This morning I would like to share with you some of my personal views concerning our Congressional delegation's ongoing efforts to insure that Native Hawaiians will eventually be afforded appropriate recognition by the Federal government, commensurate with the circumstances surrounding the forceful overthrow of Queen Liliuokalani's monarchy back in 1893. Although those of us who have grown up in the Islands are well aware of the U.S. Government's intimate involvement in that most unfortunate affair and, accordingly, the basic fairness and equity of the Hawaiian's claim for reparations, I can assure you that the vast majority of our colleagues on Capitol Hill still need to be educated and, in some cases, convinced of the overwhelming merits of your case.

In March of 1973 as a first small step, I asked the Library of Congress to do a comprehensive study of the similarities and differences between the Native Hawaiian situation and that which had earlier been resolved by the Congress involving the Alaskan natives. As we expected, this report confirmed our belief that the case of the Hawaiian aboriginals was a just one, and a similar means could be found for the proper redress of these ancient grievances. Accordingly, in December, 1975, I introduced S. J. Res. 155, which would establish the Hawaiian Native Claims Settlement Study Commission; three days of formal hearings were held in Honolulu and on the Neighboring Islands, and in February, 1976, this far-reaching measure was reported unanimously from the Senate Interior and Insular Affairs Committee. Although there was not sufficient time for the full Senate to act upon the result, it is highly significant that the committee's version of the bill contained the explicit language that "...the Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-three years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and a commission of distinguished Hawaiian Natives and other citizens should be convened to advise the Congress on all matters pertaining to such remedy."

This Congressional session, Senator Matsunaga and I have again introduced a similar Joint Resolution, S. J. Res. 4, and this past June, hearings were held once again in Hawaii. Although to some of you these efforts may seem rather prolonged and drawn out, I have now been in this business long enough to have learned that important legislation such as this takes, above all else, patience. I am confident that eventually we shall succeed, and when we do, the wait will seem minor—and inconsequential.
In December, 1976, I again asked the Library of Congress to prepare a report for me which would this time describe all legislation that authorized special programs for both American Indians and Alaskan Natives. As a result of this study in March of this year, the Congressional delegation jointly introduced a comprehensive package of bills, which if enacted would enable Native Hawaiians for the first time to benefit from these programs. I am especially pleased that just prior to our August recess, when President Carter signed PL 95-93, the Youth Employment and Training Act, as part of this measure, he also signed into public law language which specifically amended section 302 of Title III of the Comprehensive Employment and Training Act (CETA), so that Native Hawaiians are now eligible for the Native American benefits. More specifically, as of October of this year, we expect that approximately $2.6 million dollars will be earmarked for Native Hawaiians, and informally I have heard that the Assistant Secretary of Labor is seriously considering opening a special office for Indian and Native American Affairs here in Honolulu.

Another one of our proposed bills, S. 857, would amend the Indian Education Act in order to provide for increased educational opportunities for our Hawaiian youth. When we are able to get this bill enacted, those individuals who are interested in advanced studies in law, medicine, or business will become eligible for special fellowships. Further, our State's Department of Education will also be able to apply for special funds for upgrading their Hawaiian ethnic studies programs. In my judgment, the long-term implications of this bill for the Hawaiians are considerable. However, in order for us to pass this particular legislation, you, as the leadership of the Native Hawaiians, must first take a more active role in convincing your American Indian counterparts that you deserve to be called Native Americans. Under our recent Senate reorganization, we created a Select Committee on Indian Affairs which now has jurisdiction over all Native American legislation. And being perfectly candid with you, it would be a tremendous understatement to say that the Indian community has mixed feelings about their Hawaiian Brothers and Sisters.

In our discussions with the Indian community leadership, the same message keeps coming through. The leadership personally believe that the Indians and the Hawaiians should work together, that both of your groups are Native Americans and, accordingly, are entitled to special benefits. However, the message also comes through very clearly that their people, their tribesmen do not understand who the Hawaiians are; that they are upset that the Hawaiians might "rip them off" just like the whitemen did; that there isn't enough to go around now, so how can they afford to share what they don't have with you. I can assure you that each of us in the Congressional delegation will continue to work closely with our colleagues in order to assure that more funds will become available for these Native American
programs. However, it is you who must now establish close collegial relationships with the Indian leadership and with those in the Executive Branch who will eventually administer these programs. I would suggest that perhaps some of you might even consider coming to Washington, D.C., for a year and working within the Office of Native American Programs or the U.S. Department of Labor under the auspices of the Inter-governmental Personnel Exchange Act. But in any case, the next step is really up to you.

Finally, I would now like to briefly discuss the most sensitive issue of Kahoolawe. For over a decade I have been on public record as favoring an end to the bombing of the island and as calling for its restoration by the military and its eventual return to the State. On March 22, 1977, I personally discussed this matter with President Carter. On March 29, 1977, I similarly met with Harold Brown, Secretary of the Department of Defense.

In April of this year, the Navy announced that it will reduce the frequency of its live firing and will relocate part of its training operations. I have also been informed that the Department is seriously considering selecting a culturally and recreationally significant portion of the island to clear of unexploded debris and then to allow permanent civilian access. These are admittedly interim steps, but in my judgment, most positive ones. Eventually, I am confident that our citizens will have ready access at least to the vast majority of Kahoolawe.
Hawaii: Danger Under The Palms

By Janet Altieri

HAiku, Hawaii — Romantic Hawaii attracts millions of visitors each year with visions of glorious eternal sunshine, statuesque palm trees swaying majestically in the cool breeze, and perhaps, most lucrative of all, friendly Polynesian beauties awaiting with fragrant floral greetings and ‘Aloha spirit.

This exotic image is suffering as the face of Hawaiian society becomes scarred with local news reports of a large increase in crime, often directed at the tourist, attesting sadly to the fact that the islands are not devoid of social problems.

The scenic beauty of the local beaches has long been littered with signs warning visitors not to leave valuables in unattended vehicles, and lately reports concerning the much more serious crime of rape have been turning up routinely from several of the islands.

The occurrence of this violent crime rose to a sort of peak earlier this year when a young Finnish tourist reported having been raped and robbed of all of her possessions by a gang of youths aged 13 to 17 on one of Oahu’s many beaches.

Soon after the incident occurred, a local newspaper quoted a local official as having said that in rape cases in which the victim is unable to remain here in Hawaii to testify against her assailants, charges are often dropped against the defendants.

In another incident three months later, two young tourists were robbed and a woman raped and sodomized at the point of a sawed-off shotgun during a visit to Maui.

After trial and conviction, the two rapists were sentenced to just one year in jail, with work privileges.

These particular types of crime are unfortunately becoming commonplace occurrences in the Hawaiian Islands.

The offenders are often considered “too young” to be jailed, and heartrending pleas from tormented parents (“they’re good boys” or “give my boy a chance”), together with the fact that many rape victims leave the islands immediately, will almost always result in the dropping of charges or the handing down of an extremely lenient sentence.

What is the problem? The causes of
The criminality are fairly easy to see; solutions to the problem appear to be nonexistent.

There are young local men who believe that they have been robbed of their former way of life with the advent of development and increased tourism. A new system has swept over the islands — a system that discriminates against individuals of little or no formal education, whose number is shamefully widespread. There is a group of people who find it easier to survive in the more traditional Hawaiian way — being compelled to do little or no work at all to survive — than in the typical Stateside American way with intense competition for jobs and in other aspects of life. These malcontents vent their frustrations by victimizing the tourist, a person who appears to be "close enough" to those who caused their problems.

Crime over the years has advanced from the relatively insignificant act of theft of money, cameras and other tourist possessions to rape, and even attempts at murder. Theft and rape are the most common because the offender can both "avenge" an act that he feels was perpetrated against him and at the same time get something that he wants.

Moreover, any would-be criminal is given still further impetus by his knowledge that previous cases of rape and larceny have been prosecuted by the local courts with a mere "wrist-slap" sentence or, indeed, not even brought to court at all. In this way, the local offender is all but guaranteed immunity from the laws of the land in the form of a protective cloak of insular justice administered by the compassionate local officials who want to "give their boys a chance."

The most horrifying aspect of the entire situation is that most of the young criminals are pathological — they truly do not seem to realize that the acts that they commit are wrong. In most cases, when tried and questioned by a judge, their response is an honest shrug of the shoulders — "So what?" Their education is so inadequate that they do not even possess a sense of right and wrong. It is certainly questionable whether or not the judges who sentence them have an unbiased sense of morals themselves. (I have always been taught that this sense is the only thing that separates man from animal.)

Here, the sun shines on, the palm trees still sway majestically in the cool breeze, and visitors are greeted with garlands and kisses. But the ugly facts beneath the surface reflect a lack of education as bad as, or worse than, that in any third-world country, and a social system that allows violent criminals to walk the streets freely.

Janet Altieri, a former health-clinic worker, moved to Hawaii last January.
WASHINGTON, Nov. 8—Researchers on a new project funded by the U.S. Department of Agriculture will try to find a direct relationship between nutrition and cancer of the breast and colon in Hawaiian-Americans.

The department is also funding a related research effort seeking greater understanding of nutrition-related diseases of ethnic groups in Hawaii.

Tufts University in Boston, working cooperatively with the University of Hawaii, will receive $195,500 of federal support for the two research projects from the department's Science and Education Administration (SEA).

"The potential value of the nutrition-cancer study in Hawaii is great," said J. M. Iacono, of SEA's Human Nutrition Center. "The results of this project could have meaning to populations far beyond the ethnic groups involved."

Iacono said "Many Hawaiians have Pacific or Asian ethnic backgrounds and eating habits, which makes the state a natural laboratory to study how nutrition and other environmental factors relate to human health problems--both within the state and our nation, and all around the Pacific basin."

Over the past two years, researchers at Tufts University's Nutrition Institute have investigated dietary factors in the Boston area which may influence breast and colon cancer risks to humans. In the new study area of Hawaii, there are women of various ethnic groups whose diets vary widely from women in the Boston area.

The new research projects will help provide valuable information about
USDA NOW SENDS HAWAII MARKET NEWS REPORTS VIA SATELLITE:

Washington, Nov. 8—Reports on prices paid for vegetables, fruit, poultry, eggs, and ornamental crops in San Francisco and Los Angeles are now available to Hawaiian growers and wholesalers via satellite under a new system initiated by the U.S. Department of Agriculture.

Barbara Lindemann Schlei, administrator of the department's Agricultural Marketing Service, said the timely transmission of selected West Coast market reports gives Hawaiian traders a basis for comparing mainland prices with their prices on identical items shipped to the islands from California ports. Previously, this information was available only through mailed reports.

Selected reports included in the service and covering San Francisco area market activities are: Ornamental Market, Monday; Egg Prices to Retailers, Monday; Processed Poultry Delivered to Restaurants and Institutions, also Monday.

The Los Angeles reports are: Fruit and Vegetable Wholesale Market, Monday, Wednesday and Friday; Egg Prices to Retailers, Monday; and Processed Poultry Preliminary Report of Prices to Retailers, Monday.

Information in the reports is gathered by federal-state market reporters and transmitted directly to Washington, D.C. via the department's telecommunications network and then relayed to Hawaii by satellite. The satellite link is provided by the department's Economics, Statistics and Cooperatives Service.

Hawaii residents who want to receive the reports should write or call the Fruit and Vegetable Market News Office, P.O. Box 22159, 1428 South King St., Honolulu, Hawaii, 96822; telephone (808) 548-7163.
USDA FUNDS NUTRITION RESEARCH IN HAWAII

WASHINGTON, Nov. 8--Researchers on a new project funded by the U.S. Department of Agriculture will try to find a direct relationship between nutrition and cancer of the breast and colon in Hawaiian-Americans.

The department is also funding a related research effort seeking greater understanding of nutrition-related diseases of ethnic groups in Hawaii.

Tufts University in Boston, working cooperatively with the University of Hawaii, will receive $195,500 of federal support for the two research projects from the department's Science and Education Administration (SEA).

"The potential value of the nutrition-cancer study in Hawaii is great," said J. M. Iacono, of SEA's Human Nutrition Center. "The results of this project could have meaning to populations far beyond the ethnic groups involved."

Iacono said "Many Hawaiians have Pacific or Asian ethnic backgrounds and eating habits, which makes the state a natural laboratory to study how nutrition and other environmental factors relate to human health problems--both within the state and our nation, and all around the Pacific basin."

Over the past two years, researchers at Tufts University's Nutrition Institute have investigated dietary factors in the Boston area which may influence breast and colon cancer risks to humans. In the new study area of Hawaii, there are women of various ethnic groups whose diets vary widely from women in the Boston area.

The new research projects will help provide valuable information about...
WASHINGTON, Nov. 8—Reports on prices paid for vegetables, fruit, poultry, eggs, and ornamental crops in San Francisco and Los Angeles are now available to Hawaiian growers and wholesalers via satellite under a new system initiated by the U.S. Department of Agriculture.

Barbara Lindemann Schlei, administrator of the department's Agricultural Marketing Service, said the timely transmission of selected West Coast market reports gives Hawaiian traders a basis for comparing mainland prices with their prices on identical items shipped to the islands from California ports. Previously, this information was available only through mailed reports.

Selected reports included in the service and covering San Francisco area market activities are: Ornamental Market, Monday; Egg Prices to Retailers, Monday; Processed Poultry Delivered to Restaurants and Institutions, also Monday.

The Los Angeles reports are: Fruit and Vegetable Wholesale Market, Monday, Wednesday and Friday; Egg Prices to Retailers, Monday; and Processed Poultry Preliminary Report of Prices to Retailers, Monday.

Information in the reports is gathered by federal-state market reporters and transmitted directly to Washington, D.C. via the department's telecommunications network and then relayed to Hawaii by satellite. The satellite link is provided by the department's Economics, Statistics and Cooperatives Service.

Hawaii residents who want to receive the reports should write or call the Fruit and Vegetable Market News Office, P.O. Box 22159, 1428 South King St., Honolulu, Hawaii, 96822; telephone (808) 548-7163.
Racial Scrambling in Census Reporting

Hawaii's multi-racial society, 29 percent racially mixed, is a problem for the census takers. And in the view of Robert C. Schmitt, the state statistician, the census takers have not coped well. In fact he feels that the reporting of Hawaii's races has been badly messed up.

In a recently published presentation made last year before the Hawaii Advisory Committee to the United States Commission on Civil Rights, Schmitt said the changes made from census to census in racial reporting have made it impossible to compare the data.

For one thing, he explained, up to 1963 persons with any fraction of Hawaiian blood less than 100 percent were classified as part-Hawaiian.

But in the 1960 census, except for a few tabulations, part-Hawaiians were put in the miscellaneous category. Persons of mixed race other than part-Hawaiians were classified by the race of the father, or, if part-white, by the race of the non-white parent.

Then in the 1970 census, the data became thoroughly scrambled because the census enumerators accepted only one racial description for persons of mixed race. For example, if Chinese-Hawaiian was reported, the enumerator would accept only Chinese. If it was Hawaiian-Chinese, only Hawaiian would be accepted. If nothing was reported, the enumerator would advise the respondent to put down the race of his father.

Next year, Schmitt said, it will change again. People who ask for advice will be told to put down the race of their mother.

He said, "There is no trend information available that's meaningful. There is no possibility of combining census statistics...we have considerable chaos in our classifications here, and I'm beginning to wish that we could forget the subject of race entirely. It is becoming less and less meaningful."

Unfortunately, it isn't possible to dispense with racial statistics, especially with the advent of government affirmative-action programs. But it is plain that as the racial mixing of Hawaii's people continues the racial categories will be less useful. The changes in the census taking described by Schmitt make it even worse.

So we await with interest the results of the 1980 census on Hawaii's racial composition. But we stand forewarned to take them with a grain of salt.
The taro with its oha or new shoots, is a symbol of the Ohana or the extended Hawaiian family.

For Further Information,
Please Contact:

JUNE ODA, Asst. Professor of Social Work and Project Coordinator
Hawaiian Learning Program
School of Social Work
University of Hawaii
Honolulu, Hawaii 96822
Phone: 949-4102
the HISTORY

The Hawaiian Learning Program in Social Work was established in September, 1974 to provide Hawaiian students in the Master's program in Social Work with opportunities for relating social work practice to Hawaiian culture. The Program was developed through the collaboration of the Hawaiian Social Workers Committee-National Association of Social Workers, School of Social Work-University of Hawaii, and the Health & Community Services Council of Hawaii. The three participating institutions and agencies are the Kamehameha Schools, Lunalilo Home and the Queen Liliuokalani Children's Center. The Hawaiian Learning Program for Hawaiian or part-Hawaiian graduate students in social work was designed for a specialized in-depth educational experience with Hawaiian clients in agencies servicing Hawaiians. Beginning with Fall semester 1977, there are plans to encourage non-Hawaiian graduate students in social work also to participate in the Hawaiian Learning Program.

the GOAL

The primary objective of the Hawaiian Learning Program is to provide Hawaiian students in the Master's & Bachelor's program in social work with opportunities for relating social work practice to Hawaiian culture. A related goal of the Hawaiian Learning Program is to develop methods of training Social Work students to understand and to have a balance between the Hawaiian and non-Hawaiian cultures in order to help Hawaiian clients to resolve the conflicts between cultures and to survive without losing positive aspects of the Hawaiian culture.

the STUDENTS

The students must meet the admission requirements of the Graduate Division U.H.M. and the School of Social Work. The students are given the option to participate in the Hawaiian Learning Program.

the OBJECTIVES

Training in the Hawaiian Learning Program in Social Work will provide students with the tools to work more effectively with Hawaiians through:

* special sites for practicum training which deal with Hawaiian clients exclusively.

* Integration of social work and mental health principles and practices with Hawaiian concepts and practices.

* development of culturally oriented methods of training which might be used to work more effectively with Hawaiians.

* provision of an in-depth experience in Hawaiian culture in order to raise ethnic consciousness.

* development of curriculum resource materials which would be available to others in the community.

Students must fulfill the basic credit and course requirements of the School of Social Work. In addition to the basic Social Work curriculum, the Hawaiian Learning Program students will participate in a weekly group seminar (SW 620-621) for an additional one credit per semester. The seminar is geared to providing students with the culture component in their training to insure that they begin to integrate cultural factors with Social Work concepts and practice. Other types of cultural activities are planned and will be implemented as an adjunct to the seminar because understanding culture includes not only cognitive learning about the past and present, but also all the areas of living which help perpetuate that culture.

the FUNDING

The Hawaiian Learning Program in the School of Social Work is funded by a grant from the National Institute of Mental Health and the Department of Health, Education and Welfare and provides only limited student financial aid to those who qualify.
BOARD OF DIRECTORS

Leon Morris, President (Choctaw)
Frank Whipper, Vice-President (Sioux)
Beth Lyn Johnson, Secretary (Winnebago)
Rose Marie Abayon, Treasurer (Navajo)

Members:
Mary Ann E. Akao (Japanese)
Chris Francis (Cherokee)
Donald Martin (Gros Ventre)
Martin Montez (Apache)
Janthina Morris (Delaware)

ADVISORY BOARD

Ron Albu
Attorney, Legal Aid Society of Hawaii

Lt. Jesse Cavasoz
U.S.M.C. KMAS

William J. Eggers III
Assistant U.S. Attorney

Jan Johannsen
Private Tutor

Abe Panoke
Teacher

E.E. Papke
Coordinator, Hawaii Carpenters' Apprenticeship Training Office

Ernest Uno
Director, YMCA Wahiawa

HOURS OF OPERATION

Monday - Thursday 8:00 AM - 5:00 PM
Friday 8:00 AM - 9:00 PM
Saturday 1:00 PM - 5:00 PM
LOHA - (greeting)

AMERICAN INDIANS IN HAWAII

From as early as 1787, when Chief Comekela, an American Indian visited Hawaii while enroute to China aboard the "Prince of Wales," American Indians have left their homeland to visit or settle in Hawaii.

During the whaling boom of the 1820's the American Indian came to Hawaii as seamen aboard whaling ships. American Indians also came as workers on the pineapple plantations.

World War II, The Korean War and the war in Vietnam brought more American Indians as military personnel in transit. Some were stationed in Hawaii. For reasons as diverse as the many tribes of American Indians represented in the Hawaiian Islands today, many chose to stay or return to Hawaii.

The American Indian community of Hawaii has been estimated to be approximately 3,000 persons. A slow, steady flow of American Indians in Hawaii has resulted in an established community representing the many tribes from the width and breadth of the North American continent.

HAWAII COUNCIL OF AMERICAN INDIAN NATIONS, INC.

In September, 1971 a small social club of American Indians living in Hawaii was formed. Due to mutual concern for the cultural and social needs of all American Indians in Hawaii, the Hawaii Council of American Indian Nations was formed. HCAIN is chartered as a non-profit social and service organization, registered with the State of Hawaii Department of Regulatory Agencies. The Hawaii Council of American Indian Nations is a multi-purpose agency providing counseling and referral services as well as cultural activities for the American Indian community.

AMERICAN INDIAN CENTER

Services available to the American Indian community at the American Indian Center include:

---Alcoholism Project: funded by a grant from NIAAA (No5H84-AA00-589), this project provides counseling, information and referral.

---Comprehensive Employment and Training Act: funded by Title III, Manpower, this program provides assistance in two major areas; (1) Employment and Education and (2) Health and Welfare. Another position provides the center with Public Relation services.

---Administration for Native Americans: funded by a grant from ANA (No. 9-I-19), this grant provides monies for the overall administration of the American Indian Center and Cultural Program. The cultural program includes cultural classes, monthly recreational activities and the Many Trails Dance Club.

THE FUTURE

Two major projects are being developed at this time. Under the Indian Education Title IV, a Parents Advisory Board has been formed in cooperation with the State Department of Education in determining feasibility and goals for development of an Indian Education Program under Title IV. Also, on January 30, a grant application (No. IHS-78-(437) was filed with the Department of Health, Education and Welfare; United States Public Health Service, Indian Health Service for an Urban Honolulu Feasibility Study. This study will provide data on the feasibility of sharing and utilizing services of Public Health Service Out-Patient clinic for the American Indian Community in Hawaii.
Honorable Junita M. Kreps  
Secretary of Commerce  
Washington, D. C. 20230

Dear Madame Secretary:

Re: Inclusion of a "Part-Hawaiian" Category in the 1980 Census

As you may know, the 1970 census deleted from its tabulations the category of "part-Hawaiian", a category which had been included in every U.S. Census from 1900 to 1960 and in every census conducted by the Kingdom of Hawaii from 1832 to 1896, two years prior to the annexation of the Hawaiian Kingdom by the United States.

We are informed by Governor George R. Ariyoshi of Hawaii that the exclusion of a "part-Hawaiian" category in the 1980 census data collection and tabulations will very seriously restrict the proper administration of certain programs of the State of Hawaii, such as the Hawaiian Homes Act, which requires 50 percent Hawaiian ancestry for eligibility. Such an exclusion will also seriously restrict the equitable allocation of funds to eligible individuals of Hawaiian ancestry under certain Federal programs such as the Comprehensive Employment and Training Act (CETA) Program.

In addition, this exclusion will seriously impair the effective implementation of the following legislation introduced in the 95th Congress on behalf of Native Hawaiians: S. 857, to amend the Indian Education Act and certain other related education assistance programs to provide Federal financial assistance to Hawaiian Natives, S. 859, to extend the provisions of the Indian Self-Determination and Education Assistance Act to Native Hawaiians, S. 860, to extend the provisions of the Indian Financing Act of 1974 to Native Hawaiians, and S.J. Res. 4,
establishing the Hawaiian Native Claims Settlement Study Commission. Hearings on S. 857, S. 859 and S. 860 will be held early next year by the Senate Select Committee on Indian Affairs. S.J. Res. 4 is currently under active consideration by the House Committee on Interior and Insular Affairs.

According to the latest State population estimates for 1976, approximately 16 percent of the population of Hawaii is "part-Hawaiian". In a letter to Ms. Nancy Fowler, Department of Planning and Economic Development, State of Hawaii, from Ms. Nampeo McKenney, Chief, Ethnic and Racial Statistics Staffs, Population Division, Bureau of the Census, dated June 16, 1976, Ms. McKenney states: "We should like to inform you of our plans concerning some of the issues you have raised regarding the content of the questionnaire. Our tentative plans for 1980 provide for including on the 100 percent questionnaire an item on race similar to the one used in the 1970 census. Because of certain restricting factors, such as space, and the need to process the 100 percent data quickly and easily to obtain counts for congressional apportionment, the racial categories included in the race item must be limited. Priority is given to those racial groups for which there is a clearly demonstrated need for small area data, such as those required for the implementation of Federal or State legislative acts, or the allocation of funds under major Federal programs, etc. (emphasis added)." We submit that the inclusion of a "part-Hawaiian" category in the 1980 census 100 percent survey fits every qualification in the above-cited paragraph.

In response to numerous inquiries by members of the Hawaii Congressional Delegation over the past two years, the Bureau of the Census has consistently objected to the inclusion of a "part-Hawaiian" category in the decennial census data collection and tabulations on the basis that "the inclusion of a separate "Part-Hawaiian" category, which gives emphasis to a particular racial strain, does not appear to be justified, in light of the substantive and public perception problems which it raises."
We emphasize the fact that a "part-Hawaiian" category has been included in every census in Hawaii from 1832 to 1896 and from 1900 to 1960. It is, therefore, unlikely that the inclusion of such a category in the 1980 census, if accompanied by appropriate instructions to the census respondents and enumerators, would create significant public perception problems. The exclusion of a "part-Hawaiian" category in the 1980 census 100 percent survey will, however, create very serious substantive problems for the administration of the aforementioned State and Federal programs and for the implementation of pending Federal legislation affecting Native Hawaiians.

We, therefore, request the inclusion of a "part-Hawaiian" category in the 1980 census 100 percent survey questionnaire and tabulations for the State of Hawaii. In view of the final revisions to the 1980 census questionnaire which are currently being made, we respectfully request your immediate attention to this very serious matter.

Aloha and best wishes.

Sincerely,

Daniel K. Inouye
U. S. Senator

Spark Matsunaga
U. S. Senator
GOOD MORNING,

My sermon this morning is titled HAWAIIANS IN TRANSITION and the message I want to give you is one of encouragement and hope. We are all familiar with the saying "Ho'oulu lahui" which was the personal motto of King David Kalakaua. "Ho'oulu lahui" - increase the race - was an exhortation to the Hawaiians to protect and preserve their race. In Kalakaua's time, there was a very real danger that Hawaiians as a race were on the verge of extinction. Today, we need not fear biological extinction - the latest figures indicate that Hawaiians and part-Hawaiians represent almost 17% of our population.

Yet, Kalakaua's exhortation to preserve the race had a much deeper meaning - one applicable even today. Kalakaua recognized that while biologically the race might survive, the difficult transition into western society could break the
spirit, the 'uhane, of the people. It was this spiritual death against which Kalakaua, and many Hawaiians before and after him, fought. In his time, Kalakaua did much to restore the cultural heritage of the Hawaiian people, to restore political power to the Hawaiians and to instill a sense of pride and self-determination in the people. This was his way of keeping the spirit of the people alive.

Today, because of men like Kalakaua, as well as the countless other Hawaiians who persevered, the spirit of the Hawaiian people is unbroken. It has been difficult, is still difficult, to keep the culture alive, to remember and retain our roots. In the process of meeting with western civilization, much has been lost - land, language, a way of life. All Hawaiians mourn for what was lost. But, all of us, knowing what was lost, remembering with sadness, should resolve not to dwell in the past to the point of useless bitterness. Although much that was worthy is gone, the spirit has survived.
The challenge which faces Hawaiians now is in determining what role Hawaiian people and culture will play in Hawaii's future. I believe that we must take it upon ourselves, as Kalakaua exhorted us to, to determine that role. We cannot look to others for leadership - although we can and must look to them for encouragement and support.

Recently, several significant steps have been taken towards self-determination for Hawaiian people. A new amendment to our state constitution requires the legislature to establish an Office of Hawaiian Affairs which would administer and manage all governmental resources designated for native Hawaiians and act as a vehicle for future reparations. The amendment provides for direct participation by Hawaiians in selecting the board of trustees who would be the administrative body of the Office of Hawaiian Affairs. Another constitutional amendment allows descendents of native Hawaiians to exercise customary and traditional rights subject to state regulation. Other amendments make major changes in the funding and administra-
tion of the Hawaiian Homes Commission and prohibits the acquisition of land through adverse possession except for claims of five acres or less. In addition, an educational amendment provides for the promotion of Hawaiian history, culture and language and requires that a Hawaiian educational program be established.

These amendments in and of themselves represent a great step forward for Hawaiians. Of equal importance to me is that Hawaiians spearheaded the drafting, introduction and ultimate passage of these proposals at the Constitutional Convention. After these proposals passed at the Convention, Hawaiians again took the leadership in convincing the public that the amendments should be ratified.

We all recognize that a key to the future of the Hawaiians is the educational aspirations of young people and their parents. While official statistics indicate that Hawaiian educational attainments are still relatively low, there is a changed attitude among Hawaiian families and within the Hawaiian community.
with regard to education. The conviction among Hawaiians now is that education and success are synonymous. One indicator of the future of Hawaiian educational advancement is the increase over the past few years in Hawaiian Ph.D's. A decade ago there were almost none. In my own field - the law - I find it gratifying that today there are over 100 attorneys of Hawaiian descent. Ten years ago, there were only 35 of us.

The increase in the number of Hawaiian attorneys is due, in good measure, to the University of Hawaii Law School - 16% of the students at the Law School are of Hawaiian ancestry.

There has also been an increase in the number of Hawaiian students going to mainland law schools and then coming home to practice. Another bit of evidence of the growing importance of education among Hawaiians is the increased activity among Hawaiian writers and scholars who are producing works of greater credibility and scholarship.

In the area of business, Hawaiians have also made sub-
stantial progress, although once again the statistics indicate that the number of Hawaiians who own their own businesses or who are in management positions are still relatively low. A new study on Hawaiian businessmen comes up with some interesting observations and conclusions. Gene Ward, who is doing a study of Hawaiian businessmen as part of his doctoral thesis, concludes that there is no basic difference between Hawaiians and other races in terms of ability to enter and succeed in business. One disadvantage that Hawaiians may have when compared to other races is that they don't have the benefit of a "support network," that is, other races have more family members and friends in business than Hawaiians. Of course, this will change as more and more Hawaiians enter the business field. One of the study's most interesting findings is that Hawaiians seem to have a keener sense of empathy so that in a business relationship they can establish rapport and complete a transaction better and more quickly. The study concludes that the Hawaiian businessman is someone who is conscious of the feelings and
and values of society and people, but at the same time, is clearly aware of business responsibilities and goals.

Culturally, Hawaiian music, dance and arts continue to flourish - a direct result of Kalakaua's early efforts. For instance, at the upcoming Merrie Monarch Festival which honors Kalakaua, over forty halaus will be vying in the modern and ancient hula competitions. Ten years ago, ancient hula was being preserved and passed on by a few dedicated kumu hula. Now, many young people eagerly seek such knowledge and new halaus, new styles of dance, are abundant. To me, this is an excellent example of not only preserving the past, but taking the past and creating something new, but uniquely Hawaiian with the knowledge of our ancestors.

All of these efforts by Hawaiians, in politics, in law, in education, in business, and in the arts, are the embodiment of the spirit, the 'uhane, of the Hawaiian people which continues to live. In some sense, Hawaiians will always be a people "in transition." To be fully assimilated into western society,
if that means denying the Hawaiian spirit, is not something for which we should strive. However, to adapt to American society, to contribute to that society, is something we can achieve. Whatever our individual jobs, ambitions, place in society, we are linked together and to this land. Each of us must fight, in our own ways, to retain within us the learning and wisdom of our ancestors. We must walk the delicate balance between two worlds - the modern and sometimes impersonal society which surrounds us and the highly personal and ancient culture we carry within us. I believe that the ability to maintain that balance, to maintain that spirit within us, is a gift which we can share with all people.
Dear Don,

We have been away from Oberlin for two years, but we frequently hear of your good works and of the news in and around Oberlin through the Oberlin News-Tribune. Jane and I hope that all goes well in your work and you all can ease up at times, given your busy legislative schedule. The family and I talked about coming back for a visit to Oberlin soon, but my schedule precludes such activities at this time. I personally had wanted to return to celebrate Dick Myers' retirement from the Department of Sociology at Oberlin, given that Dick had taken me under wing as a young, wet-behind-the-ears acting professor in early 1958 in the middle of a cold winter. We have seen ourselves through a very exciting, if not trying time from that period onward. (I also appreciated Bob Fuller's remarks at his Assembly Speech in behalf of Oberlin College's and my commitment to equality of educational opportunity for all children who reflect the human condition in the United States, although we differed significantly on methods and approaches to academic policy and practice in promoting such valued ends.)

I find that I simply cannot remain away from the arena of efforts to increase the base of opportunities and support for the best quality education for children and families subject to untoward and often unwarranted actions which limit their chances for such education. I am thus the Chairperson of the Chancellor's Advisory Committee on the Hawaiian Studies Project at this University. We are seeking to develop a major institutional effort to develop curriculum, and affirmative staffing at developing the base of Native-Hawaiian talent, and in the provision of land-grant type community services which can improve the quality of education of Native-Hawaiian and other "Hawaiian" children here.

I also have been drawn into this effort at improving educational and employment opportunities involving Native-Hawaiians and others who normally are "under-utilized" in valued professional work in the labor force here. I will become the principal supervisor of a National Institute of Mental Health grant (a 3 year, $350,000 training and research grant) which will train such talented young persons to examine the ways in which categorical discrimination due to operating policies, practices, and staffing arrangements may emerge and yet can be changed to benefit equitably such local minorities.
It is within this continuing spirit of personal and professional commitment that I am requesting the aid of your office in seeing that the best bill and ensuing legislation involving the education of Native-Hawaiians be developed and passed in the House of Representatives. The presently formulated Bill will be derived from an Amendment to the Act of September 30, 1950 (Public Law 874, Eighty First Congress) to provide education programs for Hawaiian Natives, and for other purposes. The two Congresspersons from Hawaii, the Honorable Daniel Akaka and the Honorable Cec Heftel, are in the best position to know of the status of the legislation and of the problems and strengths in both content and process. Any counsel and assistance by your office and by others in the Ohio delegation in reporting out and passing a high quality bill of benefit to Native-Hawaiian children will be received with Aloha and with gratitude from a people who are living exemplars of kindly giving of self and of largesse to all who have come to live and work in Hawaii. The cost of continuous contact and political and economic change, however, has been borne extremely heavily by the children.

There is tension, as in the Black community, between sharing the good news about continuing efforts at improvement in quality of attainments and quality of life, and demonstrating that pressing educational needs persist within the population. My own view is that the Native-Hawaiian parents and their community leaders are ready to come to firm grips with the underlying educational and community issues (in ways that active support at this time for special interventions and changes have every chance of improving educational quality and related attainments in employment and community participation).

It does appear that the Bill is modeled after ESSA type support and is focused in early education efforts to reduce compensatory efforts at a later point in schooling. We at the University, especially in the Hawaiian Studies Project and in the Social Sciences, clearly wish to serve where we can effectively in terms of our own expertise and "wisdom". It does appear that there are several components of direct interest in higher educational efforts—research and development efforts at innovative approaches to education involving children who reflect "non-mainstream" upbringing and heritage, fellowship support for such talented youths to fill needed positions in meeting basic social service needs within the population, the need for highly qualified Native-Hawaiian professionals to conduct systematic evaluation and impact research on the interventions developed and adopted under parent group and community leadership oversight, among others. We clearly are interested, both in wishing to provide for community needs, where requested, and because we all love the children, who truly reflect admixture of all color and background, (the rainbow imagery of the range of humanity and diversity) which is Hawaii and is Hawaiian.

Any kind assistance in enabling best legislation and passage on this proposed bill or similar bills is deeply appreciated. If you can suggest my writing to others, I will be very happy to pursue this matter with them as well.

Sincerely yours,

Kiyoshi Ikeda
Chancellor's Advisory Committee on the Hawaiian Studies Project

xc: Congressperson Akaka
Congressperson Heftel

KI/mgl
I WILL NOW SEND MESSAGE TO LAURIE

OKAY

HB 2847 REPORTED OUT OF HOUSE EDUCATION COMMITTEE AND REFERRED TO FINANCE. NO ACTION SCHEDULED AT PRESENT

BABS+
440325 INYE UI....*
440325 INYE UI....*
440325 INYE UI....*
440325 INYE UI....*
440325 INYE UIM.....*
440325 INYE UI.....5
1554EST 007.09
RELATING TO HAWAIIAN LANGUAGE IN THE SCHOOL CURRICULUM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Chapter 298, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 298- Hawaiian language courses; school offering. The department of education shall offer an Hawaiian language course as a regular part of the elementary school curriculum."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:

Feb. 8, 1978
A BILL FOR AN ACT

RELATING TO THE HAWAIIANA PROGRAM IN PUBLIC SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Purpose. The purpose of this Act is to improve the Hawaiianana program in public schools.

SECTION 2. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of $ , or so much thereof as may be necessary, to carry out the purpose of this Act.

SECTION 3. The sum appropriated shall be expended by the department of education for the purpose of this Act.

SECTION 4. This Act shall take effect upon its approval.
Dear Commissioner Mastrapasqua:

Please be advised that as an active member of Hawaiians United, Incorporated, I have been retained by that collective group through the offices of the corporation president, Andy Ah Po, to represent that organization with regard to the denial of funds under the Native American Program Act in September, 1977.

I have spent the last month reviewing the PL 93-664 Funding Requirements, the application submitted by HUI, the numerous letters and documentations in support of funding under Title VIII, and the alleged reason for denial for funding for the fiscal year of 1978. My review of all of these matters has led me to the confirmed conclusion that our organization has established a legal socio-economic need, has timely and appropriately applied for assistance to cover that need and has been denied said assistance while other organizations of similar nature and the same or less need have been granted new assistance or substantially were increased in such assistance.

By seeking relief through the Federal Court system, it is my belief that upon comparison of the funding of other programs and the denial of said funding to our organization, we could obtain a favorable legal response by way of mandatory injunctive relief.
In all fairness, it should be pointed out that we have considered suggestions by your department and its representatives that application be made for funds through the regional office for the Native Indian program, or, in the alternative, apply for a portion of those funds already allocated to Native Hawaiians through those programs based in the Hawaiian Islands. Neither option presents to HUI a viable means of satisfying the needs of Native Hawaiians in California. The problems of the Native American from Hawaii in the State of California is unique, not only to this state, but also to the people so involved. A channeling of funds through another state or through another native ethnic group would only serve to exacerbate the identified problems of native Hawaiians in California.

I hope this letter serves to assure you that we are no longer considering preliminary negotiations in this matter, we are no longer accepting a "wait and see" posture as far as funding is concerned and we are no longer willing to accept a position secondary to similar groups being funded by your agency. We are, therefore, now prepared to take whatever steps necessary, including the institution of formal litigation in the Federal courts to achieve that which the law has designated we are entitled to. It is therefore imperative that you let us know, as soon as possible, what your intentions are with regard to our application.

Your prompt consideration and cooperation in this matter will be most sincerely appreciated.

Very truly yours,

PETERS AND JANULEWICZ

Ron Peters

RP:bs

cc: Senator Alan Cranston
    United States Senate

    Senator S. I. Hayakawa
    United States Senate
Mr. Ron Peters
1015 Second Street
Sacramento, California 95814

Dear Mr. Peters:

This is in response to your letter of November 27, regarding ANA funding for Hawaiian's United Inc. (HUI). I apologize for not replying sooner but we have been in the midst of our planning process and, therefore, extremely busy.

While I do understand your concern and interest in obtaining financial assistance for HUI, there are several points which I feel should be clarified with respect to ANA and its funding policies. To begin with, ANA is not an entitlement program. Although our legislation does define our potential service population as being the total Indian, Alaskan Native and Native Hawaiian population, our legislation does not state that every community falling within that definition is automatically entitled to ANA support. Clearly, our present appropriation level does not afford us this latitude. We are hopeful that we will begin receiving an increase in budget, but in the meantime we are obliged to deal with the realities of our current resources.

As stated on a number of occasions to Mr. AhPo, there are many Native American communities technically eligible for ANA support, but who presently do not receive a grant from this Office. Additionally, of course, there are numerous Native American groups who are presently receiving ANA grants, but whose funding level is considerably less than is needed to adequately address community needs. I am stressing these points and the fact that ANA is not an entitlement program because of the reference to entitlement in paragraph two of the second page of your letter.
As has also been related to Mr. AhPo, all new ANA projects are awarded through a competitive grant review process and only when in response to specific Program Announcements. We do not, therefore, review unsolicited proposals such as the one submitted by HUI to the San Francisco Regional Office several years ago.

At such time as uncommitted money does become available, ANA must review its total program operations and determine priority areas for which funding would be the most beneficial, e.g. research, training and technical assistance, general community programs etc. Given our budgetary constraints, this decision is obviously not an easy one to make. To date, we have not had funds available to address the general community program needs specified by HUI in past correspondence. When we do identify such resources, please be assured that we will forward HUI a copy of the appropriate Program Announcement. If they are interested in competing for a grant at that time we would encourage them to do so.

In addition to HUI's expression of interest in a general community program grant, it is my understanding that they have submitted an application in response to our August 10, Native American Research Program Announcement #13612-781. Although the application review for this project has not been completed yet, I can assure you that HUI's submission will be given the same review and consideration as all applications which are responsive to the Program Announcement specifications.

Should you have any further concerns, please feel free to contact me again.

Sincerely,

A. David Lester
Appeals court rules against Hawaiians

Hilo — The 9th Circuit Court of Appeals in San Francisco, nullifying a Honolulu federal court ruling involving Hawaiian Homes Commission lands, has ruled that native Hawaiians have no right to sue in federal court over alleged breach of trust under the Admission Act.

The three-judge panel unanimously dismissed a suit brought against the state, the Hawaiian Homes Commission and the County of Hawaii several years ago by the Keaukaha-Panaewa Community Association, the Panaewa Farmers Association, and Irma Kalaniu and Isabell Knutsen as individuals. The plaintiffs had asked the court to order the state to work out a land exchange for Hawaiian Homes lands which had been given over to Hawaii County for use in a flood-control project.

Federal Judge Dick Yin Wong had ruled in favor of the Hawaiians. But in overturning that ruling, the San Francisco panel of judges said such a suit could not be considered in federal court.

The San Francisco ruling said that only the U.S. attorney could bring suit in federal court for breach of trust under the Admission Act. It said private individuals have no such right.

The verdict was interpreted here yesterday as a major setback for Hawaiian activists who have demanded compensation from the state and other agencies for use of Hawaiian Homes land in such public projects as Hilo Airport and Anahola Park on Kauai.

Legal Aid attorney Ben Gaddis, who represents the two Hawaiian organizations and the two individuals in the suit, said the latest decision “definitely will be appealed.”

Gaddis, a Hilo attorney, said a petition is being prepared to ask the appeals court for reconsideration, urging that all of the judges within the 9th Circuit review the decision of the three judges.

If that fails, Gaddis said, he intends to petition the U.S. Supreme Court.

Under the ruling, which was rendered in San Francisco last week and released in Hilo yesterday, the appellate judges also said the Hawaiian Homesteads Act of 1920 no longer can be considered a federal law because of the subsequent effect of the Admission Act, under which Hawaii became a state.

In Wong’s ruling in April 1976, the appellate judges declared that the county had to compensate the Hawaiian Homes Commission for the 24 acres it had taken for the county flood control channel project in Waikea.

The latest ruling upholds Hawaii’s contested practice of using executive order signed by the governor to convey Hawaiian Homes land for public uses.
population of Niihau for 1975 - 240 Hawaiians or part Hawaiians
economic base of Niihau - mostly cattle ranching, sugar and
pineapple are disappearing
	potential for economic development - Kauai county plans
are for diversified agriculture and cattle ranching. Robinson
family will have to decide that
	here is no known will that states exclusion of other ethnic groups
from Niihau but there is a Robinson tradition that does not
allow other ethnic groups. It is a private aina so State has
nothing to say about it.

Call Steve on Kauai
NOTICE OF RESEARCH PROJECT
SCIENCE INFORMATION EXCHANGE
SMITHSONIAN INSTITUTION

OFFICE OF WATER RESEARCH AND TECHNOLOGY
DEPARTMENT OF THE INTERIOR

Contemporary Relevance of Hawaiian Native Water Rights
Study to Federal Action and Interests

Principal Investigator: Prof. Williamson B.C. Chang, School of Law
Co-Investigator: Dr. Hiroshi Yamauchi, Assoc. Prof., Agricultural & Resource Economics

SUMMARY OF PROPOSED WORK — (200 words or less) — In the Science Information Exchange summaries of work in progress are exchanged with government and private agencies supporting research, and are forwarded to investigators who request such information. Your summary is to be used for these purposes. We intend to investigate and study the enforceability of Native Hawaiian Water Rights by Native Hawaiians and the Hawaiian Homes Commission and the impact of such claims on the present legal system of water rights in Hawaii. Water is a critical element in Hawaii’s economy and future plans for land use development. The vigorous claim for recognition of water rights by Native Hawaiians, small farmers, the sugar industry, the State of Hawaii and the County’s Board of Water Supply may force adoption of a new legislatively enacted water allocation system to replace the current system which has been paralyzed by continuous litigation. We seek to analyze the enforceability and significance of native rights and the viability of old water systems for the future.


FCST Category: VI-A

SIGNATURE OF PRINCIPAL INVESTIGATOR

PROFESSIONAL SCHOOL (medical, graduate, etc.) UH School of Law

$ 57,747 Non Federal
$ 54,044 Federal
$111,791 Total

Period of Operation: October 1, 1978 - September 30, 1980
Three issues of contemporary significance to the immediate future of Hawaii add to the importance of this study of Federal and Native water rights. They are: (1) Reparations to Hawaiians under the proposed Native Hawaiian Claims Act, (2) the need for clarification of competing irrigation water claims to determine the future of Hawaii's sugar industry, and (3) the possibility of increased use of the power of the Hawaiian Homes Commission to use water free of charge for Native Hawaiian beneficiaries of the Act.

The Native Hawaiian Claims Act

June 27, 1974 a bill was submitted to the United States House of Representatives to settle the historic claims of Hawaiian natives. The Bill seeks to establish a Hawaiian Native Fund of one billion dollars, deposited in 10 equal yearly amounts to be administered by the Secretary of the Interior. The drive for reparations led by a group named ALOHA (Aboriginal Lands of Hawaiian Ancestry) has grown over the past two years, spurred on by the success of the Alaska Native Claims Act. Under that settlement, Alaskan Natives will receive 38 million acres of land and 1 billion dollars. There are strong similarities between the claims of native Hawaiians and those of the Alaskans. In both cases land was taken by the United States without paying compensation to the native population.

Any systematic and rational return of land and appurtenant water rights under the proposed Act in settlement of native Hawaiian claims would require a prior study of ancient Hawaiian water rights. Furthermore, in order to prevent any major adverse dislocation of water resources, a study must be made prior to such action to determine any effects such transfers of water rights would have on the present allocation scheme.
In the event that compensation under the proposed Act is made not in the form of return of lands but rather as payment in compensation to Native Hawaiians, a study of ancient Hawaiian water rights is still needed to appraise the size of such compensation.

Hawaii's congressional delegation has committed itself to the establishment of a commission to study Native Hawaiian reparation claims. The purposes of this study would provide needed empirical data, and legal and economic analysis for the commission's study.

**Importance of a Clarification of Water Rights to Hawaii's Sugar Industry**

Sugar is Hawaii's second largest industry. Water has been the single greatest factor in the expansion of the sugar industry. In 1973, in a landmark decision the Hawaii Supreme Court in McBryde Sugar Co. v. Robinson 54 H. 174 (1973) ruled that storm and freshet surface waters, the rights to which formerly belonged to adjoining landowners, was the property of the state. This decision cast a great shadow upon prior expectations concerning the availability of irrigation water. Furthermore, since the McBryde decision held that water could not be transferred from one watershed to another, the decision created a great deal of uncertainty regarding the legality of established water transfer systems.

Subsequent to the decision by the Supreme Court of Hawaii, the private litigants in the McBryde case sought an injunction in federal court against the implementation of the Supreme Court decision.

On October 26, 1977, the Federal District Court in Hawaii permanently enjoined the enforcement of the McBryde decision on the basis that this sudden change in the law constituted an unconstitutional taking of property without just compensation.

Although the issues in the McBryde case have been in litigation for almost 40 years, the case is far from over. The state still may appeal the injunction to the Ninth Circuit Court of Appeals where it may be remanded for further proceeding or still again appealed to the United States Supreme Court.
Tariff protection for Hawaiian sugar recently ended with the expiration of the Sugar Act several years ago. Thus, Hawaiian sugar has not been able to compete with foreign sugar and the industry is in dire straits in Hawaii as well as other parts of the United States.

The highest priority of Hawaii's congressional delegation in the current legislative session is to restore the protection of a tariff and quota under a new Sugar Act. There is some opposition by members of Congress and economists who contend that sugar is a non-competitive industry world-wide and should not receive the protection of tariffs or quotas.

In order to adequately evaluate, in economic terms, the viability and competitiveness of the sugar industry, one must determine the future availability of water, a critical factor in the price of sugar. One of the principal purposes of this study is to examine the extent to which irrigation water being used by the sugar industry falls under native claims and Hawaiian Homes Claims and what effect the exercise of these competing claims would have on the availability of water to the sugar industry.

**Determination of the Potential Claims and Uses of Water by the Hawaiian Home Commission**

The Hawaiian Homes Commission, created by Congress under the Hawaiian Homes Commission Act, is a semi-autonomous agency (at one time the Commission was under the auspices of the Dept. of Interior; although major responsibility has passed to the State, the Secretary of Interior must still approve the transfer of certain lands) created to administer Hawaiian lands held for the benefit of Native Hawaiian. The primary function of the Commission is to lease homestead and agricultural lands to qualifying Native Hawaiians at lower-than-market rates. Under S221 of the Hawaiian Homes Commission Act, the Commission has the power to appropriate, free of charge, all water necessary for the domestic and agricultural uses of the Hawaiian Home Lands.
Historically, the Commission has been administratively ineffective. It has not fully developed its program of leasing lands to Native Hawaiians. There is currently a waiting list of applicants twice in number to those who are lessees under the program. It is not clear to what extent the Commission has exercised its power to appropriate water. In all probability the power to seize water has been as under-utilized as the power to lease lands.

The Commission has come under heavy attack recently by Native Hawaiian organizations for failing to adequately develop the potentials of the program. (On November 18, 1976 a sit-in was staged at the executive director's office by representatives of Native Hawaiian groups.) Proposals are currently being made to re-structure the Commission. The ineffectiveness of the Commission will certainly be discussed and reforms contemplated at Hawaii's Constitutional Convention in 1978.

The result of this will be a commission more responsive to the land needs of Native Hawaiians. Undoubtedly, the commission will increase the amount of lands leased to applicants. The question that is of primary importance to this study is to what degree will the Commission use its historically dormant right to appropriate water, free of charge, for the Hawaiian Home Lands and what effect the exercise of such rights will have on the sugar industry and other competing users of water. A thorough study has not been done as to the power of the Commission to appropriate water and the ramifications of such power on Hawaii's water allocation scheme.
D. PERSONNEL

1. Principal investigator or co-investigators: See continuation sheet(s)
   Prof. Williamson B.C. Chang, School of Law
   Prof. Hiroshi Yamauchi, Dept. of Agricultural and Resource Economics

2. Other investigators:

<table>
<thead>
<tr>
<th>Name</th>
<th>Last degree</th>
<th>University</th>
<th>Fraction of time/1st year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Other personnel:

<table>
<thead>
<tr>
<th>Type</th>
<th>No. on project at any time</th>
<th>Total time (man-yrs/yr)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate assistants</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Student technical helpers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Student clerical helpers</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Training opportunities:
**FINANCIAL FORM AND COST ESTIMATE-TITLE PROJECTS-FY 1980**

**PROJECT TITLE:** Contemporary Relevance of Hawaiian Native Water Rights Study to Federal Action and Interests

**State:** Hawaii

**Project Number Assigned by OWRR:**

---

**New Project - [x] Proposed**

**Continuing Project - [ ] Actual**

**Starting Date:** 10/01/79

**Proposed Completion Date:** 09/30/80

**Duration of Project:** 12 (Months)

---

**COST CATEGORY ITEMS**

### 1. Direct Costs:

#### A. Salary & Wages:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>7</td>
<td>12,401</td>
<td>5,159</td>
<td>17,560</td>
</tr>
<tr>
<td>2</td>
<td>12</td>
<td>11,784</td>
<td>11,784</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>19</td>
<td>12,401</td>
<td>18,836</td>
<td>31,237</td>
</tr>
</tbody>
</table>

**Sub-Total A**

#### B. Employee Benefits:

**Sub-Total B**

1,860 1,275 3,135

#### C. Non-Expendable Equipment:

**Sub-Total C**

900 900

#### D. Expendable Material & Supplies

**Sub-Total D**

1,100 1,100

#### E. Travel:

**Sub-Total E**

2,000 2,000

#### F. Other Direct Costs (Specify):

- Consultant Svcs
- Communication
- Publication
- Computer Services

**Sub-Total F**

14,261 27,161 41,422

**TOTAL DIRECT COSTS**

15,056 15,056

29,317 27,161 56,478

**TOTAL PROJECT COSTS**

---

*Indirect costs are to be based on audited rates

**See attached sheet**
EXECUTIVE SUMMARY

1. Research Proposed Title
   Contemporary Relevance of Hawaiian Native Water Rights Study to Federal Actions and Interests.

2. Name and Organizational Affiliation of Principal Investigator(s)
   Williamson B. C. Chang, Law School, University of Hawaii
   Hiroshi Yamauchi, Agricultural Economics, University of Hawaii

3. Duration of Project and Federal Funds Requested
   October 1, 1978 to September 30, 1979 $26,883
   October 1, 1979 to September 30, 1980 $27,161

4. Identification of the Water or Water-Related Problem, and Problem Solution Approach
   Primarily, Professor Chang will be setting forth in a technical report, or article, or series of articles, the extent and importance of Native Hawaiian water rights claims to Hawaii's existing water resources. As stated in the attached document, "Contemporary Relevance of Native Hawaiian Water Rights Study to Federal Action and Interests," the proposed study seeks to determine what are the legal claims of various groups to Hawaii's water supply and what system is best suited to resolve conflicts between these groups. Moreover, the study will analyze recent court decisions such as Robinson v. Ariyoshi, F. Supp. (D. Hawaii, October 26, 1977) will affect Hawaii's current allocation system.

5. Research Contribution to Problem Solution
   The proposed project will compile and set forth the existing state of knowledge of Native Hawaiian water rights and analyze the role of courts and the judicial process in resolving the conflicts. Furthermore, the study will analyze the viability of the public trust doctrine to resolving Hawaii's water problems.

6. Research Objectives
   This project will utilize data gathered by Dr. Yamauchi to determine the extent of Native Hawaiian water rights claims to Hawaii's existing water resources, identify the legal issues involved, predict the probable judicial and administrative responses to claims by native Hawaiian groups and others and propose the best solutions in terms of all interests for these problems.

7. Research Approach
   Data gathering has been substantially completed for the Island of Oahu. The principal investigator will take this data and incorporate all relevant legal aspects and analyze the problems set forth in Section 4 and Section 6 above. The project is at a state where there is sufficient data to analyze the issues and set forth solutions. The project may be used as the framework for additional research to be done on the neighbor islands. Prior to this time, the data collection had not been sufficient enough to undertake a substantial writing effort.

8. Research Result Users
   The principal investigator and Dr. Yamauchi plan to publish the results of this study in 1) law reviews, 2) journals of law and water resources, 3) water resource journals, and 4) publications of local community interest.
8. Research Result Users (cont.)

The results of this study will be of substantial benefit to those persons who are seeking information regarding Native Hawaiian water rights and the legal status of such claims. The study will also be useful to other investigators in the United States who are working on similar problems dealing with native Americans and other groups.
CONSERVATION ECONOMICS OF HAWAII'S SYSTEM OF WATER RIGHTS

by

Hiroshi Yamauchi

Associate Professor
Department of Agricultural
and Resource Economics,
and Water Resources Research Center
University of Hawaii

Presented at the National Specialty Conference of the American Society of Civil Engineers on the Legal, Institutional, and Social Aspects of Irrigation and Drainage and Water Resources Planning and Management at Virginia Polytechnic Institute and State University, Blacksburg, Virginia, July 26-28, 1978.
CONSERVATION ECONOMICS OF HAWAII'S SYSTEM OF WATER RIGHTS

by

Hiroshi Yamauchi*

Abstract: Institutional innovations are key to improving water resources conservation and management in Hawaii. Ambiguities in water rights are being tested in the courts and attention has been directed to the original common property concept of Hawaii. Ownership, usership and transfer are basic tenure concepts which need clarification for furthering the reasonable beneficial use principle. This in turn can have far-reaching implications for coordinating state water policy through local water users associations.

INTRODUCTION

The problems of conserving and allocating scarce water resources among competing users and uses in Hawaii have been compounded by legal and economic uncertainties that constrain decision-making at the policy, institutional and operating levels. The physical and economic effects of these uncertainties depend, in large part, on the institutional alternatives that can provide both security for investments in water resource development and also flexibility for the reallocation of water to alternative uses over time. When water resources take on the institutional characteristics of property, economic values can be capitalized into the legal rights to use and the opportunity for economic study within the framework of conservation economics (Ciriacy-Wantrup, 1968) presents itself.¹

In this framework, the nonrenewable (stock) and renewable (flow) aspects of water resources are clearly distinguished. Conservation and its opposite, depletion, are relative concepts which concern changes in the timing of use. When use rates are redistributed toward the future, we have conservation and when toward the present, we have depletion. The choice between these necessarily involves the economics of allocating the changes in uses among competing users. Questions of efficiency in use and equity among users are simultaneously addressed within a hierarchy of decision systems. In this hierarchical structure, policy decisions establish goals and provide institutional rules which control decision-making at the operating levels where inputs and outputs are directly involved. In each state the system of water rights is the primary property institution around which secondary institutions or the

---

*Associate Professor, Department of Agricultural and Resource Economics, and Economist, Water Resources Research Center, University of Hawaii.
direct (e.g., zoning and regulations) and indirect (e.g., leasing, taxing and credit) tools of conservation develop.

HAWAII'S "UNIQUE" SYSTEM OF WATER RIGHTS

Hawaii's system of water rights has long been labeled "unique" in the sense that it was attributed to have evolved from ancient customs and traditions and, as such, did not clearly fit within the riparian-appropriation scheme of other U.S. mainland states (Hutchins, 1946). Until recently, an important result of this "unique" attribute has been to maintain a strong private property orientation for water resources and a relatively undeveloped governmental framework for controlling decisions at the operating level.

In fact, the "unique" aspects stem more from the ambiguous manner in which water rights concepts were applied in the early development of Hawaii's water economy. To insure security for private investments in water development, water rights were interpreted in terms of "ownership" of the resource itself. This, in turn, allowed for a virtually unrestricted means of transfer and use by the "owners" and users.

However, maximum security and flexibility to private "owners" did not necessarily assure responsiveness of the system to conservation in the social interest. The practice of overuse (depletion) served the dual purposes of gaining prescriptive rights against other "owners" and, at the same time, protecting against the possibility of such losses. Claims were directed not only against other private "owners" but also against the State.

The institutional response to this long-standing situation has just begun as a result of an unexpected opinion of the Hawaii State Supreme Court in 1973 on the McBryde v. Robinson case. The case which was initiated in 1945 was an attempt by the private litigants to adjudicate the waters of the Hanapepe River and its upper tributaries (on the island of Kauai). The earlier roots of the case can be traced further back to the early 1920s when the Gay and Robinson families were able to successfully claim title to some of the upper watershed lands in a case against the Territory (Gay & Robinson v. Territory of Hawaii).

The unexpected opinion of the Hawaii Supreme Court in the 1973 McBryde case was essentially to the effect that "ownership" of flowing waters in natural water courses remained in the people of the State for their common good and that the riparian doctrine applied to all waters previously regarded as "surplus" of established ancient appurtenant water rights. Further, the transfer of these water rights by private parties was restricted according to the original principles (essentially riparian) established for water in Hawaii.

The appeals process followed almost immediately and still continues. After appeals to the State and U.S. Supreme Courts failed, the private litigants' complaints were heard by the Federal District Court. In 1977 this Court reversed and enjoined the State from enforcing the State Supreme Court's decision on grounds that both procedural and substantive due processes were denied. The State, in turn, has taken it to the Ninth U.S. Circuit Court of Appeals where the matter now stands.
Whatever the final outcome of this time-consuming and costly judicial process, which is expected to eventually reach the U.S. Supreme Court, the more significant result is that over a century of legal tradition in Hawaiian water law has been shaken. The ambiguities of "ownership" and transfers are now being tested in the courts and attention has been directed to the common property concept as a primary property institution for water resources in Hawaii.

THE EARLY HAWAIIAN COMMON PROPERTY SYSTEM--ANCIENT APPURTENANT WATER RIGHTS

The original land reform, the Great Mahele of 1848, proclaimed by King Kamehameha III with the assistance of his western advisors was the most significant development in the conversion of ancient Hawaiian customs and traditions to the property system. Before the mahele (land division), all the natural resources of the land and coastal waters were subject to the sovereign control of the King. The concept of "ownership" was not necessarily a part of the ancient system of control.

Uses of the resources, including water, were arranged through a complex system of chiefs and headmen (konohikis). They administered for the King the primary land units. These primary land units included the ahupuaas, ʻilis of the ahupuaas and ʻilis kupono. Their structures were closely related to the ecosystem and were essentially the original common property concept of Hawaii.

The ahupuaas were generally wedge-shaped lands running from the mountains to the sea roughly in accord with natural watershed boundaries. The resources of the ahupuaas were entrusted in the chiefs for the benefit of the common people living within the ahupuaas. The ʻilī and ʻilī kupono were more or less irregular-shaped lands either wholly contained within or cutting across the ahupuaas. The resources of these lands were for the benefit of members of or close to the royalty.

Water for irrigating the taro lands (kuleanas) or the commoners was delivered through ditches (auwais) and allocated according to the amounts of labor and other inputs contributed to the construction and maintenance of the water systems. Waters used in this manner at the time the mehele was implemented (through land commission awards and royal patents) were considered appurtenant to the taro lands. Rights to these waters are recognized today as ancient appurtenant water rights.

Holders of these rights have first claim to the waters of streams and are coequal among themselves. They were, however, subject to prescription and only a fraction of the total surface waters developed today fall into this category. Further, their use is no longer confined to the original taro lands. As land titles were consolidated for sugarcane plantations, water companies were formed to gain control over these rights. Today, it is not uncommon to find waters which are subject to ancient appurtenant water rights, transported over great distances for use outside the watersheds of origin.
SURPLUS WATERS: KONOHIKI AND RIPARIAN WATER RIGHTS

Early conflicts related to small uses required for domestic and taro irrigation purposes. However, with the decline in demand for taro and the growth of the rice industry, later to be supplanted by the sugar industry, controversies arose over whether ancient taro watering rights could be transferred to the irrigation of the new crops. The numbers and stakes of the conflicts grew in proportion to the increase in importance of the sugarcane industry. Since more water than that covered by the appurtenant rights to taro lands was required for the vastly increased lands going into irrigated sugarcane, new claims to "surplus waters" were filed in the courts.

All surface waters in excess of quantities required to satisfy the established ancient appurtenant rights, prescriptive rights and other rights conveyed by deed were regarded as "surplus waters". Claims to these waters fell into two main classes, (1) "surplus waters of normal flow" subject to konohiki water rights and (2) "surplus waters of abnormal flow" or storm and freshet waters subject to the riparian doctrine.

The holder of the konohiki water right had the unqualified right to use as he pleased, the "surplus water of normal flows" originating on his lands. As successor to the konohiki, he could use such waters entirely within or outside his land unit, since these waters were not appurtenant to any particular portion of his land. This created some difficulties for downstream landowners in that their konohiki water rights were junior to similar rights upstream. Security in konohiki water rights tended to diminish successively with distance downstream and potentially with greater severity than would have been the case under the Riparian Doctrine.

Only to the extent that "surplus storm and freshet waters" could be operationally defined were the upstream landowners subject to the riparian doctrine. Since by definition "abnormal flows" became available only in times of heavy storms that resulted in flash floods in the narrow coastal plains, there was little physical certainty attached to them. There was also legal uncertainty as to whether these rights could be practicably quantified through adjudication.

Water development, nevertheless, proceeded on an ad hoc basis and claims to prescriptive rights were commonly made to reduce legal uncertainties. At the present time, over 540 MGD of stream waters have been developed and is being conveyed through about 43 ditch systems throughout the four major cane producing islands (Kauai, Oahu, Maui and Hawaii) in the State. Only a small portion of this is being used under ancient appurtenant water rights, and the sugar industry has estimated that about $50 million has been invested in the development of water sources and irrigation systems. Irrigation of sugarcane is largely dependent upon transporting water through these ditch systems for use outside the watershed of origin. Further, since the mahele the succession of land ownership to the water producing forest reserves has fallen into the hands of the State government and a few large private estates. A mixed system of public and private leasing of water, therefore, has developed over time, and control over the extensive physical irrigation systems is currently under various joint interests. Public leasing of water is through open auctions and all qualified bidders may participate.
But the allocation pattern of surface waters in the state is, for the most part, controlled by the pattern of land ownership and the various built-in interests in the existing irrigation systems that have come about through formal and informal agreements, legislation, condemnation of rights of ways and other easements in property.

GROUNDWATER RIGHTS

In contrast to the long legal case history in settling water rights conflicts as well as administrative experiences in the leasing of surface waters, the allocation of rights to groundwater in Hawaii has been the subject of only one State Supreme Court decision and one State Ground Water Use Act. Important legal, tenure and physical uncertainties still prevail in the decision system for groundwater use, and in practice decisions at the operating level are still independently made and only partially coordinated through a voluntary user organization.

In the City Mill case of 1929, the Supreme Court of Hawaii established the correlative rights doctrine for artesian groundwaters but, in so doing, stated (without any dissent) that "...owners of the various pieces or parcels of land under which there is an artesian basin are the owners of the artesian waters of the basin. As such they have correlative rights therein. Each is entitled to a reasonable use of waters with due regard to the rights of his co-owners in the same waters."

The correlative rights doctrine for groundwaters is in essence a direct common law descendent of the riparian doctrine for surface waters, and in view of the recent McBryde decision, which brings stronger focus on the usufructory nature of water rights, the legal uncertainty surrounding the City Mill decision on "ownership" of artesian waters takes of greater significance. The issue of "ownership" of groundwater, in fact, has been a matter of concern in the State for a number of years. In 1948, for instance, a Legislative Reference Bureau report, prepared in response to bills introduced in both houses of the then Territorial legislature in the previous year, suggested that legislation declaring all groundwater to be the property of the Territory was desirable and probably constitutional. No such legislation was passed, however, and the matter of "ownership" along with several other related questions on tenure have been left unanswered.

Groundwater today accounts for about 95 percent of the total water supply of the island of Oahu where most of the State's population and economic activities are centered, and represent about 40 percent of the total water production of the State.

Because of the importance of groundwater and the increasing imbalance between natural recharge and withdrawals in the Pearl Basin (near Pearl Harbor) which reached alarming levels as early as the World War II period, the State Legislature passed the Ground Water Use Act of 1959, revised in 1961 (Ch. 177, HRS). The Act provides for emergency controls over threatened groundwater bodies and essentially administrative adjudication or allocation of rights to broadly defined beneficial uses. Regulation is through permits on the basis of prior appropriation within "preserved" use classes (i.e., uses that are declared and certified for maximum daily and annual drafts). Before such emergency controls can
be applied, the groundwater area must be designated "critical area" or condition (§177-5.5, HRS) for control via a public hearing process by the State Board of Land and Natural Resources either on its own initiative or at the petition of interested users. To date, however, no such designation has been made, perhaps because of the long and costly adjudication process that would probably be entailed and also the legal uncertainty as regards ownership of water in the ground and a general reluctance to provoke possible court action to remove this uncertainty.

Instead, a voluntary Ewa Groundwater Users Association was formed in 1959 and later (in 1972) renamed the Oahu Groundwater Users Association to emphasize the island-wide interests of groundwater management. It is through this voluntary association that the operating level decisions are partially coordinated. The major users at the operating level consist of both public and private entities—the military (U.S. Navy), two large land trusts (Bishop and Campbell Estates), agriculture (Oahu Sugar Co.) and municipal water supply (Honolulu Board of Water Supply). Their respective priorities of interest are diverse—national defense (Navy), general welfare and education of children of Hawaiian ancestry (Bishop Estate), safe and certain income for surviving beneficiaries (Campbell Estate), profits and dividends for shareholders (Oahu Sugar Co.) and public health and safety in water supply, public health, safety and welfare and interests of water users, (Honolulu BWS). Yet their common interest in the groundwater basin has led them into at least two formal agreements, one on a bilateral basis between the Honolulu BWS and the U.S. Navy (1956) and the other on a wider multilateral basis between the Bishop Estate, Oahu Sugar Co., and the U.S. Navy. The basic purpose of these and other occasional informal agreements is to insure that the essential water needs of the participants continue to be met in times of threatened water supply or quality through available management techniques such as varying pumping patterns over time and space, and reallocation of water according to quality requirements.

These arrangements have to some extent averted major losses although a few near shore deep wells have had to be abandoned due to excessive chlorides, and the hydrologic imbalance between inflows and outflows continues to grow. Withdrawals fluctuate between 220 and 245 MGD and are increasing as natural recharge is adversely affected through changing patterns of land use towards urbanization. Chlorides have steadily increased along certain marginal areas and growth in the next 15 years is expected to require an additional 30 MGD. Whether this increasing stress on the groundwater basin can be handled adequately through the existing decision system is an open question which has become of increasing concern among water officials in the State. A practical approach to dealing with the situation relies on the safe minimum standard to protect the basin against large irreversible losses, and fiscal devices, such as pump taxes and equity funds, to distribute the costs of maintaining and improving on such a standard in a manner that could mobilize the potentials of the common property concept at minimum cost over time (Oh and Yamauchi, 1975).6

TENURE CONCEPTS AND THE REASONABLE BENEFICIAL USE PRINCIPLE

Issues of water rights in Hawaii have been confused with questions of private vs. state ownership of the water resources and also the ex-
tent to which the transport and use of the water is permitted under the
rights. "Ownership", "usership" and "transfer" are basic tenure con-
cepts which need to be clarified before the key relations between man
and water resources can be better understood.

Ownership vs. Usership. Water rights are part of land ownership
rights. Ownership relates directly to land and not directly to the
natural water resource itself. Landowners with water rights may be
either private or public. It is not necessarily a question of private
vs. state ownership of water rights. Both private and public landowners
with access to natural water resources have rights to use the water.
This does not mean that ownership in the water resource itself is vested
in the landowners. It has been long established that these use rights
are not absolute. Rules controlling the use of water usually attempt to
take into account the coequal rights of others. Formulation of these
rules have come to rely on the broad and flexible "reasonable beneficial
use" principle.

Since these usership rights are relative and concern directly the
rights of coequal users (rather than owners), the rights are basically
usufructory. Landowners, whether private or public, with access to na-
tural water resources have these usufructory rights to water. Since wa-
ter is a flow resource, the only way that ownership to the water itself
can be established is through capture and reduction to possession. But
even this is possible only through the exercise of the usufructory right
of landowners.

Transfer. This is a more complex and basically more important mat-
ter of concern. There is no question that a landowner can transfer his
ownership title to land and along with it all the associated usufructs,
including water rights. But can he transfer the right to use water sep-
arately from the rest of the "bundle of rights" to land?

There appears to be general restrictions on separable transfers in
the original riparian doctrine. But even in this doctrine the "reason-
able beneficial use" principle has come to apply. So the transfer of
use rights should also be subject to this principle. What is reasonable
and beneficial is left for determination on a case-by-case basis.

The complexities or confusions regarding transfer are compounded by
what appears to be general restrictions on the physical development,
transport and application of water and appurtenant lands. In fact, how-
ever, water has been developed, transported and used in accordance with
the physical and economic needs and realities of time and place.

Water laws have acted as constraints or as means to achieving water
development and reallocation objectives. In general, the water laws
that survive adapt to the physical and economic realities. Thus, the
specific policies, rules and regulations governing the legal transfer of
water rights, and the physical development, transport and use of water
differ from place to place and also change over time. This is true for
Hawaii as well as for other states.

Hiroshi Yamauchi
Under various state laws, the legal transfer of water rights have been affected in various ways as diagramed below.

**Transfer of Water Rights**

- **Voluntary**
  - Direct* (through sale or purchase of rights)
  - Indirect* (through sale or purchase of land to which such rights are appurtenant)

- **Involuntary**
  - Condemnation* for public use
  - Prescription
  - Abandonment or forfeiture of water rights

*with compensation.

Under this scheme, prescription is a form of involuntary transfer of water rights without compensation. Through legislative action, the depletion tendencies of prescription can be neutralized by removing the incentives for overuse through extended periods. This might be accomplished by allowing adverse uses as long as no actual damage is caused and at the same time not allowing such adverse uses to ripen into prescriptive rights. This so called "harmless use" doctrine has been instituted through legislative action in the State of New York.

Under whatever water rights doctrine (riparian, correlative, appropriation or combinations and variations thereof) the specific rules for transfer might have developed, the minimum requirement for their survival in situations of conflict would certainly have to be in conformance to the "reasonable beneficial use" principle. This would also hold for Hawaii.

Anchoring this broad and flexible principle in State water policy can serve as the basis for modernizing water regulations and administration in Hawaii. It can also help to clarify the water rights concept and remove the present ambiguities of "ownership" that tend to confuse the more important issues of transfer and conservation.

**STATE ORGANIZATION AND COORDINATION OF WATER POLICY THROUGH LOCAL WATER USERS ASSOCIATIONS**

In typical mainland states, local governments, including multiple layerings of public districts, are established, regulated and supervised by the states. Zoning and similar regulations are mostly the domain of local governments based on state enabling legislation. Hawaii is somewhat different in these respects in that the State Constitution provides for a single layer of four county governments which are structured each according to its own charter and are allowed to function quite independently through its own respective legislative (council) and executive (mayor and his administrative agencies) branches. The only public districts in operation are the soil and water conservation districts which are legislatively established and regulated and supervised by the State. Also, zoning and related regulations in Hawaii have been to a large ex-
tent preempted by the state government and redistributed among the various state and county government agencies.

As far as water development in Hawaii is concerned, only a minor fraction of the total water supply has been developed by the State. By far the largest share has been by sugarcane plantations for irrigation followed by county boards of water supply, military and self-service industries.

State water policy must, therefore, be conditioned to the fact that public water development by the State and counties are not as extensive as that by agriculture and self-service industries in the private sector.

Local water users associations can be legally authorized through legislation to represent the common property interests in water. These users associations can be generally organized for realizing specific water conservation and management objectives within their respective jurisdictions. The structure and jurisdictional authorities of these users associations can be left flexible so as to take advantage of certain characteristics which can make them suitable for attending to a wide range of water conservation and management problems. These characteristics relate to the basic nature of water problems and our ability to deal with them.

In typical mainland situations where political boundaries do not correspond to hydrographic units, difficulties in management and control arise because water problems are not necessarily confined to either political or watershed boundaries. In Hawaii, because the layering of government is limited to essentially one level of local county units under the State, and for the most part these local jurisdictions are geographically contiguous with island units, the typical mainland problem of overlapping multiple jurisdictions does not present itself. Thus, when a well-defined water problem arises, the users association can be formed in such a way that all and exclusively those with vested common property interests in the water problem can be included. Only those for whom the problem has direct relevance need participate in the solution. Such an organization can have intertemporal flexibility, since they can be created under State enabling legislation and, as conditions change, their powers can be altered by appropriate legislation (at the initiative and consent) of the common property interests.

The users organizations' ability to focus attention on specific problems at a time can be an important attribute, especially where common property interests under the present institutional framework feel that their problem cannot be given proper attention by existing agencies with limited and uncoordinated responsibilities to undertake and solve the problem. Some of these agencies (particularly water supply agencies) typically compete with other common property interests. Moreover, existing agencies may lack legal authority to perform certain desired functions.

Users associations formed under enabling legislation can be authorized fiscal powers to assess and float bond issues to tackle the water problems. Accountability for the exercise of such fiscal powers would be internalized to the direct common property interests and through them
to indirect water users (i.e., customers of public water supply systems).

A flexible grouping of special interests can be facilitated through such a users association while at the same time avoiding the disadvantages of excessive fragmentation and conflicts that are inherent in the multiple and overlapping public districts (special and general) typical of mainland states.

 Conjunctive use of surface water and groundwater, and integrated management of water quantity and quality can be facilitated through such users associations without fear of losing water rights through prescription, and condemnation.

 In California, the most successful special water districts are in effect users associations which are created because groundwater rights (under the correlative-rights doctrine) essentially forced responsibility for groundwater management upon local users (e.g., the Orange County and Santa Clara County Water Districts) rather than upon a state agency. Since water rights are part of land ownership rights, which are vested in private and public entities, the tendency toward well-organized user organizations is a natural outcome which might someday also be realized in Hawaii.

 The recent legal uncertainties on water rights may force landowners with water rights to act more in their common interests rather than to rely on a state agency to regulate in the interest of the public welfare. The advantages of collective actions through the user organization approach relate to both the stock and flow nature of water resources.

 Adjudication of water rights to flows is not necessary. All water rights could be pooled within the water users association. This organization could then allocate the flows of groundwater or surface water (including reclaimed waste waters) or combination thereof to individual users.

 The underground storage and distribution capacities (stock aspects) can be more efficiently utilized. These storage and distribution capacities can be used to counteract seasonal and cyclical variability of precipitation without a complex system of prices and other inducements that would become necessary if all rights to groundwater and surface waters were held by the ultimate private and public users.
FOOTNOTES AND REFERENCES


4. In earlier claims ancient appurtenant rights were often confused with "prescriptive" rights, but this was a misnomer since true prescriptive rights are based on adverse use, whereas the ancient rights were essentially permissive in nature.

The legal effect of suffering another to adversely possess one's land for the statutory period is not only to bar the remedy of the owner of the proper title, but actually to divert his estate and to vest it in the adverse party, who obtains a title in fee simple as perfect as a title by deed.

(Quoted from Hutchins who cites Wai'anae Co. v. Ka'iwilei, 24 HAW, 1, 7 [1971], citing Leialoha v. Walter, 21 HAW, 624, 630 [1913].)

This same principle of prescription applies to water rights. To establish a prescriptive title to a water right, there must have been an "actual, open, notorious, continuous and hostile" use of the water for the statutory period of limitations. In 1892, it was settled that a prescriptive right could be acquired only by adverse and continuous use for twenty years. Six years later, in 1898, the statutory period of limitations was reduced to ten years, and then recently, in 1973, changed back to twenty years.

6. For more on the problem of groundwater management on Oahu, see Ho-sung Oh and Hiroshi Yamauchi, Patterns and Trends of Water Consumption in the Service Areas of the Honolulu Board of Water Supply, University of Hawaii, Water Resources Research Center, Technical Report No. 84, 1975.
GLOSSARY OF HAWAIIAN LAND TERMS
(Source: Terminology of Hawaiian Land Divisions,
Arranged by R.D. King from Real Property Manual,
Dated January 1, 1942)

**Ahupuaa**
The islands were each divided into districts called *Mokus*, which seem to have been geographical subdivisions only, for there were no administrators over these *Mokus*, as districts.

Each *Moku* was divided, for landholding purposes, into small divisions called *Ahupuaa*, varying in size and shape. The typical form of an *Ahupuaa* was a strip running from the sea to the mountains and containing a sea fishery and sea beach, a stretch of *Kula* or open cultivatable land and, higher up, its forest. All *Ahupuaa* had definite boundaries, usually of natural features, such as gulches, ridges and streams, and each had its specific name. A chief held it, not owned it, for he owed allegiance to a higher chief or the sovereign.

**Ili**
Many of the *Ahupuaa* were subdivided into smaller lands called *Ilis*. Each had its own individual title and was carefully marked as to boundary.

**Ili of the Ahupuaa**
There were two kinds of *Ilis*, one, the *Ili Kupono*, known also as *Ili Ku*, being a portion of land, the "ownership" of which is fixed, for the chief holding an *Ili Kupono* continued to hold, whatever the change in the *Ahupuaa* chief. In other words, the transfer of an *Ahupuaa* to a new chief did not carry with it the transfer of any *Ili Kupono* contained within its limits.

**Kuleana**
The small areas of an *Ahupuaa*, which the tenants, or common people, had improved or cultivated and used for their own purposes and to which they substantiated their claims and perfected their rights, securing from the Land Commission an Award of Title in Fee Simple, were known as *Kuleanas*. The word itself means "rights"--a right of property which pertains to an individual--and was applied uniformly during the existence of the Land Commission to the Fee Simple holdings awarded by it to the common people.

**Konohiki**
The head man of an *Ahupuaa* or a person who had charge of a land with others under him was called a *konohiki*. He was an agent who managed a chief's lands. The word *Konohiki* in time came to be applied to the land under such an agent's care, thus the land held by a chief, an *Ahupuaa* or *Ili*, was known as *Konohiki* Land.
KEYWORDS: Economics, conservation, water rights, common property, ownership, usership, transfer, reasonable beneficial use, water users associations, Hawaii.
AMERICAN EXPANSION IN HAWAII
1842-1898

BY
SYLVESTER K. STEVENS

ARCHIVES PUBLISHING COMPANY OF PENNSYLVANIA, INC.
HARRISBURG
1945
BIBLIOGRAPHY

MANUSCRIPT SOURCES

All of the manuscript archives of the State Department, now in the National Archives, which in any way relate to Hawaii have been consulted. These include Dispatches, Hawaii (the first volume is labelled Sandwich Islands) for the entire period from 1842 to 1898; Instructions, Hawaii for the same period; Notes to Hawaii, correspondence with the Hawaiian Legation; Notes, Hawaii, which contains correspondence from the Hawaiian Minister at Washington. In addition, pertinent volumes of Dispatches, Germany; Dispatches, Great Britain; Dispatches, France; Dispatches, Japan were consulted as well as Instructions for ministers to the same powers, Miscellaneous Letters, containing non-diplomatic correspondence, includes some Hawaiian material. Memoranda of Conversations with the Secretary of State, 1893-1898 has several valuable items. The Dispatches, Hawaii frequently contain important newspaper clippings and sometimes entire copies of Hawaiian newspapers. Consular correspondence, including Instructions, Notes and Dispatches, contains a limited amount of material, especially on the commerce and economy of the Islands. The records of the American Legation at Honolulu from 1839 to 1900 also are available in Washington but not especially important as a source inasmuch as they are largely duplicated by material in the Dispatches.

Navy Department archives are valuable for movement of naval vessels and confidential instructions and reports. Letters to Officers and Commandants, No. 7; Confidential Correspondence, Vol. 2, and Ciphers Sent, Vol. 1, are significant.

Valuable notes on documents in the Archives of Hawaii from the Foreign Office Letter Books, Treaty Documents, and Foreign Office and Executive File covering especially the negotiation and renegotiation of the Reciprocity Treaty, 1873 to 1887, were furnished the author through the courtesy of Ralph S. Kuykendall of the University of Hawaii. Similar material in the form of photostats and transcripts for the later period are in the Spaulding Collection of the University of Michigan Library. The most significant portions of this material, however, have been used by Doctor Pratt in his Expansionists of 1898, and are, therefore, cited from this source.

A variety of collections of the papers of the presidents and secretaries of state have been consulted wherever available. These include the Marcy Papers, Hamilton Fish Papers, Gresham Papers, McKinley Papers, Olney Papers, Cleveland Papers, Hay Papers, John Sherman Papers, Blaine Papers, all in the Library of Congress, and Buchanan Papers in the Historical Society of Pennsylvania. Those mentioned are valuable for Hawaii, though many others were sifted without results. Information from the Harrison Papers was provided through the courtesy of Dr. Albert T. Volwiler of Ohio University.

The Elisha Allen Papers and Armstrong-Chapman Papers in the Library of Congress are extremely valuable. The former collection has important diplomatic
material as well as information concerning Island politics and economy. The latter is important for the missionary viewpoint on Hawaiian affairs, information on internal political and economic history, and diplomatic influences of the missionary element in the forties and early fifties. Because of his leadership in the fight against imperialism, the Carl Schurz Papers in the Library of Congress are important. They contain much Gresham correspondence on Hawaii. The Justin Morrill Papers and John T. Morgan Papers in the Library of Congress contain a few items.

PRINTED SOURCE MATERIALS

A. Government Documents

Important as printed sources are the various U. S. Government publications. Papers Relating to the Foreign Relations of the United States, better known as Foreign Relations, is, of course, indispensable and the volume for 1894, Appendix II (Washington, 1895) contains virtually all significant correspondence, messages, instructions, and treaties relating to Hawaii from the earliest diplomatic relations to that date. These are unusually complete due to the number of Congressional investigations and resolutions. Some have been slightly altered, however, and this fact plus omissions make it important to check with original State Department archives. Volumes for 1895 to 1898 contain material for those years. The Journal of the Executive Proceedings of the Senate of the United States (Washington, 1909), cited as Senate Executive Journal, contains a record of the action in executive sessions of the Senate. The Congressional Globe and the Congressional Record for the several congresses during which Hawaiian matters were under consideration are important for their record of debates, resolutions, and counter-resolutions. The reciprocity question was debated as was the policy of annexation in the nineties. Formal action on treaties in the Senate was usually in executive session and current newspaper accounts are the principal source for debates. House Report, No. 92, 28 Cong., 2 sess., has the report on the visit of Captain Jones to Hawaii. House Report, No. 3422, 51 Cong., 2 sess., contains a report on reciprocal trade with Hawaii; House Report, No. 1355, 53 Cong., 2 sess., has a report on the joint resolution on annexation. House Executive Document, No. 1, Part III, 52 Cong., 2 sess., has a report of the Secretary of the Navy on Hawaii in December, 1892; House Document, No. 3, 54 Cong., 1 sess., has a similar report for 1895. Senate Report, No. 227, 53 Cong., 2 sess., contains the famous report of the Senate Committee on Foreign Relations investigating the revolution of 1893; Senate Report, No. 681, 55 Cong., 2 sess., has the report on the joint resolution on annexation in March, 1898. Senate Executive Document, No. 16, 53 Cong., 3 sess., presents a report by Rear-Admiral Walker on conditions in Hawaii in 1894. James D. Richardson (ed.), A Compilation of the Messages and Papers of the Presidents (Washington, 1896-99), is, of course, the principal source for presidential statements of policy. W. M. Malloy, Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1776-1909 (Washington, 1910) is a source for treaties and agreements though the

For Hawaii, the equivalent of *Foreign Relations* is the *Report of the Minister of Foreign Relations* (Honolulu, 1845-1893). The Appendix to the *Report* for 1851 and that for 1852 contains valuable materials on diplomatic development of that period. The *Report* for 1855 has information concerning the Haalilio-Richards mission. *Report of the Special Committee on Foreign Relations to the Hawaiian Assembly* (1878), *Report of the Proceedings of the Committee on Foreign Relations to the Legislature of 1890 in Regard to the Investigations of Treaty Matters* (1890), and *Minority Report, Committee on Foreign Relations* (1890), as well as the *Reply of Minister Austin to the Majority Report of Committee on Foreign Relations in the Legislative Assembly, June 13, 1890*, are of especial importance for negotiations with the United States. The *Report of the Historical Commission of the Territory of Hawaii* contains frequent reprints of documents from Hawaiian Archives. The *Annual Report of the Collector-General of Customs, Report of the President of the Bureau of Immigration, and Treaties and Conventions Concluded Between the Hawaiian Kingdom and Other Powers Since 1825* (Honolulu, 1887), are important. *The Hawaiian Islands Early Relations with England-Russia-France; Official Papers Read at the Captain Cook Sesquicentennial August 17, 1928* (Honolulu, 1930), contains important articles and documents on early diplomatic relations of Hawaii. See also *Official Correspondence between Anthony Ten Eyck, esquire, commissioner of the United States, and Robert Crichton Wyllie, His Hawaiian Majesty’s minister of foreign relations, upon the subject of the mission to the governor of California of Theodore Shillaber, esquire* (Honolulu, 1848). *Report of the Proceedings and Evidence in the Arbitration between the King and Government of the Hawaiian Islands and Messrs. Ladd & Co.* (Honolulu, 1846) review this controversy.

**B. CONTEMPORARY PUBLICATIONS, ARTICLES, REMINISCENCES, COMPILATIONS**


———, *History of the Missions of the American Board of Commissioners for Foreign Missions, Hawaiian Islands*, Boston, 1875.

*Annual Report of the American Board of Commissioners for Foreign Missions*, Boston, 1820-1864; see also *Letters to the American Board*.

Austin, Richard, *An American Congressman in the Orient* (undated pamphlet, probably 1898).

Baxley, Henry W., *What I Saw on the West Coast of South and North America and at the Sandwich Islands*, New York, 1865.
Bingham, Hiram, A Residence of Twenty-one Years in the Sandwich Islands, Hartford and New York, 1847.
Bishop, Sereno E., "The Hawaiian Queen and her Kingdom," Review of Reviews, September, 1891; "The United States and Hawaii," ibid., March, 1893.
Carpenter, Edmund J., America in Hawaii, a History of the United States Influence in the Hawaiian Islands, Boston, 1898.
Chambers, Henry E., Constitutional History of Hawaii, Baltimore, 1896.
Cheever, Henry T., Life in the Sandwich Islands, New York, 1851.
Dunn, A. W., From Harrison to Harding, 2 vols., New York, 1922.
Escott, Walter, "At the Court of the Kamehamehas; an American Diplomat in Hawaii During the Civil War," Overland Monthly, 1912.
Hopkins, Manley, Hawaii; the Past, Present and Future of its Island Kingdom. New York, 1860.
———, History of the Hawaiian Islands, Honolulu, 1847.
Judd, Mrs. Laura F., Honolulu; Sketches of Life, Social, Political and Religious in the Hawaiian Islands from 1823 to 1861, New York, 1880.
Krout, Mary H., Hawaii and a Revolution, New York, 1893.
Liliuokalani, Queen, Hawaii's Story by Hawaii's Queen, Boston, 1898.
Lodge, Henry Cabot, Selections from the Correspondence of Theodore Roosevelt and Henry Cabot Lodge, 2 vols., New York, 1925.


Palmer, Julius, A., Jr., *Memories of Hawaii and Hawaiian Correspondence*, Boston, 1894.

——, *Again in Hawaii*, Boston, 1895.


Teggart, Frederick J. (ed.), *Around the Horn to the Sandwich Islands and California, 1845-1850*, New Haven, 1924.

Thrum, T. G., *Hawaiian Almanac and Annual*, Honolulu, 1875-98.


Thurston, Lucy G., *The Life and Times of Lucy G. Thurston*, Honolulu, 1921.

Townsend, John K., *Narrative of a Journey across the Rocky Mountains to the Columbia River and a visit to the Sandwich Islands, Chile, etc.*, Philadelphia and Boston, 1839.

Bibliography


Woolsey, T. S., America's Foreign Policy, New York, 1898.

Young, Lucien, The Boston at Hawaii, Washington, 1898.

C. CONTEMPORARY PERIODICALS

(Dates indicate period of use)

Atlantic Monthly (Boston), 1850—.

Banker's Magazine and Statistical Review (New York), 1850-64.

Bradstreet's, A Journal of Trade, Finance and Public Economy (New York), 1881—.

Commercial and Financial Chronicle (New York), 1885—.

De Bow's Southern Review (New Orleans), 1846-60.

Edinburgh Review (American Edition), 1843—.

Forum (New York), 1886—.

Friend (Honolulu), 1843—.

Harper's New Monthly Magazine (New York), 1850—.

Harper's Weekly Magazine (New York), 1864—.

Independent (New York), 1879—.

Literary Digest (New York), 1894—.


Missionary Herald (Boston), 1843—.

The Nation (New York), 1865—.

Nile's National Register, 1843—.

North American Review (Boston), 1870—.

Public Opinion (New York), 1886—.

Review of Reviews (London and New York), 1890—.

Scribners Magazine (New York), 1887—.

United States Magazine and Democratic Review (Washington), 1842-58.

B. CONTEMPORARY NEWSPAPERS

(Dates are of period of principal use as a check on development and opinion)

Amador Dispatch (Jackson, California), July, 1867-December, 1869

Anglo-Saxon (Boston), 1856-57.

Atlanta Constitution, 1866—.

Baltimore Sun, 1874—.

Boston Daily Globe, 1873-76.

Boston Evening Transcript, 1854-93.
American Expansion in Hawaii

Boston Herald, 1890—.
Charleston News and Courier, 1844—.
Chicago Daily News, 1876—.
Chicago Herald and Examiner, 1881—.
Chico Weekly Courant, November, 1867-April, 1869.
Daily Alta (San Francisco), 1850-1891.
Denzel News, 1880—.
Detroit Free Press, 1884—.
Hawaiian Gazette (Honolulu) 1865—.
Hawaiian Star (Honolulu), 1893—.
Kennebec Journal, 1893—.
London Times, 1843—.
Morning Oregonian (Portland), 1862—.
New Orleans Picayune, 1866—.
New Orleans Times, 1867-77.
New Orleans Republican, 1867-78.
New York Evening Post, 1880—.
New York Herald, 1842—.
New York Times, 1851—.
New York Tribune, 1842—.
New York Sun, 1843—.
New York World, 1870—.
Pacific Commercial Advertiser (Honolulu), 1856—.
Philadelphia Inquirer, 1843—.
Philadelphia Press, 1857—.
Philadelphia Public Ledger, 1893—.
Philadelphia Record, 1872—.
Polynesian (Honolulu), 1842-1863.
Sandwich Islands News (Honolulu), 1846-48.
San Francisco Call, 1856—.
San Francisco Commercial Herald and Market Review, 1867—.
San Francisco Evening Bulletin, 1855—.
San Francisco Examiner, 1890—.
Springfield Republican, 1844—.
St. Louis Post-Dispatch, 1879—.
St. Louis Republic, 1871—.
Steamer Bulletin (San Francisco), 1859-60.
Washington Evening Star, 1852—.
Washington Post, 1888—.
Whalemen's Shipping List and Merchant's Transcript (New Bedford), 1844-81.

SECONDARY MATERIAL

Alexander, Mary C. (compiler), William Patterson Alexander in Kentucky, the Marquesas, Hawaii (Honolulu, 1934).
Bibliography

———. "The United States and Hawaii during the Spanish-American War," American Historical Review, XXXVI, April, 1931.

Bancroft, H. H., History of the Northwest Coast, San Francisco, 1884.

———, History of California, San Francisco, 1885.


———, A Diplomatic History of the United States, New York, 1942.


Blue, George U., "The Project for a French Settlement in the Hawaiian Islands, 1824-1842," Pacific Historical Review, II.

Bradley, Harold W., The American Frontier in Hawaii, the Pioneers, 1789-1843, Stanford University Press, 1942.

———, "Hawaiian Islands and the Fur Trade, 1785-1813," Pacific Northwest Quarterly, XXX.


Clark, R. C., History of the Willamette Valley, Oregon, Chicago, 1927.


Dennet, Tyler, John Hay, from Poetry to Politics, New York, 1933.


Dulebohn, George R., Principles of Foreign Policy under Grover Cleveland, University of Pennsylvania Press, 1940.

Dulles, Foster R., America in the Pacific, Boston and New York, 1942.

Emerson, Oliver P., Pioneer Days in Hawaii, New York, 1928.


Fuess, Claude M., Daniel Webster, 2 vols., Boston, 1930.

———, Carl Schurz, Reformer, New York, 1932.

Gilder, Frank A., "Russian-American Relations during the Crimean War," American Historical Review, XXXI. April, 1926.


Hawaiian Historical Society, Annual Report, Honolulu.
———. Papers, Honolulu.
Historical Commission of the Territory of Hawaii, Reports, Honolulu, 1922-1928.
Holt, W. S., Treaties Defeated by the Senate, Baltimore, 1933.
James, Henry, Richard Olney and His Public Service, Boston and New York, 1923.
Jarrett, Lorna H., Hawaii and its People, Honolulu, 1933.
———. “Constitutions of the Hawaiian Kingdom,” Papers of the Hawaiian Historical Society, Number 21, Honolulu, 1940.
———. The Hawaiian Kingdom, 1778-1854, Honolulu, 1938.
McMaster, John Bach, Daniel Webster, New York, 1902.
Mesick, Mrs. Lillian S., The Kingdom of Hawaii, Honolulu, 1934.
National Cyclopedia of American Biography, New York, 1898—.
Nevins, Allan, Grover Cleveland, a Study in Courage, New York, 1932.
———. Hamilton Fish; the Inner History of the Grant Administration, New York, 1936.
Pratt, Helen G., In Hawaii, a Hundred Years, New York, 1939.
Pratt, Julius W., Expansionists of 1898, the Acquisition of Hawaii and the Spanish Islands, Baltimore, 1936.
Bibliography


———, “The Role of Sugar in Hawaiian Annexation,” *Pacific Historical Review*, XII, December, 1943.

Smith, T. C., “Expansion after the Civil War, 1865-1871,” *Political Science Quarterly*, September, 1901.


———, “Diplomatic Relations Between the United States and Hawaii, 1885-1889,” *Fordham University Studies*, 1940.


Tyler, Alice F., *The Foreign Policy of James G. Blaine*, Minneapolis, 1928.


THE UNITED STATES AND
THE HAWAIIAN KINGDOM
A POLITICAL HISTORY • BY MERZE TATE
YALE UNIVERSITY PRESS • NEW HAVEN AND LONDON 1965
The major portion of the material used in the preparation of this volume and contemporary with the events described therein was archival. Naturally, the principal sources were collections of documents available only in the Archives of the United States (National Archives) and the Public Archives of the State of Hawaii. Supplementing these were printed government documents, the public and private papers, correspondence, diaries, memoirs, and journals of individuals—often statesmen—and the archives of organizations housed in the manuscript divisions of the Library of Congress and the Harvard College Library, and in the Mission-Historical and the University of Hawaii Libraries in Honolulu.

The diplomatic correspondence of the Department of State is contained in two sets of volumes which may be designated department file and legation archives. The most frequently consulted and quoted of the former were: (1) Dispatches. Hawaii, a thirty-four volume series (1843-1900). These consist of the original letters from the American diplomatic representative in Honolulu to the Secretary of State, together with enclosures. Some dispatches are of considerable length and many are confidential. The enclosures are frequently voluminous, containing copies of private and official correspondence with ministers of foreign relations and others, trade statistics, newspapers cuttings, printed copies of addresses delivered, annual reports of the cabinet ministers to the Hawaiian legislature, etc. The first two volumes are marked “Sandwich Islands,” the others “Hawaii.” (2) Instructions, which consist of three volumes of copies of letters from the Secretary of State to the United States diplomatic representative in Honolulu. The first volume, for 1843-47, is entitled Special Missions. I. Volumes 1 and 2 are entitled Hawaii Instructions. These do not contain enclosures sent with the instructions. The original instructions received in Honolulu, together with enclosures, are bound in the Legation Archives. (3) Notes, four volumes, consisting of communications to the Secretary of State from
the Hawaiian diplomatic agent in Washington, from the Hawaiian consul general residing in New York, and from the Hawaiian minister of foreign relations, and including some memoranda of interviews between the Secretary of State and the Hawaiian minister in Washington, letters from private individuals, and a few miscellaneous documents relating to Hawaiian affairs. (4) Notes to, in one volume, which are copies of communications from the Secretary of State to the Hawaiian diplomatic representative in the United States. (5) Miscellaneous Letters, numerous volumes of unofficial correspondence received by the State Department but often relating to official matters, bound according to the date received. (6) Miscellaneous Archives, Memoranda of Conversation with the Secretary of State, 1893-1898. (7) Protocol First Conference between Hawaiian Commissioners and Secretary of State, February 4, 1893. This volume, incorrectly titled, contains the protocols of all seven conferences, February 4-14, 1893, as well as the stenographic notes of the same.

The Legation Archives most extensively used were Volumes 1 and 2 of the three-volume series Private and Official Interviews, "memorandum of facts, events, and conversation," prepared in the form of a diary, partly in pursuance of instructions, and partly to afford convenience in the preparation of official dispatches. Most of the facts, but not absolutely all, are embodied in dispatches to the Secretary of State. Volume 2, of 131 pages, covering the period of David L. Gregg's term as commissioner but more detailed for 1854-55, in which the record parallels in many but not in every respect his private diaries, is most helpful to the research scholar. Also consulted were the nine volumes of Miscellaneous Letters Received, which contain all the correspondence received, except instructions from the Secretary of State and notes from the Hawaiian government.

In the Navy Department archives the most valuable sources proved to be Outgoing Letters, Flag Officers, especially those of Secretary Gideon Welles, Commanders' Letters, Captains' Letters, and Letters Received from the Pacific Squadron, and the VP series on the protection of life and property.

In the Public Archives of Hawaii the "Foreign Office and Executive" files were most frequently used. These are classified and labeled in various ways: "Local Officials," "Hawaiian Officials Abroad, United States, Minister to Washington," which contains the instructions of the Hawaiian foreign office under the monarchy
to its minister to the United States, and the dispatches of the Hawaiian minister at Washington to the foreign minister at Honolulu; "United States, Ministers and Commissioners to Washington," and "United States, Ministers and Envoys to Washington," in both of which is preserved the same type of instructions and dispatches under the provisional government; and "United States, Minister at Washington," a similar file for the period of the Republic of Hawaii. Other invaluable sources were the Foreign Office Letter Books, the Privy Council Records, Minutes of Cabinet Council Meetings, Journal of the Legislature, Resolutions of the Legislative Assembly, Naturalization Books, British Commissioners' Letter Book, and the Papers of Sanford B. Dole, as well as those of Lorrin A. Thurston.

Not in the Archives of Hawaii but in the Collection of the Robert E. Van Dyke Foundation, Honolulu, are the Letters of Sanford B. Dole to George H. Dole 1859–1912, MSS, which reveal some of the innermost convictions of the former brother.

A considerable correspondence addressed to the Foreign Office in London by the British consul generals in Hawaii, communications sent to the Admiralty by commanders of the British Pacific fleet, and remonstrances directed to the Colonial Office by Richard Seddon, premier of New Zealand, concerning annexation, were read in the British Public Record Office. Especially helpful were the Foreign Office volumes 58/136, 58/241, 58/270, 58/279, 58/319, and Colonial Office volume 537/136.

In the Manuscript Division of the Library of Congress pertinent information of significance was secured from the papers of the following officials: William L. Marcy, Hamilton Fish (including his diary), Frederick T. Frelinghuysen, Chester A. Arthur, Grover Cleveland, Thomas F. Bayard, James G. Blaine, John Sherman, Benjamin Harrison, Richard Olney, Walter Q. Gresham, and William McKinley.

The manuscript division of the Harvard College Library now houses the archives of the American Board of Commissioners for Foreign Missions, formerly deposited at Mission House, Boston; the Hawaiian Club of Boston papers, including minutes of meetings and letter books; the correspondence of Edward P. Bond, who was a member and officer of both the Hawaiian Club and the Boston Board of Trade; the correspondence of Charles Sumner, and the larger portion of the James Hunnewell Papers, the remainder being in the Baker Library of the Harvard University Graduate School of Business Administration, as are also the tariff papers of Justin S. Morrill.
In the Hawaiian collection of the University of Hawaii Library are the transcript copies of the Gregg Collection, which contains David L. Gregg’s dispatches, without enclosures, his private letters in two parts, and the eight extant volumes of his diaries, together with some miscellaneous papers. The diaries are a rich storehouse of observations on mid-nineteenth-century life and society in Honolulu, as well as a revelation of Gregg’s innermost convictions and intentions. A transcript copy of William Castle’s diary was useful for the narration of events on the journey to Washington and the efforts there of the five commissioners appointed by the provisional government in January 1893 to negotiate an annexation treaty. Several master of arts theses of the University of Hawaii in the field of history led to further investigation of certain aspects of United States-Hawaiian relations.

The printed sources used in the preparation of this study, far too numerous and varied to be listed, included government documents, especially those entitled Papers Relating to the Foreign Relations of the United States from the first date of publication up to 1898. Mention should be made of United States House of Representatives Executive Documents, 53 Congress, 3 session, no. 1, part 1, Foreign Relations of the United States, 1894, Appendix II, “Affairs in Hawaii.” This volume of 1,437 pages comprises various Senate and House documents, with some duplications, dealing with Hawaii. Other comprehensive volumes frequently consulted were United States Senate Reports, 53 Congress, 2 session, no. 227, often referred to as the Morgan Report; House Executive Documents, 53 Congress, 2 session, no. 47, Report of Commissioner to the Hawaiian Islands, otherwise known as the Blount Report; Senate Executive Documents, 52 Congress, 2 session, nos. 76 and 77, the first of which is entitled “Hawaiian Islands”; the second is correspondence respecting relations between the United States and Hawaiian kingdom from September 1820 to January 1893, together with a report upon the official relations of the United States with the islands from the first appointment of a consular officer there by this government. Senate Reports, 55 Congress, 2 session, no. 681, also printed in Senate Documents, 56 Congress, 2 session, no. 231, part 7, contains arguments from many sources, including those of strategists, for the annexation of the mid-Pacific archipelago. United States relations with Hawaii prior to union are discussed in John Bassett Moore, A Digest of International Law (8 vols. Washington, D.C., 1906), 1, 475–520. Also valuable were the Reports of the Minister of Foreign Relations (Honolulu) for the applicable years; the Report

Of the general histories covering part of the period, Ralph S. Kuykendall, The Hawaiian Kingdom 1778-1854: Foundation and Transformation and The Hawaiian Kingdom 1854-1874: Twenty Critical Years (Honolulu, 1947, 1953) are, and perhaps will remain for all time, the most comprehensive and scholarly treatment. William DeWitt Alexander, History of the Later Years of the Hawaiian Monarchy and the Revolution of 1893 (Honolulu, 1936), and Lorrin A. Thurston, Memoirs of the Hawaiian Revolution (Honolulu, 1936), are definitely slanted in favor of the annexationists. Sanford Ballard Dole, Memoirs of the Hawaiian Revolution (Honolulu, 1936), though slightly more objective, is less comprehensive. Liliuokalani's position is stated in her Hawaii's Story by Hawaii's Queen (Boston, 1898), while John W. Foster, Diplomatic Memoirs (2 vols. Boston and New York, 1909), Vol. 2, proved revealing of that statesman's attitude.

Mention can be made of only a few of the most frequently consulted periodicals. The Pacific Commercial Advertiser (at times in opposition to and at other periods controlled by the minister of foreign relations), the Hawaiian Gazette, the Honolulu Daily Bulletin, and the Hawaiian Star, organ of the annexationists, were informative. For the earlier period of the study the Polynesian, the Sandwich Island Gazette, and the Weekly Argus, later called the New Era, were consulted. The San Francisco Alta California, the San Francisco Herald, the San Francisco Morning Call, the New York Times, the New York Herald, the Washington Post, and the Boston Evening Transcript were the most frequently used American newspapers; the Times (London) and the London Post proved superior for England; while the North American Review, Nineteenth Century Review, Nation, Forum, Pacific Historical Review, Journal of Modern History, American Historical Review, Review of Reviews (American edition), and certain state historical society papers, like those of the Massachusetts Historical Society, provided scholarly articles on special topics of Hawaiian-American relations.
Act of Union (Great Britain), 158 f.
Adams (N.S.S.): sojourns in Hawaiian waters, 91; landing of troops from, 89, 98 f.
Adams, Charles Francis, quoted on Cleveland's policy, 239
Adams, Samuel, 164
Aden, fortified, 224, 276
Adler, Jacob, 71
Advisory council of provision gov., 186, 323, 339
Aholo, L., 54, 72
Alameda (ship), 180, 192, 194
Alaska, 301
Albany Times Union, 205; quoted, 207
Aldrich, Arnold, 319
Aldrich, Nelson W., attacks Cleveland's policy, 280
Aldrich and Bishop (firm), 319
Aleutian Islands, 301
Alexander, De Elva S., 301
Alexander, William De Witt, 50, 51; quoted on Kalākaua's influence, 81; quoted on constitution of 1887, 93; writings, 225; moral effect of landing marines, 313; sketch of, 317
Alexander, Rev. William P., 9; sketch of, 317
Alioolani Hale, 183 f., 187 f., 199. See also Government building
Allen, Elisha H., 16, 18, 20, 32, 39
Allen, Frederick, 116
Allen, William F., 317
Allen, William V., 292; resolution quoted, 263
Alii (king and high chiefs), 26, 116; decline of, 48; reduced to figurehead, 93
Alliance (U.S.S.), 141
Allison, William B., 281
Almy, Rear Admiral John J., 38 f.
Aloha Oe, song composed by Liliuokalani, 112
Alvensleben, H. von, on Hawaiian-Samoan Confederation, 79 f.
American Agriculturist, 290 f.
American Board of Commissioners for Foreign Missions (ABCFM), 4, 8 f., 221, 318, 333
American business and professional interests: concern for invested capital and political power, 58 f.; desire for security, 119, 149, 309 f., 341
American farmers, and annexation, 290 f.
American Federationist, opposed an-