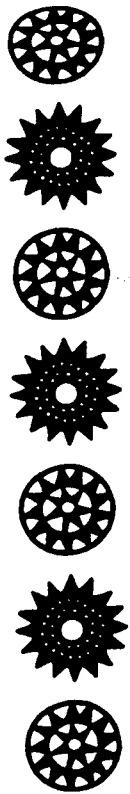


# The Moment of Māhela



## CHAPTER 8

If the Hawaiian people, *Ali'i* and *maka'āinana* alike, were worried about the implications of the *Māhela*, the foreign community was not. Whether friend or foe, missionary or merchant, American or European, all foreigners were ecstatic that the "oppressive" system of Hawaiian Land tenure was about to be swept away. The foreign merchant community thought it marvelous that at long last they could hold *'āina* in fee, for certainly that would mean an upsurge in investment and prosperity. The missionaries, for their part, persisted in a curious argument which held that *only* the private ownership of *'āina* would save the Hawaiian race from extinction. As for the foreign members of the Privy Council, Judd, Richards, Wyllie, and Lee, they were of the same mind as their countrymen: to them, capitalism was the most civilized of economic systems and it required private ownership of *'āina*. From that point of view, all that remained was to convince the *Ali'i Nui* that this was so and the nation could not help but prosper. As in the past, this was a job for the Calvinists.

### KAHUNA PULE ADVICE: ANSWERS TO QUESTIONS

Perhaps the most persuasive of the arguments for the *Māhela* was made by the Calvinist missionaries, whose opinions carried the greatest weight with the *Ali'i Nui* because they had learned to speak Hawaiian so well and because they were the new *kaumāna*. In May 1846, R. C. Wyllie, Minister of Foreign Affairs, conducted a survey of missionaries at eleven

different stations throughout the Hawaiian islands regarding the living conditions of the people.<sup>1</sup> In this document, called "Answers to Questions," a peculiar argument was put forth. The missionaries all agreed that the Hawaiian race was declining in numbers because the *maka'ainana* were "licentious, indolent, improvident and ignorant." Such behavior, they argued, was encouraged by the oppressive nature of their *Ali'i* and *konohiki* and the system of Land tenure.<sup>2</sup> The best means of preserving the Native race, and "to render them industrious, moral and happy," would be to give them a heavy dose of the gospel, and, more importantly, to allow them to hold their '*Āina* in fee.'

Once they held their taro patches and house lots in fee, the theory ran, the *maka'ainana* would have the incentive to become industrious, hard working, and Christian, because they alone would receive the benefit of their labor. Once the *maka'ainana* became industrious, they would give up their bad habits, save money, and become wealthy—and the alarming decline in Hawaiian population would be halted. This latter point was perhaps the one that most influenced the *Mō'i* and *Ali'i Nui*. It was a grand design, but one that completely ignored the reality of the situation. Hawaiians were dying because of foreign diseases, in particular, syphilis, tuberculosis, and various flu epidemics. In today's world the Calvinist's ludicrous prescription for health would be comparable to advising someone with AIDS that they should purchase a piece of land! What Hawaiians needed was medical care—more doctors and more medicine—not private ownership of '*Āina*. When foreigners became ill, whether merchant or missionary, they went to a doctor and received medical attention. When Hawaiians became sick, they might turn to a foreign doctor if they were an *Ali'i* and could afford one, or they might seek out a traditional medical *kahuna*, a practice strictly forbidden by the missionaries. Or they might, if they were good Christians, simply wait to die. It is remarkable that in ninety-five pages of missionary reply to Wylie's questions, not one proposal was made for increased medical care for Hawaiians. Such an omission is not only cruel and racist, but it is an indication that the *Ali'i Nui* were not receiving very honest advice from their *kahuna*.

When one considers that the American mission had been in Hawaii for nearly thirty years by the time of the 1848 *Māhela*, it is evident that

there were some prominent factors about Hawaiian society that they conveniently chose to disregard. One of these was that the Hawaiian system of Land tenure, which they found so oppressive, had served the Hawaiian people extremely well for centuries. Not only did Captain Cook find Hawaiians a healthy and handsome people, when indeed they were supposedly the most "savage," but he and other Western explorers were impressed by how extensively Hawaiians cultivated the '*Āina*. The Scotsman Archibald Campbell in 1810 remarked that Hawaiians were "certainly the most industrious people I ever saw."<sup>3</sup>

Perhaps it might have been more useful if the missionaries had asked why, if Hawaiians were so industrious *before* they became Christian, they were so lazy after their conversion. This reported "indolence" may have been a sign of psychological malaise resulting from terrible disease, serious depopulation, and excessive taxation. Or it might have been a kind of cultural schizophrenia engendered by the Christian *kapa* which condemned the Hawaiian celebration of life. Or perhaps, having lost the great *Alika* Lono, the *maka'ainana* had no grand purposes to work toward as a whole community. Their hard work and *ho'okupu* would no longer bring fertility to the '*Āina*.

On the other hand, accounts of Hawaiian "indolence" may have simply reflected missionary opinion rather than reality. They may have thought Hawaiians lazy because the Natives did not work obsessively every day and all day in the hot sun in order to accumulate excessive profit. (In 1823, Charles Stewart noted that Hawaiians provided for all their needs by working only four hours a day.) There is evidence, however, that when Hawaiians of the 1800s had the proper incentive to work hard they did so. In 1837, when the coral blocks were being cut for the building of Kawaiaha'o Church, Stephen Reynolds remarked on this arduous and dangerous labor:

The reefs [were] literally covered with natives cutting stones for the new meeting house. . . . Several natives [were] injured on the reefs—legs and arms were broken going after the stones [coral blocks] for the Church.<sup>4</sup>

And in May 1839 at Koloa, Kaua'i, after initial problems with local *konohiki*, there were four hundred *maka'ainana* hard at work planting sugarcane. Evidently the proper incentive had been found.

A second factor that the brethren failed to take into account was a cultural disinclination among Hawaiians toward owning anything privately. As in all Polynesian societies, it was extremely bad form for the average person to claim any article of clothing or personal item as his very own. If a friend admired one's clothes or comb, for instance, it was only proper to give it to him or her. To deny a friend connotated stinginess, and in this culture generosity in all things was the ideal. O. P. Emerson, a second-generation missionary of Waiialua, O'ahu, noted this tendency:

Moreover, among the common people themselves there was a loose, mischievous conception of the rights of private ownership. If one asked a friend for something he owned, it was customary not to refuse the request for fear of being dubbed *pi* (stingy).<sup>7</sup>

If this system was slightly different for the *Ali'i Nui*, it was because their *mana* and *Akua* status made their personal belongings *kapu*. However, even the *Ali'i Nui* must be generous, if in a different manner, for that is what marked their *mana* and rank. In this light, to expect the *maka'āinana* to prosper under the capitalist uses of 'Āina was unrealistic, and indicates how little the Calvinists understood their congregations. Had the missionaries taken these undeniable factors into account, and had they truly loved Hawaiians, they might have instead chosen to bolster the existing *konohiki* system, still intact in the 1840s. It was, after all, an economic system that encouraged self-sufficiency and had worked quite well in the past. Moreover, it was one that all Hawaiians thoroughly understood.

Nor was it that the missionaries did not fully comprehend the *konohiki* system, for in 1841 William Richards wrote a detailed account of it for Captain Charles Wilkes of the U.S. Expedition. Despite his unfavorable description of the Hawaiian Land tenure system as oppressive and unstable, Richards admitted that:

... among all the better classes it was considered improper to evict the direct cultivators of the land and hence it was often the case that all the different ranks of chiefs were dispossessed, while the last dependents, the cultivators of the soil were continued in their possessions. Had this always been the case it would have greatly mitigated the evils of the system.<sup>8</sup>

This is not to suggest that the *konohiki* system was without fault; no economic system is. It is evident that with the introduction of capitalism in Hawai'i, the *maka'āinana* were expected to bear the increasing burden of the *Ali'i Nui* attempt to incorporate foreign *mana* by consuming foreign goods. Nor is self-sufficiency often compatible with capitalism, but it might have been better for the Hawaiian people to struggle along with a system they knew intimately, rather than adopt one that was so entirely foreign.

It is not as if the *Ali'i Nui* were unwilling to improve the *konohiki* system. As Richards noted, there was a natural tendency on the part of the *Ali'i Nui*, indeed it was their traditional duty, to *mālama* their people.<sup>9</sup> While the greatest faults with the current system occurred because lesser *konohiki* sometimes demanded too much from their people and too often threatened them with dispossession of 'Āina, older Hawaiians knew that a *konohiki* could induce his people to work harder with kindness, rather than with threats.<sup>10</sup>

The 1840 laws were an attempt to ameliorate the "injustices" of the *konohiki* system: *maka'āinana* were allowed to hold their 'Āina in perpetual lease and *konohiki* were warned not to be too demanding. The 1840 Constitution in fact granted a perpetual lease of 'Āina to all *maka'āinana* forbidding their eviction for any reason. "Why then did the *Māhela* heed *kapu* at all, except to appease foreign demands? And, did the missionaries think that private ownership of 'Āina would really save" the *maka'āinana* from extinction?

The concluding remarks of the missionary reply to Wylie's questions may shed some light on the true reasons for Calvinist support of the *Māhela*. They were written by E. O. Hall, a printer attached to the mission who came to Hawai'i with the sixth company in 1835. "After contemplating the missionaries on their great work and agreeing with all their proposals, including a "bona fide fee simple title to a piece of land," he added:

On the whole, it is doubtful whether the native race will be able to withstand the shock which the overwhelming wave of Anglo-Saxon energy, enterprise and cupidity, had given it. If the transforming influences of the gospel have come in too late to save the nation from extinction, it will only be because the nation was too far gone to be saved by them."<sup>11</sup>

Mr. Hall's remarks reveal the unstated racist sentiments of the mission. From the very beginning Bingham and Stewart doubted that Hawaiians were human. And the Calvinists as a whole never expected that Hawaiians could find Jehovah by themselves, rule their own country without missionary advice, or actually succeed in the capitalist system. The Calvinists came from the racist heartland of America, where it was accepted without question that white men should rule and that non-whites were put on earth by God to serve them.<sup>14</sup> The children of these early missionaries later propounded this theory when they overthrew Queen Lili'uokalani in 1893.

If the Hawaiian race conveniently died out, as foreigners were so eagerly predicting, there would be little further impediment to the Calvinists making Hawai'i their own. By 1845, the ABCFM had already begun discussing the end of financial support for the Hawaiian mission. For several years the Board argued that as Hawai'i had become a Christian nation, it should therefore support its own pastors. With that end in mind, many missionaries began to think of owning 'Āina and starting businesses, as most Hawaiians did not have the means, and some did not have the desire, to support the missionaries and their families.<sup>15</sup> From 1850 onward, when the ABCFM did finally terminate its support, some missionaries became businessmen rather than leave their mission and return home.

While missionaries encouraged the *maka'āinana* to claim their *āro* patches and house lots, which usually amounted to no more than a couple of acres,<sup>16</sup> their own expectations for 'Āina grants were far more speculative. In 1850, the mission applied to the *Mō'i* and *Ali'i Nui* in Privy Council for 560 acres for each missionary, and what is more, their request was granted.<sup>17</sup> In addition, because the Hawaiian government thought the brethren were the only foreigners who could be trusted, and who understood the new system established in 1845, many were appointed as government Land agents, effectively usurping the function of the *konobiki*.

It was the sanction of missionary advice that sustained Judd's and Richards' arguments to the *Mō'i* and *Ali'i Nui* in favor of the *Māhela*. Although in Privy Council the *Ali'i Nui* argued with their foreign advisors about what the *Māhela* would actually mean in legal terms and how it

should proceed, they accepted the opinion that it would truly benefit the *maka'āinana*.<sup>18</sup> Allowing the *Māhela*, then, would be *pono* behavior. It was the duty of the *Mō'i* and *Ali'i Nui* to protect the society as a whole according to the advice of their political and religious advisors. At the end of the *Ali'i Nui Māhela* in March 1848, Kauikeouli wrote in the *Buke Māhela*:

Know all you people by this document, that I Kamehameha III, by the grace of God, am the King of this Hawaiian Archipelago. I hereby give completely and forever separating out for the Chiefs and the people of my Kingdom, relinquishing all my rights and my interest and all my wealth in the lands, here in these Hawaiian Islands, that are written on pages 179, . . . 225 of this Book, in order that my Chiefs and my Hawaiian people may dwell and establish themselves firmly upon the lands forever. [Emphasis added.]<sup>19</sup>

These sentiments of the *Mō'i* do not preclude the possibility that some greedy *Ali'i* may have testified against *maka'āinana* claims.<sup>20</sup> One would have to do a detailed analysis of the fourteen thousand claims in the twenty-three volumes of Land Commission records to decide exactly which *Ali'i* interfered with *maka'āinana* claims. However, in Privy Council, Mataio Kekūānoa seemed to be the only obviously greedy *Ali'i*. He persisted in requesting more 'Āina even after the *Mō'i* and *Ali'i* had made their *Māhela* in January 1848. The 'Āina that Kekūānoa wanted were sometimes for himself, but more often for his daughter Victoria Kamāmalu or his other wards.

Although of good Maui-O'ahu lineage, Kekūānoa's rank had fallen to that of *kaukau ali'i* when Hawai'i-island *Ali'i* conquered the other islands. As a *kaukau ali'i*, it was his duty to carefully scrutinize and maintain the inventory of 'Āina on behalf of his *Ali'i Nui*, Victoria Kamāmalu. Kekūānoa would never have become *Kia'āina* of O'ahu or have been admitted to the Privy Council had he not married Kina'u, the daughter of Kamehameha I. After her death in 1839, he would have been a mere *konobiki* if his children by Kina'u were not the grandchildren of Kamehameha I.

Kekūānoa's daughter Victoria Kamāmalu was especially important as the heir to the 'Āina of Kina'u and Ka'ahumanu and as the next designated *Kubina Nui*. As the *kahu* of her 'Āina it was his duty to be grasping,

albeit he was rather blatant in his manner. To the credit of the Privy Council, the *Ali'i Nui* consistently refused his post-*Māhele* demands, as his *kaukau ali'i* behavior was *maha'oi* (rude, offensive) in Hawaiian terms. Once aggressive, devious foreigners were allowed to own *'Āina*, Hawaiians would find that they must all follow Kekūānoa's *maha'oi* example if they were to retain any *'Āina* at all. Interestingly, it is the *'Āina* received by Kekūānoa and his children in the *Māhele* (and jealously guarded by the former) that make up the bulk of today's Bishop Estate."

MECHANICS OF THE MĀHELE: LAND COMMISSION VS.  
ALI'I NUI PRIVY COUNCIL

Although the legislation that established the Land Commission was passed on December 10, 1845, the *Ali'i Nui Māhele* did not begin until January 1848, and the *maka'āinana* were not awarded ownership of their *'Āina* in fee until August 6, 1850." Hence, the "moment" of *Māhele* was a long one indeed. This five-year period reflects the length of time it took Richards, Judd, and other foreign advisors to convince the *Mō'i* and *Ali'i Nui* that the *Māhele* should follow foreign rules instead of Hawaiian custom. (In Hawaiian society, that sort of delay indicates reluctance to agree.) Unfortunately, the Land Commission does not seem to have kept any minutes of its meetings. Table 5, however, reflects the bare bones of the events of this period.

It is evident that the *Mō'i* thought the *Māhele* should be like the traditional *Kāhali'āina*, only made modern and acceptable to Westerners by the recording of titles to *'Āina* on paper (the magical *palapala*) in a legal document. The *Mō'i* believed that by recording titles, Hawaiians could forever secure their *'Āina* because he had been told erroneously that Westerners respected legal documents. John Papa 'Ūi, a member of the Privy Council and one of the first appointees to the Land Commission, said that Kauikeaouli:

... divided the lands in the Great *Māhele* of 1848, believing the division would be permanent. [Because of this] it was said that he was the greatest of the kings, a royal parent who loved his Hawaiian people more than any other chief before him."

Table 5. Dates of Important Māhele Events

December 10, 1845:	Board of Commissioners to Quiet Land Titles established
January 1846:	Experimental <i>'Āina</i> sales to <i>maka'āinana</i> begun in Makawao, Maui and in Mānoa, O'ahu
February 11, 1846:	First meeting of the Land Commission
October 26, 1846:	Legislative council passes Land Commission principles
February 14, 1848:	All claims must be filed by this date
June 28, 1847:	Legislature allows long-time resident aliens to claim <i>'Āina</i> already in their possession with the proviso that these <i>'Āina</i> could only be sold to Hawaiian subjects
December 18, 1847:	<i>Mō'i</i> and Privy Council create a committee to divide <i>Mō'i</i> and <i>Ali'i 'Āina</i>
January 27, 1848:	<i>Mō'i</i> and <i>Ali'i</i> begin the signing of the <i>Buke Māhele</i>
March 8, 1848:	<i>Mō'i</i> ends the <i>Ali'i Māhele</i> by dividing his personal <i>'Āina</i> from government <i>'Āina</i>
December 21, 1849:	Privy Council defines rights of Native tenants
July 10, 1850:	Legislature allows aliens unrestricted rights to buy and sell <i>'Āina</i>
August 6, 1850:	Legislature confirms Privy Council decision regarding Native tenant rights and <i>maka'āinana</i> are able to claim their Land Commission awards

Source: Chinen 1958:8-31.

This was certainly not the foreign understanding of the *Māhela*. Foreigners knew that *ʻĀina* held in fee could be bought and sold and thus alienated. There was nothing permanent about it! Thus there were at least two groups who wanted to decide on how the *Māhela* should proceed—the foreign advisors and the *Aliiʻi Nui* Privy Council.

The general theory of the *Māhela* was to share and divide the communal interests in the *ʻĀina*. It was and is a difficult thing for Hawaiians to understand. *ʻĀina* is something that all Hawaiians need to live. How can it be divided for exclusive use? It is like dividing the air that we all breathe, or the water we all must drink.

Kauikaouli, as *Mōi* and as heir to his father Kamehameha the Conqueror, was in one sense the owner or source of all the *ʻĀina*. With the *Māhela*, he was to decide upon or choose his personal *ʻĀina*, which would then be set aside. He was then to agree upon which *ʻĀina* belonged to the other *Aliiʻi Nui* and the various *kākau aliʻi*. Some *ʻĀina* would be set aside for the government. Out of all these types of *ʻĀina*, the *makaʻāinana* were then to carve out their own *kulana* (interest) in the *ʻĀina*. And, since foreigners such as John Ricord, in conjunction with Judd, Richards, and Wylie, had written the Organic Acts, the acts ensured that foreigners who swore an oath of allegiance to the *Mōi* would have equal status with *makaʻāinana*.<sup>28</sup> So from the very beginning of this revolution, some foreigners (e.g., Richards and Judd) would have rights to own *ʻĀina*, provided they had lived (as was also required of the *makaʻāinana*) on the *ʻĀina* requested from before 1839.

The establishment of the Land Commission was seen as an attempt to reach some sort of fair compromise between foreign desires for secure title to *ʻĀina* and *Aliiʻi Nui* desire to retain control of the kingdom. Regarding foreign ownership of *ʻĀina*, Kauikaouli had this to say:

We indeed did wish to give foreigners land the same as natives and so they were granted, but to the natives they are revertable and the foreigners would insist that they have them forever and that the Chiefs should have nothing to do with them. They gave much trouble, and therefore, he could not favor them as much as he wished . . . The king added, certainly they could not fight with them [foreigners] every day.<sup>29</sup>

While the *Aliiʻi Nui* preferred to lease the *ʻĀina*, in order to maintain greater control and in order to better *mālama*, foreigners favored the

Western idea of owning *ʻĀina* in fee, where there is no control and no attempt to *mālama*, but by which a great deal of money can be made. The Land Commission was to find a means so that Hawaiians did not have to "fight with foreigners every day" over *ʻĀina*.

Of course that was the most mistaken assumption that Kauikaouli and subsequent Hawaiians have ever made with regard to *ʻĀina*. In the Western system, one must fight every day over *ʻĀina* or one loses it. And, no matter how offensive such discord is to the Hawaiian sense of *pono*, Hawaiians must haggle over *ʻĀina* if they are to ever hold any in the Western world.

The Land Commission appointees included William Richards, who acted as chairman; John Ricord, the attorney general; James Young Kānehoa, also *Kiaʻāina* of Māui; John Papa ʻIi, and Zorobabela Kaʻauwai.<sup>30</sup> ʻIi was a member of the Privy Council and a long-standing servant to the *Aliiʻi Nui*, particularly to Liholiho and Kīnaʻu. Kaʻauwai was of lower rank; he had served as a representative of Māui since the first legislature in 1841<sup>31</sup> and was probably appointed to the Land Commission as a token representative of the *makaʻāinana*.

The principles by which the Land Commission and, by extension, the whole *Māhela* process were to be guided were undoubtedly written by Richards and Ricord. The English version of these resolutions contains legal terms such as "residuum lands" and "prescriptive occupancy,"<sup>32</sup> which are meaningless in Hawaiian. The Hawaiian version is almost a direct translation of the English with a few Hawaiian flourishes not indicated in the original. (One of these differences, in the Hawaiian version of the initial historical sketch, described how gifts and taxes were given to the *Aliiʻi Nui* with *aloha* and generosity.)<sup>33</sup> As the moving force behind the committee, Chairman Richards presented the nine resolutions to Privy Council in August 1846 on behalf of the Land Commission.<sup>34</sup>

The most important of these Land Commission proposals was that the *ʻĀina* should be divided into equal thirds, one share each for the government, the *Aliiʻi*, and the *makaʻāinana*. Hence, everyone who received a piece of *ʻĀina* was to pay one-third the value of his or her *ʻĀina* to the government as a commutation fee, thereby satisfying the government's interest in the *ʻĀina*. As there are about 3,897,600 acres in the Hawaiian islands, each category was to receive roughly 1,299,200 acres. This was

true in theory only. In reality, the *Māhela* divided the *ʻĀina* in six ways, between the *Māʻi*, *Aliʻi*, *konohiki*, *makaʻāinana*, government, and foreigners, in unequal amounts."

On June 8, 1847, Richards presented additional resolutions that he had drafted for the Land Commission to the Privy Council for approval." As they were written in English, Richards translated them for the *Aliʻi*:

1. The commutation rate for fee simple house or building lots should be reduced from one third to one fourth of present unimproved value.
2. An applicant could pay his commutation in cash or take out a fifteen year mortgage at 12% yearly with the government having the right to foreclose.
3. If an applicant did not want to buy, he could obtain a thirty-year lease.
4. The foregoing resolutions did not modify any pre-existing titles.
5. Neither these resolutions nor the Land Commission could restrict the King from rewarding special people for special services or exempting them from commutation fees.
6. The Minister of Interior or the Minister of Finance should buy as many households in town from people unable to pay the commutation fee in order to encourage them to move to the country and take up farming.
7. All money derived from land sales and commutation fees should go into a fund out of which loans might be made to farmers lacking funds.

Although these resolutions seemed innocent enough and intended to benefit the *makaʻāinana*, they further paved the way for foreigners to gain *ʻĀina* in the towns. In fact, as soon as the Land Commission began receiving testimony in 1846, it was the foreigners, aliens, and citizens who rushed forward to present their claims." Later, in June 1847, long-term resident aliens were given permission to present claims to the Land Commission, provided they swore an oath of loyalty to the Crown.

Some foreign members of the Privy Council believed that foreigners should have even more rights. R. C. Wylie was one of these. As a long-time supporter of the missionaries, "Wylie approved of their plan to fill the *ʻĀina* with white settlers who would teach the Natives how to farm. As early as 1844, Wylie had insisted that the importation of foreigner farmers who would "lay the waste *ʻĀina*—which every where abounds,

—under the proper cultivation" as the best means of developing agricultural resources of the country. In October of 1847, Wylie again raised the issue, favoring the importation of German laborers."

G. P. Judd was adamantly opposed to any measure for the importation of white foreigners and he and Wylie argued over it. Judd was afraid such a step would overwhelm the Native population. If the Hawaiian government were overthrown by a great influx of foreign immigrants, Judd might lose his trusted position as chief advisor to the Hawaiian *Aliʻi Nui* (which proved to be the case), and with it he would also lose that which he had come to hold so dear—his unfettered control of the Hawaiian kingdom."

To appraise the *Aliʻi* council of Wylie's intentions to import German laborers, Judd insisted that the conversation be held in Hawaiian. This was done, and the *Aliʻi* agreed with Judd's opinion on Wylie's idea, Keoni Ana and Pākī in particular. Pākī flatly stated that if many foreigners came that would be *pomaʻole* (not at all good). "ʻIʻi and Kapeau, although Privy Council members of lower rank, also spoke out against encouraging any increase in the number of foreigners, especially *poʻe ʻimi waiwai*, "those people seeking wealth," or in other words, capitalists."

Wylie and William Little Lee, who in 1847 replaced Ricord as attorney general, "joined forces to counter by stressing the great need for agricultural development in Hawaiʻi. This was the capitalist scheme for enriching the country and it required the importation of foreign labor and foreign capital. Wylie warned Judd that "history would judge them very closely upon the advice they gave the King and the chiefs." However, because of the heated dissension in Privy Council over this issue, it was shelved for a later date.

Such arguments for the importation of foreigners only served to make the *Aliʻi* more aware that they must decide to hold their *ʻĀina* in a manner that foreigners would respect. Since the advent of the Land Commission the *Aliʻi* had been arguing over which *ʻĀina* actually belonged to whom. In fact, as early as May 1843, the *Aliʻi* had taken ten weeks to draw up lists of personal *ʻĀina*." At that time Kauikeaouli had little personal *ʻĀina*, but Victoria Kāmāmalu, no doubt as King's heir, was in control of the most *ʻĀina*." Now, in 1847, the problem was just as

complicated because there were so many layers of varied usufruct rights to the *'Āina*, and

The King observed that he had granted many lands to persons, as a favor, not intending to alienate them permanently, but to take them back whenever he chose. The possessors of those lands were to procure food for him and to work for him. He therefore claimed those lands as his personal property."<sup>4</sup>

Kauikaouli wanted a *Kālai'āina* as it was the traditional sign of his right to be *Mō'i*. The *Ali'i Nui* and *kaukau ali'i* wanted to hold on to the *'Āina* they possessed. In that respect, the situation in 1847 was not so very different from Liholiho's time eighteen years before. However, in 1847 foreigners had become more persistent and dangerous in their demands for *'Āina* and were willing to seize Hawaiian sovereignty if they needed to, as the British had done in 1843. The new *kāhuna* and *Kālai-moku* insisted that such a *māhale* was *pono* and, despite their reluctance, this was the advice the *Ali'i Nui* believed they had to follow if they were to maintain a *pono* kingdom in the new Western setting.

#### EVENTS OF THE MŌ'Ī-ALĪ'Ī MĀHELE

On December 11, 1847, the Privy Council met to formally discuss the division of their *'Āina*.<sup>5</sup> At this time Kauikaouli, who was just thirty-four years old, declared himself *konoiki* of all the *'Āina*, thus making a public declaration that he intended to have his *Kālai'āina* at last. The *Ali'i* of the Privy Council agreed in principle but objected to the government taking a one-third interest in their remaining *'Āina*, as the Land Commission required. They argued that if Kauikaouli as *Mō'i* was able to demand a *Kālai'āina*, then he was the government and would have already taken a share of their *'Āina*. The foreign members, especially Wyllie and Lee (Richards had died), argued at length with the *Ali'i* about every aspect of the division.

Wyllie strongly recommended that the *Ali'i* not create rules of their own but follow the Land Commission principles (as if it were his place to make such a statement).<sup>6</sup> Lee made a long speech about the *Māhale* being a momentous occasion that would save the nation.<sup>7</sup> Kekūānoa, who at

age fifty-seven was the oldest member of the Privy Council, ignored their remarks and made practical suggestions on behalf of the *Ali'i*:

Governor Kekūānoa expressed himself in favor of the division of lands as proposed by the King, but wished to know whether besides the lands belonging to the King personally, the Government was also to take part of their lands. He thought the lands given by the King and his Predecessors to those who had fought in the Wars should not be taken back, but confirmed to the Descendants of those Warriors, in full Allodial Title. He said those Descendants were well known, and so were the lands. Besides, land had been given to others for other special services."<sup>8</sup>

Unable to come to an agreement, the *Ali'i* met again on December 14th and continued arguing with their foreign advisors.<sup>9</sup> Not to be outmaneuvered, Lee presented a lengthy resolution at this meeting, suggesting that the *Mō'i* keep all of his personal *'Āina* and that the remaining *'Āina* be divided into thirds, one each for the government, *Ali'i*, and *maka'āinana*. He concluded by saying:

It is difficult at this day, to foresee the bright results of this momentous change. I am aware that the division of lands between the Chiefs and Tenants of Your Kingdom will be attended with a Multitude of difficulties. I cannot say that the great Mass of your Nation are fully prepared to receive so great an Emancipation. They may spurn this proffered freedom. But I do most sincerely believe, that this great measure, by raising the Hawaiian Nation, from a state of hereditary servitude, to that of a free & independent right in the soil they cultivate, will promote industry and agriculture, check depopulation, and ultimately prove the Salvation of Your People. I believe it to be a Measure which will meet the approval of Your Majesty in years to come, and cause your name to be remembered with veneration and gratitude by generations yet unborn. I believe that if this measure be fully carried out in the liberal spirit in which it is begun, if the lands of your Majesty's Kingdom be unlocked, it will open the hidden fountains of prosperity, and prove the dawn of a new and bright era to Your Kingdom."<sup>10</sup>

Lee's delirious and erroneous predictions notwithstanding, Judd cleverly pointed out that adopting Lee's resolution was not practical for the Privy Council until they knew exactly which *'Āina* belonged to the *Mō'i*.<sup>11</sup> Judd proposed that he be appointed to report on the *'Āina* of the *Mō'i*. The *Ali'i* agreed to this proposal, and Judd thereby became the



*Kālamoku* to the *Mō'i*.<sup>31</sup> Following is Judd's report to the Privy Council, found only in the Hawaiian minutes and not in the English.<sup>32</sup>

Treasury Office  
17 December 1847

To the King and the Privy Council,

I was chosen to be the one to investigate and clarify which are the King's personal lands, and therefore I hereby present that which I have discovered, as follows:

I deposed knowledgeable people and they revealed to me [what those lands were] according to their opinions and their knowledge. Then I explained that they should list them in columns as they revealed them to me. Here I am to present them before you on the table.<sup>33</sup>

I also deposed the King and he enumerated his own lands, that is, the lands of those people who are not Privy Council members.

Upon my careful examination of these lists, I saw that the majority of the people who had provided information, listed them by large designations, calling them by *abupua'a* names and by *moku* names. However, in the King's deposition the smaller land designations were listed, that is, by *ʻili* names and also by *abupua'a*.

As I searched at length among the documents I saw that the King's list was most correct. But only for O'ahu and Kauai'. The King did not make lists for Māui and Hawai'i island lands. Therefore I thought it best to present to you the Personal lands of the King on O'ahu and Kauai', which have not been divided.

Here is something else. It would be best if that which belongs to the King [all the lands] be returned to him in order that his sovereignty may not be obstructed. However, due to the great length of time that the chiefs and the people have lived upon the lands of the King, they shall soon gain a certain portion within these lands. The Board to Quiet Land Titles has said, if someone had lived unopposed upon the land, from 1839 until the present time, we shall not further investigate into the *kulana* claim. The majority of these people have been living on the land under the King's jurisdiction from before this time [1839]. However, I have found that these same people have been taxed with the Friday ten percent tith, "sometimes with food, sometimes by work and sometimes with money, from one to two dollars a year. As for these lands belonging to the King, upon which Privy Council members dwell, they have not paid the ten percent tax. On the other hand,

some people have suggested to me that all these tenants are equally alike in the *Māhale*.

It is right [pono] for the King to have his own personal lands; that is the proclamation that has been agreed upon. All the people say the King should have his own personal lands and I think the most correct document is the King's. However, it does not end there.

Do not the *konohiki* have some *kulana* right in the King's lands? Perhaps there is some portion of *kulana* interest, not measured, perhaps equal to the one-third *kulana* interest of the Government.

The King has made a division, according to what he thought best and he reserved some lands for his *konohiki*, and for those with only one land, they received half of that land. I have heard that most of the *konohiki* are pleased with this division.

For this discussion, I believe these are the King's lands on the island of O'ahu. This is the document of division. And I believe it is best to divide the lands of Kauai', Māui, Moloka'i, Lāna'i and Hawai'i in the same fashion, separating out what belongs to the King and what belongs to the *konohiki*. Then these lands can be entered into the quieting of land titles.

In my examination of this division, I saw that some lands were reserved for the *konohiki*, and that they will not be entirely deprived. Moreover, in my conversation with the King, he made clear his intention to give lands anew to any people that were destitute. Therefore, I think that the Government's one-third share remains within their lands and it is for the Board to Quiet Land Titles to extract it.

The King has agreed that the Government has a *kulana* interest in his own personal lands. However, I believe it would be best to divide his share out beforehand, and then submit it to the quieting of land titles. Some people have chosen to find fault with the King's decision to divide out his lands,<sup>34</sup> [but] his own personal lands shall be reserved for himself and his heirs forever, and some shall accrue to the Government.

your obedient servant  
G. P. Judd

It was approved.

This was the document by which Judd ensured that Kauikeaouli would indeed have the *Kālai'āina* so long denied to him. Judd understood the *Mō'i* very well and, having many enemies in the foreign community, needed the *Mō'i*'s unswerving devotion to keep his position as

chief counselor or de facto *Kahina Nui*. Perhaps that need influenced Judd's decision that the *Mō'i's* list was the most correct, as it was equally possible that other lists were more correct. The *Māhela* was to be a *Kālai'āina* for the *Mō'i*, but in order to quell objections, Judd assured the *Ali'i* that some of their favorite *'Āina* would be respected.

Note that this letter also expresses Kauikaouli's intention to take care of his *konohiki*, that is, the people who served him and cared for his personal *'Āina* on his behalf. These were his people, including his *kahu*, his mother's Tahitian missionary companions (Tute, Tauā, and Kahikona), as well as many of the Māui *konohiki* who had served his *pamālia* mother, Kahenheimālie.<sup>9</sup> This distribution of *'Āina* was a mark of his royal generosity, much like the small *Kālai'āina* he had made as a sixteen-year-old youth in Hilo in 1829 when Boki, acting as Kauikaouli's *Kālainoaku*, had played a role similar to that of Judd in 1847.

While Judd's letter clarified the *Mō'i's* position, and may have influenced *Ali'i Nui* acquiescence to this plan, it did not solve the problem of government commutation. As *kahu* of Victoria Kamāmahū's *'Āina*, Kekūanao'a and 'I'i were the most outspoken opponents to the plan that the government would take a one-third share of the *'Āina* after the *Ali'i* had given up all their *'Āina* to the *Mō'i*.<sup>10</sup> The *Ali'i Nui* and *kaukau ali'i* had already made lists of *'Āina* designating what they would give up and what they wanted to retain, but the final details were still being haggled over.<sup>11</sup> They had agreed to offer all the *'Āina* to Kauikaouli symbolically, as in a traditional *Kālai'āina*, but in reality they had designated which *'Āina* they wanted to *mālama* and which they would relinquish.

The *Ali'i* were worried about how much *'Āina* they might lose. Ha'alele, principal *konohiki* to the *Ali'i Nui* Leleiohoku (Kalaninūkū's son), said that he and Leleiohoku had heard prior to the event that the *Māhela* was not good.<sup>12</sup> Leleiohoku, the *Kia'āina* of Hawai'i island, educated at Lāhaināuna Seminary and a member of the Privy Council, was not sure what the *Māhela* was all about. Ha'alele urged him to sail to Honolulu and visit his sister-cousin Kekau'ōnohi regarding the *'Āina* she held in trust for him.<sup>13</sup> They feared the government would take too much, because her *'Āina* were so extensive, including as they did Leleiohoku's *'Āina*.<sup>14</sup> It was at this time that Kekau'ōnohi, with the *Mō'i's* permission, formally separated out some of her *'Āina* for Leleiohoku.

The *Ali'i Nui* fears were not unjustified, for in their *Māhela* with the *Mō'i* they relinquished at least 50 percent of their *'Āina*, and afterwards some had to pay the one-third commutation fee, too.<sup>15</sup> In fact, as discussed in the next chapter, higher ranking *Ali'i Nui* gave up between 56 and 74 percent of their *'Āina*. Kauikaouli, in the *Māhela* of his *'Āina* for the government, retained only 18 percent for himself.

As for the one-third government commutation, most of it was paid in *'Āina* rather than money. These *'Āina* became government *'Āina* which were to be sold to the general public, i.e., *maka'āinana*. However, as the *maka'āinana* petitions of the last chapter pointed out, these Hawaiians were in no position to buy and it was the foreigners who could most afford government *'Āina*.<sup>16</sup> For the *Ali'i Nui*, then, relinquishing their *'Āina* to the government would enable various foreigners to buy them cheap and live like Chiefs upon Hawaiian *'Āina*. As their *'Āina* were usurped, so were their political positions, for control of the *'Āina* was the essence of sovereignty.

While the *Ali'i Nui* were opposed to the one-third government commutation, Lee insisted that it was for the economic well-being of the kingdom. Lee told the *Ali'i* in Privy Council that

... once the kingdom of Prussia was in the same depressed condition with this. The Peasantry of that Kingdom holding their lands subject to the Nobles and having no independent rights in the soil they cultivated, industry was checked, agriculture sunk, and the whole kingdom reduced to poverty and want. Such must be the inevitable consequence of such a system of landed tenures in every Country where it exists.

No country can long thrive, where the people do not own the lands they cultivate, in their own right.—The wise King of Prussia saw this, and in the year 1810 issued his Royal Edict granting to a certain class of the peasantry an independent right in their lands, upon yielding one third of their lands to their Lords and Nobles, and to another class the same rights upon yielding one half of their lands to the Nobles. This Edict met with much difficulty & strong opposition from the Nobles, but as soon as these wise principles were carried into effect, the most blessed influences were felt and acknowledged by all classes. Prussia rose from a state of beggary to affluence, her coffers were filled, her people happy & prosperity covered the land. She first adopted principles and wise principles and then carried them

into practice. The example was an illustrious one, and if followed in this Kingdom, he predicted that ten years from this time would see the Hawaiian Nation a prosperous people.<sup>65</sup>

While Lee's historical example might have had some superficial similarities to the Hawaiian situation, the Kingdom of Prussia was not threatened with invasion by an entirely foreign race and culture. Imperialism aside, the Prussian example was offered to portray the promise of the capitalist dream—that the proper use of *'Āina* could bring great wealth. For Hawaiians, it was the foreign *waivai* that seemed the foremost path to *mana* in the Western world. If the *Mō'i* could somehow control the *mana* of the foreign *waivai*, perhaps the Hawaiian world could be *pono* once more.

Besides the one third government commutation, Lee further proposed that the King's *'Āina*, government *'Āina*, and private allodial titles be listed in separate books. The *Mō'i* was most concerned over this latter issue and asked, "If a foreign power should take the Islands, which lands [in which book] would they respect? Would they take possession of his lands?"<sup>66</sup>

Wyllie contended the problem would not arise because the three great powers, United States, Britain, and France, had agreed to Hawaiian independence and

So long as the King, as hitherto, governed his Kingdom justly and with due respect to the rights of all foreigners and to the laws of Nations, no Nations would have plea to seize these islands.<sup>67</sup>

Lee promised the *Mō'i* that in the event of a takeover his *'Āina* would be respected.<sup>68</sup> Despite their assurances, Kauikeouli insisted that all the titles be listed in a single book, the *Buke Māhela*. As it turned out, Kauikeouli's fears were entirely justified and the events of history have shown Wyllie and Lee were charlatans and thieves—or fools, if one would be charitable. Foreigners did indeed seize control of Hawai'i in 1893 and they did take as their own the *'Āina* that Kauikeouli had reserved for himself and his heirs forever in 1848. (These were the Crown Lands which became ceded Lands in 1900.)

The final outcome of the December 1847 meeting was the appointment of a committee of four, ostensibly headed by Keoni Ana, Kaui-

keouli's dearest friend and the minister of interior. Next in control was G. P. Judd, the minister of finance. The other two members were Mataio Kekūānoa, the *Kia'āina* of O'ahu, and Jona Pi'ikoi, a Privy Council member very loyal to the *Mō'i*.

Although Pi'ikoi was of Kawa'i lineage, and not at all related to the Kamehamehas, he was the one chosen to represent the *Mō'i*'s interests. His is an interesting example of the inner workings of court politics. Jona Pi'ikoi, as a relative of Kaunua'i'i, had served as the royal pipe lighter in the court of that Kawa'i *Mō'i*. In 1821, when Liholiho sailed to Kawa'i in search of *mana* and to test Kaunua'i'i's loyalty, he took a fancy to Pi'ikoi. Claiming the pipe as well as the pipe lighter, Liholiho commanded that Pi'ikoi return with him to O'ahu. Thus Pi'ikoi became Liholiho's servant. After Liholiho's death, Kauikeouli took pity on the then homeless Pi'ikoi and made him a member of his household.<sup>69</sup> As the Kawa'i *Ali'i*, including the sacred Keali'iāhonui, had been dispossessed after the 1824 Kawa'i Rebellion, Pi'ikoi would have had nothing without Kauikeouli's favor. To secure his position further, Pi'ikoi married Kama'e, younger sister of Kekahupū'u, who had once been the wet nurse of the *Mō'i*.<sup>70</sup> Thus Pi'ikoi was doubly loyal to Kauikeouli and because of it was chosen to serve as *Kalamaku* on behalf of the *Mō'i* in the *Kalai'āina* with the *Ali'i Nui*, *kaukau ali'i*, and *konohiki*.

Before the committee began its work, Keoni Ana suggested that Lee be included as a legal advisor. Judd was furious and objected on the grounds that all his time would be wasted in translating for Lee, who did not speak Hawaiian. Judd also insisted that:

his view was that no foreigner should have anything to do with this matter and that he himself only acted as a member of the Committee because it was necessary.<sup>71</sup>

Wishing to avoid any further confrontation with Judd, Lee hastily withdrew, leaving Judd's domain intact.

It is interesting that Judd's account of the *Māhela* is different from the official report submitted to Privy Council and signed by the four committee members. The following is an excerpt from the official report:

On the 21st day of December, we divided the work. M. Kekūānoa and J. Pi'ikoi were given the task of first putting everything in order with the

chiefs and *konohiki*. They met at the Fort and correctly listed the lands designated for the King only, and they two made the division [of lands] with the chiefs and the *konohiki*. J. Piʻikoi worked on behalf of the King. M. Keānaoʻa simply observed as a kind of impartial justice. The chiefs and *konohiki* told them what their lands were. They two also had several secretaries. Their work took one month to complete.

All the lands from Hawaiʻi to Kauaʻi were listed, the lands solely designated for the King and the names of his *konohiki* [for each of these lands]. When this was finished, J. Piʻikoi made the division on behalf of the King, in accordance with the right that had been given him, and the *konohiki* book was decided upon. With regards to those lands not designated as the King's they were not included in this proceeding [that is, in the lands given the *konohiki*]. When they two had finished their work with satisfaction, they made a new copy of the lists of divided lands and this was taken to Keoni Ana and G. P. Judd at the Palace.<sup>72</sup>

In the 1860s Judd was called upon to testify about the *Māhela* in at least two court cases. His testimony emphasized his own role and downplayed the roles of others. He did not even mention Kekānaoʻa. Undoubtedly, one must evaluate Judd's pronouncements with care, but they are revealing nonetheless of events of the time. Here is evidence he gave in 1866:

I was present in all cases of the *Māhela*—never any business done without the presence of three parties—The Secretary was S. P. Kalama. I was present for *Māhela* purposes to see that the lands were divided . . . Iona Piʻikoi was always there. After the King and chiefs had spent a year or more having many meetings for the purpose of dividing the lands among themselves without result, John Young and I were appointed commissioners to divide the lands. King appointed us, and appointed Piʻikoi to represent himself. Piʻikoi acted for the King. Mr. Young [Keoni Ana] and I acted for all parties. Nothing could be done without us. Yet the King acted for himself in the end.<sup>73</sup>

The following testimony was given by Judd in 1862:

I was the one appointed to arrange for the distribution of the Lands between the King and the Chiefs. John Young [Keoni Ana], Piʻikoi and myself were appointed, S. P. Kalama, clerk. Piʻikoi was special agent of the King in this matter and J. Young and myself were supposed to be unbiased. Piʻikoi

wrote to all the chiefs to deliver up their lands to the king. They came forward and did so with few exceptions, and furnished a list. The purport was for people in the Sandwich Islands to hold their lands as their own. Every person who held land under the feudal system gave them up to the king. Piʻikoi then made an arbitrary division, which was put in the book. When they surrendered the lands to the king, they left it to the king to retain or give it back to them as he pleased. Parties dissatisfied appealed to the king. Everyone submitted but some with very bad grace. Every land that was given by the king to the chiefs was first given by the chiefs to the king. I do not know what became of those papers, perhaps Kalama knows; they were left with Piʻikoi for the king. I think Piʻikoi had the rule to give, if one land, one half dividing it in the middle, if two lands sometimes he took the poor lands and sometimes the best. With the poor he made about an equal division, and with the rich, the king took more in number and quantity.<sup>74</sup>

It is difficult to decide which version, Judd's testimony or the official account, is the absolute truth, especially as it is highly probable that Judd wrote the text of the official account that Keoni Ana signed and submitted! If Judd was indeed present in all cases of the *Māhela*, then the official report deliberately lied about Judd and Keoni Ana being at the Palace, while Piʻikoi and Kekānaoʻa worked with the *konohiki* at the Fort. In light of Judd's admonition to Lee that "no foreigner should have anything to do with the matter," he may have wished to hide his involvement in the Fort deliberations. On the other hand, Judd may have merely been exaggerating his importance when testifying in the 1860 cases.

One of Judd's allegations, that Piʻikoi made an "arbitrary decision" in dividing the *ʻĀina*, is hard to believe. *Aliʻi Nui* acquiescence to the *Māhela* was crucial if it was to go forward at all and not end in either rebellion or further recriminations.<sup>75</sup> Since all the *Aliʻi Nui* knew their *ʻĀina* intimately, it is unlikely that Piʻikoi could entirely disregard their wishes out of hand. And, as the process took a whole month, there was probably much consultation between Piʻikoi and the *Mōʻi* on the details of the Land division, particularly if Judd was correct in saying, "the king acted for himself in the end." Judd may have meant that in the *konohiki* awards, Piʻikoi decided arbitrarily. However, in most instances Piʻikoi returned exactly half of the *ʻĀina* to the *konohiki*, as was described in Judd's letter of December 17, 1847.<sup>76</sup>

It is difficult to imagine Kekūanaoʻa as an impartial judge, as he was described in the official report, as he rarely behaved that way in Privy Council. Because he so often pressed for *Alii*'s rights, it is more likely that he acted as the *Alii*'s representative in proceedings at the Fort. Perhaps he was there to act as a check on Piʻikoi's zeal. However, while Kekūanaoʻa was extremely careful about *Alii*'s *ʻĀina* and privileges, especially those of his children, he also had an interest in the *Mōi*'s *ʻĀina*. As Kauikeaouli had no legal issue, his designated heir was his nephew Alexander Liholiho who was also Kekūanaoʻa's son. Hence, the *Mōi* *ʻĀina* would descend to Alexander Liholiho one day, a fact of which Kekūanaoʻa was well aware.

Note that Piʻikoi first divided *ʻĀina* between the *Mōi* and his *konohiki*. This was more a gift of *ʻĀina* than a division, because the *konohiki* only held *ʻĀina* in trust for their *Alii*, in this case the *Mōi*. The *ʻĀina* that were given them, moreover, came only from within Kauikeaouli's personal *ʻĀina*, not from the *ʻĀina* of the other *Alii*'s *Nui*. Nor was Kauikeaouli's *Kālai ʻāina* solely limited to his own *konohiki*. He also gave *ʻĀina* to the *kahu* and *konohiki* of other *Alii*. In this way Emelia Keaweamahi, *kahu* to Mosese Kekuaiwa; Kinimaka, *kahu* to David Kalākaua; and Levi Hāʻalelea, *konohiki* to Leleiohoku, were all given *ʻĀina* by the *Mōi* in the *Buke Māhele*.<sup>77</sup> In this act, he behaved as a father to them all, ensuring that each had some *ʻĀina*.

Piʻikoi's second division was between the *Mōi* and *Alii*'s *Nui*. The actual inner workings of this division are unknown, but when all the lists were finished, the final *Buke Māhele* was prepared and taken to the Palace.

From January 27 until March 7, 1848, the *Mōi* sat with Keoni Ana and G. P. Judd, while the *Alii*'s *Nui*, *kaukau ali*'s, and *konohiki* included in this *Kālai ʻāina*<sup>78</sup> came before them to sign their names to the formal documents of division in the *Buke Māhele*. S. P. Kalamā, a secretary to the *Alii*'s, described the proceedings in a probate investigation in 1860 for Habakuke Hewahewa, a *konohiki*:

I was Clerk for the Commission who made the division of the lands in 1848. I was present when the parties dividing the lands signed them. I was present when all signed from first to last. I saw Hewahewa sign the *Māhele Buke*, I could not state now whether he stood up or sat down to write his name,

there was a chair put there for them if they wished to sit down. I recollect Hewahewa coming to sign. I remember that the King sat at one end and Dr. Judd & John Young at the other. The body of the *konohikis* were outside and Pākī brought them in and they remained there a short time and signed and then they called another person. There were chiefs among them outside, Pākī was the only one inside. . . . The division was made at the Palace. The table was about a foot higher than this one. There was a place cleared on the table for the Book.<sup>79</sup>

On March 8th, after all the *Alii*'s *Nui*, *kaukau ali*'s, and *konohiki* had signed the *Buke Māhele*, Kauikeaouli then divided his *ʻĀina* with the government and signed the book as well. Thereafter, *ʻĀina* awardees were free to present their claims to the Land Commission to receive their Land Commission Award (LCA). They were subsequently to pay the government commutation fee, after which they would receive a Royal Patent (RP) number. The Royal Patent number was the final step in their securing fee simple title to their *ʻĀina*.

The formal signing of the *Buke Māhele* by the *Mōi*'s, *Alii*'s *Nui*, and *konohiki* established forever their respective *ʻĀina*. Having accomplished this part of the process, the Land Commission could then proceed to confirm or deny *maka ʻāinana* requests for *ʻĀina*, *ʻĀina* that would be claimed out of those already awarded to the *Alii*'s of the *Buke Māhele*. Thus, the Land Commission, that body which arose out of foreign suggestion and which was controlled by foreigners, became the new source of *ʻĀina* in Hawaiʻi. A quiet revolution had been accomplished whereby foreigners now controlled all the *ʻĀina*, even that of the *Mōi*'s, because the *Alii*'s had submitted themselves to the foreign rules of the Land Commission. Hawaiian sovereignty, manifest in control of the *ʻĀina*, had been usurped by foreigners behind a facade of American legal jargon.