rare**);
spiritual.

'u"keke: A variety of musical **bow,**
fifteen inches to two **feet long and**
about an inch and **a half wide,** with
two or commonly three **strings drawn**
through holes at one end. **The**
strings were strummed. **According to**
Roberts...the old experts **made no**
sound with the vocal cords, **but the**
mouth cavity acted as a **resonance**
chamber. The resulting **sound**
suggested speech and trained persons
could understand.

uluwehi: Lush and beautiful **verdure;**
a place where beautiful **plants**
thrive; festively adorned.

unu: ...2) Altar, especially **a crude**
one for fishermen *or* for the god
Lono_...

wahine: Woman, lady, wife;
sister-in-law, female **cousin-in-law**
of a man, queen in a deck of cards;
womanliness, female, femininity;
feminine; Mrs.; to **have** or **obtain a**
wahine; to become a woman, as **an**
adolescent...

wao: A general term for inland
region, usually not precipitous and
often uninhabited.

Glossary Of Legal Terms

Aboriginal title: A legal concept of title derived from a native group's use and occupancy of land from time immemorial.

Adverse possession: A principle that provides a method of acquired title of property by possession for a period of time fixed by statute and under certain conditions. The possession must be actual, adverse, under claim of right, open, and notorious.

Alienation of land: Conveyance or transfer of title to property.

Allodial: Free, owned without obligation to a superior feudal owner; the opposite of feudal.

Appurtenant water rights: Water rights used with the land for its benefit. In Hawaiian water law, a present right to use the amount of water used at the time of the award of the land under traditional Hawaiian land law.

Dictum: A remark by a court that is not essential to the ruling in the case; it does not have binding effect in later cases.

Extinguish title: The cancellation of a right to land.

Fast land: Land above the river banks, not subject to frequent erosion.

Fee simple absolute title: Title that is absolute to a person and his heirs and assigns forever without limitation or condition.

Feudal, defeudalization: Feudal lands are those held from a superior on condition of providing him with services. Defeudalization is changing the system of laws to end

feudal tenure in lands.

Geothermal development: Establishing a means for deriving energy from the heat of the earth's interior.

Inalienable: Not subject to alienation; the characteristics of those things that cannot be bought, sold, or transferred from one person to another. An example is certain personal rights such as liberty.

Navigable waters: Rivers and streams that afford a channel for useful commerce. Waters are "navigable waters of the United States" when they form, by themselves or by uniting with other waters, a continuous highway over which commerce is or may be carried in with other states or foreign countries in the customary ways in which such commerce is conducted by water.

Patent (land patent): The document by which a state or government grants public land to an individual.

Prescriptive water rights: Rights to use surface waters that are acquired by long-term use.

Prorogue: To suspend or end a legislative session.

Quit claim: To release or relinquish a claim in land.

Recognized title: The right to occupy and use certain lands permanently that the United States has specifically granted by law or statute to a native group.

Title: The means by which the owner of lands had the possession of his property. It is the union of all the elements that constitute ownership.

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2/ References used by authors whose papers are included in this Final Report are marked in this "List of References" as follows:

[1] denotes references used by Richard Kekuni Blaisdell, in the "Historical and Cultural Background" section of his paper entitled, "Health Section of Native Hawaiians Study Commission Report." The section of his paper appears in this Final Report as Section B. of the chapter on "Health and Social Services."

[2i] denotes the references used by Larry L. Kimura in his paper entitled "Language Section of Native Hawaiians Study Commission Report." His paper appears in the Final Report as Section B. of the "Native Hawaiian Culture" chapter.

(cont'd)

[3] denotes the references used by Rubellite K. Johnson in her paper entitled "Religion Section of Native Hawaiians Study Commission Report." Her paper appears in this Final Report as the chapter entitled "Native Hawaiian Religion."

[4] denotes the references used by William Dudley and Lt. Donna Nelson of the Naval Historical Center in Section B. of the chapter entitled "Diplomatic and Congressional History: From Monarchy to Statehood."

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A Hawaiian construction worker, in contemporary Hawaii, watches the concrete piles go up on another high rise.

Appendix

- Public Law 96-565, Title III
- Substitute Findings/Conclusions/
Recommendations Section Submitted
at March 3, 1983 Native Hawaiians
Study Commission Meeting
- Summary of Written Comments Received
by the Commission
- Written Comments Received by the
Commission

* Public Law 96-565-Dec. 22, 1980

SEC. 301. This title may be cited as the "Native Hawaiians Study Commission Act".

NATIVE HAWAIIANS STUDY COMMISSION

SEC. 302. There is hereby established the Native Hawaiians Study Commission (hereinafter in this title referred to as the "Commission").

(b) The Commission shall be composed of nine members appointed by the President. Not more than three of such members shall be residents of the State of Hawaii.

(c) The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of appointment.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The President shall call the first meeting of the Commission not more than ninety days after the date of the enactment of this title.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) Each member of the Commission shall receive \$100 for each day such member is engaged in performing the duties of the Commission, except that members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their service on the Commission other than official travel expenses.

(h) While away from their homes or regular places of business in the

performance of services for the Commission, members of the Commission (including members who are fulltime officers or employees of the United States) shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may--

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals.

(j) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission* the head of such department or agency shall furnish such information to the Commission.

(k) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

Sec. 303. (a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed.

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President and to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(e) The Commission shall make recommendations to the Congress based

on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

Sec. 304. Except as provided in subsection (b) of section 307, upon the expiration of the sixty-day period following the submission of the report required by section 303, the Commission shall cease to exist.

DEFINITIONS

Sec. 305. For the purposes of this title, the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior 1778.

SAVINGS CLAUSES

Sec. 306. No provision of this title shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Native Hawaiians to sue the United States or any of its offices; or

(2) constituting a precedent for reopening, renegotiating, or legislating any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

Sec. 307. (a) There are hereby authorized to be appropriated for fiscal years 1982 and 1983 such sums as are necessary to carry out the provisions of this title. Until October 1, 1981, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made

from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 304.

Approved December 22, 1980.

Summary Of Findings, Conclusions And Recommendations *

As traced in the legislative history of measures preceding the establishment of the Native Hawaiians Study Commission (NHSC), the Congress wished to be advised about:

- 1) whether a wrong had been committed by the United States against the Native Hawaiian people; and
- 2) what appropriate actions could be recommended to remedy such a wrong.

It is the major finding of this Commission, after an examination of available governmental and historical records, that such a wrong did occur. The overthrow of the Kingdom of Hawai'i, the loss of Native Hawaiian domain and dominion, and accompanying social and cultural disruption among Native Hawaiians are consequences of that wrong.

Nature of the Wrong. After a review of the documents and on-hand descriptions of the actions and events which culminated in the overthrow of the Kingdom of Hawai'i, we find that:

*

- the United States, and its officers in the State and Navy Departments, did incite and encourage treason against the legitimate government of the Kingdom of Hawai'i;

*/ This is the substitute presented at the March 3, 1983 meeting of the Native Hawaiians Study Commission by three Native Hawaiians Study Commissioners (see above, "Approach and Methodology"). It is reproduced here unchanged.

- American diplomatic and military authorization of support to a numerically-small band of insurgents emboldened and, ultimately, directed their actions against the legal government of Hawai'i in 1893;
- this domestic insurgence against the Queen and her government lacked popular support, did not have sufficient arms to succeed unaided, and would have failed without the acts of the United States;
- the diplomatic and military intervention of the United States in support of the insurgents constituted a breach of international law, of existing treaties of friendship and trade with the Kingdom, and was an illegal and immoral act of war against an independent nation and her people; and
- these actions by the United States compelled the Queen of Hawai'i to suspend her authority and that of her government to the United States, pending appropriate review.

RECOMMENDATION #1

Based on these findings, we recommend that:

the Congress of the United States, by Joint Resolution, clearly acknowledge the role and actions of the United States in the overthrow of the Kingdom of Hawai'i, and indicate its commitment to grant restitution for the losses and

damages suffered by Native Hawaiians as a result of those actions.

Nature of the Losses and Damages.

The Kingdom of Hawai'i and her people had a separate and distinct cultural, legal, and Constitutional history. Although strongly influenced by Euro-American models and individuals, Native Hawaiians had devised modern institutions of government, property and social organization which reflected both an ancient past and a contemporary standing among nations.

What, then, were the nature of the losses and damages experienced by Native Hawaiians with the illegal overthrow of the Kingdom of Hawai'i?

The lands and sovereignty of the Kingdom, and the interests of Native Hawaiians represented in them, are considered first.

After an examination of traditional land tenure systems, Constitutional provisions, and related Kingdom laws, we find that:

- Native Hawaiians held common and undivided ancestral land rights and interests vested in the domain and dominion of the Kingdom;
- these ancestral land rights and interests were not diminished nor extinguished by any royal or government actions initiated by the Kingdom of Hawai'i, but were protected and guaranteed by legal titles held by the Kingdom for all public, government, and crown lands;
- without the consent of or compensation to Native Hawaiians, these land rights and interests were assumed and subsequently ceded to the United States by a government whose existence was

dependent on illegal actions by the United States;

these land rights and interests were accepted by the United States without the consent of or compensation to Native Hawaiians, and without any disclaimer provision to protect these land rights.

Based on these findings, we advise the Congress that Native Hawaiians have compensable claims for the loss of ancestral land rights and interests vested in the domain and dominion of the Kingdom of Hawai'i.

These compensable claims echo, but do not duplicate, similar claims by American Indians and Alaskan Natives. The strongest parallel among the claims is a call for American justice once a wrong has been acknowledged.

Native Hawaiians are Americans now, proud of the ideals and qualities of justice through law. The pride in being Native Hawaiians is also strong. The overwhelming majority of native Hawaiians do not want history to be re-written or to separate themselves from the United States. As proud Americans and Native Hawaiians, though, there is a desire and a basis for a remedy to past losses and damages.

RECOMMENDATION #2

Therefore, we recommend to the Congress that:

- the U.S. Senate Committee on Energy and Natural Resources and the U.S. House Committee on Insular and Interior Affairs consider and determine a just and equitable resolution of compensable claims by Native Hawaiians for losses of domain and dominion;

- these Committees consult and involve Native Hawaiians to the greatest extent possible in the resolution of these claims, and that any proposed restitution be subject to formal acceptance by Native Hawaiians; and
- pending resolution of these claims that the Congress take the appropriate action to assure that all lands controlled by the federal government in the State of Hawai'i maintain their current use and status, and that the archipelagic waters of Hawai'i enjoy the same security.

Congressional consideration of restitution to Native Hawaiians for illegal American actions leading to the overthrow of the Kingdom will, in all likelihood, include an examination of existing trust relationships between the United States and Native Hawaiians. These trust relationships are distinct, albeit not separate, from the claims for compensable losses and damages.

In order to help clarify the nature of the claims, however, a review of the trust relationships is a part of the groundwork necessary for determining restitution.

The Ceded Lands Trust. The public, crown, and government lands of the Kingdom totalled approximately 1.9 million acres -- nearly half the domain of the Islands. Under the control of the Republic of Hawai'i, 200,000 acres of these once-inalienable lands were transferred to private ownership.

At the time of American annexation of Hawai'i, then, the ancestral lands of Native Hawaiians encompassed 1.7 million acres of Hawai'i, much of it planted in sugar and pineapple by the

terms of royal leases. These leases were undisturbed by the Republic and remained in force under the United States.

In the Joint Resolution of Annexation adopted by the Congress and passed by the Legislature of the Republic, the sovereignty and all "public, crown, or government lands" were ceded to the United States. This cession -- appropriate under international law -- was conducted without the consent of the people of Hawai'i and without compensation to Native Hawaiians.

The terms of this transfer, their later discussion in numerous Congressional hearings on statehood for the Territory of Hawai'i, and the eventual ratification of the Admission Act, substantiate these findings:

- the public, crown and government lands ceded to the United States were transferred as a trust to be maintained and managed for the benefit of all the "inhabitants" of Hawai'i;
- this trust imposed fiduciary responsibilities on the United States and constrained the use, management and proceeds generated from the trust to public purposes;
- the bulk of these lands were returned in fee to the State of Hawai'i in the Admission Act, with explicit trust impositions and the naming of two possible beneficiary classes: Native Hawaiians, as defined in the Hawaiian Homes Act, and the general public;
- the broad public purposes enunciated as consistent with the trust could be fulfilled at the discretion of the State; however, any purpose outside those named would result in a breach of trust.

From these findings, it is quite clear that the ceded lands trust was never intended nor construed to be restitution to Native Hawaiians.

The provision for Native Hawaiians, however, persuasively argues that Congress has extended a preliminary recognition of Native Hawaiian interests in those lands.

The State of Hawai'i, further, in the State Constitution of 1978, acknowledged the beneficiary interests of Native Hawaiians and provided a pro rata share of the ceded lands revenues be set aside for the "betterment of Native Hawaiians." These funds are administered and managed by the Office of Hawaiian Affairs whose Board of Trustees are elected by all Hawaiians.

(It should be noted here, and will be discussed in detail later, that the Native Hawaiians definition of the Hawaiian Homes Act is different from that guiding this Commission.)

This trust as a federal responsibility was not extinguished by the Admission Act or its terms. All ceded lands set aside for national park purposes were declared fee and the property of the Department of the Interior. However, it was the intent of Congress that all other lands controlled by the federal government were subject to return and incorporation into the trust of the State of Hawai'i.

This reversionary interest of the State in all non-park federal lands is now also of explicit trust interest to Native Hawaiians by the establishment of the Office of Hawaiian Affairs.

In the twenty-four years since Statehood, however, less than 600 acres of federally-controlled ceded lands have been returned.

RECOMMENDATION #3

Based on these findings, and the now-explicit reversionary interests of the Native Hawaiians and the State of

Hawai'i, the following recommendation is offered to the Congress:

- that the Congress establish a Joint Federal-State Ceded Lands Commission for the State of Hawai'i, to review the present use and need for federally-controlled lands in Hawai'i;
- that this Commission advise the Congress on the status of these lands, and have the authority to declare such lands surplus and available for return to the State of Hawai'i; and
- that Native Hawaiians be included and consulted in the course of the Commission's review.

The Hawaiian Homes Trust. A similar Federal-State Task Force is now completing a review of the Hawaiian Homes trust. This effort was prompted by an initial report of the Civil Rights Commission indicating that a breach of trust may have occurred in the administration and management of these lands.

As constituted, this Task Force will submit its findings and recommendations to the Governor of the State of Hawai'i and the Secretary of the Interior.

Specific Congressional concerns and possible actions, however, will not be considered by this Task Force. Thus, it is our intention, based on the mandate of this Commission and the intense interest expressed by Native Hawaiians, to address possible areas of Congressional review.

Social Concerns. The consequences of the overthrow of the Kingdom of Hawai'i by the United States are not confined to historical wrong or compensable claims for lost ancestral land rights and interests.

Dispossession and defeat also have psychological, social and cultural consequences for Native Hawaiians. By all major social indices — health, education, employment, income — Native Hawaiians display distinct disparities with their fellow citizens.

Health Concerns. The impact of Western diseases on Native Hawaiians was historically devastating. Waves of epidemics reduced the estimated contact population of 300,000 in 1778, to 34,000 by 1893. The implications of this decimation have been considered in a variety of contexts.

Western observers, beginning in 1838, noted that unless some dramatic improvement were made in the health conditions of Native Hawaiians that the race would disappear. These initial feelings of horror and dismay over the fatal impact of Western contact gradually altered.

After the publication of Darwin's Origin of Species, Europeans and Americans began to adopt the attitudes and policies of Social Darwinism. The theory of "the survival of the fittest" was applied to nations, and validated Western expansion and imperialism as the natural working out of an inevitable progression of conquest and colonization.

Acquired immunity and inter-marriage among Native Hawaiians, however, was reversing this trend. Demographic trends now indicate that the population had reached its lowest level in the final decade of the 19th century, would stabilize for about twenty years, and then begin a dramatic recovery.

Today's Native Hawaiian population numbers an estimated 175,000 individuals, more than half of whom are less than 19 years old.

The health characteristics of this group, however, are adversely and consistently affected by mental health

disorders, stress-related diseases, and an absence of culturally-sensitive health professionals.

As developed in depth within the body of this study, the following findings are offered:

- the psychological despair and sense of being a conquered people in their own homeland is a factor in the health conditions of Native Hawaiians;
- Native Hawaiians have the lowest life expectancy of any ethnic group in the State of Hawai'i: 67 years compared to a Statewide average of 74 years;
- the leading causes of death for Native Hawaiians, in order of prevalence, are heart diseases, cancers, stroke, and accidents;
- Native Hawaiians have the highest infant death rate in the State of Hawai'i: 14 per 1,000 live births compared to a statewide average of 10 per thousand;
- mental health assessments indicate that Native Hawaiians have a higher-than-expected incidence of personality disorders, mental retardation, and drug abuse than their proportion of the population; and
- suicide rates among Native Hawaiian males -(statistics are unavailable for females) is the highest in the State of Hawai'i: 22.5 per 100,000 in the population, compared to a rate of 13.5 for males of all races in Hawai'i — rates in the 20-34 year age group of Native Hawaiians was even higher.

Native Hawaiians continue to experience a form of fatal impact usually associated with the last century. Neither Hawaiian nor Western medicine has effectively halted the damage.

Educational Concerns. In the perceived needs assessments conducted by Alu Like, Inc., and additional polling done by the University of Hawai'i, education has consistently received top priority among Native Hawaiians as an identified need.

These surveys and accompanying in-depth interviews contradict the impression often conveyed among professional educators that Native Hawaiian performance in schools is a consequence of not caring about or actively endorsing education by Hawaiian families.

A number of independent studies, particularly the extensive research published by John Gallimore, substantiate that:

- Native Hawaiian children are raised with culturally-distinctive values, behaviors, and styles; and
- that these differences, unless recognized and accommodated, are in conflict with dominant Western modes.

The Bishop Estate and Kamehameha Schools have recently completed a comprehensive Native Hawaiian Educational Assessment Project. Their report has been submitted to U.S. Secretary Bell of the Department of Education. We wish to include their report, findings and recommendations by reference.

Certain salient findings of this Commission are offered in addition:

- 30% of the school-age population of the State of Hawai'i is Native Hawaiian;
- Native Hawaiian students have the highest rates of academic and behavioral problems in the State, the highest levels of absenteeism, and the lowest levels of performance and achievement; and
- only 4.6% of all adult Hawaiians over 25 years of age have completed college, compared to a Statewide average of 11.3%, and only 12.3% have had "some college" compared to a Statewide average of 15.6%.

Employment and Income. Directly correlated to educational achievement are employment and income statistics. Also a factor in these areas are family size and the large number of Hawaiian families with a female or single parent head-of-household:

- nearly 30% of all Native Hawaiian families fall below the poverty line;
- Native Hawaiians are disproportionately represented in blue-collar occupations, and under-represented in technical or managerial positions;
- Native Hawaiians are significantly over-represented in unemployment benefit and Aid to Families with Dependent Children programs.

RECOMMENDATION #4

Based on the findings in all of the social categories, Native Hawaiians demonstrate the same distinct disadvantages experienced by other

indigenous peoples of the United States. Congressional recognition of this unique attribute has resulted in the passage and implementation of Native American programs. Presently, Native Hawaiians are not consistently included in these efforts.

Therefore, we recommend:

- the inclusion of Native Hawaiians in all Native American programs, without prejudice;
- a concerted study by federal and state professionals to adequately assess the needs of Native Hawaiians, and to provide additional assistance from existing programs;
- the consideration of special Native Hawaiian programs at the federal level to redress these disadvantages.

*** Summary Of Written Comments Received By The Commission**

The official comment period for the Draft Report of Findings of the Native Hawaiians Study Commission (published on September 23, 1982) ended on January 23, 1983. The initial deadline for comments on the Draft Report was November 23, 1982, but it was extended an additional 60 days at the request of several native Hawaiian groups and individuals. By May 1, 1983, the Native Hawaiians Study Commission had received almost 100 written comments on its Draft Report of Findings. All of these written comments are reproduced in full, as required by statute, in the next section of this Appendix. Many of the comments were used in revising the text of the Commission's Draft Report; these comments are referenced in the text where they were used. This summary specifically addresses those comments received by the Commission before February 10, 1983, that, while they were taken into account in the revision, were not specifically used or referenced in the text of the Commission's Final Report. Examples of specific comments that illustrate the points summarized here are given in the footnotes of this section.

The Commission received numerous comments from individuals and organizations requesting an extension of the Commission's original sixty-day deadline for public comments. ^{1/} Comments cited problems of limited access and availability. To accommodate those who wished to comment, while at the same time meeting its statutory deadline for submission of the Final Report, the Commission extended the deadline for public comment by an additional 60 days, as noted above.

In general, the Commission's Draft Report received mixed reviews. Some commenters called for a "second opinion," ^{2/} labelled the report a

" cursory statement " that should be put on hold, ^{3/} or called for the report to be rewritten in its entirety. On the other hand, others thought that at least parts of the report were fairly well researched, very informative, ^{4/} and exhibited a satisfactory degree of competence and objectivity. ^{5/}

One criticism that reappeared several times had to do with "bias." Some writers commented that the descriptions of Hawaiian culture and history had been written from a Western perspective and were therefore biased. ^{6/} Use of statistics in the report was also thought to be biased by some commenters. ^{7/} Others stated that because it is a politically-appointed body, the Commission may not be totally objective. ^{8/} Several comments also noted that the Government "responsible" for the present native Hawaiian situation could not objectively recommend a resolution. ^{9/} One comment ^{10/} suggested that to obviate this bias, the Commission should have a majority of native Hawaiian members with the remainder from the non-government sector. [It should be pointed out that Public Law 96-565 specifically states that "not more than three" of the nine commissioners may be residents of the State of Hawaii.] Still another comment suggested that a "mini non-government-member" commission be created to deal with the issue of reparations to be composed of representatives of the minority races of the United States.

Other comments dealing with the bias issue criticized the "kid-glove" treatment King Kalakaua received in the Draft Report. ^{12/} Many comments alluded to white racism against native Hawaiians and at least one ^{13/} remarked that the report should

mention more of the "good" that the white people have contributed to Hawaii.

The Commission attempted to address these charges of bias as the report was re-drafted. Considerable revisions were made in the text to reflect "both sides of the story," based on written comments received by the Commission and citing specific comments where appropriate.

The sources used in preparing the Commission's Draft Report were also criticized. Some comments criticized authors used as "sympathetic to the white side" 14/ and others criticized the limited use of primary sources of information. 15/ To address this problem, sources suggested by comments were used in revising the report where possible. In addition, a comprehensive list of references has been included in the Commission's Final Report 16/ to assist readers of the report in further study of the issues presented here.

The Commission received many comments discussing the omission of the culture and religion sections from the Draft Report. 17/ Other comments voiced concern about the protection of native Hawaiian religious rights. 18/ The Commission's Final Report does contain sections on culture and religion, written by native Hawaiian authors.

The Commission received a great number of comments discussing the historical basis for the Commission's legal findings. Many writers disputed the Draft Report's historical analysis, stating that it:

- Contained inaccuracies; 19/
- Did not give sufficient weight to the native Hawaiian side of the story; 20/
- Failed to emphasize the importance of the role of U.S.

military force in the overthrow of the monarchy; 21/ and

- Minimized the role of U.S. Minister John Stevens. 22/

Other comments discussed the statements and actions of President Graver Cleveland after the overthrow as a basis for U.S. Government culpability. 23/

Writers cited the above issues 24/ and others, including present deficiencies of native Hawaiians, 25/ to justify the payment of some type of restitution or reparations to the native Hawaiian people. 26/ Some comments stated that if there is no legal right to such claims under present law, the U.S. Congress should pass legislation creating such a right. 27/

Comments received by the Commission present a wide variety of ideas on how a program of restitution could be implemented. With regard to return of lands, the Commission received 18 newspaper cut-outs from the Hawaiian News (October 1982) asking the Commission to: "Please demand that the U.S. Congress return all of the 144,000+ acres of ceded lands (according to Public Law 88-2 33) to the State of Hawaii immediately!" • 28/ Among the proposals received on types of restitution are that:

- There be no monetary payment, the Federal Government should purchase parcels of land in Hawaii, turn them over to the State, which would use some of the land for State parks and • entrust the larger parcels to the Office of Hawaiian Affairs to be kept as wildlife sanctuaries. 29/
- Compensation should consist of reparations in the form of return of all Crown lands, and restitution in the form of restoring the sovereignty of

the native Hawaiian people. 30/
(The Commission also received
other comments on restoring
sovereignty. 31/)

There be no monetary payment
but that a "Hawaii Integrated
Fleet Support Industry" program
be created that would help
native Hawaiians financially by
creating new jobs. 32/

That native Hawaiians be given
an unencumbered land base from
which revenues could be
generated for deposit in a
treasury; this treasury would
then determine priorities for
addressing native Hawaiian
deficiencies. 33/

- Using monetary reparations pay-
ments to create educational,
training, and cultural
programs. 34/

The Commission also received
comments criticizing the Federal
Government for: pursuing a policy of
genocide against native Hawaiians; 35/
using the island of Kahoolawe for
bombing target practice; 36/
occupation by the U.S. military of
land in Hawaii without paying rent;
37/ and, not exploring a possible
breach of trust against the State of
Hawaii relating to the Hawaiian Home
Lands program and the Hawaii
Admissions Act. 38/

On the Hawaiian Home Lands program,
one writer stated that a further
discussion beyond the Inspector
General's report was necessary. 39/
Another writer disagreed with the sug-
gestion in the Draft Report (page 314)
that homestead applicants who reject
homestead sites be assigned a lower
preference priority on the list of
applicants and that they be dropped
from the listings after a reasonable
number of rejections. This writer

suggested instead that a family be
notified one year in advance of the
homestead site availability in order
to make the necessary arrangements to
move to another island or find other
employment, if necessary. 40/

Commenters also sent to the Com-
mission several articles and
publications. Among them are:

- The Sandalwood Trees; Politics
and Hope, by Louis Agard; 41/
- Hawaiian Reparations: Nothing
Lost, Nothing Owed, by Patrick
W. Hanifin; 42/
- Sovereignty and Land: Honoring
the Hawaiian Native Claim, by
Melody K. MacKenzie; 43/
- The Crown Lands of Hawaii, by
Thomas Marshall Spaulding;
- A three-part capsulized history
on U.S. involvement in the
overthrow of the Hawaiian
monarchy by Wayne K. Westlake;
44/
- Three magazine articles written
in 1893 on the prcs and cons of
annexation of Hawaii to the
United States; 45/ and
- Six papers written at the
direction of, funded and
submitted by the Office of
Hawaiian Affairs:
 - Health Section of Native
Hawaiians Study Commission
Report, by Richard Kekuni
Blaisdell, M.D.; j|6/
 - Religion Section of Native
Hawaiians Study Commission
Report, by Rubellite K.
Johnson; 47/

- Language Section of Native Hawaiians Study Commission Report, by Larry L. Kimura; 48/
- The Demise of the **Hawaiian** Kingdom: Its Psycho-Cultural Impact and Moral Legacy, by Ramon Lopez-Reyes; 49/
- Regarding the Legal **Aspects**, by Melody MacKenzie and Jon Van Dyke; 50/ and
- An Historical Over-View of Hawaii: Pre-Contact to the Present, by Haunani-Kay **Trask**. 51/

APPENDIX

NOTES

1/ See, for example, comments received from: George R. Ariyoshi, Governor of State of Hawaii; Gard Kealoha; Brooke Trotter; M. Ho'oipo DeCampra; and Herbert Jay (Nahaolelua) Almeida.

2/ Comment received from Charles Trembath, p. 1.

2J Comment received from The Rev. Abraham K. Akaka, p. 2.

jl/ Comment received from Mrs. Violet Ku'u lei Ihara, p. 1.

J5/ Comment received from Robert C. Schmitt, p. 3.

6/ See, for example, comments received from: Congressman Daniel K. Akaka, p. 1; Alexander H. Raymond, p. 1; and Everett Kahiliokalani "Sonny" Kinney, p. 7.

TJ Comments received from Michael Tancayo, p. 1; and Haunani-Kay Trask, et al, p. 7.

8/ See, for example, comments received from Congressman Cecil Heftel, p. 1.

9/ See, for example, comments received from Poka Laenui, p. 2.

10/ Comment received from Haunani-Kay Trask, et al, p. 2.

11/ Comment received from Michael Tancayo, p. 2.

12/ Comments received from Elmer Miller, p. 6; and Kenneth Smalley, p. 1.

13/ Comment received from Kenneth Smalley, p. 1.

14/ Comment received from Alexander H. Raymond, p. 1.

15/ See, for example, comments received from: Wayne K. Westlake, p. 1; Pauline N. King, p. 1; Congressman Daniel K. Akaka, p. 2; Violet Ku'u lei Ihara, p. 1.

16/ Suggested in comment received from Congressman Daniel K. Akaka, p. 2.

17/ See, for example, comments received from: Bill Kama, p. 1; John J. Hall, p. 1; Pualani Akaka-Kallstrom, p. 1; Marion K. Morrison, p. 1; Kawaipuna Prejean, p. 2; Kenneth C. "Keneke" Chan, p. 2; and Joseph G. Kealoha, Jr., p. 1.

18/ See, for example, comments received from Haunani-Kay Trask, et al, p. 4; and Kenneth C. "Keneke" Chan, p. 2.

19/ See, for example, comments received from Arthur B. Chun, p. 1.

20/ See, for example, comments received from Keith S. Abe, p. 1.

21/ See, for example, comments received from Clarence K. Kamai, p. 1; and Moanikeala Akaka, p. 1.

22/ See, for example, comments received from Tim Newstrom, p. 3; and John Dominis Holt, p. 1.

23/ See, for example, comments received from Moanikeala Akaka, p. 1; Arthur B. Chun, p. 3; and John Dominis Holt, p. 1.

24/ See, for example, comments received from Bill Kama, p. 2; John M. Agard, Enclosure 1, p. 1; and Kawaipuna Prejean, p. 3.

25/ Comment received from John M. Agard, Enclosure 1, p. 1.

26/ See, for example, comments received from Bill Kama, p. 2; and John Dominis Holt, p. 1.

27/ Comments received from Richard Lyman, Jr., p. 1; and Louis Agard (dated 11/22/82), p. 1.

28/ See also comments received from Val (Al Dyeing and Carpet Cleaning, Inc.); and Tim Newstrom, p. 4.

29/ Comment received from Kevin J. Lopes.

30/ Comment received from Charles Trembath, p. 2.

31/ See, for example, comments received from He Hawai'i Makou, p. 2; K. Hakakona; and Kaolelo Lambert-John Ulaleo, p. 4.

32/ See comment from Wayne Thiessen.

33/ See comment from John M. Agard, Enclosure 1, p. 2.

34/ See comment received from Georgette Kala.

35/ See comments received from: He Hawai'i Makou, p. 1; Kawaipuna Prejean, p. 3; and Everett Kahiliokalani "Sonny" Kinny, p. 6.

36/ See, for example, comment received from Mayleiday M. Van Ostrand.

37/ See comment received from Kawaipuna Prejean, p. 4.

38/ See comment received from Clarence K. Kamai.

39/ See comment from Haunani-Kay Trask, et al, p. 4.

40/ See comment received from Bill Kama, p. 3*

41/ Submitted by John M. Agard.

42/ Received from Patrick W. Hanifin.

43/ This report was received from the Office of Hawaiian Affairs before the publication of the Commission's Draft Report of Findings. Therefore, it is not reproduced in the Appendix with the other comments received by the Commission in response to its Draft Report.

44/ Received from Wayne K. Westlake.

45/ Submitted by L. L. (Bud) Henry.

46/ Part of this paper, "Historical and Cultural Background," is reproduced in its entirety in this Report, in the chapter entitled, "Health and Social Services." The entire paper appears in the Appendix.

47/ The chapter in this Report entitled "Native Hawaiian Religion," is a reproduction of this paper, in its entirety.

48/ This paper is reproduced in its entirety in the "Language" section of this Report, in the chapter entitled "Native Hawaiian Culture."

49/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

50/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

51/ This paper is referenced in the text of this Report, and appears in its entirety in the Appendix.

Written Comments Received By Native Hawaiians Study Commission*

LIST OF COMMENTERS

<p>Keith A. Abe</p> <p>John Agard</p> <p>Louis Agard (November 22, 1982)</p> <p>Louis Agard (January 24, 1983)</p> <p>Joshua C. Agsalud (Hawaii State Department of Labor and Industrial Relations)</p> <p>The Rev. Abraham K. Akaka</p> <p>Daniel K. Akaka (Member of Congress)</p> <p>Moanikeala Akaka</p> <p>Pualani Akaka-Kallstrom</p> <p>Herbert Jay (Nahaolelua) Almeida</p> <p>Mrs. Beatrice Kulia-Ika-Nuu Anderson</p> <p>George R. Ariyoshi (Governor, State of Hawaii)</p> <p>Lloyd Aubry (U.S. Department of Labor)</p> <p>Richard Kekuni Blaisdell, MD (January 12, 1983)</p> <p>Richard Kekuni Blaisdell, MD (for the Office of Hawaiian Affairs)</p> <p>Thomas A. Burch, MD (Hawaii State Department of Health)</p>	<p>Kenneth C. "Keneke" Chan</p> <p>Colonel Arthur B. Chun</p> <p>Charles G. Clark (Hawaii State Department of Health)</p> <p>M. Ho'oipo DeCambra</p> <p>Vicki Elmer (U.S. Department of Housing and Urban Development)</p> <p>K. Hakakona</p> <p>John J. Hall</p> <p>Patrick W. Hanifin</p> <p>Cecil Heftel (Member of Congress)</p> <p>Ralph L. Heidenreich</p> <p>Bud Henry</p> <p>John Dominis Holt</p> <p>Mrs. Violet Ku'u lei Ihara</p> <p>Daniel K. Inouye (U.S. Senator)</p> <p>Rubellite K. Johnson (for the Office of Hawaiian Affairs)</p> <p>Georgette Kala</p> <p>Bill Kama</p> <p>Clarence K. Kamai</p> <p>Kawehi Kanui-Gill</p> <p>Joseph G. Kealoha, Jr. (Office of Hawaiian Affairs)</p> <p>Gard Kealoha</p> <p>H. K. Bruss Keppeler and Allen W. Woodell</p>
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V All written comments received by the Commission appear in the following pages, in alphabetical order as listed here.

Larry L. Kimura (for the Office of Hawaiian Affairs)	Helena K. Wilcox Salazar
Pauline N. King	Kenneth Smalley
Everett Kahiliokalani "Sonny" Kinney	Thomas Marshall Spaulding (article by)
Hideto Kono (Hawaii State Department of Planning and Economic Development)	Robert C. Schmitt (Hawaii State Statistician)
P5kl Laenui (also known as Hayden F. Burgess)	Franklin Y. K. Sunn (Hawaii State Department of Social Services and Housing)
Kevin J. Lopez	Michael Tancayo
Ramon Lopez-Reyes (for the Office of Hawaiian Affairs)	Wayne C. Thiessen
Richard Lyman, Jr.	Donnis H. Thompson (Hawaii State Department of Education)
Melody MacKenzie (for the Office of Hawaiian Affairs)	Rory Soares Toomey
Melody MacKenzie and Jon Van Dyke (for the Office of Hawaiian Affairs)	Haunani-Kay Trask (November 23, 1982)
Mahalo Nui Loa	Haunani-Kay Trask (for the Office of Hawaiian Affairs)
Mrs. Victoria Mews	Charles Trembath
Willard H. McGuire	Brooke Trotter
Elmer Miller	Kaolelo Lambert-John Ulaleo
Marion K. Morrison	Mitsuo Uyehara
Tim Newstrom	Val (Dyeing & Carpet Cleaning Inc.)
Georgiana K. Padeken (Hawaii State Department of Hawaiian Home Lands)	Ms. Mayleiday M. Van Ostrand
George T. H. Pai	W. Kaumualii Westlake (October 10, 1982)
Kawaipuna Prejean	W. Kaumualii Westlake (November 7, 1982)
Alexander H. Raymond	M. K. Whitford
Everett R. Rhoades, M.D. (U.S. Department of Health and Human Services, Indian Health Service)	Andrew White and Leonard Kwan, Jr.
Jerry L. Rogers (U.S. Department of Interior, National Park Service)	Toni Auld Yardley