PUBLIC LAND POLICY IN HAWAII: AN HISTORICAL ANALYSIS

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FOREWORD

Publication of this report concludes a research program dealing with public land policy in Hawaii and undertaken by the Legislative Reference Bureau in 1963. In response to a request by Hawaii's State Legislature, the Legislative Reference Bureau sought to prepare an historical survey of public land policies and practices of the federal and state governments and to give particular emphasis to a review and analysis of land policy in Hawaii from 1893 to the present. Three major monographs were prepared in response to this request: Hawaii's Public Land Laws: 1897-1963 (1963); Land Exchanges (1964); and The Multiple-Use Approach (1965). The legislative request for research on land policy in Hawaii was broadened and extended in 1965 through Senate Resolution Number 128, which requested that the Legislative Reference Bureau update its 1961 study of Hawaii's "large private land owners" inasmuch as "current data concerning land ownership and use are not sufficient to permit adequately informed major policy determinations affecting this vital community resource." Specifically, this Senate Resolution requested the Legislative Reference Bureau to study Hawaii's "large private land owners and land use, giving special attention to the many important factors relating to our land resources."

Three additional monographs were prepared in response to the 1965 legislative request: Land Reserved for Public Use (1966); Major Landowners (1967); and An Historical Analysis (1969). These monographs have been designed in part to complement the intensive and sustained research programs of the Land Study Bureau of the University of Hawaii, as well as the work of the Planning Office of Hawaii's Department of Land and Natural Resources and other governmental agencies. The generous cooperation afforded us by these agencies has contributed substantially to the successful completion of the entire research program. Special acknowledgment is gratefully accorded to the Land Study Bureau for its major contribution to this concluding report. The initial research and writing for Part III, "Leasing of Land in Hawaii", was carried out by Mr. Louis A. Vargha, who was then serving on the staff of the Land Study Bureau. Subsequent drafts of this section were carefully reviewed by Dr. Harold Baker, Director of the Land Study Bureau, who extended us his enthusiastic cooperation from the inception of this research. We are also deeply obligated to Mrs. Faith N. Fujimura, cartographer at the Land Study Bureau, for her assistance in preparing the graphics for these reports.

Special acknowledgment is due also to Miss Marie Gillespie, formerly associated with the Legislative Reference Bureau, who for several years carried chief responsibility for directing and conducting

research work for this project in Honolulu. Miss Gillespie was ably assisted in these efforts at various periods by Mr. Robert T. Hokama, Miss Susheila Horwitz, Mr. Thomas Tjerandsen, Mr. Ronald Wong, Miss Carolyn Ige Chang, Miss Carol Iijima, Miss Merrily Brown, and by the youngest member of a numerous and enthusiastic team, David D. Horwitz, whose youthful inexperience was compensated by his unbounded confidence and enthusiasm.

We are especially indebted to Mr. James Dunn, Hawaii's genial and venerable Territorial and State Surveyor, whose unique grasp of land matters in Hawaii is based on experience and information extending back to the days of the monarchy. Miss Agnes Conrad, State Archivist, and her devoted staff were unfailingly helpful in securing answers to difficult questions and in assisting in the continual search for hard-to-find maps and documents.

Mr. August H. Landgraf, Jr., formerly Assistant Director of the Property Technical Office, State Department of Taxation, provided invaluable assistance in gathering current data on land values.

Mr. Michael G. Finn provided many theoretical insights in the formulation of the economic analysis presented in Part III. Lieutenant John Page prepared the materials on the sale of public land.

The extensive computer programming and analysis required for these studies were carried out at the computer centers at the University of Hawaii, Michigan State University, and the University of Michigan. We are deeply indebted to Mr. Philip Marcus of the Department of Political Science at Kenyon College for coordinating the work of an array of specialists who provided technical advice and assistance. Mr. Marcus also analyzed and prepared for publication extensive portions of the data, while contributing significantly to the execution of these studies in ways that defy enumeration.

Subsequent research on public land policy in Hawaii may be facilitated by the generosity of Professor Warren Miller of the Institute for Social Research of the University of Michigan. The Survey Research Center, one of the three centers comprising the Institute for Social Research, will serve as a storage and information center for all of the computer data collected in the course of these studies. These data will be available to future researchers in this field.

Editorial work has, from the inception of this project, been carried out by Nancy K. Hammond of the Social Science Research Bureau, Michigan State University. Mrs. Hammond's contributions have not been confined to editorial work, but have included among other things coordination of the work of various writers.

Miss Hanako Kobayashi of the Legislative Reference Bureau assumed the heavy responsibility of checking and ordering all footnote materials in these studies, and Mrs. Maizie Yamada and Miss Evelyn Goya of the Legislative Reference Bureau typed the manuscript.

There is no way in which we can adequately express our appreciation to the nearly two score readers who scrutinized successive drafts of this report. They represented a cross section of Hawaii's community, and we profited enormously from continuous exchange as these most constructive critics gave unstintingly of their time. To these and the many other individuals and organizations who have generously assisted us, we express our sincere appreciation and warm aloha.

Staff and financial assistance for this program of research were provided initially by the Rockefeller Foundation. Indispensable support was furnished also by the All-University Research Fund of Michigan State University. The field research and writing carried out in Washington, D.C. by Mr. James Ceaser for Part II of this report were made possible through a Ford Foundation grant administered by Kenyon College.

I am grateful to Mrs. Judith B. Finn for her unfailingly devoted and skillful efforts in researching and writing which contributed immeasurably to this research program.

To Professor Robert H. Horwitz of Kenyon College I should like to express appreciation for years of service as an associate of the Legislative Reference Bureau in preparing these and other studies and for having served as Director of the Land Study Project since its inception in 1963.

Henry N. Kitamura
Director

August, 1969

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Part I

PUBLIC LAND POLICY OF HAWAII'S PRESIDENT AND GOVERNORS

Historical Background

Commentators on the history of Hawaii have frequently noted that, coincident with the arrival in Hawaii of American missionaries and other foreigners during the opening decades of the nineteenth century, the ancient Hawaiian community rapidly disintegrated. The quasi-feudal regime under which the Islands' land and other natural resources had been effectively developed was undermined. This destruction of the ancient social and economic patterns was accompanied by increasing waste and wanton destruction of natural resources. In increasing numbers the Hawaiian farmers abandoned their land to earn a precarious living in town, especially the burgeoning seaport communities. There they fell victim to a devastating array of diseases newly introduced from abroad. Hawaiians perished by the tens of thousands; even so, native farmers continued their exodus from their native villages and farms. Contemporary commentators calculated that the culmination of this movement would eventuate in the complete destruction of the Hawaiian people.

The American missionaries in Hawaii were acutely troubled by the evident plight of the Hawaiian people. It appeared to the missionaries that the chaotic conditions into which the Hawaiian community had fallen could be rectified only by re-establishing the native population on the land. As early as 1845, such a policy was strongly advocated in the pages of the influential Hawaiian newspaper, The Polynesian, which served as a sounding board for government policies. In an article of October, 1845, after providing an especially vivid description of the degraded condition into which the Hawaiians had fallen and commenting on their uncertain future, The Polynesian's editor advocated a policy of re-establishing homesteads:

> Every Hawaiian subject should have the right to acquire certain tenures in the soil; . . . This done and the country holds a safe pledge of the poor man, however small his patch and few his resources. He has his home, his house, his cattle, the products of his own industry to love, to defend. . . . Every improvement of farm, stock, and house would be his. The means of subsistence would increase and as a corollary, population. . . . Industry and economy being necessary to accumulation would tend to purer morals, religion would have a cleanly home, and an abundant table. Wealth would gradually arise and produce refinement.[1]

The Polynesian's advocacy of homesteading rested ultimately on the view that a politically sound community must be based upon a citizenry consisting largely of self-sufficient, free, and enterprising yeomen or family farmers. This position was not an innovation of The Polynesian, nor for that matter,of Hawaii's American missionaries. The latter had been raised and educated in eighteenth century New England, and their understanding of the character of a just political order had been shaped long before their arrival in Hawaii. Their understanding of the nature of the just regime dominated the development of Hawaii's polity during much of the nineteenth century as the descendants of the missionaries were numbered among the foremost political leaders of successive generations in the Islands.

Sanford B. Dole's Position and Programs

The most influential of these missionary descendants in Hawaii's political life during the last quarter of the nineteenth century was Sanford B. Dole, who was born in Honolulu in 1844. Although Dole was politically active at a time when the direct influence of the missionaries had waned considerably, many of his political goals were fundamentally those of his missionary ancestors. In particular, the major objectives of his public land policy were shaped, as we shall see, by his understanding of Jeffersonian democracy.

Dole served in Hawaii's legislature from 1884 to 1886, and as Associate Justice of Hawaii's Supreme Court from 1886 to 1892. During part of that time, he was also a member of the Executive Committee of the Hawaii League that initiated the constitutional reforms of 1887.

Dole's stature as a leader in Hawaii's political life was enhanced by his reputation as a public speaker and author, his membership in the Massachusetts Bar, his position as an Associate Justice of Hawaii's Supreme Court, and by his distinguished service as a legislator. His sincerity and honesty were unquestioned, even by his political opponents, and his personal appeal was enhanced by the superb quality of his rhetoric. He had an easy manner of speech, and his style of debate was described as calm, deliberate, and even magnetic.[2] Throughout his life, Dole attracted and held the favor of a significant segment of the Hawaiian population, and he often chided the increasingly powerful haole (white foreigners) planters for their alleged disregard of the welfare of the native population. For example, in a heated public meeting in Honolulu in October, 1869 on the question of whether the well-established but rather harsh system of importing Chinese contract laborers should be continued, Dole argued that:

> I oppose the [contract labor] system from principle, because I think it is wrong; . . . I cannot help feeling that the chief end . . ., its heart and soul, is plantation profits; and the prosperity of the country, the demands of society, the future of the Hawaiian race only come in secondarily if at all . . . . Tried in the balance of the "free and equal rights" principle, the contract system is found wanting.[3]

Dole's championship of the cause of the native Hawaiians, his integrity, and his forceful public leadership established him as one of Hawaii's most respected political leaders during the closing decades of the nineteenth century. When King Kalakaua's somewhat scandalous reign ended in 1891, Dole was viewed as one of the few prominent political leaders untainted by the corruption of the Hawaiian Legislature. He continued to grow in stature during the short reign of Kalakaua's successor, Queen Liliuokalani, who was deposed by the revolution of 1893. Sanford Dole was the obvious choice for the presidency of the Provisional Government (1893-1894), for the presidency of Hawaii's short-lived Republic (1895-1898), and for the first governorship of the Territory of Hawaii.

Perhaps the most pressing and complicated task confronting Dole as Hawaii's chief executive was a re-examination of public land policy, since the prosperity and continued development of the Islands' agricultural economy depended decisively on the land laws. Land policy in all its aspects was of long-standing interest to Dole. As early as 1872, he had argued that Hawaii's future depended upon attracting immigrants able to resettle Hawaii's land in the familiar, American pattern of family farming, rather than through development of enormous plantations worked by alien field gangs. Dole's political-economic objective in Hawaii was the development of a resident yeomanry. Settlement guided by these objectives, buttressed by other aspects of Jeffersonian agricultural fundamentalism, could, he contended, ultimately make Hawaii's land productive and valuable. "Homesteads will be incalculably more profitable to the country than a like area in grazing and wood-cutting lease-holds."[4] Dole thereby pointed to the important relationship between public land policy and Hawaii's critical problem of population, or, more specifically, underpopulation.

> With the present rapid decadence of the population we are in a fair way of learning the very important truth that land without people on it is really worthless; that the value of the land depends simply on there being somebody to collect its produce . . . upon the premises, therefore, that if our islands are ever to be peopled to their full capacity, it must be brought about through the settlement of their lands; . . . homesteads, rather than field-gangs, are to be the basis of our future social and civil progress, and a careful study of our land policy becomes necessary to the formation of any practical plan for effecting this result.[5]

Dole made sweeping recommendations for new policy. He observed that well over half of the land of the Islands was owned by the government (public land) and the King (Crown land). Because the "Crown land" had been declared inalienable through a controversial legislative enactment of 1865, Hawaii's monarchs realized income from it by placing the best tracts under long-term lease. Public land could be sold to private parties under the laws of the monarchy, but because of the widespread opposition that developed to its sale during the closing decades of the nineteenth century, the best tracts were also placed under long-term leases to ranchers and sugar planters. Dole observed that "the rich easily obtained . . . control of extensive tracts, while it was a difficult and discouraging enterprise for the poor man to secure the few acres required for a home and for cultivation."[6] He further contended that "this mistaken policy [had] brought about a condition of things which forms perhaps the greatest obstacle to a comprehensive homestead system of settlement".[7] Even though the granting of long-term leases meant that many years would pass before all of the land leased by the government would return to public control, Dole recommended that a comprehensive homesteading plan be adopted as quickly as possible. He argued that, if such a policy were devised, the increasing demand for homesteads could be supplied by land made available from expiring leaseholds. He also recommended the repeal of the legislative enactment of 1865, through which the royal domain (the Crown land) had been made inalienable, and that this land be made available as needed for homesteads.

To emphasize the close connection between land policy and immigration policy, Dole argued[8] that the extraordinary success of commercial sugar production in Hawaii had enabled the planters to shape Hawaii's immigration policy since the early 1860s. The sugar planters had early become convinced that their rapidly growing needs for plantation labor could not be met satisfactorily by native Hawaiian field workers, whom they considered unreliable. As the sugar industry expanded, the planters offered "labor contracts" to vast numbers of oriental laborers: first Chinese, then Japanese, who poured into Hawaii at an accelerated rate during the closing decades of the nineteenth century. As tens of thousands of these immigrants were brought to the Islands, concern grew in the community about the long-run political and social consequences of this labor policy. The government was unwilling or unable to prohibit oriental immigration entirely, but it did urge the sugar planters to modify their policy of bringing in only single men, and to encourage families to immigrate, for leaders such as Dole felt that this would improve the chances for the ultimate development of a resident yeomanry.

This plea was not particularly effective, and an unabated stream of oriental immigrants continued to pour into Hawaii. In 1891, an acquaintance of Sanford Dole's revealed in a paper read before the Honolulu Social Science Association that the recent ten per cent increase in Hawaii's population came almost wholly from such immigration, while native Hawaiians and half-castes had become a minority.[9] He contended that an inevitable consequence of this trend would be that the children of these oriental immigrants would, in due course, become the largest ethnic group in the Islands and, perhaps, dominant politically. Dole himself explored the political significance of this development and asked:

> What elements of danger are there in the future of the five principal nationalities that now constitute the population of the Islands? So far the Anglo-Saxon with its ideas of representative government had held the reins of political influence. But with the recent extension of the franchise to the Portuguese, perhaps soon to take in resident Japanese, and also perhaps Chinese trained in the public schools, are education and religion to be influences sufficiently conservative against a rapidly increasing proletariat? In this and other countries the larger cities attract and hold a large and dangerous class, men not made conservatives by family ties or property interests, but from their very unsettled habits of life antagonistic to the development of the highest type of social life with its elevated standards and necessary restraints.[10]

Dole concluded, "The most effective of influences to counteract this dangerous element in the cities is the development of a hardy, intelligent, peaceful agricultural population." "How else", he asked, "can this be done other than through the opening up of public lands to settlers",[11] whose limited means would be offset by their intelligence, diligence, and determination to achieve their goals?

A few years later Dole was in a position to attempt to implement his views as chief executive of Hawaii's Republic. He pressed for new public land laws designed primarily to promote homesteading. This goal was partially realized through passage of the Land Act of 1895, which was praised by Dole as a "great advance on all previous land legislation in Hawaii".[12]

The Land Act of 1895

The promise of the new laws was enhanced when the valuable "Crown lands" were finally included in the public domain. Under the Land Act of 1895, the definition of public land was broadened to include all land formerly classified as "government land" or "Crown land", as

well as land that had come under the government's control by purchase, escheat, exchange, or through exercise of eminent domain. Control and management of this extensive landholding in Hawaii's Republic was vested in a board consisting of three commissioners of public lands. Included on the board was the Minister of the Interior, along with two members appointed by the President of the Republic with the approval of the cabinet. The board's administrative latitude was broad, though not absolute. Under the terms of the Civil Code of 1897, the commissioners were authorized to "lease, sell, or otherwise dispose of the public lands, and other property, in such manner as they may deem best for the protection of agriculture, and the general welfare of the Republic. . . ."[13] Noting that the "protection of agriculture" was singled out for special mention, one may properly infer that the "protection of agriculture" was a matter of extraordinary concern to Hawaii's Republic. A related concern for the fullest development of agriculture and the most productive use of public land was evidenced in another section of the Civil Code, which prescribed that public land be classified into five basic types: agricultural, pastural, pastural-agricultural, forest, and waste. This section went on to provide that agricultural and pastural land be further classified according to its capacity to support a greater or lesser intensity of use.

Under the Land Act of 1895 the maximum length of general leases was restricted to 21 years.[14] These leases carried no automatic renewal privilege and were not subject to renewal until two years prior to expiration. Although the Civil Code stipulated that new leases were to be let through auction, no restrictions were placed on the mode of renewal of existing leases. Leases of public land utilized for commercial purposes were restricted to a maximum term of 30 years and were also to be let at public auction. They were subject to termination if a sound and fireproof building were not constructed within four years of their initiation. While this statutory restriction applied to all commercial leases, the Republic held the option of writing conditional leases for other uses as well.[15] Furthermore, the statutes provided specifically for withdrawal of leased land required for road construction, homesteading, or other public purposes. Under the terms of such withdrawals, no compensation was provided the lessee except for annual crops then growing or for sugar cane. Withdrawal of land was to be deferred until after harvest when feasible to minimize damage payments for growing crops. Acreage planted in perennial crops, or on which permanent improvements (except fences) had been made, were exempt from withdrawal. Further, special withdrawal provisions could be written into leases. One such provision was included in a large lease on the island of Maui, where it was envisioned that more refined land surveys might some day reveal that part of the land was well

suited for homesteading. Other terms and conditions could be introduced into general leases primarily for protection of the land. In common with private leases, public land leases stipulated that improvements made by the lessee were to revert to the lessor without compensation upon lease expiration. Finally, the statute provided that rental payments were to be made in advance, quarterly or semi-annually, but no more than one year in advance. The lessee was responsible for the payments of real property taxes assessed against all public land leased for private use. The Minister of Interior was charged by statute with studying the potential use of each parcel of leased land two years before lease expiration to determine whether the land should continue to be available for general lease or be withdrawn for other purposes. In the event that the land was to be withdrawn, the lessee was to receive two years' notice.

Not content with placing restrictions on leasing, the framers of the Land Act of 1895 determined to restrict the sale of public land as well. They may well have recalled the haphazard fashion in which hundreds of thousands of acres of choice public land were sold rapidly during a brief period in the 1850s for an average price of less than two dollars an acre.[16] By way of preventing a similar disposition of the former Crown land, a provision of the Land Act authorized the land commissioners to sell public land in parcels no larger than one thousand acres.[17]

These restrictions on the leasing and sale of public land were undoubtedly designed to foster the development of family farming by retaining under government control acreage suitable for this purpose. Accordingly, the Land Act of 1895 made land available to family farmers in a number of forms: homestead leases, right of purchase leases, cash freeholds, and special sales agreements. Each of these homesteading provisions was put to good use in the administration of Hawaii's public land programs.

Applicants for land under all of Hawaii's homesteading programs were required to be over 18 years of age and to be either citizens by birth, naturalization, denization, or to hold special rights of citizenship. Applications for land were not accepted from those disqualified for any of the following reasons: delinquency in tax payments, misrepresentation in prior applications for land, or civil disability imposed for any offense.

In considering the essential provisions of each of these homestead devices, one should note that:

(1) The right of purchase lease was designed to facilitate the securing of land by citizens of limited means. Under its terms, the lessee secured a twenty-one year lease, with annual rental based on the appraised value of the land. Construction of a residence and cultivation of the required percentage of the leased acreage entitled the lessee after three years to purchase the land at its appraised value.

(2) Homestead leases differed from right of purchase leases in several important respects. They were issued only after prospective lessees had met the terms and conditions specified in a preliminary certificate of occupation covering a six-year probationary period. Upon fulfillment of these conditions, the lessee received a lease for a term of nine hundred ninety-nine years. The lessee was required to pay the real property taxes assessed on the land but was not required to pay any rental. He was not permitted to assign the lease, and, upon his death, lease rights descended to next of kin. Sharp restrictions were placed on the amount of acreage available under homestead leases: forty-five acres of pastural-agricultural land, sixteen acres of agricultural land, and only one acre of "wet land" suitable for the cultivation of taro or other crops requiring considerable water.

(3) The cash freehold provided a variation on the standard agreement of sale through which a homesteader secured the right to immediate occupancy of the land. The cash freehold was made available through public auction, or, alternatively, through the authority of the land commissioners to sell land for part credit and part cash. The land commissioners were empowered to make "special homestead agreements" through which they established terms of sale, mode of payments, and conditions of residence and improvements on the land. In this respect, the commissioners enjoyed unusually broad discretionary power to implement homesteading programs.

This body of homestead law, designed as it was to promote the development of family farming in the Islands was undoubtedly the most promising legislation of this type ever promulgated in Hawaii. The three land commissioners proceeded to implement these statutes with vigor. The Report of the Commissioners of Public Lands for the Period 1896-1897 is summarized in Table 1.

Table 1

LAND TAKEN UP IN 1896-97 UNDER FAMILY FARM PROVISIONS OF THE LAND ACT OF 1895

	Right of Purchase Leases			Cash Freeholds			Special Agreements			Homesteads		Olaa Lots		
	No.	Acres	Value	No.	Acres	Value	No.	Acres	Value	No.	Acres	No.	Acres	Value
First Land District (Hilo and Puna, Hawaii)	132	6,007	$44,167	14	564	$3,493	31	2,255	$13,143	-	-	70	10,428	$44,395
Second Land District (Hamakua and Kohala)	78	3,018	24,426	4	144	360	19	1,279	10,691	9	47			
Third Land District (Kona and Kau)	10	429	1,824	1	8	95	4	164	3,820	29	466			
Fourth Land District (Maui, Molokai, Lanai)	46	3,907	10,504	-	-	-	16	1,525	6,330	19	395			
Fifth Land District (Oahu)	-	-	-	-	-	-	-	-	-	10	26			
Total	266	13,361	$80,921	19	716	$3,948	70	5,223	$33,984	67	934			

Source: Report of the Commissioners of Public Lands for the Period 1896-1897.

Especially notable is the average size of these land transactions, given President Dole's objective of increasing the number of family farmers in Hawaii. These data are presented in Table 2.

Table 2

AVERAGE SIZE OF FAMILY FARM TRACTS
LEASED OR SOLD IN 1896-97
UNDER THE TERMS OF THE LAND ACT OF 1895

Type of Transaction	Number	Average Size
Right of Purchase Leases	266	50 acres
Cash Freeholds	19	37 "
Special Agreements	70	74 "
Homesteads	67	13 "
Olaa Lots	70	148 "
All Transactions	492	67 acres

Source: Report of the Commissioners of Public Lands for the Period 1896-1897.

The lease or sale of nearly five hundred "family farm" size tracts during the first two years of the administration of the Land Act of 1895 surely appeared to constitute a promising beginning for President Dole's agricultural program of creating a substantial group of family farmers destined to become solid, propertied, middle-class citizens of the new Republic. Further evidence of Dole's success in this endeavor can be seen by considering the nationality of the 422 citizens who leased or purchased over twenty thousand acres of land in 1896-97 under the terms of the first four types of transaction (see Table 3).

Table 3

NATIONALITY OF APPLICANTS AND RESPECTIVE AREAS TAKEN UP IN 1896-97 UNDER TERMS OF RIGHT OF PURCHASE LEASES, CASH FREEHOLDS, SPECIAL SALES AGREEMENTS, AND HOMESTEADS

Nationality	Holdings	Acres
American	79	5,520
Portuguese	106	4,144
Native Hawaiians	129	3,873
Hawaiian Born	50	3,120
British	20	1,256
Russian	9	794
German	13	595
Norwegian	11	586
Japanese	2	137
French	2	189
Italian	1	20
Total	422	20,234

Source: Report of the Commissioners of Public Lands for the Period 1896-97.

The disposition of some twenty thousand acres for family farming, along with the concurrent sale of more than ten thousand acres of Olaa lots[18] to coffee farmers, scarcely diminished the supply of good, arable land available for family farming. As of the end of 1897, the land commissioners estimated that it would be possible to make available for settlement an additional thirty-five to forty thousand acres of "second class agricultural land"; some twenty thousand acres of "pastural lands of different grades", as well as sizable acreages of forest land in the temperate belt. A good part of this forest land was fertile and well suited for growing a variety of crops.

Even as they reviewed these further possibilities for providing arable land for family farming, the land commissioners warned that it would be difficult and expensive to make suitable land available in convenient locations. Much of the arable land, especially land best suited for coffee cultivation, was "frequently located in small tracts to which no main road can be expected to reach".[19] Furthermore, "much good Government land is shut off from the use of the Commissioners of Public Lands by the existence of old leases upon which unexpired terms of considerable length still remain".[20] Finally, the growing realization in the Islands that the indiscriminate cutting of the native forests threatened disastrous erosion and the consequent destruction of arable lowlands forced the land commissioners to ask how much additional forest land should be cleared.

Although the scope of the problem was not fully realized at the time, its seriousness was brought home shortly after annexation by a report on "The Forests of the Hawaiian Islands". The author of this report found that Hawaii's forest "has been considerably reduced by cutting". He emphasized that, "the opening up of large tracts of forest lands for homestead purposes has also complicated the problem seriously".[21]

These considerations, together with the inadequate appropriations provided by the legislature of the Republic for survey work and road building, slowed the opening of additional land for family farming. However, the Report of the Commissioners of Public Lands for 1898-99 indicated that a considerable amount of additional land had been taken up under the provisions of the Land Act of 1895 (see Table 4).

Again, the average size of these transactions should be considered, given the objectives of the Land Act of 1895 (see Table 5).

It is interesting also to again consider the nationality of the 222 citizens who leased or purchased the nearly 22,000 acres of land in 1898-99 under the terms of the first four types of transactions (see Table 6).

Table 4

LAND TAKEN UP IN 1898-99 UNDER FAMILY FARM PROVISIONS OF THE LAND ACT OF 1895

	Right of Purchase Leases			Cash Freeholds			Special Agreements			Homesteads		Olaa Lots		
	No.	Acres	Value	No.	Acres	Value	No.	Acres	Value	No.	Acres	No.	Acres	Value
First Land District (Hilo and Puna)	87	5,229.24	$38,601.13	-	-	-	15	893.70	$10,497.80	-	-	94	12,121	$41,861
Second Land District (Hamakua and Kohala)	8	268.25	2,533.69	4	67.82	$169.54	31	550.68	3,386.00	-	-			
Third Land District (Kona and Kau)	4	85.65	277.60	-	-	-	4	184.23	460.25	10	228.63			
Fourth Land District (Maui, Molokai, etc.)	2	377.00	668.22	-	-	-	3	251.96	3,045.00	40	414.89			
Fifth Land District (Oahu)	13	1,268.00	5,451.00	-	-	-	-	-	-	1	2.79			
Sixth Land District (Kauai)	-	-	-	-	-	-	-	-	-	-	-			
Total	114	7,228.14	$47,531.64	4	67.82	$169.54	53	1,880.57	$17,389.05	51	646.31			

Source: Report of the Commissioners of Public Lands for the Period 1898-1899.

Table 5

AVERAGE SIZE OF FAMILY FARM TRACTS
LEASED OR SOLD IN 1898-99
UNDER THE TERMS OF THE LAND ACT OF 1895

Type of Transaction	Number	Average Size
Right of Purchase Lease	114	63
Cash Freeholds	4	17
Special Agreements	53	35
Homesteads	51	12
Olaa Lots	94	128
All Transactions	316	69

Table 6

NATIONALITY OF APPLICANTS AND RESPECTIVE AREAS
TAKEN UP IN 1898-99 UNDER TERMS OF
RIGHT OF PURCHASE LEASES, CASH FREEHOLDS,
SPECIAL SALES AGREEMENTS, AND HOMESTEADS

Nationality	Holdings	Acres
American	60	4,563.58
Hawaiian	101	2,629.18
British	8	513.59
German	9	544.73
Russian	4	347.04
Portuguese	37	974.97
Swede	1	111.00
Norwegian	1	90.30
Japanese	1	48.45
Total	222	9,822.84

Although the provisions of the Land Act of 1895 were in full effect for only a few years, over 800 citizens acquired (through purchase or lease) family farm sized tracts totaling over 40,000 acres of arable land. Given the relatively small population of the Islands at that time, together with the ineligibility of many of Hawaii's residents to apply for homesteads, it appears that some 4 per cent or more of the eligible citizens successfully availed themselves of the opportunities afforded by the Land Act of 1895. A much larger percentage of the population was unsuccessful in its quest for homesteads, and it is clear that, altogether, there was great enthusiasm for the program. What the full development of President Dole's policy of assisting family farming might have achieved must, unfortunately, remain a matter for speculation, for his program was virtually ended by Hawaii's annexation to the United States. Under the terms of annexation, all of Hawaii's public land was ceded to the United States, and President Dole was left uncertain as to what authority, if any, he had to continue land transactions. This effective "freeze" on public land transactions was noted in the 1899 report of the land commissioners, who explained that the receipts from land transactions would have been considerably larger "but for the policy adopted by this office of declining to receive payments on account of purchase prices of lands after the receipt of the Executive order of President McKinley".[22]

1898-1900: A Period of Uncertainty

Passage of the joint resolution of annexation of Hawaii, popularly termed the Newlands Resolution, by the United States Congress effected the wholesale transfer of Hawaii's public land to the United States. The Newlands Resolution specifically stated that the Republic of Hawaii would:

> Cede and transfer to the United States of America the absolute fee and ownership of all public, government, or Crown lands, public buildings or edifices, ports, harbors, military equipment and all other public property of every kind and description belonging to the government of the Hawaiian Islands together with every right and appurtenance thereunto appertaining.[23]

Under this provision of the Newlands Resolution, the United States government acquired title to approximately 1,800,000 acres of Hawaii's public land at no cost. The resolution provided that Congress would enact special laws for the management of this land, with provision made in the resolution itself for the development of necessary legislation. The President of the United States was specifically directed to appoint a five-man commission to study Hawaii's land

situation and to make recommendations to Congress for appropriate land legislation. The responsibility for management of Hawaii's public land until such legislation was enacted was unresolved, a problem compounded by the fact that while Congress left the governmental officials of Hawaii's Republic in office during this interim period, it failed to indicate whether President Dole and his land commissioners possessed authority to manage the public land of the Islands.[24] The prevailing view in Hawaii was that the officials of the former Republic possessed continued authority over the public land, and that they could properly exercise administrative control over this land, even though it had been ceded to the United States. This view was supported by four major arguments.

First, there appeared to be support for this position in the Newlands Resolution itself, which provided that:

> Municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.[25]

It was evidently assumed, and the matter was not immediately disputed, that the former land laws of the Republic of Hawaii were <u>not</u> included under any of the specifically noted exceptions and that they would therefore remain in effect.

Second, President McKinley, pursuant to the terms of the Newlands Resolution, appointed Sanford Dole the temporary governor of Hawaii. In reporting this action to Congress, he made no mention of authority to manage Hawaii's public land; indeed, President McKinley's statement on this matter appeared to support the assumption that virtually all powers (except, obviously, those pertaining to sovereignty) were temporarily vested in this interim government. As he put the matter:

> I direct that the civil, judicial, and military power theretofore exercised by the offices of the government of the Republic should continue to be exercised by those offices until Congress shall provide a government for [the] incorporated territory. . . .[26]

Again, there is nothing to indicate that Hawaii's public land laws were not to remain in effect.

Third, and perhaps most important, an exchange of letters between Sanford Dole and the United States Department of State took place soon after annexation. This exchange lent credence to the view that

Hawaii's interim government might properly exercise control of the public land. Nevertheless, Mr. Dole asked the special agent of the United States in Hawaii, Mr. H. M. Sewall, to inquire into the matter. Sewall wrote to John Hay and asked, "Should not President Dole continue to exercise land patents and deeds in ordinary dealings with government lands under the Hawaiian land laws?" The answer he received unambiguously revealed the State Department's interpretation of the question: "The Newlands Resolution provides that land laws of the United States shall not apply to public lands in Hawaii, and that municipal legislation of Hawaii shall generally remain in force."[27]

Fourth, it appears that American officials in Hawaii were under the impression that the interim government of the Territory had legal authority to manage the public land. This view may well have been based in large measure on the exchange of letters between Dole and the State Department. At any rate, there is no available evidence indicating any dispute over the question of the legal right of the interim government to manage Hawaii's public land under the Land Laws of 1895.

Convincing as this evidence may be, it should not be construed to mean that American officials in Hawaii therefore regarded this situation as sound or proper. On the contrary, some of them believed it antithetical to the best interests of the United States, and even illegal, to have the public land laws administered by Hawaii's government. This view was based primarily on military considerations, for it was anticipated that the United States would shortly require considerable amounts of public land for the construction of military installations. It was feared that land urgently needed for military purposes might be leased or sold outright by the Hawaiian government. Some American officials therefore urged that action be taken to prevent Hawaii's government from disposing of public land. This position was strongly expressed in a communication, dispatched by Major Langfitt, Commander of the United States Army in Hawaii, who wrote as follows:

> As I understand the various acts of the two governments, that of the Republic of Hawaii and that of the United States, bringing about annexation, all land belonging to the government of the Hawaiian Republic became the property of the United States government while at the same time . . . the officials of the former continue in office and exercise the powers wielded by them until further legislation is had. Among the powers so used and not curtailed as yet is the one of selling or leasing government lands . . . as this disposal may keep up indefinitely and as there may be included in lands disposed some that will be needed by the national government for military or other purposes, it seems a self-evident proposition that the practice should be stopped and that the

> national government should take steps to set aside all lands, buildings, etc., as it will probably require for fortifications, garrisons and other purposes.[28]

Major Langfitt's argument was reinforced by the views of Mr. H. M. Sewall, a special agent of the United States in Hawaii, for he reported to the Secretary of State that:

> Our government is likely to need for governmental use public lands here which are not at present used by the Hawaiian government and which that government may at any time dispose of. . . . I recommend therefore that the United States take steps to restrain further disposition by the Hawaiian government of public lands. . . .[29]

The concern expressed by Langfitt and Sewall was not unfounded, for, while there was no reason to anticipate that Sanford Dole's government was deliberately disposing of land required by the government of the United States, the possibility existed that in carrying out ordinary land transactions American military or other interests might be adversely affected. Increasingly, American officials urged that action be taken to prevent the disposition of public land in Hawaii by divesting officials of the Hawaiian government of the authority to carry out land transactions. Further, it was suggested that the President of the United States reserve tracts of land required by the military by immediately "setting aside" such land under executive orders or presidential proclamations.

The position of proponents of measures designed to halt the disposition of Hawaii's public land was strengthened by the activities of a United States army officer, Colonel Compton, who received orders in 1899 to make an assessment of land required for military purposes in the new territory. The Compton report echoed the concern of Langfitt and Sewall that land required for military purposes was being alienated. Indeed, Compton reported that a significant portion of the land deemed indispensable by him for army installations had already been placed under leases that were not scheduled to expire until approximately the 1920s. Compton's report was circulated through channels to ever-higher commands, including the office of the Judge Advocate General, a post then held by G. N. Lieber, Chief of the Army's legal staff.

Lieber's endorsement of the Compton report served radically to change official opinion on the question of who might properly administer Hawaii's public land. It was Lieber's contention that Hawaii's government had no power whatsoever to dispose of any of the public land that had been ceded to the United States. While taking note of that section of the Newlands Resolution which provided that, with certain exceptions,

Hawaii's municipal laws would continue in effect, Lieber opined that the laws governing Hawaii's public land constituted one of the explicitly noted exceptions. He cited the provision specifically forbade action contrary to the Constitution of the United States. Lieber argued that the Newlands Resolution did not authorize the disposition of public land by Hawaii's government because:

> The Constitution gives Congress the power "to dispose of, and to make all needful rules and regulations respecting the territory or other property belonging to the United States"; and it is settled law that no interest in the land or other property of the United States can be disposed of by any official without the authority of Congress.30

Lieber's analysis was forwarded to the Attorney General of the United States for a definitive legal opinion, where it found unequivocal support. The Attorney General, Mr. Griggs, opined that all public land transactions culminated since annexation were illegal. In an opinion prepared for President McKinley, Griggs contended:

> I have no hesitation in advising you that the officers of the existing government in said Islands have no authority to sell or otherwise dispose of the public lands of the Hawaiian Islands, and that any such sales or agreements to sell will be absolutely null and void as against the government of the United States.31

President McKinley did not hesitate to take action based on the Lieber-Griggs analysis of the status of Hawaii's public land. He issued an executive order on September 28, 1899, suspending all public land transactions in the Hawaiian Islands after that date. The problem of legalizing those public land transactions that had taken place between the date of annexation and issuance of the executive order did not prove difficult to resolve, for none of the land disposed of during that time was required for the use of the United States. Accordingly, the interim transactions were legalized through inclusion by Congress of a clause in the "Act to Provide a Government for the Territory of Hawaii", the Organic Act, empowering the president to ratify and confirm at his discretion:

> . . . all sales, grants, leases and other dispositions of the public domain and agreements concerning the same, and all franchises granted by the Hawaiian Government in conformity with the laws of Hawaii between the seventh day of July, 1898, and the twenty-eighth day of September, 1899.32

Land Reserved for Defense Installations

With these legal questions clarified, United States military officials moved quickly to secure land required for defense installations. The Compton report served as the basis for the acquisition of land for army use on the island of Oahu.

Colonel Compton had recommended that two large tracts of land on Oahu be procured "without delay". These areas were to serve as the

sites of Schofield Barracks and Fort Shafter, two of the most strategically important army bases in Hawaii. In order to secure these sites as quickly as possible, Colonel Compton urged that condemnation procedures be initiated to acquire the private leases through which portions of this land were being utilized for agricultural purposes. Compton's recommendations ultimately reached President McKinley, who issued an executive order on July 20, 1899 to "set aside" for army use over 15,000 acres of public land on Oahu.[33] During the period November 2, 1898-January 5, 1900, President McKinley signed at least five such executive orders or presidential proclamations "setting aside" public land in Hawaii for the use of the United States.[34] By that action, the president established an important precedent, and the armed forces of the United States have made extensive use of Hawaii's public land ever since. Some consequences of the practice of "setting aside" Hawaii's public land for military use have contributed to land use problems that remain unresolved to the present.

Undoubtedly, the most compelling justification for the President's action in "setting aside" Hawaii's public land for military use was the requirement of national defense. Successful waging of the Spanish-American War, which had broken out in 1898, demanded a swift increase in American military strength in the Pacific. Maintaining this strength over the far reaches of the ocean required island bases for refueling ships, storing munitions, and quartering troops. No site in the entire Pacific area met these requirements better than Pearl Harbor. Fully sheltered from the open sea and situated in a coastal plain well suited for the construction of dry docks and repair shops, Pearl Harbor appeared to provide a near-perfect site for what was to become one of America's most powerful naval bases. Manifestly, such a strategically important base required all possible protection, and President McKinley's advisors recommended "setting aside" extensive tracts of land for the installation of shore batteries and the construction of forts and barracks.

Given these considerations, the President's action in "setting aside" extensive tracts for the construction of Schofield Barracks and Fort Shafter appears quite reasonable. Furthermore, the President did not thereby permanently dispose of any of Hawaii's public land, inasmuch as the official devices used to "set aside" land, presidential proclamations and executive orders, could be rescinded. Finally, the presidential proclamations issued by McKinley were phrased conditionally, i.e., "subject to such legislative action as the Congress of the United States may take . . . ." Executive orders were not phrased in this conditional form, but were subject to modification or to revocation.

Public Land Policy under Hawaii's Organic Act

Many of the perplexing questions regarding the management of Hawaii's public land during the transition period following annexation were settled through passage of Hawaii's Organic Act, which went into effect on June 14, 1900.[35] The congressional debate over passage of the Organic Act had revealed considerable concern about the Islands' concentration of land ownership and the plantation system, with its reliance on "hordes of alien laborers". Congress displayed a general determination to modify both the administration and substance of Hawaii's land laws. The most significant change in the administration of the land laws was the replacement of the board of commissioners of public lands by a single commissioner of public lands. Into the hands of this land commissioner (as he will hereafter be designated) was placed broad authority to administer much of the great body of public land statutes and regulations that had formerly been under the jurisdiction of the Minister of the Interior of Hawaii's Republic. Congress apparently intended that the land commissioner occupy a position of authority and influence second only to the appointed governor of the Territory. As might have been anticipated, this division of authority between the semi-autonomous office of the commissioner of public lands and the office of the governor produced many sharp clashes.

Congress was determined to modify the substance of Hawaii's land laws in order to prevent further concentration of land ownership and control. Section 73 of the Organic Act provided stringent statutory limitations on leases of public land by providing that "no lease of agricultural lands shall be granted, sold, or renewed by the government of the Territory of Hawaii for a longer period than five years until Congress shall direct".[36] Even more extreme was a clause contained in the original draft of the Organic Act that would have required consent from Washington for each proposed lease of public land in Hawaii. This extreme form of supervision was not incorporated in the final form of the Organic Act, but it did reveal the temper of some congressmen regarding Hawaii's land problem. The intent of this proposal to restrict leases of public land to five years was to inhibit the further expansion of Hawaii's plantations. The congressmen understood that the long-term leases granted to the sugar planters by Hawaii's monarchs had contributed significantly to plantation development. By securing land under long-term leases, rather than by purchasing it in fee, the planters had been able to utilize available capital for other purposes. Furthermore, the assignment of leases on public land was generally unrestricted. This meant that leases could be used as collateral when lessees sought private loans for the

capitalization of plantation developments. Leases on Hawaii's public land had generally been written for periods of fifteen or more years, a period sufficiently long to permit amortization of borrowed (or other) capital.

The Organic Act's reduction of lease length to five years drastically reduced the collateral value of leases and thereby increased the capital burdens of those plantations dependent on leased public land. It also served to deter sugar producers from initiating capital-intensive agricultural operations, since amortization of capital expenditures was made decidedly more difficult, especially since improvements reverted to the Territory upon termination of leases of public land.

As a further deterrent to plantation expansion, Congress included in the Organic Act the well-known 1,000-acre limitation on land acquisition in Hawaii. This section of the Act provided that:

> No corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of 1,000 acres; and all such real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheated to the United States, but existing vested rights in real estate shall not be impaired.[37]

The potential significance of this strict limitation on land acquisition may be more fully grasped by considering the fact that the average size of Hawaii's plantations had increased markedly during the decade prior to annexation, even as the total number of plantations sharply decreased.

Table 7

HAWAII'S SUGAR PLANTATIONS: NUMBER AND SIZE
1870-1900

Year	Number of Plantations	Average Acreage Planted to Sugar Per Plantation
1870	20	425
1880	63	413
1890	73	1,192
1900	52	2,462

Source: J. A. Mollett, Capital in Hawaiian Sugar: Its Formation and Relation to Labor and Output, 1870-1957 (Hawaiian Agricultural Experiment Station, Agricultural Economics Bulletin 21, June 1961). See especially pp. 28ff, where the author presents a wealth of pertinent information gathered from plantation records and the files of the Hawaiian Sugar Planters' Association.

The framers of the Organic Act probably reasoned that the growing trends toward plantation expansion and consolidation (see Table 7) might be appreciably slowed or even halted by eliminating long-term leases of public land, and by preventing further large-scale land acquisition. Certainly the penalty prescribed for violation of the 1,000-acre limitation--forfeiture of excess acreage to the United States--was exceedingly severe. The intent of Congress was clear; what remained to be seen was whether this rather unusual, anti-oligopoly legislation could be effectively enforced.

Undoubtedly, the intent of Congress in promulgating these changes in Hawaii's public land laws was the encouragement of family farming in the pattern established on the American mainland. To further this objective, the Organic Act also made mandatory the opening up of land for family farm settlement whenever twenty-five or more persons eligible for homesteads presented a written application to the land commissioner. To insure the availability of an abundance of prime agricultural land for homesteading, Congress also included in the Organic Act a requirement that leases of public land suitable for agriculture include "withdrawal clauses". These clauses provided that any portion of such land might at any time during the term of the lease be deleted from the lease if it were required for homesteading or public purposes.

These and other provisions of the Organic Act were designed to encourage and facilitate implementation of the family farm programs that had been initiated by Sanford Dole under the public land laws of 1895. Fortunately for these programs, it was Sanford Dole who was appointed as Hawaii's first territorial governor, and his annual reports to the United States Secretary of the Interior unfailingly emphasized his administration's objective of settling Hawaii's public land with family farmers. This objective was apparently shared by Dole's land commissioner, Edward S. Boyd, who concluded the published report of his department's work in 1903 with the promise that "this office will use its best endeavors in every way possible to settle our public lands with desirable settlers, and will encourage by literature and otherwise the migration of American farmers".[38]

Despite these concentrated efforts on the part of the American government and the Dole administration, the homesteading movement in Hawaii made little net progress. To be sure, several hundred citizens did secure right of purchase leases, cash freeholds, and homestead acreage during Governor Dole's administration. However, the rate of homesteading settlement showed no appreciable increase over that prevailing during Hawaii's short-lived Republic. Furthermore, while approximately 200 citizens took up land under the general provisions

of the Land Act of 1895, other family farmers abandoned their holdings or sublet them. Thus, there was little or no net gain in the number of homesteaders in the Territory.

Even more disheartening to the proponents of family farming was the surprisingly limited use of the congressional provision for groups of twenty-five or more prospective farmers to form "settlement associations". Congress had anticipated that members of the settlement associations would be able to cooperate in the formidable tasks of clearing land, planting, road building, and marketing, and thus would be able to overcome the myriad problems that had generally forced isolated homesteaders to abandon the struggle. It was anticipated, too, that the united membership of a prospective settlement association would be in a stronger position to make more effective demands on the land commissioner for good land than solitary homesteaders applying for land under other provisions of the law. This expectation was partly fulfilled, and some rather good land was made available in Wahiawa as well as the Pupukea-Paumalu area on Oahu, and in the Kinaha-Pauwela-Kaupakulua section of Maui. The Wahiawa settlement area proved to be well suited for the cultivation of pineapple and other cash crops, yet even this isolated instance of successful homesteading was of rather short duration, for the settlers' land was subsequently incorporated into the operations of an enormous pineapple plantation.

The failure of this part of Governor Dole's homesteading program is all the more surprising when it is recalled that the public land laws made it possible for prospective members of settlement associations to demand that the land commissioner make available cultivated plantation land for homesteading by the association. In principle, all that was required to create a promising settlement association was for twenty-five individuals to agree to form an association and then to identify and demand an improved portion of plantation land, one that might very well be under cultivation. It would be easy to discern in this provision of the land laws many disturbing possibilities for a form of economic blackmail. Plantation management, when threatened by the prospect of losing land to prospective settlement associations might well have been tempted to "buy off" the organizers of the association, or, failing that, to sublet from the association any land secured by it. These obvious and ominous possibilities were heightened by the failure of the land laws to provide criteria for distinguishing bona fide homesteaders from land speculators.

The increasing abuse to which Dole's homesteading program was subject tended to strengthen the position of Hawaii's expanding

plantations, for much of the land secured by speculators was quickly sold or leased to them. Plantation landholdings were also indirectly increased through the failure of bona fide homesteaders, for, as one observer reported in 1904:

> Something had to be done with the homesteads. The most convenient thing was to turn them over to the sugar plantations, and this in most cases was done. Thus the possibility of using the homestead law for extending the sugar plantations was demonstrated. The pressure for opening tracts, ostensibly for homesteads, has continued. . . . In a great many, probably a majority of cases, the homesteader has sold first the timber and then the cleared land to the plantations, for the settler has found it more profitable to dispose of his homestead in this way and afterwards work for the plantation than to till the land.[39]

Thus, even as the concerted effort to stimulate family farming in Hawaii made little headway, corporate, commercial agriculture expanded explosively, the restrictions of the Organic Act notwithstanding. In 1900, the plantations produced 238,000 tons of sugar. By 1910 this figure had risen to over 400,000 tons, with the net value of the crops up nearly 70 per cent. Even more telling was that the average size of Hawaii's plantations increased from 2,462 acres in 1900 to 3,675 acres in 1910, despite the 1,000-acre limitation on land acquisition and the five-year lease restriction.[40] It was apparent that plantation management had rather quickly discovered effective devices to circumvent the restrictions of the Organic Act. For example, large plantations found it easy to expand acreage under cultivation by leasing additional land (always in units of less than 1,000 acres) from companies holding adjoining acreage. Many of these companies had been formed for this exclusive purpose, and some of these landholding companies were dissolved in the 1920s when the 1,000-acre provision was removed from the Organic Act. Those concerned with the enforcement of anti-oligopoly legislation in Hawaii might have received some solace from the experience of their counterparts on the American mainland, who were simultaneously discovering that it is easier to enact such measures than to enforce them.

One may conjecture that Governor Dole was considerably disheartened by the inability of his administration to implement the family farming objectives of the Organic Act. In any case, having served altogether for ten years as Hawaii's chief executive, Dole resigned as governor in 1903, and was simultaneously appointed a judge of the United States District Court in Hawaii.[41]

Governor Carter's Public Land Policy

Replacing Dole as Hawaii's governor was George R. Carter, an eminent financier and organizer of the influential Hawaiian Trust Company. As a director of one of Hawaii's largest agricultural corporations, C. Brewer and Company, Carter was one of the most astute businessmen in Hawaii.[42] Whether, Carter, as governor, would advocate homesteading policies similar to Dole's, was initially an open question to which it proved difficult for some time to get an answer. Shortly after taking office, Governor Carter criticized the Dole administration's management of public land, and implicitly suggested that its alleged mismanagement may have hampered the development of homestead programs. In a more positive vein, Carter announced:

> It is my intention with the proper approval, to cut up and offer for settlement every piece of arable land fit to put a settler on as fast as the leases expire. That in following this plan there will be opposition is a certainty, but in the firm belief that this is the only way to increase the citizen population and the wealth, prosperity, and productiveness of the Territory, this policy will be maintained.[43]

These strong assurances notwithstanding, in this very report Governor Carter revealed some aspects of that scepticism which subsequently led Governor Frear to remark that Carter had "little or no faith in homesteading".[44] In recounting the results of an experiment with homesteading on the Ewa plantation, Carter expressed deep-seated pessimism about the success of any such project.

> Some little time ago the management of the Ewa plantation, on the island of Oahu, decided to experiment with American farmers. Fifteen families of highly respectable people were carefully selected in the Western States, and all their expenses paid to the plantation, where houses had been erected for them, each with a garden patch surrounding it, and where a large patch of "common land" had been set apart for their use as pasture for such stock as they desired to keep. Here they were given lots to cultivate in cane, and every help was rendered in the way of plowing and preparing their fields, but notwithstanding this and all the Ewa Plantation Company extended on this effort to raise cane by white farmers, these people were not able to perform the necessary labor, and they drifted away by degrees, so that in about a year none of the fifteen families [was] left. Other experiments of a similar nature have been made with like results.[45]

Governor Carter, in fact, believed that plantation agriculture was more efficient than family farming:

> It is proper here to point out that all the lands cultivated by plantation companies, who find it necessary to irrigate because of the uncertainty of the rainfall, were either arid wastes or poor pasture lands before they were acquired by these companies, who sank artesian wells, established expensive pumping plants, or constructed extensive water ditches and pipe lines, and at great cost poured water over the lands and made agriculture thereon a possibility. If development by homesteads only had been possible, the lands which are now cane fields would be in their primitive condition, because then irrigation was only rendered possible by the investment of a large amount of capital.[46]

Given these views, it was hardly surprising that Governor Carter recommended in 1904, and again in 1905, that the Organic Act's five-year restriction on the leasing of public land for agricultural use be removed. He characterized this limitation as a great hindrance in developing land for productive use. He also recommended that the 1,000-acre limitation be removed and that the quantity and price of sales of public land be left to the discretion of the land commission, subject to the approval of the governor.[47] Carter argued further that if Congress were:

> . . . unwilling to modify the term of the leases, the only other course to pursue to increase the wealth of these islands is to sell the land outright and cease the leasing of it, which would enable a man with small capital to undertake enterprises which would otherwise be prohibited and at the same time render the Territory much needed revenue in addition to its taxes.[48]

Carter believed that successful small-scale farming in Hawaii was impossible without enormous governmental assistance. In his 1905 governor's report, he stated that:

> A new feature of the work of those responsible for the administration of public lands in Hawaii is the cutting up of sugar lands that have been planted for years under leases by various corporations, some of which are now expiring. The opening of these lands must necessarily be proceeded with in a cautious manner. . . . The applicants in a large majority of cases have no means with which to keep the land under cultivation. This is no inconsiderable item, for sugar culture as conducted in this Territory requires from $150 to $200 outlay per acre before the crop can be matured. Thus with many of the applicants there is a prospect of seeing good cane fields lapse into jungles again, unless the capitalist meets the demand of the so-called settlers and keeps them out, or takes a mortgage for the funds necessary to plant, cultivate, and harvest the crop.[49]

Despite his avowed scepticism regarding the prospects for family farming in Hawaii, Governor Carter continued officially to advocate homesteading as a major objective of his administration. It became, however, increasingly difficult to reconcile his words with his deeds, as was clearly revealed in 1907 by contrasting his single most important action on land policy with the position on homesteading proffered in his gubernatorial report of the same year. It was in 1907 that Governor Carter approved the controversial Lanai land exchange, through which nearly 40,000 acres of public land (some of it potentially the finest agricultural land in the Islands) on the island of Lanai were traded for a few hundred acres of forest reserve land plus several school sites on Oahu.[50] Announcement of this proposed exchange provoked strong opposition in many quarters of the community, especially from the proponents of homesteading. When the land exchange was challenged in a law suit that was contested as far as the United States Supreme Court, Governor Carter defended its legality, propriety, and economic soundness. Yet in his report of the governor for 1907, one finds the following policy statement regarding homesteading:

> A radical change has been made in the administration of the land laws, with a view to preventing the disposition by sale or exchange of large tracts of government land to corporations or individuals and of small tracts to persons professing to be bona fide settlers, but who in reality seek land for purposes merely of speculation or investment. Lots for homesteads are disposed of in smaller areas upon easier terms of payment, but with increased requirements of residence and cultivation. Exchanges of arable country land for city property have in general ceased, as well as sales and exchange of large tracts of land supposed to be suitable only for inferior purposes when there is reason to believe that they may in time prove suitable for superior purposes.[51]

One may perhaps fairly conclude that Governor Carter regarded it as prudent to maintain the rhetoric of homesteading, even though he evidently felt that family farming did not provide a sound alternative, or even significant adjunct, to plantation agriculture. If this indeed were his view he may very well have been correct, for it was certainly unlikely that Hawaii's territorial government was prepared to make the enormous investment of public funds required for development of roads, water supplies, and other improvements without which a successful homesteading policy could not have been pursued in Hawaii at that time.

Governor Frear's Public Land Policy

Governor Carter was succeeded as governor by Walter Francis Frear, who was appointed in 1907. Frear was a lawyer who had served on the Supreme Courts of both the Provisional Government and the Republic. Upon taking office, he declared himself in favor of homesteading, yet at the same time he called for important changes in the laws pertaining to the disposition of public land. He contended that, although the Land Laws of 1895 were reasonably well suited to the purposes of bona fide homestead settlers, the provisions of these statutes had been subject to serious abuse by land speculators.[52]

Governor Frear was successful in securing amendments to the public land laws, including a 1908 amendment extending the maximum term of leases to 15 years.[53] Pressure had mounted to secure this particular change, inasmuch as a number of the sizable, long-term leases on public land written during King Kalakaua's reign were due to expire before 1910. Following favorable congressional action on the proposed amendment, many of these leases were renewed for the full 15-year period. At the same time, the land commissioner leased numerous parcels for periods shorter than the 15-year maximum. It is possible that the granting of short-term leases may have reflected some concern by Frear's administration with maintaining an adequate reserve of arable public land for future homestead developments.

Governor Frear did feel that basic amendments to the existing body of homesteading legislation were required. The governor rightly contended that homesteading programs had been subject to serious and sustained abuse by land speculators who had taken up land simply for the purpose of quick profit through reassigning or reselling. As early as 1908, in proposing amendments to the territorial legislature designed to eliminate these abuses, Governor Frear had argued:

> I have endeavored to meet present conditions as far as possible by increasing the requirements of residence and cultivation, by providing against sub-leasing or other disposition before patent obtained, and at the same time allowing easier terms of payment--the aim being to prescribe what a settler in good faith would probably wish to do anyway, but what it would not pay the speculator to do. As a rule the size of the lots has been reduced also. There is need of a statute prohibiting, even after patent obtained, conveyances of land taken up for homestead purposes to persons or corporations already possessing more than a limited area.[54]

Related amendments to the Organic Act were proposed in 1910. In his governor's report of 1910, Frear described the proposed amending act as follows:

> As its principal feature, the Act makes long-desired and much needed changes in the land laws; it simplifies the administration of those laws and settles a number of important questions as to their meaning: it provides for giving to persons residing on public lands, under certain conditions, preference rights to obtain titles to their homes; . . . it places proper limitations on the power of selling, leasing, and exchanging public lands for other than homestead purposes. The most important changes in the land laws, however, consist in the provisions intended for the furtherance of homesteading. These require homesteads to be disposed of by drawings instead of at auction or by standing in line, and permit the time limit for compliance with homestead conditions to be extended in proper cases. They confine the right to acquire homesteads to persons who are citizens and who have not already sufficient land for a homestead and they prevent aliens, corporations, and larger landholders from obtaining control of hereafter homesteaded lands at any time, whether before or after they have been patented.[55]

Governor Frear's view of homesteading may perhaps be fairly summarized as follows: he appears to have believed that the objective of homesteading programs should not have been that of opening up and settling large additional areas, but rather that of insuring the successful functioning of the family farms that had been established.[56]

In 1911, Governor Frear recommended further amendments to the public land laws. In his annual governor's report he argued that:

> The land laws should be amended in several respects. Settlement associations should be permitted to take homesteads under special homestead agreements as well as under right-of-purchase leases and cash freehold agreements. The special homestead agreement is the best form of agreement for the homesteading of improved and other highly valuable lands, and it is those kinds of lands that are most sought by settlement associations. The list of enumerated objects for which sales of public land may be made for other than homestead purposes is too limited and should be extended to include other objects, such as hospitals, telegraph lines, etc., of a quasi-public nature. The provision that upon the application of 25 persons leased lands shall be withdrawn for homesteading as soon as the then-growing crops have been harvested, should be modified so as at least to make it discretionary to postpone the withdrawal until the first ratoon crop of a then-growing plant crop shall have been harvested, because in some cases, on account of the amount of fertilizer required, the profit is chiefly from the ratoon crop, and unless this can be secured to the lessee the land cannot be leased at an adequate rental until it is desired for homestead purposes. The provision that the proceeds of sales and leases of public lands shall be available for surveying and opening homesteads should be enlarged so that such proceeds may be available also for the construction of homestead roads.[57]

Governor Frear proposed no additional changes in the territorial land laws, which were to remain virtually unchanged for the next forty years. One may fairly conclude that, despite Frear's endorsement of homesteading programs, his administration did very little to encourage family farming in practice. On this score, critics of the governor presented evidence that he had cooperated with plantation management in opposing the formation of those "settlement associations" for which he had specifically requested assistance when proposing amendments to the public land laws in 1911.

Governor Frear's public land policy was subjected to virulent criticism by Prince Kuhio, Hawaii's delegate to the United States Congress. In 1911, Prince Kuhio presented to the U.S. Secretary of the Interior a long and detailed indictment of the Frear administration. Specifically, Kuhio charged the governor with maladministration of the homestead laws and accused him of working solely for the interests of Hawaii's plantations. Kuhio's charges even included a bitter personal indictment; he alleged that because of Governor Frear's

> . . . close affiliation with the corporate interests of the Islands, induced and existing largely through matrimonial and social ties, his administration is conducted along lines calculated to favor and promote the still further concentration of land, wealth, and power into the hands of a few individuals, operating in most instances under corporate forms.[58]

An explanation of the bitterness of Prince Kuhio's attack may be that he, as one of the last of the ali'i, or Hawaiian leaders of royal blood, was expressing some of his resentment against the haole rulers of the Islands. Indeed, many native Hawaiians felt that their land, their country, and their government had been usurped by the haoles who had initially been welcomed to their Islands. It had appeared for a time to Prince Kuhio and to others in the community that Sanford Dole's homesteading programs afforded a most promising vehicle through which the depressed remnants of native Hawaiians might be re-established on some portion of their ancestral land. Yet, as Kuhio surveyed the accomplishments of the homesteading programs implemented during the administrations of Governors Dole, Carter, and Frear, he concluded that pathetically little had been accomplished by them for the Hawaiian people.

Understandably, Prince Kuhio tended to blame Hawaii's haole chief executives for the failure of homesteading, and to explain the plight of the Hawaiian people as resulting largely from the callous disregard of the powerful, caucasian sugar planters. The Prince was certainly correct in one respect: disappointing experience with Hawaiian

laborers had early led plantation managers to search elsewhere for field hands. Still, even though the employment of Hawaiians in plantation agriculture became minimal, nevertheless there remained sizable quantities of arable public land on which they might have engaged in family farming. Still, the probable explanation for the failure of the Hawaiians to develop family farms cannot be satisfactorily explained either by lack of opportunities to secure land or in the alleged disregard of Hawaii's haole governors. These simplistic explanations, easily proffered and politically appealing to the dispossessed Hawaiians, were nevertheless inadequate.

The question requiring intensive consideration is whether any major homesteading program could have been successfully implemented in Hawaii during the period 1893-1911. As has already been suggested, an effective homesteading program would have required governmental fiscal assistance of a magnitude greater than Hawaii's public treasury could have supported under the then existing system of taxation. Nor is it likely that the ruling elements in Hawaii's community would have accepted an increased tax burden sufficient for the development and support of major homesteading programs. Programs of this character and magnitude were foreign to Hawaii at that time, and to the mainland United States as well. This was still the era of laissez faire capitalism, and, until the late nineteenth century, agricultural development in Hawaii was heavily dependent upon the importation of substantial amounts of European and American risk capital. This private investment had made possible the development of land, the building of extraordinarily complex and expensive irrigation systems that tunneled mountains and carried water across entire islands, the construction of major roads and railroads, and the development of plantation camps--even complete communities. It was private capital, too, that developed a transportation and marketing system through which Hawaii's sugar was refined and shipped to distant markets.[59] Given the dominance of the laissez faire economics during that period, it is truly difficult to envision how any system of commercial agriculture other than that of privately financed, large-scale plantation agriculture could have succeeded. This conclusion appears to be confirmed by the repeated failure of small agricultural enterprises in the Islands, especially during the last half of the nineteenth century, and in the accompanying movement toward consolidation of plantation enterprises, a movement that persists even today. While the amount of land planted to sugar cane increased from 128,000 acres in 1900 to 217,000 in 1913,[60] the amount of land successfully homesteaded steadily decreased. Nevertheless, the political controversy over homesteading policy continued unabated and grew even more heated when the Democrats under Woodrow Wilson came into power on the American mainland.

Governor Pinkham's Public Land Policy

It was President Wilson who in 1913 had the opportunity to appoint Hawaii's first Democratic governor. He selected Lucius Pinkham, who, though nominally a Democrat, had faithfully served under Republican Governors Carter and Frear as president of the territorial board of health from 1904 to 1908. Pinkham was openly sympathetic to the prevailing system of plantation agriculture and had worked energetically and successfully to recruit plantation laborers from the Philippines, where he had been an agent for the Hawaiian Sugar Planters' Association.[61] As might have been expected, most of Pinkham's appointees were Republicans, and his attitude toward governmental expenditures was no less conservative than that of his appointees. During Pinkham's administration the property tax assessments on sugar plantations were reduced some $25,000,000 even though records of sugar yields indicate that land productivity had increased appreciably. The tax assessment system employed by Governor Pinkham permitted plantation managers to determine the amount of taxes they were able--or willing--to pay. Assessments were reduced, with the decreases justified by management's claim that a lowering of the American sugar tariff had reduced plantation profits.[62]

Governor Pinkham's views on land policy had been carefully formulated and made public some years before he assumed the governorship. In July, 1906, he summarized his understanding of what he took to be sound, "American", agricultural policy:

> The American farmer stands on his right to do as he chooses with, or to dispose of, as he will, his lands. He stands or falls on his own ability, and not on Government regulation or dictation. To change from this American land policy to a paternal land policy is not American. If a man is fit for American citizenship, he is fit to exercise independence in his private affairs. When the Government chooses to part with ownership of any of its lands, it should "let go the apron strings" and let her citizens become independent men and not wards. We, in Hawaii, must come to this or there can be no development on American lines.[63]

Pinkham's presentation was interesting, too, in its explanation and justification of the plantation system that had become dominant in Hawaii. He argued, again probably quite rightly, that only large-scale, privately financed, commercial agriculture could have rapidly and extensively realized the economic potential inherent in Hawaii's natural resources. The full development of these resources and maintenance of their full productivity, argued Pinkham, required continued capital investment of a magnitude beyond the capacity of small, independent farmers. Such considerations led Pinkham to conclude that the plantations had earned an equity in Hawaii's land, whether

privately or publicly owned, which could not justly be ignored upon the expiration of leases.[64] Therefore, he argued that:

> The plantations cannot be subject to ignorance, indifference, nor erratic agricultural projects, nor should they be subject to schemes to acquire title to lands, in which leases have expired, by persons who aim to neither compensate the Government for the improvements reverting to it, or to personally indirectly cultivate the land, but aim to force the plantations to finance the working of the land, to directly or indirectly pay the wages from month to month of alien labor, and, in fact practically work the land and pay tribute to proprietors whose residence and responsibility is only nominal. The moment the Territorial Government attempts to stipulate what a purchaser of agricultural land shall raise on it, when or how he shall exercise his presumably independent rights as a landowner, the Government is out of its province and will break down in the attempt. It is absolutely un-American. It is fortunate the interest of the Government in the cane lands of the Territory is as limited as it is.[65]

More generally, Pinkham seems to have seen the development of the Hawaiian sugar industry as part of an inevitable and irreversible historical trend toward concentration.

> Civilization demanded facilities that could only be secured by joining together in a treasury the savings of the many, hence the forming of corporations. Corporations have developed into powers that almost exceed the power of Government. Agriculture in Hawaii required similar combinations of savings to make possible the utilization of her naturally unproductive, waterless soil, hence the great agricultural corporations of Hawaii. Modern business and utility organizations cannot be resolved into the elements of individuality from which they have sprung. . . . No more can the equally highly organized Hawaiian sugar plantations.[66]

Pinkham was especially critical of the territorial government's established homesteading policies.[67] He specifically criticized the isolated attempts that had been made to allocate cultivated plantation land to homesteaders, as well as the implementation of settlement association schemes. He regarded such schemes as misguided and destructive attacks on the plantation system. Summarizing his criticism of homesteading policy, he argued that it had:

> First. . . . Tried to individualize a part of one plantation by urging it to share with immigrants, ignorant, more or less fanatical, disinclined to work and afflicted with wholesale bickering. It takes imagination not to call the experiment a lamentable failure. Second. It found[ed] associations, endeavoring to profit by the subdivision land policy of the Territory and make the Government a partner in hold-up schemes on the plantations. Third. The Government is now contending with local schemes that seem to have a similar purpose. Fourth. If simply domiciling European peasantry on an acre or two of land of questionable quality is "development on American lines," the term has a new meaning.[68]

Rather prophetically, given the contemporary character of agriculture in Hawaii, Pinkham argued that the only way Hawaii could Americanize and dignify labor was to substitute "the man with machinery" for "the man with the hoe". "The 'man with machinery,' making himself many times as effective as 'the man with the hoe,' cheapens the cost of production and raises himself financially, intellectually, and socially."[69]

However distasteful Pinkham's view may have been to proponents of family farming in Hawaii, the hard facts he adduced in support of his position were not effectively challenged. It is true that his analysis of the prospects for family farming in Hawaii was obviously made from the perspective of the business community. It could therefore be considered in some respects a "self-fulfilling prophecy", for the attitudes and practices of the directors of Hawaii's great agricultural corporations were partly responsible for the failure of homesteading programs. Yet to be fair, one must seriously consider Pinkham's arguments, and one may grant that he outlined the course of economic and political development in Hawaii with rare prescience. He rightly observed that emerging industries, such as tourism, would ultimately eclipse commercial agriculture in importance. More fundamentally, Pinkham was correct in his argument that a significant rise in the educational, political, and economic level of Hawaii's workingmen would be achieved through the mechanization of agriculture, rather than by homesteading. Pinkham's analysis of the soundness of Hawaii's homestead laws and programs was to be put to a decisive test during the administration of his successor, Governor McCarthy, and the results were extremely interesting!

Governor McCarthy's Public Land Policy

With the appointment of Governor McCarthy, Hawaii's Democrats anticipated a new era in public land management. Their hopes appeared justified initially for, among other things, McCarthy appointed an acknowledged liberal, Delbert Metzger, as territorial treasurer and supported him in his enforcement of the territorial insurance laws against the powerful sugar factors and the Von Hamm-Young Company, the largest insurance agency in the Islands. Metzger insisted upon strict licensing and rigid reporting, despite strong resistance by powerful corporations.[70] It was Metzger, too, who prepared an elaborate land reassessment formula under which assessments were increased by approximately $40,000,000.[71] In this action, Metzger apparently enjoyed the support of Governor McCarthy, who had been heard to complain more than once about the land and tax assessment policies of the plantations.[72]

Governor McCarthy had indicated from the beginning of his administration that he would be willing to extend homesteading programs, subject, however, to clear-cut evidence that bona fide homesteaders could be found to settle the land.[73] This proviso was critical, for, although previous administrations had recognized the need for differentiating genuine prospective homesteaders from land speculators, they had been able to do very little to discourage land speculation or to assure the establishment of sound homesteading practices. The test of McCarthy's plans to foster homesteading was delayed by the outbreak of World War I, for the U. S. Secretary of the Interior declared that the withdrawal from production of any cane land would be contrary to the national interest for the duration of the War. Governor McCarthy therefore recommended that annual crop contracts be negotiated to insure the uninterrupted cultivation of all public land planted to sugar cane, even when the land was being surveyed for distribution to homesteaders.

Toward the end of the war a unique opportunity presented itself for a major homesteading experiment in Hawaii. A number of the long-term, thirty-year leases written during the closing years of King Kalakaua's reign (1874-1891) were due to expire. In anticipation of the expiration of these leases, and in keeping with the public land policies of President Wilson's administration, preparations were undertaken for a large-scale homesteading experiment.

On June 1, 1918, shortly after Governor McCarthy took office, a lease of public land held by the Waiakea Mill Company on 7,261 acres of sugar cane land expired. This land, located in the South Hilo district of the island of Hawaii, was selected for homesteading because it was both extraordinarily fertile and easily accessible, being located close to the seaport of Hilo. The Waiakea plantation had been one of the most profitable sugar corporations in the Islands from its inception until 1918, and there was every promise that homesteading could be successfully undertaken on a portion of the plantation's land. In March, 1919, and subsequently in February, 1921, a total of 216 lots in the Waiakea homestead tract were carved out of the plantation's acreage and were conveyed to individuals under the terms of special homestead agreements. These lots incorporated an area of 7,261 acres, of which approximately 6,300 acres, or 88 per cent, consisted of cane land. The balance of the acreage was a mixture of various kinds of land, some of which was suitable for other agricultural pursuits.[74] The total appraised value of the land was more than half a million dollars.

Applications for homestead lots in the Waiakea tract numbered over 2,000, far more than the number of lots available.[75] To meet this problem, it was determined the homesteads would be awarded by a lottery, without reference to whether the prospective homesteaders had any experience in farming, or any of the other qualifications that might have contributed to successful homesteading. Nor did the territorial government plan to assist the homesteaders by providing trained agricultural agents, such as the county extension agents found on the mainland United States; neither did it assist the homesteaders with adequate roads or marketing facilities. In short, virtually nothing was done to create conditions that would contribute to the success of this unique experiment in homesteading.

The inevitable outcome, of course, was that the Waiakea homesteading project was an immediate and overwhelming failure. The extent of the failure was well summarized in a report prepared years later by a territorial land law revision commission:

> Forty percent of these homesteaders forfeited their land through failure to make their payments when due or for other breach of covenant. Sixty percent, either directly or through their successors in interest, were strong enough, many as a result of legislative relief measures, to hold their lots and secure patents. But forfeited or not, we find today nearly ninety percent of the original cane land again in the hands of Waiakea Mill Co. (5537 acres) for the production of sugar, partly as a result of direct leases with the Territory of forfeited lots and partly by direct lease agreements with the owners of the patented lots or lots still held for patent. The Territory today receives an annual rent of approximately $12,700.00 net per annum from Waiakea Mill Co. in this area. It might have received a rental of at least $50,000.00 annually if the cane land had been kept intact and leased as a whole to the Mill Company. Had this been done the people of the Territory would have been the beneficiaries of this increased revenue.
>
> The majority of the Waiakea homesteaders, unlike its pioneer American prototype, had no intention of tilling the soil. The recollection still lingers in many minds of "Waiakea No. 1." His intentions have been of the best but his agricultural background and qualifications were woefully lacking. There were many others in this category. But whatever qualifications the applicants may have had, the results speak for themselves. Almost 90% of the original cane area is again under cultivation by the Mill Company in accordance with large-scale farming methods. The homesteader has retreated to the position of landlord. His tenant is the plantation that cleared and developed the land originally. It would seem that the public interest in the public domain should be conserved and protected against dissipation in favor of the few who may be successful in securing homesteads. . . .[76]

The short-term results of the Waiakea experiment, then, were the ruin of many homesteaders, temporary disruption of the efficient functioning of a great and prosperous plantation, which suffered continued, substantial, financial losses until it was able to recapture most of its lost land, and a permanent loss of tax revenue to the territorial government. Understandably, this disastrous homestead experiment gave rise to considerable bitterness and recrimination and focused attention on the feasibility and desirability of further homesteading programs. For many, the failure at Waiakea provided the final, dramatic proof that homesteading couldn't work in Hawaii. Confidence in Governor McCarthy's administration was eroded by the Waiakea failure, and was further weakened by the policies of his treasurer, Delbert Metzger, who increasingly had antagonized influential community leaders. In an effort to persuade him to resign as governor before the end of his term, some business leaders offered McCarthy an attractive position as general manager of the Hawaiian Dredging Company, even as others fulminated against his policies. He accepted the position, and Wallace Rider Farrington, a Republican, was appointed to succeed him as governor in 1921.

Governor Farrington's Public Land Policy

The only major attempt at homesteading undertaken by Hawaii's territorial government in the wake of the Waiakea experiment was the Hawaiian homes program, the antecedents of which extended back to the beginning of the century,[77] but which was not formally brought into being until the beginning of Governor Farrington's administration. No extended discussion of the Hawaiian Homes Commission is necessary, inasmuch as every major aspect of the program has been analyzed in a series of studies published by the Legislative Reference Bureau during recent years.[78] What should be emphasized here is that, despite the Waiakea failure, enormous pressures continued to be exerted on the territorial government to open up other publicly owned cane land to homesteaders as plantation leases expired. The annual reports of Hawaii's commissioner of public land for the period 1918-1922 indicate that some twelve major leases of publicly owned cane land, including the Waiakea lease, and important leases held by such major plantations as Onomea Sugar Co., Hawaii Mill Co., Hawaiian Sugar Co., Honomu Sugar Co., Honolulu Plantation Co., Lihue Plantation Co., Waimanalo Sugar Co., Makee Sugar Co., and the Kekaha Sugar Co. expired during this period. Those familiar with the location of these plantations know that some areas of the public land leased by them were located close to large communities and in other desirable areas. There is little question but that many thousands of applications would have been made by prospective homesteaders--or land speculators--had these areas been

opened up for homesteading as they were for the Waiakea experiment. The homesteading of these areas had been postponed under the terms of a Presidential Proclamation of June 24, 1918, designed to make it possible for the plantations to "cultivate and harvest [the land] until homesteaded, paying to the Territory after marketing 5 percent of gross proceeds less marketing expense".[79] Some indication of the value of this land is that the Territory collected over $200,000 under these agreements on the 1921 crop alone.

One may then easily understand the desire of the managers of Hawaii's plantations to prevent any repetition of the Waiakea experiment. At the same time, plantation management and the leaders of Hawaii's Republican party appreciated the necessity for satisfying at least some politically relevant part of the insistent demands being made by proponents of homesteading. They discovered an effective solution to their difficulties through the enactment of the Hawaiian Homes Commission Act of 1920.[80] The terms of this Act required that nearly 200,000 acres of public land be selected from designated areas and made "available" for homesteading by persons of at least 50 per cent Hawaiian ancestry. The acreage made available for actual homesteading under this program consisted largely of marginal land, the bulk of which was not suitable for agricultural homesteads until--and unless--extensive and expensive improvements were made. There was some valuable sugar land included in the land assigned to the Hawaiian Homes Commission, but it was specifically excluded from homesteading use. Indeed, the funding of the commission established to administer the Act was provided by the rental of valuable public land under lease to sugar plantations, thus assuring pressure that such land would be kept productively planted to cane and thereby yield good revenues. Another important part of the political-economic agreement that facilitated passage of the Hawaiian homes legislation was the understanding that the 1,000-acre limitation on land acquisition by corporations would be removed from Hawaii's Organic Act. With the rescinding of this restriction, the plantations were freed to openly purchase or lease land, public or private, in any amount. No less significant from their point of view was the assurance that they would be effectively protected against further experiments like Waiakea. The Hawaiian Homes Commission Act thereby effectively channeled the political pressure from homesteading in a direction acceptable to plantation interests, even as it appeared to make some concession to the homesteading of the Islands' politically important citizens of Hawaiian ancestry. The program had barely been implemented when the commissioner of public lands duly recorded the epitaph for the traditional homesteading movement in Hawaii: "The demand for the opening of new homestead tracts practically ceased with the withdrawal of the remaining Government cane

lands from homesteading and the passage of the Hawaiian Homes Commission [Act]. . . ."[81] Such future homesteading activities as might be supported by the territorial government were to be almost exclusively confined to citizens of Hawaiian ancestry.

The Hawaiian homes program got off to a very slow start. Nevertheless, Governor Farrington spoke in glowing terms of its potentialities.

> Under the Congressional act of 1920, the Hawaiian Homes Commission selects the homesteaders, preparation of the tract before settlers are established on their holdings is provided for, tracts are divided into units small enough to be maintained by a family, and financial assistance, expert advice, and help in the development of transportation and marketing facilities are given. The success which is attending the operation of this system more than justifies the judgment of those who made the plans.[82]

> The work of the Hawaiian Homes Commission has been deliberate and generally successful during the two years of its existence. There are now 20 families among whom 20-acre farms have been allotted on the island of Molokai. These homesteaders are engaged in diversified agriculture. They are finding a market for their products and there is every promise that this colony will expand until the available lands on the island of Molokai, amounting to between three and four thousand acres, will be under cultivation and populated by prosperous farmers.[83]

Perhaps the most significant aspect of Governor Farrington's comments on the initial work of the Hawaiian Homes Commission is that the territorial government had apparently assumed responsibility for providing Hawaiian homesteaders the assistance indispensable for successful family farming in the Islands. The Waiakea homesteaders, along with innumerable others who had failed before them, had foundered precisely because, as we have seen, they did not receive necessary financial aid, assistance from trained agricultural agents, and help in the development of transportation and marketing facilities.

It is difficult to understand how the territorial government, which had failed the Waiakea homesteaders so completely in 1919, could quickly demonstrate acute awareness of the problems confronted by the Hawaiian homesteaders just a few years later. Whatever the explanation, the apparent initial success of the Hawaiian homes program elicited from Governor Farrington an enthusiastic appraisal of the possibilities for family farming in Hawaii.

> There is increasing proof that the so-called small farmer can make a success in every branch of agricultural industry in the island. . . . The sugar-cane [grower] and the cultivator of pineapple lands have the assistance of the appropriate officers of the Territory in obtaining equitable terms with the mill and the cannery and securing loans at low interest to assist in financing their crops. There is always available to them the counsel and experience of the scientific agencies of the large corporations as well as the Federal and Territorial Governments.[84]

> Settlement of certain Territorial public lands carried on under the Hawaiian homes law of 1920 has proceeded far enough to warrant the belief that this program of getting the people of Hawaii back to the land gives great promise of complete success. Apparently land speculation is eliminated under this plan, the land will be cultivated by citizens and enough financial assistance is rendered by the Government to give the homebuilder a fair start. Although the number of families placed on the land may appear small, they represent nearly three hundred men, women, and children, and a good share of them have become sufficiently well established to begin making payments on the loans obtained from the revolving fund. If the people carry on as they have begun, this land settlement project will be an outstanding demonstration that will be helpful toward similar success on the mainland of the United States as well as within this Territory.[85]

With the homesteading issue resolved to his satisfaction, Governor Farrington found himself extricated from the most troublesome aspect of the public land problem. Farrington's administration was blessed too by the unprecedented prosperity brought to the Islands as an indirect consequence of World War I. Sugar prices had soared to undreamed of levels, and plantation profits were enormous. The post-war recession was brief, and plantation profits were generally satisfactory during much of the decade of the 1920s. On the American mainland, President Warren G. Harding had fulfilled his campaign promise to return the United States to "normalcy", and "business as usual" became the order of the day in Hawaii as well. Governor Farrington subscribed to the view of America's Republican Presidents that the business of government was business, and a substantial portion of Hawaii's governmental services were therefore directed to the direct or indirect support of the business community. Still, there was one major issue on which Farrington found himself in basic disagreement with leaders of the business community--education. Many businessmen believed that the major vocational opportunity for the bulk of Hawaii's young people would continue to be found on the plantations. Such work required little formal schooling beyond primary education, which might, if necessary, be supplemented by some vocational education or other practical form of secondary education. Assuming that no major changes were likely to take place in Hawaii's economy, they concluded that to provide advanced education for any

substantial part of the population would be a waste of resources. This position was reinforced by a perennial problem that confronted the plantation managers, that of maintaining an adequate labor force. Plantation work was rugged and held little promise of a better future; attrition had always been high. Plantation managers sensibly anticipated that any significant extension of public education would probably accelerate the migration of children of plantation workers to more attractive and lucrative jobs--if not in Hawaii, then on the American mainland.

Governor Farrington did not subscribe to these views. He argued that young people who received more formal education would not necessarily be drawn away from plantation life. Contending that an extension of education could be made compatible with plantation life, he argued, "Every effort is being made in the public schools to impress upon the coming generation the dignity of agricultural labor and the opportunities offered in agricultural enterprises."[86] Farrington's position on this question and his activities in the field of education made him the target of harsh criticism. He nevertheless persisted in his programs of educational development and made considerable progress in improving Hawaii's public schools.

As already noted, the public land issue was largely quiescent during Governor Farrington's administration. To the extent that he was required to act on land policy, the governor appeared to have been very much under the influence of H. A. Baldwin, a wealthy and conservative planter from Maui. Baldwin was in a powerful position to influence decisions on disposition of Hawaii's public land, and the official correspondence between Farrington and Baldwin suggests that he substantially directed the governor's decisions on the disposition of public land.[87]

Governor Judd's Public Land Policy

Governor Farrington's term of office came to an end in 1929, and he was replaced by a more conservative Republican, Lawrence McCully Judd. Judd was a businessman who had been a buyer for Alexander and Baldwin, Ltd., from 1909 to 1914 and who had served as a director of T. H. Davies and Company until his appointment as governor. Governor Judd's implicit position on the land issue was made clear in his first Inaugural Address. He paid tribute to Hawaii's thriving sugar industry and promised an economical administration under which island business would continue to prosper. He promised to maintain the stability of the existing system, emphasizing that:

> Hawaii's wealth is from the soil. In her agriculture there is being evolved a system of cooperation which some day others will come here to study. The needed capital is combined and many stockholders reap the benefits. Anyone may earn an interest. Information is always available to the small shareholder as to the true state of affairs. The field workers are taken into partnership in labor contracts. There is supervision of the highest quality, and science is made to do its full part. Marketing is on a cooperative basis and is efficiently handled. This is the story of sugar and pineapple.[88]

It is noteworthy that neither in his Inaugural Address nor in any of his annual governor's reports did Judd provide any explicit information on public land policy. The clear implication is that he was well satisfied with the existing pattern of land use in the Islands and with the character of the community of which it was a part. Even on the issue of education, the one matter on which his predecessor had openly disagreed with plantation management, Governor Judd was conciliatory. His first major step in this field was the appointment of a committee charged with the task of surveying Hawaii's education program in order to "bring it more in line with Hawaii's industrial needs".[89] The work of this committee raised a storm of protest, and its recommendations were not implemented. Still, the issue of improving public education in the Islands was but the forerunner of political controversies that were presently to transform the character of the island polity. Hawaii's politics and economy had become inextricably tied to mainland developments, and, coincidentally, Governor Judd had been appointed governor of Hawaii at almost the same time as Herbert Hoover became President. The Great Depression that engulfed the country after 1929 swept the Republican party out of office on the mainland while leading to the appointment of Hawaii's first Democratic governor since McCarthy.

Governor Poindexter's Public Land Policy

Franklin D. Roosevelt's first appointee as governor of Hawaii was Joseph Boyd Poindexter, a lawyer and jurist, who had served on the United States District Court in Hawaii from 1919 to 1924. Poindexter concerned himself chiefly with achieving an efficient and economical administration, rather than developing a strong political organization. He evinced more sympathy for labor and for minority groups than had his immediate predecessors, but--unlike the "New Dealers" on the American mainland--he showed little inclination toward making fundamental changes in the character of Hawaii's regime. Given the concern of mainland Democrats with the "little man" it would have come as no surprise had Poindexter attempted to revive interest in

homesteading in Hawaii. Instead, he directed his attention to easing from their land some of the few remaining homesteaders. The depression had compounded their problems and Governor Poindexter observed that many homesteaders had become delinquent in payment of taxes or other obligations owed the territorial treasury. Hence, as the governor reported:

> Special effort was made during the year to collect delinquencies owing by homesteaders and a study as to how and what may be done to correct homestead delinquencies, not only in payments, but in compliance with other homesteading requirements as well. To this end considerable progress has been made by many of the homesteaders realizing that it would be best for them to surrender their homestead holdings and thus relieve themselves of the delinquent payments.[90]

A major premise of Governor Poindexter's public land policy was that uneconomic homesteading operations should be liquidated, with the reclaimed acreage then being made available by the territorial government to one of Hawaii's plantation enterprises. The underlying rationale of this policy was further revealed in the 1938 report of the governor, where Poindexter made it clear that "most of the homesteads which were surrendered" were then leased to plantations and thus "made revenue-bearing", rather than being re-homesteaded.[91] Underlying the governor's position on homesteading was his further argument that the sharply increased need for social services in the Islands would have to be paid for in large part from tax revenue derived from plantation profits; thus "special effort was made in renewing cane land leases to the end that the Territory share in the profits derived from the leased areas".[92]

Throughout his administration, Governor Poindexter affirmed his acceptance of the established pattern of landholding in the Islands: the plantations, he felt, should own or control virtually all of the arable land suitable for commercial agriculture, while the general populace might be assisted somewhat in acquiring small lots required for residences. Summarizing this policy, the governor said:

> Every effort is made . . . to keep under lease all available Government land for revenue-bearing purposes and at the same time, offer for sale, in accordance with the law, to individuals such small areas as can be developed into houselots in order to encourage home ownership.[93]

Governor Poindexter's administration came to an abrupt end on Sunday afternoon, December 7, 1941, following the devastating Japanese attack on Pearl Harbor. Lt. General Walter Short formally assumed all powers normally exercised by the governor of Hawaii, and "for the duration" of the war public land policy was to be determined

chiefly by military necessity. Sizable areas of land, both public and private, were taken for military use through a variety of devices, including gubernatorial and presidential executive orders,[94] eminent domain, and outright purchase. Military rule in the Islands contributed to the suppression of traditional questions of land policy. But, as the war drew to a close and the civilian governor, Ingram Stainback, gradually restored civil rule, these issues began once again to emerge.

Governor Stainback's Public Land Policy

Although Stainback was formally appointed governor in 1942, his prerogatives had been severely limited by the military rule which continued in Hawaii throughout much of the war. The new governor spent a considerable part of his time in the struggle to mitigate and to end martial law, and it was 1945 before his domestic program began to take shape.

Governor Stainback, a conservative southern lawyer, had served as attorney general under Governor Pinkham, and had been a United States District Attorney for Hawaii for a time. Although a Democrat, he appointed Republicans to ten of the top 13 positions in his administration, and approximately two-thirds of all his major appointments during his eight-year term as governor went to Republicans.[95]

Although Stainback was generally sympathetic to the dominant plantation system, he nevertheless called for land reform. He observed that the federal and state governments, along with approximately one hundred large landowners, held over 92 per cent of the land of the Territory. He was thus led to advocate the development of a Hawaiian Home Development Authority, which was to be endowed with a $2,000,000 loan fund, designed to force the sale of idle land from large landowners. The proposal was hotly attacked as "communistic" and was defeated in the legislature.[96]

In 1945, in response to the increasing post-war dissatisfaction with the land situation, Governor Stainback appointed a Land Laws Revision Commission charged with the "duty of conducting a thorough study of the provisions of the Hawaiian Organic Act and all the statute laws governing the public lands of the Territory, their present operation and effect".[97] The commission was also charged with the duty of reporting "recommendations of such changes therein as in its opinion are necessary in order to promote the best possible use and disposition of such lands in view of present existing conditions".[98]

The commission reported that no effort had been made since 1921 to compel the land commissioner to open agricultural land for homesteading.[99] This finding was hardly surprising, given the 1921 amendments to the Organic Act when the Hawaiian Homes Commission was created. In the 26 years from 1921 to 1946, only a single, small area was opened for homesteading, and it made available only pasture land.[100] Confronted by such evidence, the commission concluded that:

> It would seem from the action of the Congress of the United States in 1921, in repealing the one-thousand acre clause applicable to corporations and extending immunity from the withdrawal provision to leases of public lands suitable for the cultivation of sugar cane, that it preferred the existing sugar economy in Hawaii to the results of homesteading. Whether this preference has reference to a considered national sugar economy or indicates an adverse opinion upon homesteading in Hawaii we do not pretend to say.[101]

Although the commission refrained from an examination of the motives of the U. S. Congress in passing the 1921 amendments to the Organic Act and thus favoring plantation agriculture over homesteading, it was not reluctant to pass judgment on the results of that congressional decision.

> . . . We believe those who continue to advocate homesteading of the public lands in Hawaii are imbued with its possible social and political advantages and do not appraise the facts in the light of experience. Even the political and social results of transferring public lands to individuals who do not work the soil but become landlords to corporate agricultural operators would seem to be of doubtful public interest.[102]

Going still further, the commission took a strong position against further homesteading experiments in Hawaii and made a sweeping denunciation of past homesteading practices. Five of the eight major points of this critique of homesteading are worthy of special note:

> . . . the homestead laws have been utilized as an additional conduit for [the] siphoning off government lands into private ownership; (5) the majority of homesteaders have proved themselves to be mere speculators or investors with no intention of establishing or maintaining a homestead; (6) judged by the definition and connotations of the word "homestead", homesteading in Hawaii has not proved a success; (7) the people of Hawaii at present are not interested in homesteads as such; (8) the only legitimate present demands for public lands are for pastoral lands with no accompanying homesteading obligations and for lots for homesites convenient to occupational locale.[103]

Having disposed of homesteading as a viable goal of public land policy, the commission made a number of positive policy recommendations. In its view, the most socially beneficial purpose to which

significant, unused portions of Hawaii's public land could be put was for homesites. Specifically, the commission found that:

> There is a vital need for homesites today on the island of Oahu, where workers at Pearl Harbor and elsewhere may build their homes, raise their families and have enough land in addition on which to raise vegetables, poultry, and other subsistence products for the home.
>
> Whatever conclusions are to be reached as to the desirability of continuing homesteading as presently administered, it is clear that the disposition of public lands as homesites has been successful and beneficial to the public generally in the past. The Commission feels that this activity should not only be continued but should be greatly expanded.[104]

The commission concluded its report with eight policy recommendations designed to achieve a sound post-war public land policy for the Islands. These recommendations continue today to invite serious consideration, and should therefore be quoted in full:

> . . . (1) that all sales of public lands be discontinued except for residential purposes and then only in areas not in excess of one-third of an acre; (2) that the Commissioner of Public Lands forthwith make available lands for residential purposes; (3) that where subdivisions are made of public lands for residential purposes the Territory conform to the ordinances applicable to subdivisions of privately owned lands in respect to streets, curbs, sidewalks, and other utilities; (4) that houselots be allotted as homesteads and not sold at public auction; (5) that a bill consistent with recommendation No. 5 included in our preliminary report of February 21, 1945 be submitted to the 24th Legislature at its 1947 session; (6) that the public lands of the Territory not suitable for residential purposes be conserved and disposed of only upon lease; (7) that all pastural lands included in public lands of the Territory be reclassified and, where agricultural lands are included therein, the same be reclassified as agricultural lands and if under lease be withdrawn from the terms of said lease; (8) that all pastural lands included in the public lands of the Territory not under lease be rehabilitated and brought up to standard and that no lease of pastural lands be renewed until the land is similarly rehabilitated and brought up to standard at government expense.[105]

Responding apparently to one of the major recommendations of the Land Laws Revisions Commission, Governor Stainback promised to make public land available for houselots. "The sale of public land for homesites", he agreed, was the most "beneficial purpose to which these lands can be dedicated". In his first, post-war governor's report, Stainback contended that "every effort was made to subdivide and place on the market as houselots all public lands that were not under lease".[106] Although he exaggerated somewhat, the following year the governor reported that his land commissioner had been

instructed to help meet Hawaii's housing shortage by providing house lots wherever public land suitable for this purpose was available. Going further, the governor reported that "various agricultural leases have been carefully examined and the lessees urged to surrender some of the areas that would lend themselves to subdivision purposes".[107] The land commissioner was further instructed by Governor Stainback to "work on a program designed to make suitable public lands available for sale".[108] Payment for such land was to be arranged in such a fashion as to facilitate and encourage the acquisition of house lots by those of limited means.[109]

Anticipating the expiration of some major leases on the island of Hawaii in 1947, the land commissioner appointed a special commission to determine the size of tracts to be disposed of by public auction. In his words, "The Land Office desires particularly to see that the lands formerly used by . . . plantations are used in a constructive way."[110] The two plantations referred to were Waiakea, located near the urban area of Hilo on the island of Hawaii, and Waimanalo, located in an area of Oahu that would eventually be incorporated into Honolulu's spreading metropolitan complex.

The availability of land such as this for urban development presented a unique opportunity and challenge to those responsible for making Hawaii's public land policy. They could be reasonably certain that the phasing out of two plantation companies whose operations had become marginal for a variety of reasons would not seriously injure the Islands' sugar industry. The promise of vast improvements in sugar technology in the post-war period insured relatively steady production, even as acreage planted to cane decreased appreciably. The ever more <u>intensive</u> use of land reduced plantation pressure on the territorial government for leases, particularly leases of land marginal for agricultural use. At the same time, the freeing of potentially valuable areas for urban development provided the land commissioner with an opportunity to move decisively in making available substantial numbers of house lots at reasonable prices.

From the vantage point of history, it must now be concluded that the territorial government did not make effective use of this opportunity. To be sure, some house lots were sold at public auction, and others were leased. But the development of public land for residential use proceeded quite slowly--even as the price of residential land, particularly on Oahu, soared. In fairness to the governor, Stainback left office before his major recommendations on public land policy were sufficiently considered. He was replaced by another Democrat, Oren E. Long, who was appointed governor in 1951 by President Harry Truman.

Governor Long's Public Land Policy

Those familiar with Oren Long's background anticipated that he would be sympathetic to Governor Stainback's public land proposals. Long had been a social worker early in his career, and had worked energetically on behalf of progressive legislation, especially measures designed to improve the health and welfare of the Islands' immigrant workers and their children. Subsequently, he had directed his humanitarian drives and considerable energy to the field of education, and he was widely respected for his successful efforts to improve the quality of Hawaii's schools.

Governor Long, like his predecessor, did not address himself to a sweeping reform of Hawaii's established land system, but he, too, recognized the growing need for inexpensive land suitable for residential housing. In his governor's report for 1951, he promised to do everything possible to make land available for house lots.

> In keeping with the policy of the administration, the Commissioner of Public Lands has continued to carry out a program designed to make suitable public lands available for houselots and homesteads. There is a tremendous demand in Hawaii for land, and wherever possible, the administration had endeavored to develop presently held public areas for use by the citizens of the Territory.[111]

Again, in his report of the governor for 1952, Long promised that his administration would take further steps to meet Hawaii's increasingly serious housing shortage.

> Because of the unprecedented demand by the citizenry of Hawaii for homesites, farms, and decent housing at prices they can afford, the Department of Public Lands has embarked on a long-range program of developing houselots, farm lands, and business sites on all major islands. Such planning should help to meet the land and housing requirements of our steadily growing population.[112]

Governor King's Public Land Policy

Governor Long's administration was cut short by the election of a Republican president on the mainland, and he was replaced as governor, before his public land policies could be implemented, by Samuel Wilder King. With the appointment of Governor King, Hawaii had a chief executive of part-Hawaiian descent for the first time since Queen Liliuokalani. The significance of this appointment was observed during Governor King's inaugural, which featured a display of pageantry and pomp recalling the days of the monarchy. Many were

thrilled to hear a portion of the Governor's Inaugural Address delivered in the Hawaiian language. That Governor King was part-Hawaiian may in part have explained his belief that homesteading programs should be revived. In any event, King was the first governor since the early territorial period to seriously advocate homesteading. The governor's faith in the possibilities of major homesteading programs was revealed by the discussion of public land policy in his annual report of 1954:

> The Hawaiian Organic Act recognized the desirability of establishing in this community many small land owners and gave a mandate to the Territorial Government to develop and encourage homesteading to the utmost degree. The present Land Commissioner has carried out this mandate to the best of her ability.[113]

Governor King sought to broaden Hawaii's economic base, and he believed that economic growth could be best accomplished by assisting small, independent farmers, whose contribution to the economy could supplement plantation agriculture. He encouraged the Hawaiian Homes Commission to open additional land for homesteading and insisted that the plots be of sufficient size to serve their intended use adequately. These requirements of size were based on extended studies carried out by H. H. Warner of the Hawaii Agricultural Experiment Station at the University of Hawaii.[114]

Governor King appointed as his first land commissioner, Marguerite K. Ashford, who largely shared his views on public land policy. Commissioner Ashford recommended in 1954 that the territorial land laws be amended to permit the granting of homesteads directly to any "competent farmer who has handled Territorial land well and productively under lease or revocable permit", and also the granting of "priority in the renewal of leases of relatively small areas of Government lands where the productivity of the land has been built up and the soil and productive growths preserved or developed by the lessee whose term is running out".[115]

By way of helping homesteaders overcome the initial financial problems that had traditionally driven them from their land, Commissioner Ashford recommended that "A revolving fund of at least $1,000,000 and possibly $2,000,000 be created to permit land to be made available to farmers who are placed upon homesteads to enable them to build and to carry them in the period of time between the planting of their crops" and harvesting.[116] Although King's administration was clearly determined to encourage family farming in Hawaii, the governor did not advocate taking productive land from plantations for homesteading. Such action, he felt, might prove injurious to

Hawaii's economy, which continued to depend heavily upon plantation agriculture.[117]

Governor King and Commissioner Ashford did challenge directly a practice that had contributed to increased concentration of land ownership in Hawaii for nearly half a century. Typically, when the territorial government required privately owned land for public purposes, it had secured such land through a land exchange. Commissioner Ashford denounced this practice as not being in the public interest, and refused to approve some exchanges. Governor King took the position that land required for public purposes should be obtained through exercise of the power of eminent domain.[118]

Governor Quinn's Public Land Policy

Governor King's relatively short administration came to an end when President Eisenhower appointed William F. Quinn as the last territorial governor in 1957. Quinn, an attorney, was born and educated on the mainland, and he arrived in Hawaii only after World War II. While he had never served in public office prior to his appointment as governor, he had been active in the Republican party. At the time of his appointment as governor he appeared to have no comprehensive land policy, and he made only scattered references to the land problem in his annual governor's reports. In his 1958 governor's report, he indicated dissatisfaction with the administration of the public land laws. He singled out for special criticism the utilization of Hawaiian home lands for various purposes with no attempt having been made to offer the commission comparable land. Extensive amounts of Hawaiian Homes Commission land had been taken for airport development in Hilo and on the island of Molokai, with other HHC land "set aside" by presidential and gubernatorial executive orders. As Quinn noted:

> The [Land] Commission's staff, during the year 1957, has expended considerable effort in checking and whittling away of the land holdings specifically set aside by the United States Congress for homesteading under the provision of the Hawaiian Homes Commission Act, 1920. The Commission feels that land needed for public good should be made available for whatever public use could be beneficially utilized. However, the Commission further feels that wherever possible lands taken for public use should be replaced with land of comparable value within a reasonable time rather than written off the books completely.[119]

In 1959 the governor further stated that: "The Commission is hopeful of exchanging land with the Territory for suitable sites [on Maui]. Should this land become available on exchange, the Commission

is ready to proceed immediately with a sizable residential homestead project which could accommodate about 100 families."[120]

Governor Quinn's Republican administration was criticized by some leaders of Hawaii's Democratic party for its failure to initiate a comprehensive land reform program. They cited the figures on concentration of land ownership and control that had been publicized during Governor Stainback's administration and demanded action by Quinn's administration. Quinn responded by denouncing what he termed the "trick that's offered" by the Democrats for land reform.

In a public address delivered at Puunene, Maui, he argued that:

> The real issue is not to just break up land ownership in large quantities for the sake of breaking it up. The real issue is to make homesites available, particularly in urban and rural-urban communities, for people to buy their own little, or larger, residential lot and build their home. That's where the real social purpose of any such program can be found. And there's only been one suggestion, one constructive suggestion, I beg to say, that has been made. That is the suggestion that with a certain type of tax treatment on the sale of large real property there should be coupled a social program of regulation of the size of lots to be sold, and regulation of the type of house that will be built. And those large landowners who will comply with public regulations of that type will then receive a capital gains rather than an ordinary income tax treatment. And with that type of program more and more of our people will be able to buy their homesites and will be able to build their homes on those homesites.[121]

Public land policy along these lines had also been proposed by Hawaii's Democratic party. The greatest obstacle in the way of implementation of such a policy was that of securing a special tax ruling from the United States Bureau of Internal Revenue. Given the existing tax laws, Hawaii's large landowners were understandably unwilling to sell their land in small parcels, for the profits derived from such sales would, they believed, be taxed as ordinary income rather than as capital gains. For wealthy landowners, such a tax could be virtually confiscatory. Furthermore, it had generally been more lucrative for Hawaii's large landowners to lease their land, rather than to sell it, since long-term ownership enabled them to realize the extraordinary appreciation in land values characteristic of an area in which there was a shortage of good land and increasing demand. Thus the residential leasehold system played a major part in maintaining the concentration of land ownership in the Islands.

Governor Quinn had served for less than two years when Hawaii finally achieved statehood. Quinn then ran successfully for election

as the new state's first elected governor in 1959. In his election campaign, he emphasized the need for new public land laws by dramatically demanding a "Second Mahele", a division of Hawaii's public land.

As described in his election campaign, the promised Second Mahele called for opening up

> . . . for public sale close to 145,000 acres of state lands. These lands, undeveloped and unimproved, are far from being arid waste lands. They are located on the major Islands--Kauai, Oahu, Maui, Hawaii--and they include a complete cross section of all types of Island terrain. There are some 29,400 acres of farm lands, 6,700 acres of shore and mountain vacation homes, 12,400 for suburban and rural homes, and 95,980 acres that could be considered good long range investment.
>
> The Governor's plan is to divide these available lands into blocs of about 500 acres--for subdividing into smaller lots, ranging in size from one acre up to possibly 10. The lots would then be offered on a one-to-a-family basis at prices ranging from as low as $50 an acre up to perhaps $1,000.[122]

The governor argued that the mahele program was designed to carry out the mandate of the new state constitution, which provided that Hawaii's public land should be used for the development of farm and home ownership on as widespread a basis as possible. The Second Mahele was not presented as a comprehensive public land policy, but it was understood by the governor to represent a rather abrupt departure from the position that more conservative Republicans had held throughout much of the twentieth century.[123]

Governor Quinn asserted that he was seeking a liberalization of Republican land policy, with his proposed policy designed to appeal to the aspirations and needs of Hawaii's citizenry. In his words:

> The "Second Mahele" is more a matter of policy of opening up undeveloped public lands, as well as developing state highways and basic water resources, in order to boost the economy of the Neighbor Islands. This policy is similar to that followed by other Territories when they were granted statehood; it is similar to many things we do right now, . . . in developing subdivisions, agricultural areas, and homesteads. But as a policy, not a law, the plan isn't written down in vast detail, analyzing every square foot of our land. It's a general determination, a concept, and a yardstick. The detailed plans will spring from it, as time goes on. We can and will exercise the powers we have to put our public lands to use. All we have asked is one additional power so that we can sell to residents chosen by lot.[124]

Whatever else might have been said of the mahele plan, it hardly constituted a comprehensive public land policy at a time in Hawaii's development when such a policy was urgently needed. In an effort to meet this need, Governor Quinn requested assistance from the personnel of the Department of Land and Natural Resources. We may observe the process of policy formation in the ensuing exchanges between the governor's office and key figures in the department of land and natural resources. In a memorandum of August, 1960, the governor's office requested the department to identify the major issues of public land policy.

> In order to facilitate consideration of the very complex problem of compiling and revising the State's land laws, the Governor feels it would be highly desirable to have a summary of the major policy questions which will have to be decided upon in adopting new comprehensive land laws for Hawaii. Once these policy questions have been identified, it will then be possible to make decisions regarding such policy questions. These policy decisions can then be used as guidelines for the detailed drafting of the specific provisions of the land laws.[125]

The Department of Land and Natural Resources responded by presenting an outline of the major policy issues of which account needed to be taken in the revision of the public land laws.[126] On the basis of this analysis,[127] Governor Quinn attempted to formulate a comprehensive statement designed to serve as a guideline for his legislative recommendations on public land policy.

In setting forth "A Land Policy for the State of Hawaii", the governor argued that a realistic and effective land policy for Hawaii must be founded on two basic considerations: (1) the widespread ownership, control, and use of the land in preserving and further developing a strongly democratic and politically, socially, and economically stable community, and (2) conservation of the land, an extremely scarce natural resource in Hawaii.[128] Contending that the "complete political democracy" realized with statehood demanded governmental action to help broaden the base of land ownership, Quinn stated, "Where our people are without decent housing, and where land is available but is not being used to meet housing needs, the State should take the land--with just compensation--and make it available to those in need."[129] In this connection, he argued that, since one of the major reasons for the continued leasing of land for house lots rather than selling it outright was that the private landowners could not dispose of house lots without paying exorbitant federal taxes, the State should enact legislation so that individual ownership might be increased without serious penalty to the present large landowners. To the extent that the leasehold system might continue, the governor pledged the State's assistance in outlawing onerous and

discriminatory terms and conditions.

Having called upon Hawaii's large private landowners to sell house lots in fee simple, the governor recommended a similar policy for the State. Specifically, he called for legislation permitting lessees of state-owned house lots and small farms to purchase their land. He further supported this proposal by the argument that "A 'leasing only' policy for state lands is completely unrealistic, . . . [because] it greatly limits the possibilities of obtaining the financing developers need and want to undertake any large-scale developments."[130]

Governor Quinn's recommendations for revision of the public land laws were not confined to residential land. He recommended that "state lands suitable for commercial and industrial use should be developed and disposed of in whatever manner will best serve the interest of the public and further the economic development of the State".[131] At the same time, he felt that "State lands essential to our major agricultural industries should continue to be devoted to these uses. Decisions as to continued use should be based on the overall economic benefit to the State, and not simply on the amount of rentals to be collected."[132]

Quinn was convinced that Hawaii's basic agricultural industries had to be protected and preserved. "But our ultimate objective is not simply the preservation of the status quo. Our agricultural policy can be simply stated. We shall develop our lands, crops, feeds, and fertilizers, and discover the means and master the techniques to enable Hawaii to produce most of what it eats."[133] "Land programs--both public and private--must preserve these good agricultural lands."[134]

Governor Quinn's expression of concern with the preservation of Hawaii's valuable agricultural land for commercial agriculture was based on his view that:

> . . . agriculture is, and must remain, an important element of the economy of Oahu. In fact I feel the State has an obligation to act to keep agriculture strong on this Island. The pressure of urbanization among these farmers is an immediate problem requiring immediate action.[135]

Legislation designed to protect agricultural land was passed by Hawaii's first state legislature in 1961. Quinn said of this new Greenbelt Law that it was based on the:

> . . . sound principle of protecting prime agricultural lands in this agricultural state from gross and hasty urbanization. This is done by designating areas as urban, agricultural, or conservation districts and

> thus subject to whatever internal zoning the appropriate county or state agencies may impose.[136]

The objective sought by the governor--wholesale revision of public land laws--was facilitated by a provision of the congressional act of 1959 through which Hawaii had become the 50th state in the American Union. This provision was generally interpreted as setting a two-year deadline for the enactment of public land laws by the new state government to replace the old territorial land laws. It was anticipated that the 1961 session of Hawaii's first state legislature would devote a large part of its time and resources to the enactment of a body of new public land laws.

Governor Quinn's message to the membership of the legislature emphasized the importance of this task. Said he:

> The state land represents the most significant and powerful instrument we have to spur the economic development of these islands. It is the most effective vehicle we have to implement state policies and to guide the growth of our economy. Our historic legacy of vast areas of tragically unused lands can be invested in our state's future for the benefit of posterity.[137]

The governor's concern over public land policy was shared by the leadership of Hawaii's Senate and House of Representatives. For months prior to the 1961 legislative session, the membership of the Senate Lands Committee held hearings throughout the Islands to secure testimony regarding existing public land policy and proposals for new legislation. The committee and its staff had considered every provision of the corpus of public land law inherited from the territorial period.

The committee completed its work prior to the opening of the 1961 legislative session, and introduced its comprehensive proposals as Senate Bill 3. The Land Committee of the House of Representatives prepared an equally comprehensive bill during the legislative session, a bill that differed in many important respects from the Senate's measure. Inasmuch as there appeared to be no chance that agreement could be reached by the two houses of the legislature through the process of amending the bills, a conference committee was given the responsibility for resolving the differences.[138]

The conference committee was unable to resolve all of the issues between the Senate and the House, and the 1961 legislature adjourned without having enacted new public land laws. Shortly before the legislature's adjournment, Governor Quinn's attorney general had

written an opinion in which he argued that Hawaii's territorial land laws could continue in effect indefinitely in the absence of new land legislation. This opinion was challenged by some leaders of the Democratic party, who argued that the State had no authority to convey clear title to public land, to negotiate leases, or generally to carry on public land management until public land legislation was enacted.

This dispute was never tested in the courts, as both sides to the dispute were anxious to see new public land laws enacted. Governor Quinn emphasized the seriousness of the need for public land legislation in his opening message to the 1962 "Budget Session" of the 1962 legislature. He argued that Hawaii's existing public land laws were "restrictive and antiquated", degrading "symbols of territorial bondage", and as restrictions "that inhibited the development of a dynamic public land policy" for Hawaii. Again, he urged that "substantial amendment is urgent if we are to make full use of our limited resources".[139]

The Democratic leadership of the House of Representatives agreed to accord "urgency" status to consideration of public land measures, thereby making it possible to afford that matter consideration during a "Budget Session". The conference committee created to resolve the many differences between senate and house public land bills accomplished its objective. The legislation that was enacted consummated the first sweeping changes in Hawaii's public land statutes since President Dole's legislation in 1895.

Governor Burns' Public Land Policy

The new State of Hawaii had finally secured public land legislation, but Governor Quinn was afforded but little time to administer it. He was defeated in his bid for re-election in a bitter contest in which the land issue figured prominently. His place was taken by Governor John Burns, who had played an especially important part as Hawaii's Delegate to the U.S. Congress in winning the battle for statehood. Elected with Burns was a substantial Democratic majority in both houses of Hawaii's legislature. The Democrats thereby controlled both the legislative and executive branches of government for the first time in the Islands' history.

Governor Burns was re-elected governor for a second term in 1966, and has now been Hawaii's chief executive for some seven years. He had consistently emphasized the issue of land reform during the many years that he spent in developing the political coalition that constitutes Hawaii's contemporary Democratic party. Circumstances

do not make it possible to secure the historical perspective required for an objective analysis of the policies of Governor Burns as an incumbent, though tentative comments may be offered at this time on some aspects of the public land policies implemented by the governor since he assumed office.[140]

While Governor Burns has successfully sought some limited amendments to Hawaii's public land laws during his terms in office, his general view regarding public land legislation appears to be that:

> . . . rigorous enforcement of laws already on the statute books offers a sufficient instrument for effective action without the need for further legislation. Under his administration, the Democratic majorities in the legislature have been considerably less suspicious of Land Department personnel and its appointed director. Accordingly, the tendency has been to relax the tight restrictions written into the public land laws, thereby allowing greater discretion in the management of the public domain by the chief executive and the Land Department.[141]

Indeed, significant evidence of the legislature's willingness to rely to a greater extent upon executive management of the public domain was evidenced by passage of an:

> . . . omnibus bill enacted in 1965 to revise the public land laws. The $25,000, 40-acre limitation on exchanges of public for private lands was dropped, and the requirement for express prior authorization for each proposed exchange was replaced by making exchanges subject to legislative rejection. Similarly, public lands may now be sold in fee simple for business purposes without auction, subject, however, to legislative reversal of proposed transactions in lieu of the former provisions which required prior legislative approval. The maximum length of agricultural leases has been increased where sizeable capital investment is required for land improvement, as has the maximum duration of land licenses. Through these and other revisions of the 1962 public land law, the legislature has sought to achieve greater internal consistency in the public land laws and at the same time has loosened many of the restrictions designed to curtail the discretion of the executive branch in this area.[142]

Further amendments to the public land laws have been considered during recent sessions of Hawaii's legislature, and still others may be proposed by the new chairman of the Board of Land and Natural Resources.[143] One thing is certain: "the pressures underlying Hawaii's perennial land problem continue to increase. The Islands' population is growing steadily, and its developing economy" will place ever heavier and more complex demands on ever more limited land resources.[144]

Part II

ACQUISITION AND DISPOSITION OF LAND IN HAWAII BY THE UNITED STATES GOVERNMENT

Introduction

An indispensable adjunct to any thorough going analysis of the history of gubernatorial land policy in Hawaii is an account of the public land policy pursued by the United States government after annexation of the Islands in 1898. Federal land policy in Hawaii continues to be a matter of considerable importance. It presented one of the major problems confronting those who framed Hawaii's statehood bill in 1959. The framers of this legislation had to decide what should be done with the extensive federal land holdings within the Territory, and the resolution of this problem was no simple task. It involved coming to terms with the history of federal land ownership in Hawaii, including the various modes of land acquisition, the varying categories of land as established by a complex body of law, and the different interests and practices that had grown up either directly or indirectly as a result of these laws. The problem's complexity was matched only by its delicacy. The strong desire of the people of Hawaii for the return of the greater part of the land at little or no cost was sure to conflict with a variety of federal interests, the principal of which was the desire of military officials to retain most of the land already under military control. Insofar as there were conflicts, some standards were required for their resolution. These standards were derived in part from a consideration of such large and diverse issues as the defense needs of the nation and the relative justice of Hawaii's claim to the land.

It was hoped that the statehood bill would settle the entire matter. However, as might have been expected, given the scope and complexity of the problem, such hopes were not entirely fulfilled. Although the bill did provide for the disposition of the greater part of the federal land, many citizens of Hawaii were unsatisfied with either the substance or the effects of some key provisions. The conflicts that arose were handled in a variety of fashions. In some instances accommodations were reached between the state and the federal agencies involved. In at least two other cases a remedy had to be obtained through special congressional legislation. In one instance involving a small but valuable land category, the matter has yet to be fully settled. Indeed, this particular case has already involved the State in a Supreme Court case and has also been a source of extended political dispute between some of Hawaii's

Democrats and Republicans.[1] In order to understand this particular case, as well as the statehood bill and the other problems that developed thereafter, we must consider the manner in which the federal government acquired land on the mainland and in Hawaii.

Historical Background

Under the Articles of Confederation many of the colonial governments held claims, often conflicting, to large and mostly unsettled areas of land in what was then generally known as the West. These conflicting land claims, together with the uneasiness of those colonies which did not hold any western land, made the land issue one of the most controversial problems of the day. Indeed, its solution under the articles was one of the confederated government's outstanding achievements. Colonies owning territory in the West agreed to cede their claims to the new national government. Thus the national government first became the owner of a vast and valuable public domain. With the adoption of the constitution, control of all of the property of the United States was vested in Congress (Article IV, Section 3). In formulating policies for disposition of this land, Congress was extremely generous to new states. When a new state was formed, it became the recipient at no cost of the greater part of the previously unappropriated federal land within its boundaries.

Through treaties of various sorts, the federal government obtained title to additional large amounts of land. Some land was purchased (Louisiana, Alaska, and the Gadsden Strip), some was obtained through negotiation (the Oregon territory), and some was obtained through conquest (much of the southwestern territory). In each of these instances, the federal government acquired ownership title to all land, except that legally held under private title.[2]

Two of our present states, Texas and Hawaii, stand as exceptions to this account. Both were acquired through annexation, prior to which each was a sovereign nation; and both voluntarily relinquished their sovereignty in order to join the United States.

Unlike other territories acquired by the United States, Texas and Hawaii each had a considerable population when it entered the Union. More importantly for present purposes, each had, as a self-governing area, a developed body of public land law under which it had long administered a public domain of considerable size.

Though unique in character, the public domain of Texas created no special problems for the United States Congress. The Joint Resolution for annexation provided that Texas would enter the Union directly as a state. As a state, it would retain control of all its unallocated public land, with the exception of some small areas required by the federal government for defense purposes. The Republic of Texas ceded to the United States all land not inside the boundaries of the prospective state--as these boundaries were fixed by Joint Resolution. Unlike the other western states, Texas thereby became part of the United States without the federal government's acquiring or holding title to the greater part of her public land.

Federal Land Acquisition in Hawaii

The Republic of Hawaii was annexed to the United States under the terms of a congressional joint resolution, popularly known as the Newlands Resolution.[3] Understandably, Congress did not consider the corpus of public land law developed for the mainland United States well-suited to meet Hawaii's needs. The established patterns of land ownership and utilization in Hawaii differed significantly from those prevailing in other areas when they were acquired by the United States. The long established plantation system of agriculture had already made land suitable for commercial agriculture relatively scarce. Furthermore, land policy had been vigorously debated in the Islands for well over half a century prior to annexation, and public land laws thought to be well suited to the needs of the community had been enacted under President Dole's leadership.

Congress took account of Hawaii's need for distinctive public land legislation suited to the special needs of the Islands by providing in the Newlands Resolution that:

> The existing land laws of the United States relative to public lands shall not apply to such land in the Hawaiian Islands, but the Congress of the United States shall enact special land legislation for their management and disposition.[4]

While the enactment of this promised legislation was delayed, the Newlands Resolution stated in general terms that, with the exception of those areas required for military or other stipulated civil needs, the land ceded by the Republic of Hawaii should be used for the benefit of the people of the Territory of Hawaii, specifically:

> . . .that all revenue from or proceeds of same, except as regards such part thereof as may be used or occupied for civil, military, or Naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.[5]

The President of the United States was directed to appoint a five-man commission to make recommendations to Congress for the legislation needed. Congressional leaders apparently believed that these measures could be quickly enacted. However, it was not until June 14, 1900, that Hawaii's Organic Act went into effect. There ensued during the interim of nearly two years the conflicts over public land policy recounted in Part I of this study.[6]

Under the terms of the Newlands Resolution, Hawaii's public domain was intended to serve the interests of both the United States government and the people of Hawaii. In the event of conflict it was intended of course that the interests of the United States should prevail. Yet the means for resolving these potentially conflicting interests were not fixed in the Newlands Resolution but remained for future determination. The degree to which these interests have, in fact, been reconciled since annexation can be better understood by tracing the history of governmental land holdings in Hawaii from 1898 to the present. Figure 1, together with the description that follows, provides the details of changes in governmental land holdings in Hawaii since 1898.

Roman numeral (I) near the top center of Figure 1 designates Hawaii's public domain prior to annexation, approximately 1,800,000 acres. This entire acreage was ceded to the United States upon annexation, as is shown by Roman numeral (II). It is referred to as the "Ceded Land", and is designated throughout the diagram by the letter [C-1].

Roman numeral (III) designates the status of Hawaii's public domain when the Organic Act took effect on April 30, 1900. There occurred at that time the first significant division of the ceded land. Category [C-2] signifies the ceded land formally "set aside" for certain designated uses under pertinent provisions of the Organic Act. This category included some 20,000 acres as of April 30, 1900, and consisted of land that had earlier been "set aside" provisionally by President McKinley between annexation in 1898 and passage of the Organic Act in 1900.[7]

Figure 1

DISPOSITION OF HAWAII'S PUBLIC DOMAIN: 1898-1959

Land Primarily under Ownership or Control of Hawaii's Republic, Territorial or State Government			Date		Land Primarily under Federal Ownership or Control		
Hawaii's Public Domain (approximately 1,800,000 acres)			I.	1898 (prior to Annexation)			
			II.	1898 (Annexation)	(C-1) Hawaii's Public Domain Ceded (a		
			III.	1900 (Organic Act)	Ceded land (C-1)		Land "set aside" by Executive Order (C-2)
		Territorial purchases (B-1)	IV.	1909	Ceded land (C-1)		Land "set aside" by Executive Order (C-2)
	Transferred [federal] ceded land (C-3)	Territorial purchases (B-1)	V.	1910	Ceded land (C-1)		Land "set aside" by Executive Order (C-2)
	Transferred [federal] ceded land (C-3)	Land "set aside" by Gubernatorial Executive Order for federal use (B-2) Territorial purchases (B-1)	VI.	1941	Ceded land (C-1)		Land "set aside" by Executive Order (C-2)
	Transferred [federal] ceded land (C-3)	Land "set aside" by Gubernatorial Executive Order for federal use (B-2)	VII.	1959 (prior to Statehood)	Ceded land (C-1A)	Ceded land controlled by federal agencies (C-1B)	Land "set aside" by Executive Order (C-2)
Ceded land controlled by federal agencies (C-1B) (Conditional state title at this time)	Ceded land (C-1A) Transferred [federal] ceded land (C-3)	Territorial purchases (B-1)	VIII.	1959 (Statehood)			Land "set aside" by Executive Order (C-2)

for history since 1959, see Figures 3 and 4

Land given unqualifiedly to State of Hawaii

LIC DOMAIN: 1898-1959

r Ownership or Control of Hawaii's itorial or State Government	Date	Land Primarily under Federal Ownership or Control		
oximately 1,800,000 acres)	I. 1898 (prior to Annexation)			
	II. 1898 (Annexation)	(C-1) Hawaii's Public Domain Ceded (approximately 1,800,000 acres)		
	III. 1900 (Organic Act)	Ceded land (C-1)	Land "set aside" by Executive Order (C-2)	
Territorial purchases (B-1)	IV. 1909	Ceded land (C-1)	Land "set aside" by Executive Order (C-2)	Land acquired after Annexation (A)
Territorial purchases (B-1)	V. 1910	Ceded land (C-1)	Land "set aside" by Executive Order (C-2)	Land acquired after Annexation (A)
Land "set aside" by Gubernatorial Executive Order for federal use (B-2) / Territorial purchases (B-1)	VI. 1941	Ceded land (C-1)	Land "set aside" by Executive Order (C-2)	Land acquired after Annexation (A)
Land "set aside" by Gubernatorial Executive Order for federal use (B-2) / Territorial purchases (B-1)	VII. 1959 (prior to Statehood)	Ceded land (C-1A) / Ceded land controlled by federal agencies (C-1B)	Land "set aside" by Executive Order (C-2)	Land acquired after Annexation (A)
Territorial purchases (B-1)	VIII. 1959 (Statehood)		Land "set aside" by Executive Order (C-2) / Land "set aside" by Gubernatorial Executive Order for federal use (B-2)	Land acquired after Annexation (A)

For history since 1959 see Figures 3 and 4

For history since 1959 see Figure 5

The ceded land [C-1] not "set aside" by the President or Hawaii's governor remained the property of the United States, but was placed under the "possession, use, and control of the Territory of Hawaii". Thus the federal government held legal title to all of this land, while what we might call equitable title was placed in the Territory of Hawaii. In other words the territorial government undertook the day-by-day administration of the public domain and received such income as was derived from its use. The territorial government was also empowered to dispose of portions of this land through exchange, outright sale, or under the terms of homesteading legislation. Authority for the administration of the public domain was vested in the hands of the Commissioner of Public Lands, appointed by the governor.

Roman numeral (IV) designates Hawaii's public domain as of 1909. Category [A] consists of land (other than ceded land) acquired by the federal government in Hawaii after annexation. This land was obtained by the federal government through cash purchase, condemnation proceedings under the power of eminent domain, gifts, or in other ways. This category, which was sometimes technically referred to as "federal land acquired after annexation", we shall call "federal fee simple land".

Category [B-1] consists of land acquired by the Territory of Hawaii after annexation. Such land was also obtained through cash purchase, condemnation proceedings, gifts, or in other ways. This category will hereafter be termed "territorial land acquired after annexation".

Roman numeral (V) signifies Hawaii's public domain as of 1910, following enactment of significant amendments to sections 73 and 91 of the Organic Act by the United States Congress.[8] Among the important amendments relevant for present considerations were those providing that the president could restore to its former legal status ceded land taken for the use of the United States. The president was also authorized to transfer title to the Territory of Hawaii for such land as was used by the territory for a wide variety of public purposes. Hawaii's government was further authorized to transfer such property to any city, county, or other political subdivision of the Territory, subject to approval of the legislature. Land included in this category will hereafter be termed "Transferred (federal) ceded land", and will be designated as [C-3].

Roman numeral (VI) designates Hawaii's public domain as of 1941 following enactment of still another important amendment to section 73 of the Organic Act by the United States Congress.[9]

Through this action, Hawaii's governors were authorized to "set aside" for federal use portions of the public domain land purchased after annexation by the Territory. But the title to such land remained with the Territory of Hawaii. This category will hereafter be termed "Territorial land set aside by the Governor for federal use", and will be designated as [B-2].

It should be noted that both the president and Hawaii's governor were empowered to "set aside" portions of the ceded land [C], but the president alone was authorized to return this land to its former status. Only the governor, however, could "set aside" territorial property [B], and only he could return it to its former status.

Roman numeral (VII) designates Hawaii's public domain in 1959, immediately prior to the granting of statehood. By this time, a significant additional sub-category of ceded land had been created that must be taken into account. This sub-category [C-1B] consisted of ceded land that had not been "set aside" but which was "controlled by the United States government pursuant to permit, license, or permissions, written or verbal, from the Territory of Hawaii or any department thereof". One might consider this land as being under a form of "lease" to the various federal agencies. For purposes of subsequent discussion it is important to distinguish this category [C-1B] from ceded land which was neither "set aside" nor leased to the federal government [C-1A].

Roman numeral (VIII) designates Hawaii's public domain after passage of the Statehood Act. The Statehood Act included provisions for the division of Hawaii's public domain between the federal government and the new state government of Hawaii. Under the terms of this settlement, the State of Hawaii secured clear title in 1959 to the following significant categories of land in her public domain:

(1) [B-2]: Land purchased by the Territory of Hawaii after annexation, wherever such land had not been "set aside" for use by federal agencies,

(2) [C-3]: Transferred [federal] ceded land,

(3) [C-1A]: Ceded land that had not been "set aside", not leased, or in any other way conveyed to the federal government,

(4) [C-1B]: Ceded land not "set aside" but under direct federal control pursuant to permit, license, etc. The State of Hawaii received conditional title only to land in this category. Title to this land was to be vested in the State of Hawaii--except for such portions as the president might choose to "set aside" on or before August 21, 1964. The provisional character of the title to this land is extremely important since most of this land eventually went back to the federal government.

Through this land division the government of the United States obtained title to the following categories of land:

(1) [B-2]: Territorial land acquired after annexation and "set aside" for the use of the federal government,

(2) [C-2]: Ceded land that had been "set aside" at any time since annexation. The disposition of this land as well as the land from [B-2] was governed by section 5(e) of the Statehood Act, which provided that until August 21, 1964, land not needed by the federal government would be returned without cost to the State of Hawaii. After that date, the land still held by the United States was to become its unrestricted property. Portions of this land as might thereafter become unneeded would be disposed of in the same manner as other federal surplus real property, i.e., under the terms of the Federal Property and Administrative Services Act of 1949. However, as will be explained subsequently, the August 21, 1964 deadline for disposing of a great deal of this land was indefinitely extended by a 1963 act of Congress.[10]

(3) [A]: Land acquired by the federal government after annexation. This land remained the property of the United States, but its status under the Statehood Act was not clear. Given the importance and value of this land, it was hardly surprising that this lack of clarity gave rise to controversy, including a partisan political clash between some of Hawaii's Republicans and Democrats. The dispute centered on whether in drafting section 5(e) of the Statehood Act Congress had intended to include land acquired by the federal government after annexation [A]. In July 1961, the Attorney General of the United States, Robert Kennedy, was asked to prepare an opinion for the executive branch of the government. He held that land in category [A] should be disposed of by the federal government

under the Federal Property and Administrative Services Act of 1949.[11] However, this view has not been accepted by some Hawaiian Republicans and a few of them are still seeking to have the question decided by the Supreme Court.

In order to better understand the post-statehood status of these major categories of land in the public domain, we shall trace separately each category involving federal land ownership. They are listed below with their respective acreage at the time of statehood:

	Description of Land	Category in Figure 1	Acreage at Statehood, 1959
1.	Ceded land "set aside" prior to Statehood	[C-2]	287,078.44 Acres
	Land "set aside" by Gubernatorial Executive Order for federal use	[B-2]	
2.	Land acquired after annexation by the federal government	[A]	28,234.73 Acres
3.	Ceded land under permit license, etc. to federal agencies at the time of Statehood. (This land had not been "set aside".) Provisional or conditional title was given to the State of Hawaii	[C-1B]	117,412.74 Acres
		Total Acreage	432,725.91

Land Affected by Section 5(e) of the Statehood Act

Land in categories [C-2] and [B-2] may properly be considered together, for all such land was given the same status under the Statehood Act. The amount of land in these two categories at the time of statehood was 287,078 acres. Of this total, 227,972 acres were located in national parks; most of the remainder was located in military reservations under the control of the Defense Department.

As we have noted, this land was governed by section 5(e) of the Statehood Act, as amended by the Hawaii Omnibus Bill. It provided that any agency of the federal government having control over any of this land was to:

> . . .report to the President the facts regarding its continued need for such land and property and if the President determines that the land or property is no longer needed by the United States, it shall be conveyed freely to the State of Hawaii.

This land was subject to this free return provision until August 21, 1964, after which title was to be permanently vested in the federal government.

The task of administering this provision was assigned to the Bureau of the Budget, which also was charged with the responsibility of surveying the various federal agencies to ascertain their continued need for land. Circular A-52, issued by the bureau in November, 1960, requested that each agency prepare a report on its land needs by June 30, 1961. Provision was also made for subsequent review of land needs. As part of these arrangements Hawaii's governor was afforded an opportunity to request a review of the status of any given parcel of land. Such requests for review were to be given priority treatment. Moreover, the State of Hawaii could propose alternative sites for federal installations, although such proposals were in no way binding. In short, while Hawaii was not given the power to force the return of any given land parcel, it was at least given a channel through which its needs and wishes might be made known. In addition, of course, Hawaii's state government had access to various informal channels to help secure the return of land, e.g., Hawaii's congressional delegation could attempt to persuade or cajole federal agencies into relinquishing certain land parcels.

No attempt was made by Hawaii's state government to obtain any of the land formerly set aside for the national parks, since this land was considered to serve the public interest best through this use. By contrast, many people felt it not in the public interest for the Defense Department to continue to retain all the land which it controlled, and they charged that the Defense Department held more land than was necessary for carrying out its responsibilities for national defense. Accordingly, the greater part of the "bargaining" for the return of federal land centered upon certain areas that had been "set aside" by presidential executive order for defense purposes. Concern over the seeming reluctance of the Defense Department to return unneeded land was heightened because it had relinquished only 595 acres of land under the provisions of section 5(e) prior to the deadline of August 21, 1964; this amount was far less than state officials had expected. The parcels returned are itemized as follows:

Table 8

LAND RELINQUISHED TO STATE OF HAWAII UNDER SECTION 5(e)
OF STATEHOOD ACT PRIOR TO AUGUST 21, 1964

Location of Land	Acreage	Date Returned
East Range, Schofield Barracks (Army)	24.736 acres	4-8-60
Portion of Waikalua-Waho Beach Reserve (Kaneohe, Koolaupoko, Oahu)	3365 sq. ft.	10-31-62
Portion of Kawaihae Lighthouse Reservation (Coast Guard)	6.94 acres	10-31-62
Portion of Keahole Point Hawaii (Coast Guard)	7.745 acres	10-31-62
Island of Mokuaeae, Kauai (Coast Guard)	5 acres	10-31-62
Aiea Reservoir (portion) (Navy)	30.7 acres	9-27-62
Waipio Peninsula (portion) (Navy)	46 acres	9-27-62
Camp Andrews (Nanakuli Military Reservation) (Navy)	30 acres	8-21-62
Aiea Water Pumping Station (Navy)	4.3 acres	8-21-62
Aiea/Halawa Veterans Housing Area (ceded portion) (Navy)	4.1 acres	8-21-62
Wailupe Radio Station (portion) (Coast Guard)	.75 acre	4-26-62
East Range, Schofield Barracks (for Hawaii Electric Co.) (Army)	3 acres	4-23-62
Koanu Ridge Military Reservation (total) plus right of way over Farrington Highway	.198 acre .600 sq. ft.	12-10-62
Pupukea "O" Military Reservation (total)	.414 acre	12-10-62
Puu-O-Hulu Military Reservation (total) Easements and licenses at Lualualei	3.085 acres 431,781 sq. ft.	12-10-62
Waialua Military Reservation (total)	.30 acre	12-10-62
Signal Cable Trunking System Waialae Iki	Unknown	12-10-62
Waianae-Kai Military Reservation (portion) (Army)	.001 acre	12-10-62
Maili Military Reservation (total) (Army)	.455 acre	12-10-62
Bonham AFB (portion) (Air Force)	132.48 acres	1-17-63
Aiea Reservoir Right of Way (Navy)	1.18 acres	3-5-63
Fort Shafter Highway Lands (Army)	25.212 acres	3-15-63
Fort Shafter (portion)	3.885 acres	3-15-63
Fort Shafter Flats	42.380 acres	3-15-63
Kapalama Tracts D & I (Army)	50.76 acres	3-15-63

Table 8 (continued)

Location of Land	Acreage	Date Returned
Bonham AFB Easement (Air Force)	1.78 acres	7-12-63
Bonham AFB Easement (Air Force)	.53 acres	7-12-63
Pier "1" Honolulu (H.E.W.)	1.296 acres	7-12-63
Kawaihae Harbor Project (Army)	6.57 acres	8-12-63
Waianae-Kai Military Reservation (Army)	157.71 acres	4-11-64
	7.26 maneuver rights	
Total	595.41 acres	

Some of Hawaii's political leaders strenuously objected to the August deadline date for the return of this land that had been "set aside" under executive order. They contended that a good deal of land would become unneeded after the deadline; and they could see no reason why such land should not be returned to the State at no cost whenever it became unneeded. (The acreage from this category in national parks was always exempted from this argument.)

This argument--accepted by Hawaii's Republicans and Democrats as well as the Bureau of the Budget--was pressed before the Congress in the effort to secure special legislation. Proponents of the measure argued that this land was originally owned by Hawaii, and when transferred to the federal government, it was held by the latter as a kind of "trust", with Hawaii retaining some residual claim on it. Senator Inouye put the argument this way in speaking before the Senate Subcommittee on Public Lands:

> Let us assume that this bill does not pass, and therefore Section 5(e) stands unamended, and August 21, 1964 is the deadline. Thereafter, even if the federal government 1 day, 1 year, or 10 years later should declare such parcels surplus, the State of Hawaii under the present provisions of Hawaii law, would have no rights to it.
>
> We feel this is not equitable, and I do not think this was within the intent of the Members of Congress. These lands were held in trust by the federal government for the people of Hawaii, with the eventual hope that they would be returned, when federal need was not present.[12]

Kermit Gordon, Director of the Bureau of the Budget, explained the matter this way to Vice-President Lyndon Johnson:

> We believe that Hawaii has a unique claim on the lands and property involved since they were originally given to the United States by the Republic or Territory of Hawaii. That claim and the special status of those lands and property have been recognized by the United States for many years. In essence, the proposal would provide for the continuation of a sixty-year practice of returning those lands and property when they were no longer needed by the United States.[13]

These arguments proved persuasive and Congress enacted Public Law 88-233. For 58,510 acres of land that had been governed by section 5(e) of the Statehood Act, i.e., "set aside" but not in national parks, the August 21, 1964 deadline was abolished. Unneeded federal land from this acreage was to be returned at no cost to the State whenever it became available, although capital improvements on the land might be assessed. Land that had been "set aside" pursuant to the Act of August 25, 1926, i.e., the land "set aside" for

national parks, now became the fee simple property of the United States government.

In addition, Public Law 88-233 made some other changes. First, it combined the 58,510 acres of land from 5(e) exempted from the August 21, 1964 deadline with 87,237 acres of land formerly governed by 5(d) to set up a new category of land "set aside" from which, as just noted, unneeded land would be returned at no cost. Since August 21, 1964, 49 acres of land from this category have been returned to the State. Second, it provided for the return to the State of Hawaii at no cost all unneeded portions of Sand Island, a valuable land area near Honolulu required for the city's industrial and commercial expansion. This rather complicated history of the land governed by 5(e) of the Statehood Act is depicted in Figure 2.

Finally, land returned under Public Law 88-233 was subject to the same restrictions as land returned under section 5(e), the same provision that governed all ceded land that was returned to the State. This was the "public use" or "public trust" provision of section 5(f) of the Statehood Act:

> The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposed in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust. . . .

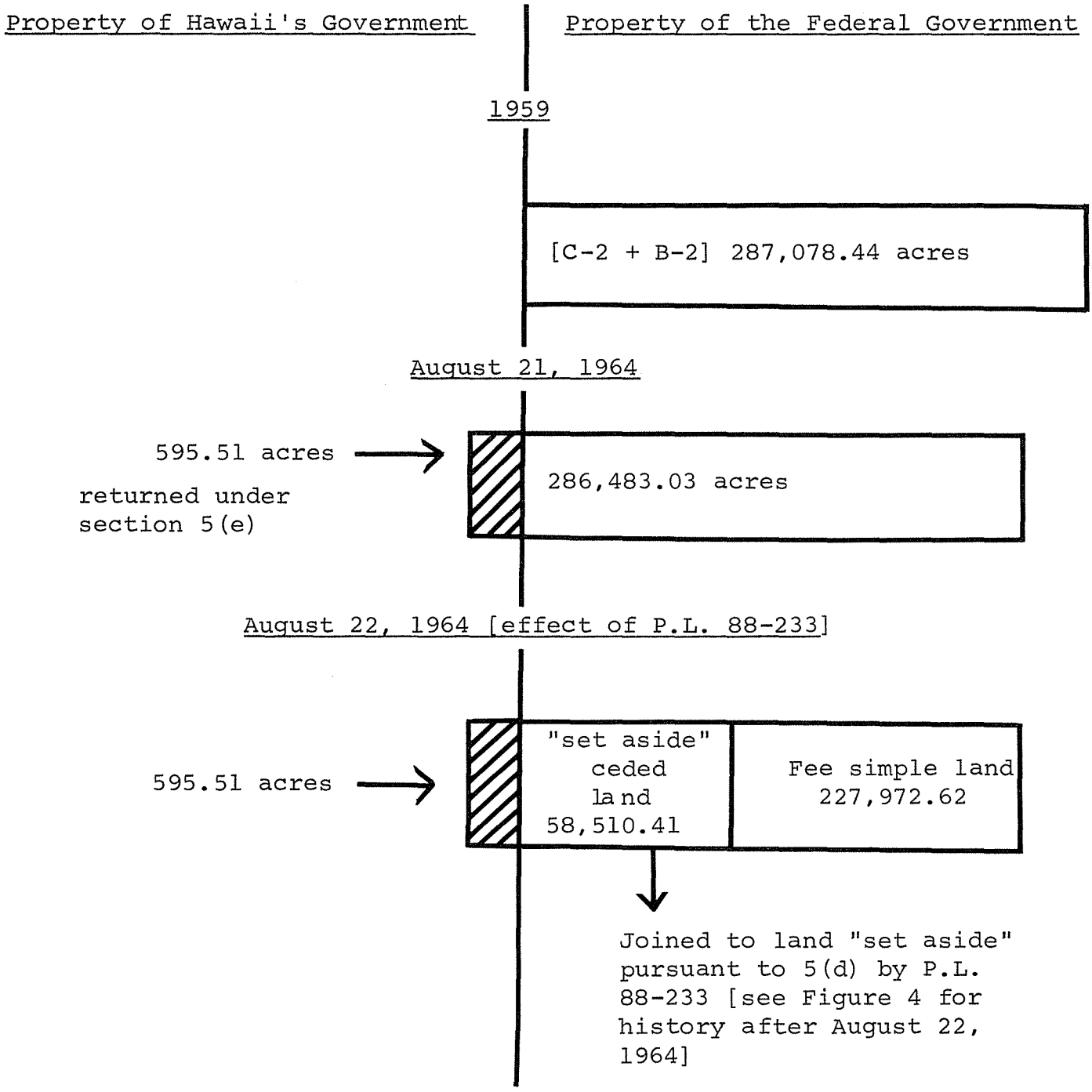
Land Governed by Section 5(d) of the Statehood Act

We turn now to a consideration of the ceded land not "set aside" but nevertheless controlled by the federal government at the time of statehood "pursuant to permit, license, or permission, written or verbal, from the Territory of Hawaii or any department thereof.[14] At the time of statehood, this land amounted to 117,412.742 acres and was controlled exclusively by the Defense Department. It was not,

Figure 2

Status of Land "Set Aside", 1959-1964

[Categories C-2 and B-2]



generally speaking, land of high-value; still, taken as a whole, it was of considerable value. This land was governed by section 5(d) of the Statehood Act, which provided that it would remain the property of Hawaii except for those portions which the president "set aside" by executive order prior to August 21, 1964.

Soon after statehood it became apparent that the Defense Department had no intention of immediately giving up control of any of this land; and that this would quite likely be the final position of the executive branch. Faced with this prospect, Hawaii's Democratic congressional delegation pressed hard for some concessions, but was largely unsuccessful.[15] Serious action by the United States government was put off until the summer of 1964, when staff members from the Bureau of the Budget went to Honolulu to "negotiate" with Governor Burns regarding this land. The position of the government was uncomplicated. The bulk of the land, 87,236 acres, was definitely to be "set aside", while the remainder of the land was to be leased to the federal government for 65 years at the nominal charge of $1.00 for each lease. These leases were in fact offered as a kind of concession, for the alternative, as the federal negotiators made clear, would be the "setting aside" of this land as well. The State of Hawaii was clearly bargaining from a position of weakness, and was forced to agree to these terms. The portion of this land placed under long-term lease will be available to the State in the year 2029, or perhaps earlier, should the federal government find that this land is no longer needed.

It should also be noted that the portion of land "set aside" under section 5(d)--87,236 acres--falls under the jurisdiction of Public Law 88-233. When that law was passed in 1963, it was realized that portions of the land governed by section 5(d) would subsequently be "set aside". Congress agreed that, when portions of this "set aside" land became unneeded, they, like the "set aside" ceded land and the "set aside" territorial land conveyed to the federal government at statehood, would be returned to the State at no cost (see Table 9 and Figure 3).

Land Governed by Public Law 88-233

Public Law 88-233 grouped together land "set aside" under section 5(d) as well as land formerly regulated by section 5(e), except for land "set aside" under the Public Law of August 25, 1916, i.e., land set aside for the national parks. The total acreage of this land "set aside" as of 1964 was 145,746.96 acres. Unneeded

Table 9

LAND GOVERNED UNDER SECTION 5(d)

A. Lands Set Aside by Executive Order*

Name	Executive Order Number	Acreage
Fort Shafter	11165	.500 acre
Makua Military Reservation	11166	3,236.000 acres
Pohakuloa Training Site	11167	84,000.057 acres
Total		87,236.557 acres

B. Land Returned to the State of Hawaii and Placed under 65-Year Lease to Federal Government

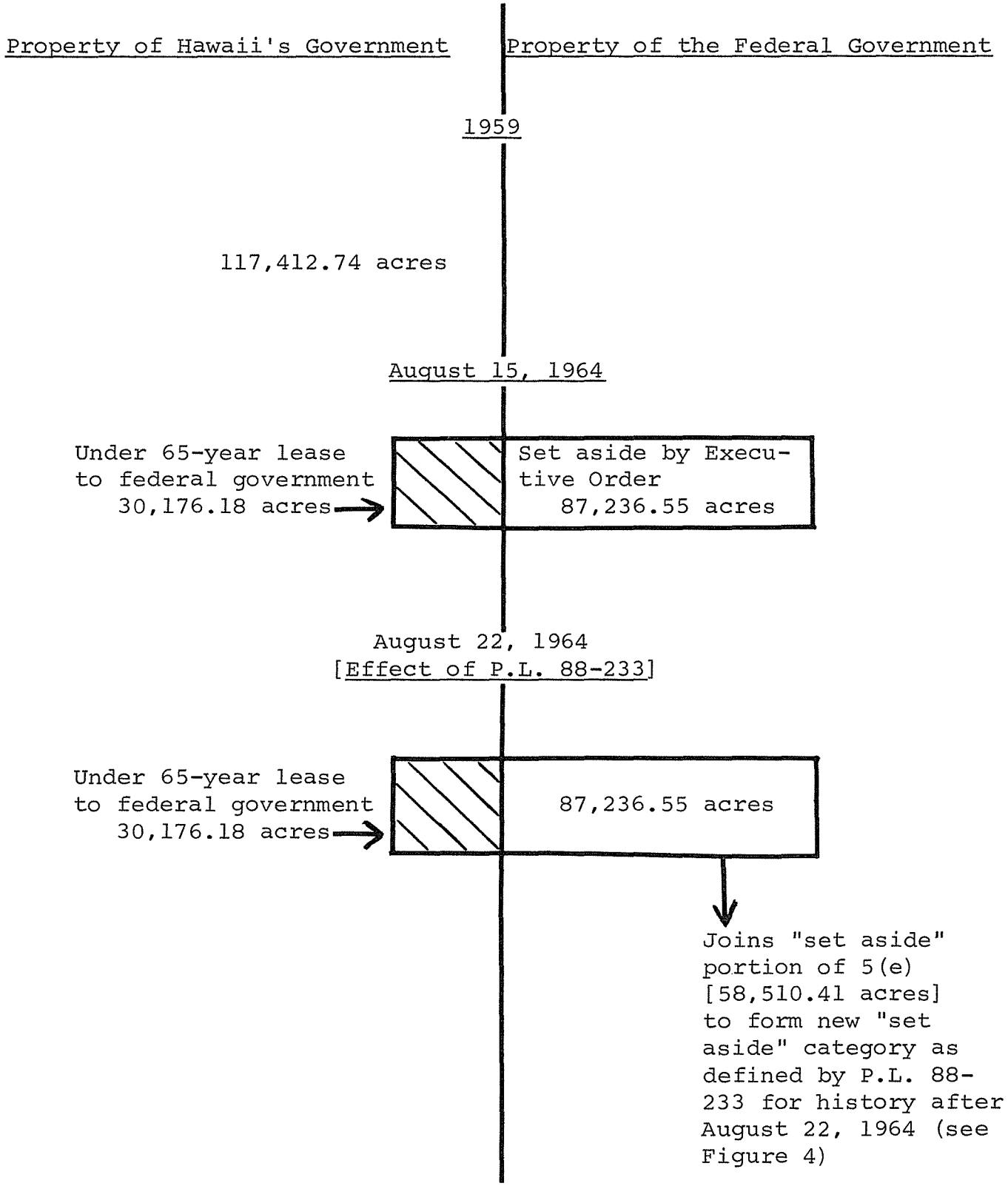
Name	Acreage
Lualualei, Oahu	57.825 (2 parcels)
Makua, Oahu	1,509.600 (2 parcels)
Pohakuloa, Hawaii	22,971.000 (3 parcels)
Kawailewa, Oahu	4,401.360 (2 parcels)
Kahuku, Oahu	1,150.000 (2 parcels)
Kuaekala, Oahu	86.400 (3 parcels)
Total	30,176.185 acres

*Executive Orders of August 15, 1964

Figure 3

Status of Land Governed by 5(e), 1959-1964

[Category C-1B]



parcels were to be conveyed to the State without charge, except for improvements made on the land. As of 1966, 48.89 acres of this land have been returned to the State (see Table 10A and Figure 4).

Public Law 88-233 also authorized the return of unneeded portions of the 288 acres controlled by the federal government on Sand Island, one third of which consists of submerged land. Special legislation was necessary to deal with the federal land on Sand Island because it was not considered ceded land, and hence could not be returned under the provisions of section 5(e).

Since Public Law 88-233 was passed in December of 1963, 242 acres (some still submerged) on Sand Island have been conveyed to the State. Land on Sand Island was subject to immediate conveyance after passage of the bill.

Federal Land Acquired after Annexation

We may turn now to a consideration of the land acquired after annexation [A] by the federal government. Obtained by purchase, comdemnation, and gift, this land is most frequently referred to as "federal fee simple land", or "federal purchase land". It comprised 23,234 acres at the time of statehood.

A variety of complex problems regarding the status of this land under the Statehood Act gave rise to the aforementioned legal struggle and political dispute between some of Hawaii's Democrats and Republicans. Although this dispute was most extensively publicized and debated during 1963, it has yet to be settled to the full satisfaction of all.

In analyzing this dispute, it will prove helpful to follow the history of this federal fee simple land since statehood. In our discussion of this partisan dispute, the attempt will be to objectively state the two positions.

As noted above, section 5(e) of the Statehood Act provided for the review of the status of federal land in Hawaii, and for the return at no cost to the State of land no longer required by federal agencies prior to August 21, 1964. While there was agreement that the "set aside" ceded land, and the "set aside" territorial land conveyed to the federal government at statehood were included, there was some question regarding the "federal fee simple land". If the latter were included in section 5(e), Hawaii would receive the unneeded fee

Table 10

LAND RETURNED UNDER P.L. 88-233

A. Set Aside Land

Location	Acreage	Date of Return
Papapaholahola Site, Kalaheo Homestead, Kalaheo, Kauai	.62 acre	3-67
Hilo Facility, Waiakea, South Hilo	48.27 acres	2-67
Total	48.89 acres	

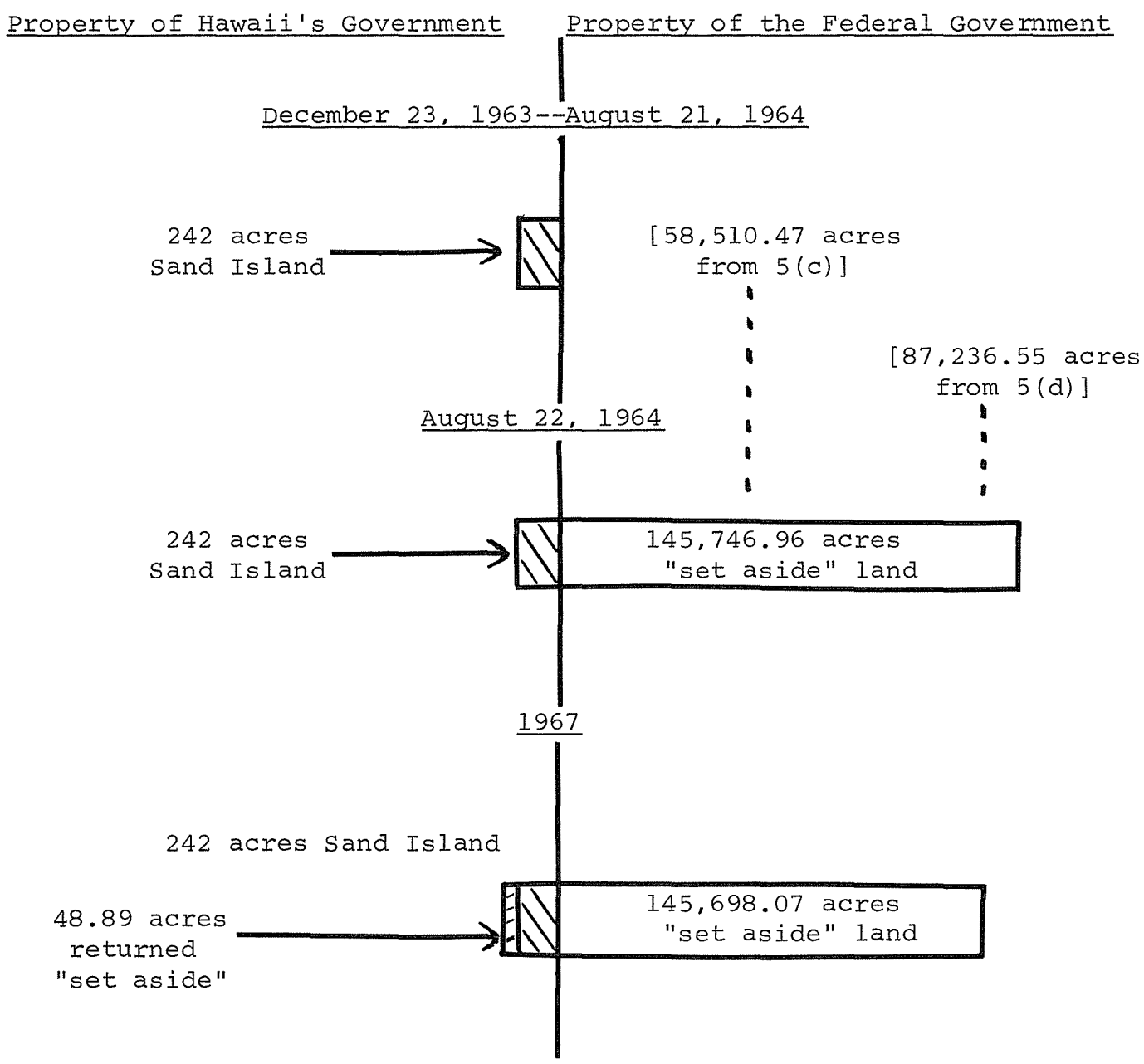
B. Sand Island

Location	Acreage	Date of Return
Sand Island Portion	242 acres	1-64

Total of A and B 290.89 acres

Figure 4

Status of Land Under P.L. 88-233, 1964-1967



simple land in the same fashion as it received unneeded land from the first two categories. If the fee simple land were not included, surpluses from the category would be disposed of through normal federal procedures, i.e., those provided by the Federal Property and Administrative Services Act of 1949. This Act provided for: (1) the free return of surplus land to the State for health, educational, or airport purposes, (2) the return of surplus land to the State at 50 per cent estimated market value for parks and recreational use, (3) the return of surplus land to the State at 100 per cent estimated market value (with no other bidders) for other purposes, and (4) the sale of surplus land at public sale by sealed bid or auction. Thus, the exclusion of the fee simple land from section 5(e) would result in the loss of a considerable amount of money and land or both for the State of Hawaii.

The legal basis for the two opinions involved at least the following paragraphs of section 5 of the Statehood Act:

> 5(e) Within five years from the date Hawaii is admitted into the Union, each federal agency having control over any land or property that is retained by the United States pursuant to subsections (c) and (d) of this section shall report to the President the facts regarding its continued need for such land or property, and if the President determines that the land or property is no longer needed by the United States it shall be conveyed to the State of Hawaii.
>
> 5(c) Any lands and other properties that, on the date Hawaii is admitted into the Union, are set aside pursuant to law for the use of the United States under any (1) Act of Congress, (2) Executive order, (3) proclamation of the President, or (4) proclamation of the Governor of Hawaii shall remain the property of the United States subject only to the limitations, if any, imposed under (1), (2), (3), or (4), as the case may be.
>
> 5(g) As used in this Act, the term "lands and other properties" includes public lands and other public property, and the term "public lands and other public property" means, as is limited to the lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation approved July 7, 1898 (30 Stat. 750), or that have been acquired in exchange for lands or properties so ceded.

Section 5(e) is dependent on sections 5(c) and 5(d); 5(d) presents no problems. Section 5(c) uses the expression "lands and other properties". The difference between the two legal interpretations rests on the sense in which this expression is taken. Those claiming that Hawaii does not hold title to the fee simple land read the expression merely as an exception to subsections 5(a) and 5(d).

Those claiming that Hawaii should obtain the land under 5(e) read the expression to have an independent and broader meaning and point to 5(g) as the place to find that meaning.

Governor Quinn's Republican administration believed the interpretation, including the free return to the State of the fee simple land, to be the correct one. It was hoped and expected that this would be the interpretation of the Bureau of the Budget, the executive agency placed in charge of administering the review and return of federal land in Hawaii.

However, on November 14, 1960, the Bureau issued a directive, known in Hawaii by its technical title, "Circular A-52". "Pending further determination", this directive excluded the processing and free return of federal fee simple land under section 5(e).

The Bureau of the Budget received mixed opinions from the various governmental agencies on the legal questions at issue. The General Services Administration and the Defense Department opposed the inclusion of fee simple land under section 5(e), whereas the solicitor of the Department of the Interior emphatically urged the government "to include the purchased lands among those to go to Hawaii free".[16]

The matter was referred to the Justice Department to secure a determination of the position of the executive branch. On June 12, 1961, Attorney General Robert Kennedy, ruled against the State, opining that the federal land acquired after annexation "remained unaffected by Hawaii's acquisition of Statehood". Kennedy's opinion was based exclusively on his judgment of the intent of Congress in drafting section 5(e) and not on the intrinsic justice of Hawaii's claim to the land, which he regarded as a separate question. If Hawaii felt it deserved the fee simple land as a matter of equity, Kennedy suggested that the State attempt to obtain it by means of special congressional legislation:

> I am aware of the equitable argument made by the State of Hawaii, viz., that it ought to receive the surplus after-acquired property in compensation for the many sacrifices it has made for the United States, in particular for the ceded properties which have been set aside. However, neither the language nor the legislative history of the Hawaii Statehood Act disclose to my satisfaction a congressional purpose to adjust to that statute Hawaii's equitable claims of this nature, however meritorious. It is, of course, still open to the State of Hawaii to seek appropriate legislative action from the Congress which has the special constitutional function under Article IV, Section 3, clause 2 of the Constitution of disposing of the property of the United States.[17]

Hawaii's Republican administration chose not to pursue the suggestion that the State attempt to secure special legislation from Congress, a policy apparently deemed impractical. Instead, Governor Quinn explored two other alternative courses of action: (1) accepting the Attorney General's opinion without argument and thereby acquiescing in the loss of valuable land, (2) filing suit in the Supreme Court in hopes of securing a decision supporting Hawaii's claims. The governor decided to follow the latter course.

Suit was filed by the State of Hawaii in October, 1961 before the Supreme Court of the United States against the Director of the Bureau of the Budget.[18] In this case, the State of Hawaii v. David E. Bell, it was charged that Mr. Bell was responsible for the allegedly unlawful position taken by the Bureau in Circular A-52. Specifically, the State charged that paragraph 3 of the circular:

> . . .unlawfully and without statutory authority. . .excluded from the reporting, evaluation, and conveyance procedures of Section 5(e) lands or property acquired directly by the United States by purchase, condemnation, gift or otherwise.[19]

Arguing in Bell's defense, the United States Solicitor General, Archibald Cox, took the position that Hawaii's complaint did not properly constitute a suit against Mr. Bell but rather against the United States government, a suit for which the permission of Congress is required.

While these questions were pending, and while the suit was passing through the various preliminary legal channels, Hawaii's gubernatorial election of November, 1962 was held. Governor Quinn was defeated in his bid for re-election, and was replaced by a Democrat, John Burns. Governor Burns had many reservations about the suit. Among other things, he considered it unlikely that the State would win, and he deplored the expenditure of time and money required for pressing the suit. Governor Burns favored going to Congress for special legislation for the return of the land, a course of action to which Attorney General, Robert Kennedy had alluded.

Whatever the difference of opinion between Republicans and Democrats on the issue, they were scarcely debated or publicized until April, 1963. At that time the suit was dismissed by the Supreme Court, which action marked the starting point of the most active part of the partisan dispute. Front page space in both of Hawaii's major newspapers was frequently devoted to the issue throughout much of the remainder of the year.

In order to understand better the nature of the dispute we must first take note of the precise grounds on which Hawaii's suit had been dismissed by the Supreme Court of the United States. Legally, the case was dismissed by the Court on the grounds that the suit was directed against the United States government rather than against the Director of the Bureau of the Budget. The Court did not then decide on the merits or substance of the case.

Dismissal of the suit left three basic courses of action open for Hawaii: (1) to file a bill in Congress requesting permission to sue the federal government, or (2) to drop the idea of further court action and attempt to get back as much surplus land as possible through those provisions of the Property Act of 1949, and (3) to attempt to obtain the remaining surplus land through special legislation in Congress.

The first course of action was the position then generally taken by the Republicans, who were led in this action by Hawaii's Republican Senator, Hiram Fong. Many of Hawaii's Democrats took the second position.

Before considering the Democrats' plan for obtaining this land, we should briefly consider their reasons for rejecting a continuation of the suit against the United States, as well as the Republicans' answer to these objections. First, many Democrats believed that the legal suit neither could nor should succeed. Governor Burns, who was Hawaii's Delegate to Congress at the time of passage of the statehood legislation, believed that section 5(e) was not meant to include the fee simple land in question. Accordingly, he argued that it was misleading to state the problem in terms of "getting back" the land. As Governor Burns stated:

> If we had attempted to assert a right to [the] purchased land, the Statehood bill would not have passed. . . . Our intent [In the Statehood Act] was not to give Hawaii lands owned by the United States Government which it acquired through purchase. To seek these now under Statehood Act terms is stealing.[20]

Governor Burns could very well claim to be well informed on the intent of the statehood legislation, because in his words, "I. . . had much to do with the language of the bill and of the Section".[21]

Nor did the Democrats hold this position solely on the basis of their understanding of the intent of the Statehood Act. They also reasoned that it would be quite unlikely that the United States government would freely give up land it had paid for. According to

Burns, getting back these parcels of land "is none of our business; Uncle Sam paid for them".[22] Or, in the words of Tom Gill, another Democratic leader in Hawaii: "Trying to sue the United States for land it bought and paid for would be a fruitless waste of time and money".[23]

As a practical matter, moreover, many Democrats felt that continuance of the suit would result in failure. Aside from their own assessment of the merits of the case, some Democrats believed that in dismissing the case, the Court had in fact done more than rule on a legal technicality; it had also decided against the State on the merits of the case.

On this point, Congressman Gill in his white paper, Federal Surplus Land in Hawaii, wrote as follows:

> Some lawyers will disagree on this point, but a good many would advise that the Court really felt that Hawaii had no case anyway and took this easy technical route of disposing of the matter.[24]

In addition to their belief that the suit could not, and should not succeed, many Democrats opposed the suit on a second ground, viz., that, even if it should somehow be successful, it would not provide the best means for obtaining the return of federal land in Hawaii.[25] In support of this view, the Democrats reasoned first that in any event the suit would involve serious delays. Needed land that might be quickly obtained either through purchase at full price from the government or at 50 per cent and 100 per cent reductions would be unavailable pending the outcome of the suit. Second, and more important, the Democrats argued that the effect of the suit would be to decrease the amount of land made available by the federal government. If successful the suit would only insure that such land as was declared unneeded by federal agencies and approved by the president would be returned to the State free of charge; but it could have no effect on determining what parcels of land would be declared unneeded. It was the view of some Democrats that the suit would engender ill will within the government, and that this ill will might well dispose the various agencies to report less surplus land than they would otherwise have done. This attitude, they believed, would not be confined to the fee simple land, but would extend as well to land that had been "set aside" under executive order, since the same agencies and officials were administering most of the land. Thus, these Democrats argued that while a successful suit would secure the return of some fee simple land free of charge, it would nevertheless present the distinct and more significant disadvantage of insuring that less fee simple land would be declared unneeded. Therefore,

they reasoned that, although their policy might cost the State some money, it would secure more land. Given the importance of land in Hawaii, they believed this monetary expenditure worthwhile. This same point was emphasized by Senator Inouye in August, 1967; and earlier, in the midst of the dispute in 1963, Congressman Gill had stated that the suit "created some unfortunate hard feelings in the federal departments handling this matter".[26] Representative Gill went on to explain that even if the suit did succeed,

> . . .you would still have no guarantee that any fee land would be returned. Such land would have to be declared surplus first. At that point federal authorities could just say they didn't have any surplus fee land and we would still be out in the cold.[27]

The Republican proponents of the suit presented replies to all of these points. As to the intent of Congress in enacting section 5, the Republicans pointed to the opinion of the House Committee on Interior and Insular Affairs and the opinion of the Solicitor of the Department of the Interior. Great significance was attached to these opinions, since both the Committee and the Department of Interior were closely connected with Hawaii during its territorial period and both were involved in drafting the statehood legislation. A spokesman for the House Interior Affairs Committee expressed himself somewhat vaguely when asked to describe the Committee's intention with respect to section 5(e) soon after Statehood:

> The committee takes this opportunity to make clear that subsection 5(e)'s reference to "land or property that is retained by the United States" includes, in some cases (namely, those covered by subsection [c]), all land whether it falls within the definition of public land given in the act or not and, in other cases (namely, those covered by subsection [d]), only public land as that term is there defined.[28]

The solicitor of the Department of Interior was more explicit:

> In the circumstances, there is no reason to suppose that Congress did not mean precisely what it said in the subsections of the Statehood Act quoted above; that lands, including but not limited to ceded lands, are subject to reporting by federal agencies and possible subsequent conveyance to the State.[29]

Nor did the Republicans believe that the free return to the State of Hawaii of this land could in any way properly be construed as an act of "stealing". On the contrary, Senator Fong stated:

> Justice is on our side. We are asking for the return of lands not needed by the federal government--lands that represent a tiny fraction compared with the 1,275,000 acres the Territory of Hawaii gave to the federal government without cost at annexation.[30]

Senator Fong further elaborated on this point in testimony before the Senate Subcommittee on Interior and Insular Affairs:

> The number of federal purchased acres involved is estimated as approximately 1,600. As against 1,600 acres Hawaii gave free of charge to the federal government 410,000 [at Statehood]. Surely Congress did intend to compensate Hawaii for these acres.[31]

His testimony was directed to the question of the justice or equity of the matter, and his objective appeared to be that of linking these considerations to the intent of Congress in legislating the Statehood Act. His argument, quite simply, appeared to be this: given the ambiguity of the wording of section 5(e), one could best discern the intent of Congress by determining the most just course of action. Such action in Senator Fong's view was the return of fee simple land under section 5(e).

The Republicans further rejected the Democrats' argument that, because the land had been purchased by the United States, it would be unreasonable to assume that the federal government would freely convey portions to the State of Hawaii. According to the Republican argument, such free conveyance of federal fee simple land was not extraordinary. Not only had the United States recently given the State of Alaska thousands of acres bought and paid for by the federal government, but it also had made a practice of so doing throughout its history, e.g., as it did for all the states carved out of the Louisiana Territory. As Senator Fong argued to the Senate Subcommittee:

> As members of this subcommittee will recall, when Alaska became a state, Congress gave it [thousands of thousands of acres of fee simple land] free of charge. . . . This gift of Federal purchased land to Alaska is 25 times the size of the entire State of Hawaii.[32]

In short, the Republicans maintained that at the very least section 5(e) was ambiguous. They therefore attacked the Democrats for choosing what they regarded as the least favorable interpretation. As former Governor Quinn stated in 1963, "It is certainly folly for the Administration [of Governor Burns] to choose from conflicting legal opinions that which is least favorable to the State of Hawaii."[33]

The Republicans regarded the Democrats' position that Hawaii's land suit had really been dismissed on its merits (and not on a

technicality) as an unwarranted attack on the integrity of the Supreme Court. According to the Republicans, the dismissal of the case on the grounds of a legal technicality was simply that and nothing more. They further maintained that should Congress open the way for Hawaii to bring suit against the federal government, the court's earlier dismissal of the case would in no way prejudice the outcome.

In answer to the Democrats' second major charge that the suit, because of the ill will it would engender, would decrease the total amount of land to be returned to the State, the Republicans had a number of rejoinders. First, Governor Quinn replied to the charge by pointing out that it was nothing less than an attack by the Democrats on the Kennedy Administration:

> This is a grave indictment of the Kennedy Administration. I can see the use of Federal sanctions such as withdrawal of aid to enforce recognition of constitutional rights, but I refuse to believe that any Federal Administration would use its power to chastise a state for speaking out for the rights of its citizens.[34]

For his part, Senator Fong tended to regard the "ill will" charge as totally ill-founded. Why, he asked, should anyone become upset over the free conveyance of this land to the State. The federal departments themselves (e.g., Defense or Interior) would not receive the money for land that might be sold to Hawaii. The federal officials charged with making the determination of needed land could have no selfish interest in the outcome. As to the government itself, it could surely afford the small sums of money involved. Furthermore, argued Senator Fong, the pertinent branch of government involved in this matter was not the executive branch but rather Congress, which is empowered under the constitution with handling such property. It was Congress, furthermore, that had legislated section 5(e). Accordingly, the true intention of the federal government was to be discovered in the congressional legislation. Because that legislation was ambiguous, it was proper for the Supreme Court, the body charged with interpreting the law, to make the determination. To all this Senator Fong added the practical argument that, in his opinion, the amount of fee simple land that would be returned to the State would be more under the suit, if successful, than in any other way. The successful suit would mean that land under the control of federal agencies in Hawaii would be systematically surveyed under the provisions of section 5(e) to determine which parts were no longer needed. Such a survey, Senator Fong contended, would provide a review of land needs more thorough than that achieved through the normal government channels for determination of surplus property.

To summarize: the Republicans thus favored continuing the land suit because they believed it to be worthwhile to the State. Though some delay would ensue, they argued that this inconvenience would be more than offset by the benefits accruing from a successful suit, viz., the obtaining of more land for the State, along with a considerable saving of money. Given this view of the matter, the Republicans regarded the Democratic position as one of prematurely giving up a good case. As Senator Fong stated:

> To cave in just because the Supreme Court dismissed the State's suit on the grounds that the federal government had not given its consent to be sued is complete capitulation to the Justice Department.[35]

The Democratic position was based on more than simple opposition to the land suit. Representative Gill presented the Democratic position in the following terms:

> We say: Let the State apply for as much of this land as it can use for education, health, park, and recreation, or airport purposes and we will try to obtain most of the balance by direct legislation.[36]

The Democratic position consisted of two major parts: first, to obtain the return of as much land as possible free of charge or at half price under the Property Act of 1949; second, to attempt to procure the remainder or portions of the remainder either free or at cost through special legislation in Congress.

The Democrats leaned heavily on this second aspect of their plan. Writing in support of it, Representative Gill declared:

> . . .the Democrats in Congress feel that it would be a foolish waste of time, energy, and money to travel the winding, circuitous route that Senator Fong has recommended, when we can get to exactly the same place much more rapidly by existing law or by direct legislation.[37]

However, the Democrats themselves, notably Representative Gill, did not appear very confident about the prospects of getting such a bill passed.

The Republican answer to the first part of the Democrats' program was twofold. First, they put little faith in the Democrats' ability to obtain any special treatment through using their "good offices"; they referred to this aspect of the Democrats' program as the "buddy-buddy system". Second, the Republicans charged that obtaining land under these special provisions would decrease flexibility for the use of such land. In order to receive such land, the

State would have to commit itself to using it for the narrowly defined purposes of the Surplus Property Act. These were more circumscribed than the purposes provided for under section 5 of the Statehood Act.[38] The Republicans therefore concluded that to obtain the land through a successful suit would afford the State a broader choice of land use. For example, use of such land for much needed housing was frequently spoken of; but if the State wished to obtain the land at no cost or at a 50 per cent reduction under the Surplus Property Act, it could not use the land for this purpose.

The more significant Republican attack was directed toward the second aspect of the Democrats' plan. Senator Fong contended that it would be nearly impossible to secure passage of special legislation. He argued that the very fact of initiating such legislation would amount to an admission that it had not been the intent of Congress to give Hawaii this land at Statehood. Thus, in effect, Hawaii would be in the position of asking for the return of this fee simple land without being able to present any compelling justification for its return. In Senator Fong's view, there would be no reason to expect that under these circumstances Congress would be willing to go along. As the Senator said:

> To seek return of the 32 parcels in one catch all bill or in 32 separate bills faces very real obstacles in Congress. Four hundred and thirty-one members of Congress from 49 states are going to be asking, "Why should Hawaii be given free 1,665 acres of land the federal government bought which now are worth $35 to $40 million?[39]

On the other hand, by way of meeting a counter-charge by the Democrats, Senator Fong suggested that his bill seeking congressional authorization to sue the federal government would pass with less opposition.

> My bill asks nothing except the right to have the Supreme Court determine whether a law already on the statute books, the Hawaii Statehood Act, includes excess Federal purchased lands among those to return to Hawaii. I am confident that the members of Congress would be more than willing to have Hawaii, a sovereign state, submit this legal question to the Supreme Court.[40]

The Republicans had little success in their efforts to pursue the suit. The immediate causes were a lack of support from the State and a lack of power in Congress. In 1963, Senator Fong attempted to tie congressional authorization for the suit to a Senate bill that subsequently became Public Law 88-233. Though sympathetic to his arguments, the Senate Subcommittee on Interior and Insular Affairs suggested that the two measures, permission to sue, and the

rest of the senate bill, be treated separately; Senator Fong acquiesced. He then presented a separate bill to the Senate Judiciary Committee, of which he was a member. The committee unanimously approved the bill and reported it to the Senate. However, the bill was removed from the Senate's consent calendar by the Majority Leader, Mike Mansfield. On this point the Honolulu Star-Bulletin reported: "Sources said he [Mansfield] did it at the request of Senator Inouye."[41] The Executive Committee of the Oahu Republican County Committee characterized this as "partisan politics at its ugliest".[42]

The possible significance of such a suit has gradually diminished, for most of the fee simple land in question has by now been disposed of under the terms of the Property Act of 1949. Some was conveyed at no cost to the State, while some has been conveyed at a 50 per cent reduction. Part of the land has been sold to private parties. Thus, even a successful suit would at this time secure the return of only a very small amount of land. However, a successful suit might incorporate a judgment that the State should be reimbursed for its past expenditures in acquiring that part of the land that it had already purchased, along with the sums paid by private parties to the federal government for purchase of other parcels of this land.

It should be added that the Democrats did not succeed in securing special legislation for the return of any of this fee simple land. However, they argued that they had obtained through the Property Act of 1949 sufficient acreage to justify their approach to this matter. The Democrats were willing, as Senator Inouye commended, "to stand on the record, on the facts and figures". In Senator Inouye's opinion the maintenance of good relations with the various agencies in the federal government was significantly responsible for the Democrats' success. It was precisely these relationships, Inouye argued, which the Republicans might have damaged in their pursuit of an approach, the successful outcome of which was extremely doubtful.

In conclusion, we must try to characterize the nature of the foregoing dispute. It was not a dispute about ends but rather about means. Both parties were interested in obtaining for Hawaii the maximum amount of fee simple land no longer needed by the federal government. They have differed only in the methods that they thought more effective in securing this land with the minimum expenditures of time or money by the State of Hawaii.

There is no way in which a determination can be made as to which of these approaches would have been more effective. Even the

statistics presented below cannot materially assist in making this kind of determination. They cannot reveal, for example, what the chances would have been for successful prosecution of the law suit against the federal government, nor whether such a suit would, in fact, have given rise to substantial ill will by the federal agencies.

With these qualifications in mind, let us turn to an analysis of the figures which bear upon the issue. Table 11-A through E provide listings of all fee simple land obtained before Statehood that were declared surplus prior to August 21, 1964. This is the land in question. Table 11-A lists those parcels declared surplus between Statehood and August 21, 1964 which have been returned to the State at no cost (for purposes of health, education and airport facilities); Table 11-B lists those returned for 50 per cent of their estimated market value (for purposes of parks and recreation); Table 11-C lists those obtained by the State for full estimated market value (for purposes other than those listed, but still defined); Table 11-D lists those sold to private parties at auction or by sealed bid; Table 11-E lists those recalled from surplus by the federal government after August 21, 1964; Table 11-F lists those portions still surplus.

Let us first state the totals in a way as favorable as possible to the position advanced by the Democrats. Of the 1,345.87 acres declared surplus in that period, 731 have been obtained by the State. Five hundred and twenty-two of these have been obtained at no cost while the remainder has cost $4.3 million.

Now let us state the totals in a way as favorable as possible to the position advanced by the Republicans. The State has lost 421 acres of land sold to private parties. These were sold for $5.3 million. Another 155 were recalled and 38 still remain surplus. In addition, the State has had to pay $4.3 million for those portions of the land which it purchased. Had the suit been authorized by Congress and successfully pursued this money would have been saved. (Of course, in calculating the monetary difference between the Republican and Democratic positions, the cost of the law suit would have to be considered.)

Other Federal Fee Simple Land in Hawaii

Brief consideration should be afforded other federal fee simple land in Hawaii that has been declared surplus after August 21, 1964. This land was not involved in the foregoing controversy since

Table 11-A

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964 AND RETURNED TO HAWAII AT NO COST UNDER THE SURPLUS PROPERTY ACT OF 1949

General Service Administration Number (GSA No.)	Name of Land or Location	Acreage	Department Assigned to	Date Declared Surplus	Date Disposed of
N-462	Iroquois Pt. Complex, Puuloa Ewa, Oahu	30.0000	HEW	1-61	2-61
N-H-463	Pearl City Dump, Waiawa Ewa, Oahu	28.2750	HEW	1-61	2-61
D-436A	Hickam AFB, Honolulu	.7430	Airport PL 80-289	2-61	2-63
N-460A	U.S. Naval Reservation Waipio Peninsula, Ewa, Oahu	.1310	HEW	2-61	1-62
N-464	Manana Uka Complex	6.5817	HEW	2-61	2-61
N-465	Camp Catlin Storage Area, Honolulu	25.6350	HEW	2-61	1-62
N-466	Iroquois Pt. - Ft. Weaver Complex, Puuloa Ewa, Oahu	13.2900	HEW	2-61	2-61
N-467	Makalapa Complex, Halawa Ewa, Oahu	15.0000	HEW	2-61	2-61
N-468	Ohana-Nui Naval Housing, Moanalua, Oahu	9.2440	HEW	2-61	2-61
N-469	Moanalua Housing Complex, Moanalua, Oahu	12.5270	HEW	2-61	2-61
D-487	Ft. Shafter Military Reserv., Honolulu, Oahu	4.3480	DOC	2-63	1-64
N-488	Ewa Junction Out-Leased Parcel #2, Waiawa Ewa, Oahu	40.0760	HEW	2-63	2-64
N-489	Red Hill Storage Area, Halawa Ewa, Oahu	32.5010	HEW	2-63	2-65
N-489	Red Hill Storage Area, Halawa Ewa, Oahu	.9420	DOC	2-63	2-65
N-490	Red Hill Warehouse Area, Halawa Ewa, Oahu	.9550	DOC	2-63	1-65
N-491	Ewa Junction, Waiawa Ewa, Oahu	1.0480	HEW	11-12-63	11-2-63

Table 11-A (continued)

General Service Administration Number (GSA No.)	Name of Land or Location	Acreage	Department Assigned to	Date Declared Surplus	Date Disposed of
N-491	Ewa Junction, Waiawa Ewa, Oahu	.1740	DOC	11-63	2-66
N-491	Ewa Junction, Waiawa Ewa, Oahu	18.9600	HEW	11-2-63	2-66
N-491	Ewa Junction, Waiawa Ewa, Oahu	25.9730	HEW	1-63	2-63
N-491	Ewa Junction, Waiawa Ewa, Oahu	.9710	DOC	11-2-63	2-63
N-471A	Pearl City Security Area	12.0250	HEW	1-63	1-63
N-470	Hale Maku Halawa Ewa, Oahu	8.2710	HEW	2-61	1-62
N-471	Pearl City Peninsula, Pearl Harbor Security Area, Pearl City, Oahu	4.6120	HEW	2-61	2-61
D-461	Former Naval Radio Station, Heeia, Oahu	24.7730	HEW	1-62	2-63
N-475A	Manana Veterans Housing Area, Manana Uka, Ewa, Oahu	.9790	HEW	1-62	1-63
D-476	Waimalu Drum Storage Area, Waimalu, Oahu	.2300	HEW	1-62	1-63
N-460B	Waipio Naval Reservation, Ewa, Oahu	101.1400	HEW	2-63	2-64
N-471A	Pearl City Security Area, Pearl City, Oahu	.7930	Donated City & County Hon. it sold for $1.00	2-63	1-67
N-471A	Pearl City Security Area, Pearl City, Oahu	1.9450	DOC	2-63	2-65
N-499	Pearl City Junction, Manana Iki and Waiawa Ewa, Oahu	7.7270	DOC	1-63	1-65
N-499	Pearl City Junction, Manana Iki and Waiawa Ewa, Oahu	26.8440	HEW	1-63	1-65
N-495A	Halawa/Aiea Veterans Housing Area, Halawa Ewa, Oahu	3.4680	DOC	1-63	2-66
N-474	Iroquois Point Complex, U.S. Naval Ammunition Depot, Puuloa Ewa, Oahu	8.8384	HEW	2-63	2-64

Table 11-A (continued)

General Service Administration Number (GSA No.)	Name of Land or Location	Acreage	Department Assigned to	Date Declared Surplus	Date Disposed of
N-474	Iroquois Pt. Complex, U.S. Naval Ammunition Depot, Puuloa Ewa, Oahu	28.6236	HEW	2-63	1-64
N-474	Iroquois Pt. Complex, U.S. Naval Ammunition Depot, Puuloa Ewa, Oahu	4.3844	DOC	2-63	2-65
N-495	Iroquois Pt. Complex, U.S. Naval Ammunition Depot, Puuloa Ewa, Oahu	1.1360	DOC	1-63	1-67
N-489	Red Hill Storage	19.1850	DOC	2-63	2-66
	Totals	522.5800			

Table 11-B

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964
AND RETURNED TO STATE AT 50% OF ESTIMATED MARKET VALUE

GSA No.	Name	Acreage		Date Declared Surplus	Date Disposed	Money Paid by State
D-476	Waimalu Drum Storage Area, Waimalu, Oahu	25.857	Awarded to City and County of Honolulu for park and recreation use; under P.L. 80-616	1-62	2-63	$1,545,400
N-489	Red Hill Storage Area, Halawa Ewa, Oahu	34.369	Awarded for parks and recreation use; under P.L. 80-616	2-63	2-65	315,500
N-495A	Halawa/Aiea Veterans Housing Area, Halawa Ewa, Oahu	56.905		1-63	2-67	1,524,250
N-495A	Halawa/Aiea Veterans Housing Area, Halawa Ewa, Oahu	5.976				125,250
	Totals	123.107				$3,510,400

Table 11-C

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964 AND
RETURNED TO STATE AT 100% ESTIMATED MARKET VALUE
UNDER SURPLUS PROPERTY ACT OF 1949

GSA No.	Name	Acreage		Date Declared Surplus	Date Disposed	Money Paid by State
N-475	Manana Veterans Housing Area, Manana Ewa, Oahu	1.374	Sold to City and County of Honolulu	2-63	1-66	$108,000
D-408A	Dillingham AFB	72.642	Sold to State of Hawaii	2-63	1-66	110,000
N-495A	--------	11.762		1-63	2-67	586,500
	Totals	85.778				$804,500

Table 11-D

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964
AND SOLD TO PRIVATE PARTIES UNDER
SURPLUS PROPERTY ACT OF 1949

GSA No.	Name	Acreage	Date Declared Surplus	Date Disposed	Money Paid
N-471A	Pearl City Security Area	.810	2-63	1-67	$ 12,600
D-473	Podmore Fire Control Station, Honolulu	4.778	2-63	2-63	27,000
N-483	Manana Fire Facility, Pearl Harbor, Ewa, Oahu	26.669	2-63	1-64	876,300
N-484	Ft. Barrette Military Reservation, Honouliuli, Ewa, Oahu	12.232	2-63	2-63	183,800
N-485	Manana Cane Strip, Manana Ewa, Oahu	13.346	2-63	1-64	200,000
D-487	Ft. Shafter Military Reservation, Honolulu, Oahu	6.700	2-63	1-66	329,000
N-491	Ewa Junction, Waiawa Ewa, Oahu	14.164	2-63	1-64	205,000
N-491	Ewa Junction, Waiawa Ewa, Oahu	18.942	2-63	2-66	305,000
N-495	Aiea Naval Reservation, Halawa Ewa, Oahu	12.901	2-63	1-64	452,000
N-498	Waiawa Gulch Storage Area, Waiawa Ewa, Oahu	106.281	2-63	1-64	509,300
N-474	Iroquois Point Complex, U.S. Naval Ammunition Depot	204.355	2-63	1-65	2,205,400 (3 sales)
	Totals	421.180			$5,305,400

Table 11-E

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964
AND RECALLED FROM SURPLUS AFTER AUGUST, 1964

GSA No.	Name	Acreage	Date Declared	Date Received
N-471A	Pearl City Security Area, Pearl City	42.260	2-63	1-66
N-486	Red Hill Veterans Housing Area, Halawa Ewa, Oahu	35.700	2-63	1-65
N-490	Red Hill Warehouse Area	31.300	2-63	2-65
N-495A	Halawa/Aiea Veterans Housing Area, Halawa Ewa, Oahu	45.993	1-63	1-67
	Total	155.253		

Table 11-F

LAND DECLARED SURPLUS PRIOR TO AUGUST, 1964
AND STILL SURPLUS, AS OF AUGUST 1967

GSA No.	Name	Acreage	Date Declared	Estimated Value
N-475	Manana Veterans Housing Area, Manana Ewa, Oahu	22.600	2-63	$1,000,000
N-489	Red Hill Storage	15.184	2-63	Not Yet Estimated
	Totals	37.784		---

August 21, 1964 was the "cut-off" date for land returned to Hawaii under section 5(e). There was never any suggestion that this "cut-off" date be extended for the fee simple land.

Information on other federal fee simple land is provided in Tables 12-A through 12-D. As of the first half of 1967, 3.91 acres of this land had been returned to the State of Hawaii without charge; 136.56 acres were returned to the State at half the estimated market value; 150.93 acres were returned to the State at full market value, with 52.88 acres sold to private parties.

Total: All Fee Simple Land

Table 13 supplies totals for all the fee simple land acquired by the United States government in Category [A] before Statehood and disposed of after Statehood (as of the first half of 1967). The same category of land is depicted in Figure 5. The State of Hawaii acquired a total of 1,022.86 acres of this fee simple land: 527.49 at no cost, 259.67 at 50 per cent market value ($4.3 million), 236.70 at full market value ($1.4 million). The State has thus paid the federal government $5.7 million for fee simple lands since 1959. In addition, 474.06 acres have been sold to private parties at a total of $5.7 million.

Table 12-A

LAND DECLARED SURPLUS AFTER AUGUST, 1964
RETURNED TO STATE OF HAWAII AT NO COST

GSA No.	Location	Acreage	Date of Return
GR-471	Pearl City Peninsula, Pearl Harbor Security Area, Pearl City	3.907	2-65
	Total	3.907	

Table 12-B

LAND DECLARED SURPLUS AFTER AUGUST, 1964
RETURNED TO STATE OF HAWAII AT 50 PER
CENT OF ESTIMATED MARKET VALUE

GSA No.	Location	Acreage	Date of Return	Price Paid
Z-460	Waipahu Monitoring Station, Waipahu	136.56	1-27-67	$778,000
	Totals	136.56		$778,000

Table 12-C

LAND DECLARED SURPLUS AFTER AUGUST, 1964
RETURNED TO STATE OF HAWAII AT 100 PER CENT
OF ESTIMATED MARKET VALUE

GSA No.	Location	Acreage	Date of Return	Price Paid
D-408A	Dillingham AFB, Waialua	72.642	5-66	$110,000
N-460B	Waipio Naval Reserve, Ewa, Oahu	78.293	6-4-66	515,000
	Totals	150.935		$625,000

Table 12-D

LAND DECLARED SURPLUS AFTER AUGUST, 1964
SOLD TO PRIVATE PARTIES

GSA No.	Location	Acreage	Date of Return	Price Paid
T-508	Cape Kumukahi Lighthouse	9.98	12-16-66	$ 1,100
N-509	Former U.S. Coast of Geodetic Survey Magnetic Observatory Site, Barbers Point	42.904	12-27-66	411,000
	Totals	52.884		$412,100

Table 13

A. LAND RETURNED TO STATE

	Declared Surplus before 6-64	Declared Surplus after 6-64	Total
1. Obtained by State free	522.58 acres	3.91 acres	526.49 acres
2. Obtained by State at 50 per cent discount	123.11 acres ($3,510,400)	136.56 acres ($778,000)	259.67 acres ($4,288,400)
3. Obtained by State at full estimate market value	85.77 acres ($804,500)	150.93 acres ($625,000)	236.70 acres ($1,429,500)
Totals	731.46 acres ($4,314,900)	291.40 acres ($1,403,000)	1,022.86 acres ($5,717,900)

B. LAND SOLD TO PRIVATE PARTIES

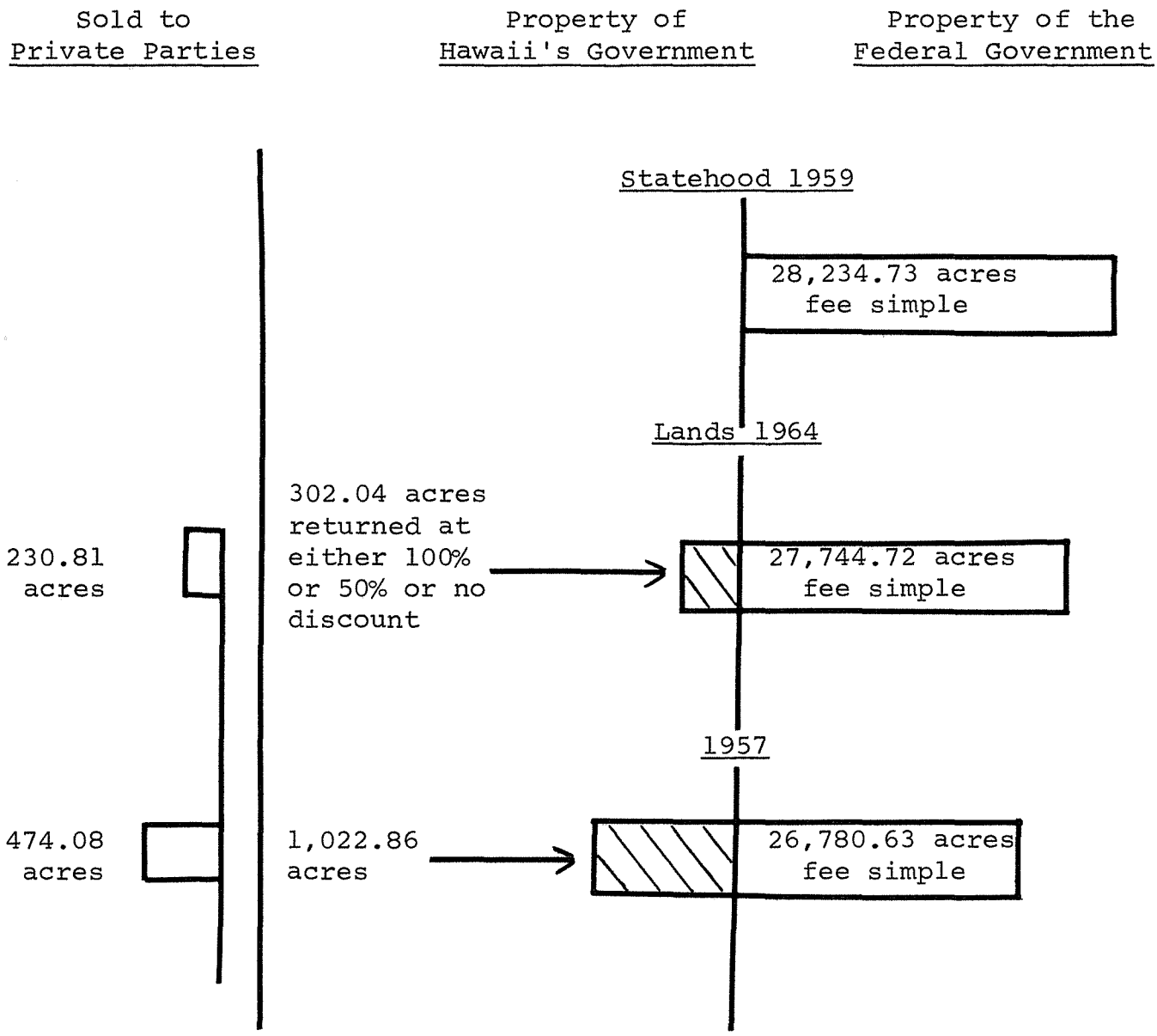
	421.18 acres ($5,305,400)	52.88 acres ($412,100)	474.08 acres ($5,717,500)

C. LAND TOTALS (TABLES A AND B)

	1,152.64 acres ($9,620,300)	344.28 acres ($1,815,100)	1,496.92 acres ($11,435,400)

Figure 5

Status of Fee Simple Land, 1959-1967 [Category (A)]



Summary

An overall picture has now been provided of the status of federal land holdings in Hawaii, as well as an account of the return of a portion of this land to the State of Hawaii after statehood. We may now conveniently summarize these findings. At the time of statehood, August, 1959, the federal government held i.e., owned or controlled, the following type and amount of acreage in Hawaii:

	Description	Category Designation	Acreage
1.	"Set aside" ceded land, plus Territorial "set aside" land conveyed to the federal government at statehood	C-2 and B-2	287,078.44
2.	Federal property acquired after annexation or federal fee simple land	A	28,234.73
3.	Ceded land under control of federal government at time of statehood (control of land remains with federal government but provisional title given to Hawaii).	C-1B	117,412.74
	Total		432,725.91

Combining all of the categories utilized in the foregoing discussion of federal land holdings in Hawaii, the types and amounts federally owned land in the Islands as of August 21, 1964 were as follows:

Owned by federal government (land under lease here excluded)

(1) 255,717.34 acres fee simple land (27,744.72 acres of category [A] property, plus 227,972.62 acres obtained under section 5(e)).

(2) 145,746.96 acres "set aside" land (as defined by P.L. 88-233).

Total 401,464.30 Acres

The types and amount of land which had been returned to the State as of this date (August 21, 1964) were as follows:

(1) 595.41 acres from 5(e)

(2) 30,176.18 acres (left to State by 5(d) but under 65-year lease to federal government)

(3) 302.4 acres (obtained from federal fee simple land [A] under Property Act of 1949; some purchased)

(4) 242 acres (Sand Island [portion] obtained under P.L. 88-233)

Total: 31,315.99 acres (including land which is leased)

1,139.81 acres (excluding land which is leased)

As of the first half of 1967, the federal government had disposed of another 1,194.52 acres of fee simple land (only part of which went to Hawaii) and had returned 44.89 acres of "set aside" land to the State. The totals then were as follows:

Returned to State since Statehood

1. 595.41 acres from 5(e)

2. 30,176.18 acres (under lease to federal government)

3. 1,022.86 acres (some purchased)

4. 242.0 acres (Sand Island)

5. 44.89 acres ("set aside" land; P.L. 88-233)

Total: 32,081.34 acres including leased land
1,905.16 acres excluding leased land

Federal Government

1. 254,753.25 acres fee simple

2. 145,698.07 acres "set aside"

Total: 400,451.32 acres

Of course, the 30,176.18 acres leased from the State for an extremely long term should be considered as under the effective control of the federal government; and it should further be noted that, as of 1965 the federal government had an additional 35,365.78 acres under lease (from private parties or leased from the State since statehood) thus making a total of 65,541.96 acres leased by the federal government in Hawaii. Altogether then, the federal government controls 465,992.28 acres in Hawaii as of 1967, of which 400,451.32 are owned and 65,541.96 are leased. This total figure constitutes a little more than 11 per cent of all the acreage in Hawaii.

Part III

LAND LEASING POLICY IN HAWAII

The practice of leasing land, particularly for agricultural purposes, has been an integral part of the pattern of Hawaii's agriculture for well over a century. This widespread practice has been of special economic importance, for Hawaii's natural resources of commercial significance are limited, consisting chiefly of her rich soil, verdant forests, scenic topography, active volcanoes, and temperate climate. Agriculture was the mainstay of Hawaii's economy until World War II, and, though the proportion of her annual income generated from agriculture has subsequently declined relative to defense spending and tourism, it continues to provide approximately one-third of the Islands' income.[1] Since the use of land, whether privately or publicly owned, for agricultural purposes is of major significance to the State's economy, it is necessary to consider some of the fundamental economic, political, and administrative principles pertaining to leasing arrangements, one of the principal ways in which Hawaii's land has been kept in productive use.

Prior to the Great Mahele, all of Hawaii's land was owned or controlled by the Islands' ruling dynasty, the Kamehamehas, and chiefs loyal to them. As foreigners began to take up residence in the Islands during the opening decades of the 19th century, they encountered considerable difficulty in securing land, for there was no basis under the ancient Hawaiian laws or conventions through which permanent title to land could be secured. The sole recourse, then, was to secure temporary use of land as a personal favor from the king or high chief, or to obtain a lease. Accordingly, the first successful, firmly established sugar plantation in the Islands, Koloa (on the island of Kauai), was started on a thousand acre tract leased from King Kamehameha III at three hundred dollars a year. Other early entrepreneurs leased business sites, warehousing areas, and land for diversified agriculture.

The uncertainties of land tenure, together with other problems, made it virtually inevitable that the development of commercial agriculture and business enterprises in the Islands would remain "underdeveloped" until promulgation of the Great Mahele of the 1840's. Through this sweeping land division, clear title to much of Hawaii's land was placed in the hands of private owners, mainly the royal family and the ali'i, who were then free to use or dispose of the land as they liked. Inasmuch as most of Hawaii's nobility was little experienced in the entrepreneurial pursuits of the haoles (white foreigners), many of the large land owners sought to

realize current income by leasing their land, along with the valuable water rights without which commercial agriculture cannot be successfully pursued in many parts of the Islands.

During the half century following the mahele until the revolution of 1893 a large part of the most prosperous sugar plantations and ranches in the Islands relied upon leased land for their operations. An especially interesting and revealing illustration of the fashion by which land leases and water rights were utilized to initiate plantation operations during that period was furnished by the formation of the enormous Hawaiian Commercial Company on Maui by Claus Spreckels, "The Sugar King". Spreckels anticipated that one of the largest and most productive sugar plantations in the world could be developed in a hitherto dry and barren area of central Maui. In 1878 he leased 24,000 acres of crown land from King Kalakaua at an annual rental of only $1,000, or less than five cents an acre. He also leased a half-interest in 16,000 additional acres from a private party, while securing from the Hawaiian government a 30-year lease for water rights in the Maui watershed. There he constructed a collection system designed to deliver as much as 60,000,000 gallons of water daily. Had Spreckels been unable to lease the requisite land and water rights, it is doubtful that he could have successfully undertaken his enormous Hawaiian enterprises.[2]

Nor was Spreckels alone in the development of great sugar plantations and ranches on leased land in Hawaii. Other entrepreneurs followed the same pattern, and by 1893 some 92 plantations were exporting some 275,000 tons of sugar from the Islands. Many of these enterprises utilized leased land for part or all of their operations.

Until the revolution of 1893, a considerable part of the best agricultural acreage in Hawaii was under the personal control of Hawaii's monarchs, and was designated as "crown land". Under the terms of the Great Mahele, this land had been reserved for the support of Hawaii's monarchs. Successive monarchs in the Kamehameha dynasty dealt with the crown land as personal property, selling, leasing, or mortgaging it, but a decision of the Hawaiian Supreme Court in 1864, followed by a legislative act the following year, declared this land inalienable. It could, however, legally be leased, and King Kalakaua, a prodigal spender, quickly leased sizable amounts of the crown land for long terms at low annual rentals.

In 1890, as King Kalakaua's reign neared its end, the total acreage of crown and government land leased to plantations and ranchers, each of whom leased not less than 1,000 acres, was approximately 750,000 acres, nearly one-sixth of all the land of the Islands.[3]

The creation of Hawaii's Republic stimulated the development of additional, great commercial enterprises in the Islands. The largest, single lease of public land let by the Dole administration was for more than a quarter-million acres of ranch land.[4] Of extraordinarily generous proportions also was an additional lease made to the Hawaiian Agricultural Company, whose leases of 12,000 acres of public land in 1890 were increased to over 190,000 acres by 1898. The Dole administration also made three additional leases exceeding 90,000 acres apiece, and another five leases ranging in size from 40,000 to nearly 60,000 acres. Six more leases ranged from 20,000 to 30,000 acres apiece, while another seven leases were larger than 10,000 acres apiece. The total acreage of public land let under these twenty-three largest leases was 1,209,614 acres. Another forty-two leases of public land in effect in 1898 incorporated an additional 175,289 acres of public land. Altogether, these sixty-five leases included almost 1,400,000 acres, slightly more than one-third of all the land of the Hawaiian Islands.

The implications of this leased land bonanza were not lost on the United States Congress as it investigated and debated alternative provisions for land management under Hawaii's Organic Act. Very severe limitations were imposed by Congress on the leasing of Hawaii's public land, and they were reflected in sharp decreases in the number and size of outstanding leases early in the territorial period. Nevertheless, throughout the twentieth century, leases of public land have continued to be of decisive importance for Hawaii's agricultural enterprises. There is every indication that they will continue to be of considerable importance, a consideration that should be emphasized in view of the broad opportunities now enjoyed by the State's policy makers to develop and shape leasing policy as part of Hawaii's overall public land policy.

Mode of Analysis

Present and prospective policy makers in the State of Hawaii may be assisted in their on-going consideration of lease policy by an analysis of some of the basic economic and other principles pertaining to leasing arrangements. It should be noted from the

outset that the approach utilized here is broader than that applied by those economists who undertake pure "economic analysis". In carrying out such analysis, they are concerned solely with the efficient allocation of resources as defined by the market mechanism. Inasmuch as consideration of the market mechanism is but one of the relevant considerations for public policy formulation, such analysis is inadequate for present purposes. Public policy formulation, if it is to serve the full needs of policy makers, must understand the "public interest" or "social benefit" as including considerations that cannot adequately be measured by market forces alone. It follows, that the type of analysis utilized here, like welfare economics, is concerned not only with the efficient allocation of resources, but also with the distribution of the social product and with the "externalities" produced. "Externalities" may be defined as those effects not paid for through the market. These noneconomic considerations are oftentimes of a political character and they are governed by the political goals being sought within any given regime. This broader approach is indispensable if we are adequately to approach the full range of problems associated with land leasing policy in Hawaii.

This contention may be better understood by recalling that political considerations have always been of critical, even paramount, importance in the formation of Hawaii's public land policy. From the time of the Great Mahele of the mid-nineteenth century to the present, the terms on which public land has been sold, leased, or otherwise managed have always had a widespread effect, not merely on Hawaii's economy, but on the entire way of life within the Island community as a whole. This is as true today as during Hawaii's monarchy, her short-lived republic, and her six decades of territorial government.

This point may be illustrated by reference to the continuing and exceedingly sharp political debates engendered in Hawaii in recent years as successive state legislatures have undertaken sweeping revision of Hawaii's public land laws. As already noted, these revisions of a body of public land law that had remained essentially unchanged for over half a century, were necessitated by the congressional act of 1959, which admitted Hawaii into the Union as a state. One of the provisions of that Act was generally interpreted as setting a two-year deadline for the passage of state statutes to replace the existing territorial public land laws.[5] The new body of public land law--brought into being by Act 32 of Hawaii's first state legislature early in 1962[6] - has subsequently been amended,[7] and further amendments continue to be sought by those critical of the State's new land policies.

While these continuing debates over public land policy have turned in part on essentially economic considerations, their ultimate resolution has been in terms of alternative understandings of the public interest. This suggestion may be clarified by reference to an account of the positions of the major disputants in the struggle which took place in Hawaii's first state legislature's year-long struggle over passage of Act 32.[8] The authors of this account were permitted to regularly attend the otherwise closed sessions of the conference committees through which agreement was finally reached on the provisions of Act 32. They observed that the disputants in this struggle had been "playing politics"--but in a far more fundamental sense than the term generally implies. As they analyzed it, resolution of the controversy over Hawaii's public land laws would

> . . .vitally affect the nature of Hawaii's regime, for the ownership, control, and utilization of the land determine to some extent the life of virtually every inhabitant of the Islands. The disputed principles underlying the land issue were fundamental, and the protagonists rightly understood that while land laws of one kind are compatible with a plantation economy with its concentrated political power and extreme differences in wealth and status, land laws of another kind can promote the development of varied economic enterprises, a more egalitarian division of wealth, and broader participation in government.[9]

If one accepts the argument that lease policy should be understood within the context of overall political policy, it follows that a substantial part of what follows may properly be characterized as political or policy analysis--a form of analysis that makes use of economic data and utilizes some of the tools of economic analysis.

Finally, it must be asked why such an analysis of lease policy in Hawaii is needed at this time? First, a considerable portion of Hawaii's valuable public domain has long been leased to private users. It is therefore extremely important that the State's policy makers take cognizance of economic and other principles applicable to the management of public land. Second, a major political issue in Hawaii has long been that of the leasing of public land for large-scale, private agricultural enterprises. This controversy has focused on the question of whether those seeking family farms, for example, have been equitably treated in competing with those seeking leases of public land for plantations and big ranches. Proponents of homesteading have vigorously protested that Hawaii's large landowners have secured on unduly favorable terms extensive leases of public land to supplement their fee simple holdings.

Many aspects of this controversy have been noted in the preceding discussion of gubernatorial land policy. The following analysis is designed to provide some further criteria by which this issue may be evaluated. Lastly, this analysis should be helpful in determining whether the State should continue to lease land for agricultural uses rather than leasing for other uses, or alternatively, to sell its land. Implicit here is the question of whether or not the continued leasing of large acreages of public land to a relatively small number of major lessees is compatible with the long-range needs and objectives of the community.

Major Considerations in Leasing Policy

Lessees vs. Lessors

Our analysis may best begin with consideration of the basic economic objectives of lessors and lessees and the methods by which their respective objectives are resolved through lease terms.

The soundest leasing arrangement from a strictly economic point of view is an agreement temporarily transferring the rights of use and occupancy in land in such a way that the economic objectives of both lessor and lessee are met. In economic terminology, the lessor who seeks the most remunerative use of his land consistent with the long-range protection of his investment is defined as a "rational lessor". Such a lessor may forfeit the realization of maximum short-term gain in order to increase flexibility in land use and thereby attempt to maximize the possibilities for long-term gain. He recognizes the possibility that desirable changes in the use of part or all of his land may present themselves. The lessor's objectives are threefold: the securing of a good tenant, securing maximum return from contract rent consistent with long-range protection of his land, and opportunities to capitalize on changed conditions that may present alternative land use.

The basic objectives of lease policy sought by a governmental or public body are generally broader in scope than those held by private lessors. Public policy makers are obliged to insure that the use to which any particular land parcel is put be consistent with zoning regulations or with any master plans that may have been developed to guide land use in a given area. Such policy makers frequently discover that the objectives of long-term, optimal, development of a large area restricts the uses to which its parts

may be put. It cannot be emphasized too strongly that the best use of public land may not necessarily be one yielding the highest rent or other merely monetary returns.

From the lessee's point of view, the basic objective in securing a lease is to derive maximum income and other benefits from land use. At the minimum, the lessee's long-term interests demand leasing arrangements permitting land use consistent with the efficient operation of his economic enterprise. The lessee's long-term interests also demand leasing arrangements that permit amortization of necessary capital improvements, as well as compensation for any improvements not consumed upon lease expiration. By definition, a "rational lessee" secures a "fair share" of productive returns for his investment in rent, capital and work. He seeks a contract rent that not only recognizes gains stemming from his productive inputs, but that also permits him to retain revenues derived from unusually skillful property management on his part.

These objectives of the lessee and the lessor, as they bear on lease negotiations, may be summarized as follows. The lessee seeks to retain benefits stemming from his specialized management of the property. The lessor seeks to protect his long-term interest in his property, in part through preserving flexibility in its use. These potentially conflicting objectives are subject to negotiation by the lessee and lessor in reaching agreement on lease terms. Negotiations may include considerations such as land use, contract rent, lease length, withdrawal privileges retained by the lessor, and, under some circumstances, possible compensation for unconsumed capital expenditures by the lessee upon lease expiration.

The resolution of these divergent objectives may prove especially difficult in negotiating long-term leases, for during the span of a long-term lease the possibility increases that alternative, more remunerative uses of the land may be discerned by the lessor. The lessee may also discover better land use possibilities, or he may want to assign lease rights to a portion of his land to other parties. Changes within an industry involving special managerial skills or the introduction of new production techniques may produce gains attributable not only to labor and capital but also to land as a necessary capital input. Changes may also take place in the prices of the commodity or services produced. Such changes may represent no changes in productive cost but, rather, significant shifts in demand, or they may produce an increment in income, a portion of which should be

credited to the land. Conversely, changes in the cost of factors of production other than land may lessen the value of land being leased. To reiterate: the decisive issue between lessor and lessee is the determination of an equitable contract rent.

Six basic types of rent schedules are in general use: (1) cash rent, the amount of which remains unchanged for the duration of the lease, (2) cash rent, with stepped up rentals specified in the lease for subsequent years, (3) cash rent, with provisions for "rental reopening" at stated intervals, (5, 10, or more years) at which time the rental price is determined by agreement or arbitration, (4) cash rent based on a percentage of gross returns, (5) cash rent based on a percentage of gross returns, with minimal or maximum levels specified, and (6) cash rent with adjustments provided for changes in price levels.

The inflexibility of leases based on the first type of rent schedule, viz., unchanging payments for lease duration, may prove disadvantageous for either lessee or lessor. Hence, alternative rental schedules have largely replaced them in contemporary leading practice. It is common today to relate rental rates to changes in the prices of commodities produced on leased land, thereby providing flexibility through reflecting productive value over time. A familiar example of such an arrangement in Hawaii has been the use of an "escalator clause", a device once commonly incorporated in leases of public land used for the growing of sugar cane. "Escalator clauses" may be based on either a percentage of gross revenue, or they may be tied to the price of sugar. The former recognizes increased income stemming from improved management techniques, favorable growing conditions, or both, while the latter is related directly to increases or decreases in commodity price. The commodity price index is currently used, for example, in pricing water sales from the State of Hawaii to the East Maui Irrigation Company. This water is used for growing sugar cane. This type of escalator clause has gradually fallen into disfavor on the grounds that it takes account only of the value of commodities produced, while ignoring the cost of the productive factors invested in growing the crop. A more fundamental criticism advanced against escalator clauses is that they do not adequately reflect changes in productivity, a development increasingly characteristic of modern agriculture.

The currently preferred alternative to "escalator clauses" is a "percentage lease", based on either the gross or net revenue generated by leased land. A critically important requirement for sound negotiation of a percentage-lease is information about the relationship between gross and net revenues for the type of

operation to be conducted on the leased land. Unless the operation is to be completely flexible, so that the lessee has the choice of whether to produce at all, a minimum rent must be established. Generally, this requires some calculation of average expected revenue. A maximum rent is optional. It can be validly argued that if the lessor is not willing to assume the risk that his revenue will fall below a certain level he should grant the lessee the opportunity of recovering possible losses by allowing him to retain all revenue above a given point. It can also be argued that a lessor possessing land in a land-hungry area such as Hawaii has the advantage, and that he is being compensated for this advantage in negotiations by securing a minimum rent.

The use of a percentage of net revenue is usually found only as either a supplement or a limit to the use of gross revenue in a percentage lease. This practice is based on recognition that changes in gross product do not necessarily reflect changes in land value. For example, the gross value of products may be increased through greater labor productivity, and thus have no relationship to increase in residual land value. Some land managers refuse to enter into leases providing for a sharing of net revenue on the grounds that such leases may encourage lessees to manipulate their accounting practices. Finally, it should be noted that when the initial relationship between gross and net returns from productive use of the land changes during the course of the lease, the change may work to the disadvantage of either party. The longer the lease term granted, the greater is the chance for such developments. Long-term leases should then provide for both renegotiation of rent at stated intervals and a mechanism for settlement of such differences as may arise during negotiations.

The leasing program directed by the State of Hawaii's Department of Land and Natural Resources (hereafter referred to as the Land Department), presently calls for the use of percentage leases wherever practicable. The Land Department uses percentage of gross in writing sugar leases, with a minimum rental specified. In this respect, the current practice of the Land Department appears to protect the public interest in that it can provide a fair return for land use through contract rent.

Restrictions on Land Management by Lessees

Lease covenants that militate against the management prerogatives of a lessee may effectively hinder him from securing maximum

income. Foremost among such restrictions in many leases of public land has been the inclusion of withdrawal rights. Given the implicit threat to continuity of production, which, at least in principle--if not very often in practice--is introduced by this particular restriction, it follows that a lessee should pay less for a lease thus restricted than for a nonrestrictive lease comparable in every other respect. Furthermore, leases containing withdrawal provisions should provide for rental adjustments calculated on the overall effects of withdrawal on the operation of the remaining land, not just on the amount of land withdrawn.

Another restriction common to both public and private leases is the placing of limitations on the assignment of lease rights. Such restrictions may preclude subletting land, or they may restrict the use of sublet land to specified uses.[11] These restrictions may lower the market value of a lease by limiting the lessees' discretion in land use. Large private leases in Hawaii are frequently quite restrictive with respect to assignability. They also generally restrict the use to which leased land may be put. Consent to changes in land use may sometimes be granted in consideration for rental increases.

Considerations such as these were advanced by the framers of Act 32, as they sought to increase flexibility in the long-term management of Hawaii's public land. One of their objectives was to increase the possibilities for achieving "higher and better" uses of public land when and if such uses became feasible. Economic studies of production have repeatedly demonstrated that it is sometimes necessary to sacrifice some degree of efficiency in order to increase flexibility of land use. Flexibility is here understood as constituting an extension of the range of generally efficient land uses, as opposed to a narrow, immediate, most efficient use. In view of the probability of changing conditions in Hawaii, the managers of public land (as well as privately owned land) increasingly find it sound to forego the maximization of immediate, monetary return in order to increase the prospects for broader, future benefits. The statutory requirements of Act 32 are intended to realize this objective, for the public domain is properly considered to constitute a public trust to be managed for the long-term benefit of the community.

It should again be emphasized that sound, long-term management of the public domain has always been especially important objective in Hawaii, not only because such a large portion of the Islands' land is publicly owned, but also because limited land resources make it imperative that these resources be used to the fullest. The

preceeding analysis of gubernatorial land policy has revealed that Hawaii's governors from Sanford Dole to the present administration have professed adherence to this very point. Still, it must be admitted that Hawaii's policy makers have encountered considerable difficulties in recent decades especially in achieving substantial increases in the amount of public land being put to productive use. Furthermore, there is no question but that much of Hawaii's as yet undeveloped public domain is of such a character as to make development difficult and expensive.

This problem may be examined more broadly, and perhaps more insightfully by regarding Hawaii as an "economic region". From this perspective, one may again argue that the use of the "region's" public land should be directed toward achieving maximum "net social product", rather than simply maximum, immediate monetary return. While the criterion of "net social product" may not be perfectly determinable, it is not difficult to demonstrate how it can be applied. If one considers total personal income generated in the State as a measure of a region's economic and social produce, maximization of personal income generated by use of public land (in combination with direct rental returns) is obviously a more meaningful criterion than direct rental returns alone.

It may sometimes be the case that the land use providing the highest direct rental returns to the State will also generate the most personal income from the productive activity it supports within the State, but this is not necessarily the case. Personal income includes the direct income derived from a productive activity, along with the multiplication of such income through respending. Thus, the amount of personal income generated in the State of Hawaii by particular productive activities depends both on the total revenues generated directly by an economic operation, as well as related patterns of purchases of goods and services developed by the process of production. This phenomenon has been discussed in detail in an earlier Legislative Reference Bureau study.[12] Generally speaking, the more labor required by a productive operation, the greater is the generation of total personal income within the State. In addition, if more productive factors are purchased locally (and, more importantly, produced locally as well), more personal income is generated locally. Very little is known specifically about the multipliers of closely linked productive activities, although some valuable preliminary work has been done by the First Hawaiian Bank of Hawaii and the Economic Research Center. Further information, necessary for making sound judgments on these matters could be developed from input-output tables currently being constructed.[13] However, the value of the

income generation of any particular economic activity varies with the business cycle. Thus, increasing the number of jobs available when the economy is at full employment may serve only to increase inflationary pressures. Therefore, a more important consideration for lease policy than the amount of income generated is the kind of income generated. For example, an industry which provides high-paying jobs and is not sensitive to seasonal and cyclical fluctuations is particularly attractive to the State as a potential lessee.

The main point to be stressed is that while one economic activity may be less productive than another, it can still be of greater overall economic value because of the amount--and particularly the kind of additional income generated locally. As increased personal income is generated, public revenues may rise through increased yields from general excise taxes and personal income taxes.

These are not, of course, the only relevant considerations. It is also important to evaluate the effect of public leasing policy on the existing industrial pattern and on the development plans of the State as a whole. For example, the effect of public land policy on the tourist industry in Hawaii is extremely important because of the essential interdependence of public policy and the development of the economy as a whole. Considerations such as these should be taken into account by policy makers in developing lease policies for public land.

Current Policies and Programs for the Leasing of Hawaii's Public Land

Act 32, as amended, provides current policy guides for the administration of Hawaii's public land.[14] This Act retains significant portions of the management and administrative provisions of the long-established territorial land laws. Substantively, however, Act 32 established new policy with regard to disposition of public land and other important matters. Generally speaking, the Act appears to have been designed to stimulate Hawaii's long-term overall development, rather than to maximize current revenue from leases. Many of the provisions of Act 32 are designed to prevent the sale of public land. Their objective on this score is to retain the public domain, while simultaneously attempting to put public land to a broad variety of productive uses. Act 32 requires that leases state the use to which land is to be put. Some leases include a specification of land improvements required of the lessee, along with the time limits set for their completion.

General lease restrictions under Act 32 include the following:

(1) No lease shall be for a period longer than 65 years (except for residential leases, which may be written initially for 55 years, and may contain provision for extension consistent with FHA underwriting practices);

(2) Renewal options are prohibited;

(3) No new lease may be made on land covered by a lease having more than one year to run;

(4) No lease shall be made to a party in arrears on tax or rent payments to the State or to any political subdivision of the State;

(5) No lease is transferable nor assignable except under four specified exceptions. One such exception is that of "extreme economic hardship" as demonstrated to the satisfaction of the "Board of the Land Department";

(6) The lease should include only land to be utilized directly or indirectly in the lessee's operation (which means that "waste land" should be excluded where practicable); and

(7) Mineral and water rights are reserved to the State.

With the exception of the provision dealing with direct assignment of leases, these general restrictions on leasing continue established practices. The major departure from previous legislation is found in section 37 of Act 32, which places restrictions on leases of land for intensive agricultural and pastoral use.

Under Act 32, as amended, leases are limited to 25 years unless the lessee is required to maintain his home on the property. Such is the case when land is being leased for homesteading, e.g., a family farm or ranch. While this 25-year restriction applies specifically to commercial agriculture, it is somewhat mitigated by the provision that when land requires extensive development before it can be made productive for agricultural or pastoral uses, a lease may be extended for as long as an additional ten years. No other administrative latitude is available on this score. Nevertheless, the 25-year lease term is significantly longer than the 15-year statutory provision that prevailed during most of the territorial period.

Although Act 32 retains the long-established provision of Hawaii's public land laws that leases of public land must be let at public auction, it does give the Land Department latitude to deviate from this provision if "the public interest demands it". Specifically the Act provides that:

> Where the public land is being sought. . .by a sugar or pineapple company (and) such company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which, when taken together with the lands already owned or controlled or available to the company, when cultivated, is found by the board to be necessary for the company's optimum mill or cannery operation.[15]

Through this provision Act 32 provides for the protection of "economic units" and permits lease negotiation where a particular tract of public land is considered essential for the efficient operation of an enterprise. It thereby takes cognizance of the continued importance of commercial agriculture to Hawaii's economy and recognizes that large leases of public land may contribute to economic development, a goal that properly includes the protection of established industries and their important economic benefits to the community as a whole.

Act 32 provides that leased land may be withdrawn for public purposes, an objective now defined more broadly than under the old territorial land laws. In addition to withdrawal for such direct public uses of land as highway rights-of-way, land may now be withdrawn to effect changes in the use to which it is being put by lessees for private purposes. Compensation is provided for the lessee in the event of withdrawal, and the law specifically provides that "rent shall be reduced in proportion to the value of the land withdrawn or made unusable". In addition, compensation on a pro rata basis is provided for such permanent improvements as may have been erected on the land as well as any impairments to use resulting from such withdrawal. The unexpired portion of the lease term provides the basis for making an estimate of "remaining economic life". Act 32 further provides that no land on which crops are growing shall be withdrawn until after harvest unless the lessee is compensated for his loss.

The provisions of Act 32 governing commercial, industrial, and business leases do not differ significantly from the general lease provisions already discussed. The only additional significant stipulations are that leases must follow a development plan, with such development being consistent with the zoning regulations of the local governmental unit. In addition, the Land Board is

required to insure that leases will not create a public nuisance and that the use proposed by a prospective lessee be compatible with existing private developments in the surrounding area. These provisions permit the Land Board to exercise architectural and site-planning control over private uses of public land.

Act 32 makes explicit provision for land used for hotels and resorts. When public land is requested for such purposes, the Department of Planning and Economic Development is required to satisfy itself that the "advantages. . . for such use outweigh those inherent in free public use [of the land] in its natural state".[16]

The leasing of public land for residential use is not now generally designed to maximize public revenue. It attempts rather to provide assistance to that portion of the community deemed eligible by the legislature to receive special assistance. Thus, the provisions for residential leases in Act 32 are designed to provide for subsidized single-family housing for low-income strata in Hawaii's population. To be eligible for a residential lease under the provisions of Act 32, the annual income of a husband and wife may not exceed $6,500 after deducting $600 for each dependent. Given the average size of families in Hawaii, a family qualifying for low-income housing may presently have a total family income of approximately $9,000.

Many of the specific provisions governing residential leases of public land are similar to those governing private residential leases. For example, lease rights may be assigned only with approval of the lessor. However, those holding residential leases of public land may exercise an option to purchase the land in fee simple after a residence has been constructed on the premises and after ten years have passed from the date of issuance of the lease.

Classification of Public Land

Detailed classification of Hawaii's public land according to potential use is indispensable for the development of a sound leasing program, especially in view of the requirement that specific designation of use or uses must be included in leases. Furthermore, proper planning and disposition of public land through leasing requires a complete analysis of alternative potential uses. Unquestionably, the effective management of Hawaii's public domain has long been hampered by the lack of an adequate inventory and classification system. Numerous attempts have been made to rectify this deficiency.

Nevertheless, information presently available on the public domain continues to be far less complete and accurate than comparable information on privately owned land. In view of the pressing need for full and accurate information on all of Hawaii's public land, it is imperative that a complete and accurate inventory be completed at the earliest possible date. Otherwise, the State's policy makers must continue to base policy on incomplete and sometimes misleading data.

It is important in this connection to take note of the several types of land classification currently being developed in Hawaii. The first is a rough physical classification of public land. Such a survey has now been virtually completed. A second classification, that of the tenure arrangements now in effect on public land, has also been completed. A classification is also being made of present utilization of public land. Yet another proposed classification would determine the potential uses of all state land.

A major problem confronting those attempting to classify public land according to its best use is stating the criteria to be used in determining such use. In the past, as we have emphasized, the highest and best use of a parcel of state land has generally been considered that which provides maximum monetary return through lease rent. Act 32, however, requires the broader standard of "net social product", of which lease rent constitutes but one part. Still, those responsible for the administration of Hawaii's public domain face the difficulty of determining the precise cluster of social benefits to be realized through land use. The land department has not as yet developed adequate predictors of the effects of different uses or net social product.

While lease rent no longer provides the sole, or even the major criterion for evaluating lease policy, it cannot, of course, be disregarded. Systematic attempts are now being made to determine, far more precisely than in the past, the productive value of land under lease. One may anticipate that, when an adequate assessment of productivity has been developed, it will be given proper weight in developing contract rents. Production records, variations in the productivity of fields, and similar data are being used in developing rent schedules since they provide a basis for projecting income from land under lease. The State preserves some flexibility in these arrangements in sugar and pineapple leases by using contract

rents tied to changes in production value over the length of long-term leases. Thus, agricultural leases are being written with a minimum cash rent plus a percentage of the gross value of the product. This type of rent schedule gives the State a rental return based on an equitable percentage of production.

Rent Determination

The general process by which rent is determined can only be outlined here, for no detailed analysis of individual leases and land appraisals has been made in the course of this study. The following procedure is presently used in determining lease rent. A projection is made of the annual production realized from the land to be leased. A "trend-line" of gross output based on past production records (normally over a ten-year period) is used to evaluate the productive capacity of the land. Since actual production is likely to be either somewhat greater, or smaller, than the projected "trend-line", this single variable is not sufficient for the determination of minimum cash rent.

The proportion of gross production used to determine minimum rent is generally based on a level of production somewhat below the average.[17] A percentage of gross value is then added to account for production levels above the sub-average level of production used. In this way, the lessee is protected against excessive losses in bad years, while the State benefits from unusually productive years, as well as from long-term increases in productivity stemming from skillful land management.[18]

Although leases of public land in Hawaii are generally let at auction, a form of pre-negotiation sometimes takes place. When only one potential user of the land seeks a lease, the Land Department is required to secure an appraisal from an independent appraiser[19] and may negotiate the tentative terms of the lease with the prospective lessee prior to the public auction. In such instances, public bidding for the lease is a mere formality.

Long-range planning for the best uses of public land is closely tied to the problem of land disposition, whether through sale or lease. Given the Land Department's difficulty in anticipating the amount, type, and location of public land that may be required for use by various state agencies, leases of public land contain withdrawal provisions designed to provide for this contingency. Formerly, it was thought unnecessary to include in leases withdrawal

clauses to provide for alternative private uses of public land. Current Land Department policy appears to be opposed to shifting public land from one private use to another if the uses are essentially similar, for example, shifting from one kind of intensive agriculture to another.

There is, however, a provision in the land laws through which land under lease may be re-leased for a higher use.[20] This objective could be served equally well by selective and circumscribed withdrawal provisions that would afford the lessee protection of his investment.

Agricultural Leases on Privately Owned Land in Hawaii

Privately owned land in Hawaii is leased for a broad variety of purposes. Most of Hawaii's new resorts areas including a substantial portion of the expensive, central Waikiki section, Kaanapali, on the west coast of Maui, and the resort sections on the Kona coast of the island of Hawaii, are being developed under leases of privately owned land. New industrial developments, such as the Campbell Industrial Park at Barber's Point on Oahu, are also located on land leased from private owners.

As we have noted, the leasing of privately owned land for agricultural purposes has been a common practice since the initiation of commercial agriculture in the Islands. The prevalence of this practice has been related to a number of factors unique to Hawaii. Important among them is the historical concentration of land ownership in the Islands. From the time of the Great Mahele, some of Hawaii's largest landowners have had neither the capital nor the inclination to develop their holdings, and have leased the bulk of their holdings to entrepreneurs willing to undertake land development.[21] The result of this has been that many of Hawaii's most important plantation enterprises, among them Ewa Plantation, Oahu Sugar Company, and Kahuku Plantation Company, all on Oahu, have been developed on leased land. These plantations rely almost exclusively on land leased from private owners. By contrast, the Kekaha Sugar Company, on the island of Kauai, depends almost entirely on leases of public land for its operation. The use of leased land has many advantages for the entrepreneur. It frees capital for investment in machinery, buildings, and roads, and for the development of water supplies. Investments have characteristically been large in getting Hawaii's plantation enterprises underway.

The fact that a number of major plantations have long utilized land leased from private owners, as well as from the State, has, not surprisingly, given rise to a lively controversy over the terms of these two types of leases. Some have alleged that the terms of leases on public land have consistently been more favorable than leases written by private owners for comparable land. These charges have been countered by those who have alleged precisely the opposite. The confusion generated by these arguments could be eliminated only through detailed studies of leasing practices, but the data required for such studies could be collected only through very extensive research.[22]

Such data as have been gathered do not suffice for any definitive discussion of the terms of agricultural leases of private land. However, some tentative comparisons of public and private agricultural leases may be ventured. The term of private leases, especially for small areas (less than a hundred acres) on the island of Oahu is frequently shorter than those of current state leases. Private leases for a term of ten years and even five years are not uncommon, especially where agricultural leases have been tailored in expectation of urban developments.[23] Still, in many instances where the terms of private leases are short, major lessees have had solid ground for making the inference that they will be reasonably sure of continued use of leased land. Even a superficial examination of the histories of those plantations that have based their operations largely on leases of privately owned land indicates remarkable operational stability. There have been occasional dramatic instances in which lease expiration has had devastating effects on the operation of a plantation, but these instances have clearly been the exception rather than the usual practice in the Islands.

Inasmuch as most private leases are for urban uses of relatively small parcels of land, withdrawal provisions are unnecessary. However, private leases of agricultural land of sizeable acreage increasingly have come to include withdrawal provisions, especially when the land is located on the island of Oahu. Notably, private pasture leases with twenty-year terms now include withdrawal provisions for "higher and better" use when the land may be potentially suited for intensive agricultural use or urban development. The withdrawal provisions in private leases differ somewhat from those contained in leases of public land. Typically, the areas that can be withdrawn under the terms of private leases are explicitly described in the covenant. Furthermore, such withdrawal provisions usually become effective only after a specified date. The lessee is thereby assured of continued use of the land for a stated minimum period. These withdrawal provisions are also generally carefully

circumscribed. Lessors of privately owned land are generally more permissive about the assignment of rights, a practice now generally precluded under state leases, but the lessor usually retains the right to approve the assignment. The lessee thereby enjoys somewhat broader managerial latitude in land use, while the lessor's interest is protected by including the requirements for review of a lessee's actions in the assignment of lease rights.

The types of contract rents found in private leases are varied. Formerly flat cash rents were common, and a few such leases are still in effect. Most of the more recent long-term private leases include flexible rental schedules. The most common type of contract rent schedule today is a flat cash minimum, plus a percentage based on gross returns. In some leases, rents are based only on a percentage of gross returns with no minimum or maximum being stated. Rentals tied to prices of the products produced on leased land also exist.

Unlike public leases, which are generally let at auction, private leases are always negotiated. Appraisal reports are typically used as the basis for negotiating contract rents. Prospective lessees may obtain independent appraisals for use in the negotiations, a process in which appraisers for both sides may play an important part.

In summary, large, private agricultural leases in Hawaii appear to be more liberal than state leases in their withdrawal provisions, assignability of rights, and lease disposition. Contract rents under private leases sometimes appear to be lower than those for comparable state leases, but in other instances they appear to be higher. The use of percentage leases of the type currently being used for the leasing of public land is increasing for the leasing of privately-owned land, although it should be noted that some large private land owners, such as the Campbell Estate, have made use of percentage leases for many years.[24]

Lessee Reactions to Current State Leasing Policies

Although it is not possible here to explore adequately the full range of practices currently being utilized for the leasing of Hawaii's public land, it may be useful to present the views of some of the large present lessees. A number of the major lessees of the State's agricultural land have been interviewed in order to obtain their views on current leasing policies and programs and to draw

attention to significant differences of opinion between those who formulate public land policy and those who, economically, are its most important tenants.

The major criticism of current policies and programs of the Land Department have been provoked by a number of policy guidelines contained in Act 32. Six areas of concern are most frequently mentioned: (a) lease duration, (b) method of lease disposition, (c) withdrawal provisions, (d) nonassignability of lease rights, (e) development of contract rents tied to variation in gross value, and (f) impingement of the administrative prerogatives of the Land Department.

Taking up these points in turn, we have observed in the course of our study that: (a) some major lessees express the view that the present maximum term of leases for agricultural use is too short. These lessees contend that incorporation of large areas of land leased for a short term in a plantation enterprise may critically restrict what can be done with the rest of the plantation's land. Availability of leased land may be the determining factor for investment in processing facilities. The optimal, or at least efficient, operation of the entire facility may depend on the production from such leased land. Inasmuch as this leased land may constitute an indispensable part of an "economic unit" supporting, for example, a sugar mill, any uncertainty regarding the continued leasing of public land could play an important part in an investment decision. Those who manage large agricultural corporations generally contend that the normal period of amortization for investment in off-site processing facilities is approximately thirty years. Thus, even if an investment were made immediately upon the initiation of a lease, the present maximum term of leases of public land might not permit full amortization of the investment. Nor, if the lease were not renewed, could compensation be secured for the "unconsumed investment". In this same context, it is further argued that the inability of lessees of public land to renegotiate a lease when circumstances appear to warrant an extension in mid-term, as, for example, when a plantation modernizes its mill, may constitute a major hindrance to timing improvements.

It follows that many lessees take the position that the maximum term of leases of public land should be increased. This argument is presented with special force by the management of plantations contemplating major new investments in sugar mill modernization, ring-diffuser machinery for more efficient juice extraction, overhead irrigation systems, and similar updating and upgrading of facilities. Plantation management contends that such investments

are not feasible in an industry whose profit margins continue to be consistently narrow, unless long-term, uninterrupted use of land can be guaranteed on terms permitting profitable operation.

Those who oppose increasing the maximum length of leases on public land point out that extremely profitable agricultural operations were consistently conducted in Hawaii during the period when the maximum term of leases of public land was fifteen years or less. However pertinent this argument may be, it should be remembered that during Hawaii's long territorial period the renewal of agricultural leases was virtually assured. Although no explicit renewal privileges were provided under the public land laws, successive territorial governors were generally sympathetic to the needs of the plantations, as may be seen by consideration of the preceding account of gubernatorial land policy. Major lessees typically refrained from attempting to bid leases of public land away from one another.

It is axiomatic that no specific maximum lease term can guarantee flexibility for every type of off-site investment contemplated by a corporation. Full flexibility is generally possible only through outright ownership of land. Nevertheless, longer term leases may be desirable. Continuing consideration of this question by the State's policy makers is indicated.

(b) Some major lessees of public land object to the present requirement that all leases (with the exceptions already noted) be sold at public auction. They contend that portions of the land they lease are indispensible part of "economic units", a possibility recognized in principle in Act 32, and that the sale of leases of such land at auction could impair or even destroy the economic efficiency of the unit. They further argue that when only one responsible lessee bids for land--a typical situation in Hawaii--negotiation provides a more equitable and efficient method of disposition than does auction.

From the State's viewpoint, negotiation, or a modification of the circumstances surrounding public auction, might very well facilitate better utilization of land resources. For example, even though the land to be leased does not constitute a critical portion of an economic enterprise, one prospective tenant may be more desirable for the State than another because of the use he proposes for the land either because he would create a greater net social product (through, for example, generation of greater personal income within the State) or because he would promote economic development in a desirable area. In such instances, negotiation could permit necessary administrative latitude in the selection of tenants.

Alternatively, the Land Department might specify various alternative uses of land, and seek the highest bidders for each alternative use.[25] Selection of the tenant could then be based on a determination of the alternative use yielding the highest and best return to the State. At present, the Department of Land and Natural Resources is required to award a lease to the highest bidder, and land disposition therefore depends almost exclusively upon the amount of contract rent offered. This is obviously too narrow a criterion to achieve optimal use of the State's land.

(c) The land managers of some leading agricultural corporations profess concern with the withdrawal privileges imposed by Act 32. While granting, of course, that withdrawal of land for direct public purposes is justified,[26] corporation management typically raises the objection that withdrawal privileges might be used capriciously to transfer land to other lessees for alternative uses.[27] If, for example, enormous political pressures were once more generated in Hawaii for establishing small-scale family farming, they fear that proposals would again be made to facilitate such development through the withdrawal of land presently under lease to agricultural corporations. Still, this particular contingency appears completely hypothetical today, and can hardly be regarded as one of the real threats to the stability of plantation agriculture in Hawaii. Plantation management has regularly objected to the inclusion in leases of withdrawal provisions, but the record indicates that withdrawal provisions have seldom been applied in Hawaii in such a way as to have been detrimental to the plantations. One has to hark back nearly fifty years to the ill-fated Waiakea experiment[28] discussed earlier to find an example of a major attempt to encourage family farming at the expense of an established plantation. It is also relevant to note that over the years most of the policy makers within the Land Department have apparently been opposed to withdrawals of this type. Nevertheless, past practice constitutes no absolute guarantee regarding future actions that might be taken by the land board, and major lessees of public land argue that withdrawal privileges imposed by the State appear to exceed what can be justified economically in that they impose an unwarranted degree of uncertainty on the tenure of agricultural leases. It is further argued that such withdrawal provisions are inconsistent with the spirit of a public land policy that in recent years has provided stable leasing arrangements and has gone so far as to permit lessees of residential land to acquire fee title to their lots.

(d) Many major lessees of public land have criticized the provisions of Act 32 that exclude assignment of lease rights except in limited cases.[29] Generally speaking, the lease rights acquired by a lessee of public land are not assignable in part or as a whole, with a few exceptions, including transfers that take place through default to a mortgagee.

The objective sought through this prohibition on assignment of lease rights is to insure that leased areas contain only land used directly by a lessee. Some of the framers of Act 32 manifested considerable concern about this matter because of the long-established practice of the Land Department in leasing large blocks of public land of which only a relatively small portion could possibly be utilized for the lessee's primary economic objective. For example, of the nearly 30,000 acres of public land included in the Kekaha Sugar Company's long-term lease, only 8,000 acres are planted to sugar. To be sure, areas of this leased land not planted to sugar do contribute directly or indirectly to the plantation's operations, but many thousands of acres have never been put to productive use.

Critics of this practice of leasing large acreages of public land to major lessees have charged that this has precluded independent bidders from securing the relatively small acreages required for family farms, modest ranches, and the like. Proponents of family farming in Hawaii have further charged that when small farmers and ranchers somehow managed to secure public land that competitive conditions frequently forced them to assign their lease rights to plantations or big ranchers.

In an attempt to meet at least one aspect of this problem, the framers of Act 32 attempted to encourage the division of large areas formerly leased to single parties into multiple leaseholds. As a result, several independent lessees may now occupy relatively small adjoining parcels, with some major lessees occupying scattered, noncontiguous parcels.

Critics of these new requirements imposed by Act 32 warn that these arrangements may decrease efficiency, and create friction between tenants. The hypothetical examples suggested by these critics generally fall into two categories: (1) instances in which the operation of small, independent economic units within the boundaries of a large enterprise may interfere with plantation operations. The possibilities of such interference would be heightened, of course, should access to the public land leased by the smaller unit be available only through land held by the larger enterprise;

(2) instances in which the operation of the small, independent economic unit might be handicapped. A frequently mentioned example of the latter possibility is the aerial dusting or "broadcasting" of herbicides (one of three methods generally used by the plantations for weed control). This dusting operation may result in herbicides drifting into nearby areas. When land areas are being utilized by other tenants within the plantation's holdings, prevention of such drifting of herbicides into them may be almost impossible. Deleterious effects of these drifts vary, but they are potentially serious.

In view of possibilities such as these, the argument of some major lessees of public land has been that potential conflict of interest would be minimized if the entire area were leased to the plantation. The plantations could then, if they chose, sublet small parcels not required for plantation purposes to smaller tenants, with the parties working out an explicit understanding regarding modes of operation.[30] In this manner, small areas might still be put to productive use, with the State receiving a return from the use of the land, while still minimizing friction between land users. The unknown factor in this proposal, of course, is whether large lessees of public land would generally evidence more willingness in the future than they have in the past to facilitate the operations of smaller tenants. While this argument has some merit, if the small plots were leased competitively, both the demand for such small plots and their market value would be established, with the State being assured of a fair market value rental return. The larger lessee could, of course, bid what the small plot was worth to him either in use or in order to avoid potential conflicts of interest.

Some of those opposed to affording the plantations this degree of control over smaller, independent entrepreneurs argue that ownership and control of Hawaii's land is already far too concentrated, and that the State should retain control of land by keeping leases non-negotiable.[31]

(e) Some lessees have criticized those current programs of the Land Department through which contract rents are increasingly being related to variation in gross production. As has been emphasized, contract rent schedules of this type are replacing the former "escalator clauses" that were found unsatisfactory for the reasons already indicated. There is some reason to believe that at least part of the concern expressed by major lessees about these new rent schedules is based on the substantial increases in their lease rents.

Rental receipts from agricultural leases of public land have indeed risen markedly during the past decade, with the Land Department contending that these increases have been warranted. No compelling evidence in support of either the Land Department's or major lessees' position has been compiled. The dispute in which these parties are engaged is inherent in contract rents tied to changes in a lessee's gross volume and is virtually inevitable. Negotiation of lease terms would probably serve to reduce the degree of conflict.

(f) Perhaps the most demonstrable argument made by critics of Act 32 is that there was a clear-cut intent on the part of some of its framers to reduce the administrative prerogatives of the Land Department. It may be added that many of the points raised in this connection by major lessees are also of concern to the Department's chief administrators.

There is no question but that part of the legislative intent behind Act 32 was to subject the Land Department to increased, direct control by the Legislature. This intent can be explained in part by the feeling of some of the framers of Act 32 that during Hawaii's long territorial period the Land Department, as directed by the gubernatorially appointed Commissioner of Public Land, had consistently favored the interests of major lessees, plantations and big ranchers.[32] However well founded these feelings may have been, they led the legislature to take upon itself some of the administrative authority formerly exercised by the Land Department. For example, Act 32, as originally passed in 1962, required that all proposed land exchanges, as well as all direct sales of public land for commercial use, be contingent upon legislative approval.[33] The delays and uncertainties inherent in this requirement made it virtually impossible to consummate land exchanges, inasmuch as legislative approval of such transactions was improbable--and uncertain at best. Furthermore, the responsibility of determining which of these proposed transactions should be approved, or disapproved, required legislators to devote a considerable amount of time to making what were, in effect, administrative decisions. The consequence appears to have been the ending of major land exchanges in Hawaii, hardly a surprising outcome in view of the notorious abuses to which this device had been subject at various times during Hawaii's territorial period.[34]

In the same vein, the governor's privilege of setting aside public land for public purposes was curtailed under Act 32 in its original form by the requirement that prior approval of the Senate and the Land Department be secured.

Whatever the underlying reason for these and other restrictions on the prerogative of the Land Department, the result has been to confound the exercise of legislative and executive powers in the control and administration of Hawaii's public land.

The foregoing objections to provisions of Act 32 have already resulted in some amendments to the Act, but there continues to be considerable feeling in some segments of the community that other aspects of Act 32 require further critical scrutiny and amendment.

Proposals for Alternative Leasing Policies

In recent years, a considerable amount of public land has been sold to individuals in fee simple at public auction primarily for residential purposes. In keeping with the intent of Act 32, it appears that such fee simple sales by the State will be confined largely to such "non-productive" or "consumptive" uses as single-family, residential use, although fee simple sales for other purposes may be made of scattered parcels of public land that are difficult to manage because of their size or location.

This policy of continued restrictions on the sale of public land does not necessarily retard Hawaii's economic development. Most commercial and other productive uses of land are served as well through lease arrangements as by fee simple ownership. A good lease generally provides business operations most of the benefits as does fee simple ownership of land, and, as already suggested, may indeed provide an asset that can be used to advantage in financing (assuming the right of lease assignability in the event of mortgage default). Other advantages of leasing land, as opposed to fee simple ownership, such as the capital position of firms have already been sufficiently discussed.

From the standpoint of the State, general leases effectively facilitate the productive use of public land and, when there is an active market for leases, permit competitive determination of the most economically productive use. In addition, general leases allow the public--through the Land Department--to maintain more direct and sustained control in the management and use of land than is possible through the police power of the State with regard to privately owned land. Leases provide a device for land management through which the State can exercise more varied kinds of control over development standards by protective convenants than is possible through zoning and building regulations or the regulation of sub-divisions.

It should be emphasized once again that under Act 32, the State of Hawaii is committed to the disposition of public land by lease, except as specifically provided by special legislation.[35] Such use is to be guided by determination of "highest and best" land use. It is therefore of considerable importance for the State's policy makers to determine whether this criterion adequately serves the best interests of the community. If explicit recognition is to be given to the relationship between the economic development programs of the State and the private ownership or leasing of land, then there is a pressing need for a carefully articulated and definitive policy statement that takes cognizance of the plurality of ends or objectives being sought in the management of Hawaii's public land. Such a general policy statement might well be considered as a type of "preface" to Hawaii's public land law.

Given the present general commitment to the leasing of public land rather than to its disposition through sale, it is all the more incumbent upon Hawaii's policy makers to regularly re-examine leasing policies and practices to make certain that they best meet the needs of the community. We have sufficiently examined many basic criticisms made of past and present leasing policy by Hawaii's major lessees. Only a few additional areas of concern require brief mention at this point. On this score, several alternative proposals may be entertained. Consideration might well be given to the possibility of negotiating the terms of unexpired leases, if concrete and convincing proposals are presented by lessees firmly establishing their case that additional time is required for amortization of capital investments.

In addition, consideration might be given to the inclusion of provision in leases of public land for rental reopenings at stated intervals. Percentage leases, such as those presently being written by the Department of Land and Natural Resources, provide reasonable assurance that the State will receive a "fair share" of proceeds. However, during the term of leases of the duration of those now commonly being written by the Land Department, periodic rental reopenings may be required in fairness to both parties. Such arrangements would be consistent with prevailing practices in the leasing of privately-owned land.

If, as we may reasonably assume, the present trend toward broader and more complex use of Hawaii's public domain continues, the Land Department will be called upon to further extend the scope of its activities. It will be called upon to write more leases for a variety of specialized uses, such as commercial timbering,

industrial activities, and the like. It may well be that negotiated leases would provide a better procedure than do auction sales for determining the lease terms best suited for the development and use of such land.

A possible complication that should be at least noted with regard to administration of the Land Department is that negotiation of leases could, if inadequately advertised, result in some potential lessees remaining uninformed of opportunities to lease parcels for similar purposes. This contingency could be avoided by maintaining and reinforcing the practice of extensively advertising the availability of any parcel under consideration well prior to its disposition. In the event that two or more parties expressed interest in the land, then recourse could be had to a more formal type of bidding procedure.

In considering these alternative policies, one should not overlook the possibility that even such modest extensions of administrative latitude might conceivably be abused, or that special privileges might be sought by private lessees at the expense of the State. Still, it must be admitted that such abuses are possible even with the restrictions inherent in existing policies, and the State Legislature possesses the ultimate responsibility and power to check these or other potential abuses through further amendments to the public land laws.

Summary Data on the Leasing of Public Land in Hawaii

Our discussion of the leasing of public land in Hawaii may best be concluded by the systematic presentation of a portion of the data on which the preceding discussion was based, along with additional information that may prove to be of special interest to those concerned with the development of future policy.

Several references have been made to Table 14 which presents comparative data on major lessees of public land from 1890 through 1966. This table was constructed--as far as possible--on a cross-sectional basis, i.e., data were selected from the same point through a series of decades. Thus, data are presented from 1966, 1956, 1946, 1936, and 1926 during the statehood and territorial period. Data for 1898 provide the best possible cross-sectional account of lease policy under Hawaii's short-lived Republic, while 1890 proved to be the only year toward the end of Hawaii's monarchy for which data were available.[36]

Table 14

MAJOR LESSEES OF PUBLIC LAND: 1890-1966

1890		1898		1926		1936		1946		1956		1966	
Lessee	No. of Acres Leased	Lessee	No. of Acres Leased	Lessee	No. of Acres Leased	Lessee	No. of Acres Leased	Lessee	No. of Acres Leased	Lessee	No. of Acres Leased	Lessee	No. of Acres Leased
John Parker	215,000	Humuula Sheep Station Co.	238,200	Robert Hind	127,000	Robert Hind	115,000	Robert Hind	124,849	Robert Hind	129,719	Dillingham Investment Corp.	109,987
Francis Spencer	85,000	Hawaiian Agricultural Co.	190,405	A. W. Carter	91,038	A. W. Carter	104,730	Richard Smart	99,176	Richard Smart	58,542	Hawaiian Ranch Co., Inc.	54,569
William Gibson	29,978	Waiakea Mill Co.	95,000	Hawaiian Agricultural Co.	79,594	Hawaiian Agricultural Co.	56,823	Hawaiian Agricultural Co.	44,503	Hawaiian Agricultural Co.	42,203	Parker Ranch	53,588
A. Enos & Co.	25,000	Gay & Robinson	92,462	Humuula Sheep Station Co.	53,180	Kekaha Sugar Co., Ltd.	37,292	Kahoolawe Ranch	28,800	Kekaha Sugar Co., Ltd.	28,440	Kekaha Sugar Co., Ltd.	28,039
Samuel Parker	19,078	V. Knudsen	92,462	Ulupalakua Ranch Co.	38,355	Kahoolawe Ranch	28,800	Kekaha Sugar Co., Ltd.	28,557	Ulupalakua Ranch Co.	25,846	Kukaiau Ranch Co., Ltd.	20,952
S. E. Kahu	16,924	J. T. Baker	57,236	W. H. Shipman, Ltd.	34,682	W. H. Shipman, Ltd.	28,627	Ulupalakua Ranch Co.	25,815	Kukaiau Ranch Co., Ltd.	20,952	Ulupalakua Ranch, Ltd.	11,215
*	15,500	J. P. & S. Parker	54,600	Kahoolawe Ranch	28,260	Ulupalakua Ranch Co.	23,073	Kukaiau Ranch Co., Ltd.	19,993	Lihue Plantation Co., Ltd.	20,357	Lihue Plantation Co., Ltd.	11,062
*	15,300	S. Parker	54,300	Kukaiau Ranch Co., Ltd.	22,873	Kukaiau Ranch Co., Ltd.	20,073	Ruddy Fah Tong	16,274	Hutchinson Sugar Planta-		Kahua Ranch, Ltd.	10,073
*	14,000	J. I. Dowsett	43,050	H. W. Rice	20,830	Hutchinson Sugar Planta-		Gay & Robinson	16,086	tion Co.	18,369	Dennis, Payton & Kinney	9,153
Samuel Andrews	14,000	F. Spencer & Others	40,000	Kaeleku Sugar Co., Ltd.	13,907	tion Co.	19,836	Kahua Ranch, Ltd.	15,756	Kahua Ranch, Ltd.	15,752	Kaonoulu Ranch, Inc.	6,385
Samuel Kauhane	13,500	Kynnersley Brothers &		Kekaha Sugar Co., Ltd.	13,052	Kahua Ranch, Co., Ltd.	15,854	Alfred Hartwell Carter, Jr.	15,723	Edward C. Hustace, Trustee,		Maui Factors, Inc.	4,858
*	13,400	R. Von Tempsley	30,000	Olowalu Co.	12,890	Gay & Robinson	15,616	East Maui Irrigation Co.,		Stillman Trust	15,723	Laupahoehoe Sugar Co.	3,292
*	13,000	Hutchinson Sugar Co.	25,922	John A. Maguire	10,875	Kaeleku Sugar Co., Ltd.	15,192	Ltd.	15,387	W. H. Shipman, Ltd.	13,289	Palaiu Ranch Trust	3,144
Waiohinu Agricultural &		A. Enos & Co.	25,000	J. F. Woods	10,394	Lihue Plantation Co., Ltd.	13,980	Hutchinson Sugar Planta-		Kaohoulu Ranch Co., Ltd.	6,385	Pioneer Mill Co., Ltd.	2,972
Grazing Co.	12,500	William Gibson, Estate of	24,402	Richard C. Lane	9,797	H. W. Rice	11,288	tion Co.	14,724	Pioneer Mill Co.	4,949	Triangle 3	2,963
Hawaiian Agricultural Co.	11,900	Kukaiau Plantation Co.	24,250	Hutchinson Sugar Planta-		John A. Maguire	8,987	W. H. Shipman, Ltd.	13,101	Rogers Farm	4,866	Kaupo Ranch, Ltd.	2,476
Hilea Sugar Co.	11,580	W. H. Cornwell	22,774	tion Co.	8,040	L. L. McCandless	8,120	Lihue Plantation Co., Ltd.	13,039	Frank R. Greenwell	4,444	Samuel K. Thronas	2,383
W. H. Cornwell	10,734	Lihue Plantation Co.	17,455	Lihue Plantation Co., Ltd.	7,137	Choy Leon Chow	6,990	H. W. Rice	11,198	Kaiwiki Sugar Co., Ltd.	3,203	Mauna Kea Sugar Co., Ltd.	2,171
*	10,000	F. Wundenberg	16,400	Makee Sugar Co.	6,851	Pioneer Mill Co.	4,860	Choy Leong Chow	6,990	Gay & Robinson	2,953	Honomalino Agricultural	
*	9,500	Waiohinu Agricultural &		Gay & Robinson	5,997	Frank R. Greenwell	4,420	Pioneer Mill Co.	4,899	Hilo Sugar Co.	2,556	Co., Inc.	2,095
*	9,341	Grazing Co.	15,900	Kohala Ranch Co.	4,751	Robinson A. McWayne	4,178	Frank R. Greenwell	4,421	Dwight H. Baldwin	2,476	Olokele Sugar Co.	1,888
Haiku Sugar Co., et. al	9,000	Kukaiau Island Co.	13,456	Kaiwiki Sugar Co., Ltd.	4,719	Kaiwiki Sugar Co., Ltd.	3,413	Robinson A. McWayne	4,178	Kohala Sugar Co.	1,836	Kohala Sugar Co.	1,680
Haleakala Ranch Co.	8,005	W. Kinney	13,400	Pioneer Mill Co., Ltd.	3,460	Waimanalo Sugar Co.	3,311	Waiakea Mill Co.	3,707	Walter H. Lau	1,755	Hamakua Mill Co.	1,460
*	7,765	Hind & Low	12,000	Waimanalo Sugar Co.	3,311	Frank S. Texeira	3,017	Roger James, Jr.	3,525	Aiea Dairy, Ltd.	1,698	Pepeekeo Sugar Co.	1,459
J. I. Dowsett	7,650	Hakalau Plantation Co.	10,940	John Gomes	3,017	Waiakea Mill Co.	2,362	Kaiwiki Sugar Co., Ltd.	3,212	Honokaa Sugar Co.	1,538	Yee Hop, Ltd.	1,270
*	7,500	O. T. Shipman	9,420	Oahu Railway & Land Co.	2,966	Libby, McNeil & Libby	2,332	Waimanalo Sugar Co.	3,157	City & County of Honolulu	1,480	McCandless Heirs	1,258
Hutchinson Sugar Co.	7,320	James Woods Estate	9,341	Frank R. Greenwell	2,868	Dwight H. Baldwin	2,288	Carl Meyer	3,017	Yee Hop, Ltd.	1,270	Hutchinson Sugar Co.	1,132
Grant Forsuth	6,000	F. H. Hayselden	9,078	Pauwela Pineapple Co.	2,312	Hilo Sugar Co.	2,261	L. L. McCandless	2,467	L. L. McCandless	1,258	Norman N. Inaba	1,091
Charles Gay	5,945	Olowalu Plantation Co.	8,740	Honolua Ranch	2,294	Baldwin Packers, Ltd.	2,122	Kaeleku Sugar Co., Ltd.	2,380	California Packing Corp.	1,148	William K. Thompson	1,080
*	5,885	E. Sinclair	8,000	Hilo Sugar Co.	2,193	Honokaa Sugar Co.	1,971	Dwight H. Baldwin	2,219	James L. Taka	1,115		
Hakalau Plantation Co.	5,590	M. S. Grinbaum & Co.	7,500	L. L. McCandless	2,028	Kohala Sugar Co.	1,631	Hilo Sugar Co., Ltd.	2,030	Kyuhei Takamoto	1,091	Total of 28 Lessees	353,695
*	5,218	*	7,237	Waiakea Mill Co.	2,002	Thomas H. Pedro, Jr.	1,595	Honokaa Sugar Co.	1,954	Tamotsu Kuramoto &			
Molokai Ranch Co.	5,000	J. M. Monsarrat	7,200	Waianae Co.	1,944	City & County of Honolulu	1,480	Kohala Sugar Co.	1,836	William K. Thompson	1,067		
Makee Sugar Co.	4,773	Hilea Sugar Co.	7,000	Honokaa Sugar Co.	1,843	Hamakua Mill Co.	1,472	John S. Grace	1,758				
*	4,500	J. A. Cummins	6,970	City & County of Honolulu	1,480	Waianae Co.	1,231	Aiea Dairy, Ltd.	1,678	Total of 30 Lessees	436,280		
Hui & Kamaole	4,400	Princeville Plantation Co.	6,237	R. A. Drummond	1,450	William S. Lindsey	1,185	City & County of Honolulu	1,480				
*	4,135	Widemann	6,143	Princeville Plantation Co.	1,290	John A. Ramos	1,182	Hamakua Mill Co.	1,468				
*	4,000	Pioneer Mill Co.	6,007	Hamakua Mill Co.	1,275	Princeville Plantation Co.	1,131	Joaquin A. Ramos	1,270				
*	3,900	John A. Maguire	5,400	Kipahulu Sugar Co.	1,196			John S. Ramos	1,182				
*	3,869	L. Pahaialu	5,000	Kamawae, et. al	1,034	Total of 37 Lessees	577,723	Roger James	1,091				
J. W. Kuula Kaawa	3,700	Molokai Ranch Co.	4,956	J. Marsden & Siemsen	1,015								
*	3,534	Samuel Andrews	4,524	*	1,000			Total of 38 Lessees	562,900				
*	3,485	D. McBryde	4,045	F. Wittrock	1,000								
Honomu Sugar Co.	3,256	Board of Education	4,000	Dr. G. Trousseau	1,000								
*	3,100	H. T. Baldwin	3,900	*	1,000								
*	2,715	Hui & Kamaole	3,900	*	1,000								
*	2,700	Makee Sugar Co.	3,556										
Allen & Robinson	2,630	C. Spreckles	3,260	Total of 45 Lessees	648,200								
J. P. & Samuel Parker		Laupahoehoe Sugar Co.	3,000										
Estate	2,628	Lindemann	2,800										
*	2,600	J. M. Horner, et. al	2,500										
J. M. Horner	2,500	McCandless	2,431										
Puuloa Ranch Co.	2,500	J. Campbell	2,353										
*	2,500	C. K. Bishop	2,178										
L. L. McCandless	2,431	Kilauea Sugar Co.	2,000										
Makalau Plantation Co.	2,400	Haleakala Ranch Co.	1,934										
Ookala Sugar Co.	2,200	Eldridge	1,800										
Brewer & Crowning	2,185	W. C. Lane	1,576										
*	2,178	Kipahulu Sugar Co.	1,500										
J. Nakaleka	2,087	T. K. Clark	1,500										
*	2,030	Ookala	1,360										
Anthony Lidgate	2,000	Asana	1,343										
*	2,000	M. H. Reuter	1,250										
*	1,659	John Broad	1,160										
*	1,640	Hana Plantation Co.	1,115										
*	1,500	Hauna & Aimoku	1,060										
J. G. Flores, M. J. Facia &		Honokaa Sugar Co.	1,015										
J. K. Clark	1,500	Total of 65 Lessees	1,384,903										
*	1,500												
*	1,454												
	1,350												
William Lidgate	1,250												
*	1,216												
*	1,208												
Laupahoehoe Sugar Co.	1,200												
*	1,195												
S. W. Kaai & Aunna	1,115												
Hauna & Aimoku	1,060												
G. W. Macfarlene (trans-													
ferred to S. Parker)	1,035												
Total of 76 Lessees	752,931												

Sources: Data for 1890 and 1898 were compiled from various primary sources located in the archives of the Department of Land and Natural Resources. Data for 1926, 1936, 1946, and 1956 were taken from Biennial Reports of the Commissioner of Public Lands, as corrected. Data for 1966 were compiled from data furnished by the major lessees.

*Lessees unidentified.

There are many striking similarities in the pattern of leasing of public land during this period of some three-quarters of a century, even though Hawaii enjoyed some four forms of government during this time. Information was sought on "major lessees" during this entire period, "major lessees" being defined as those who held leases on 1,000 or more acres of public land. Table 14 reveals that the number of major lessees of public land declined from a high of 76 in 1890 to a low of 28 by 1966. The full extent of this decline cannot be fully appreciated until one considers the related information presented in Table 16 in which the subsidiary plantations of Hawaii's largest agricultural corporations are consolidated. Another interesting phenomenon revealed by Table 14 is the rather considerable decline in the total amount of public land leased during the past 70 years. There is convincing evidence here of the existence of long-term trend, one which will be discussed in connection with Table 18.

Table 15 presents the data of Table 14 in a modified form in order to assist the reader in observing the degree of continuity of leasing of public land by major lessees. This phenomenon should be considered in connection with the foregoing discussion of leasing policy by major lessees, especially their expressed concern about such questions as the duration of leases, renewal of leases prior to expiration, and related considerations.

Perusal of Table 15 suggests that a considerable number of major lessees have enjoyed what appears to be unbroken use of substantial tracts of land for some 80 years. These data would have been even more revealing had it been possible for our staff to afford detailed consideration to such things as continuity or changes in the names of plantations and ranches, and to analyzing in depth the terms and specifications of individual leases, e.g., the multiple leases of public land that contributed so significantly to the successful operation of Hawaii's famous Parker Ranch, the great lease that has provided virtually all of the land used by the Kekaha Sugar Company, and similar large-scale leases that have remained in force from the reign of King Kalakaua to the present.

Table 16 presents data on the major lessees in another form. It should be noted that the apparent discrepancy between the listing of lessees in this table and Table 14 stems from the fact that in this table we have grouped "subsidiary" plantations under the names of corporations owning 50 per cent or more of the plantations' stock.

Table 15

CONTINUITY OF LEASING BY
MAJOR LESSEES OF PUBLIC LAND:
1926-1966

Lessees	1926	1936	1946	1956	1966
Total Acreage of Public Land Under Lease and License	658,885	608,306	596,733	450,370	426,024
Total Acreage Under Lease to Major Lessees	648,200	577,723	562,900	436,280	353,695
Number of Lessees	45	37	38	30	28
Per Cent Controlled by Listed Lessees	98.4	95.0	94.3	96.9	83.0
1. Robert Hind	127,000	115,000	124,849	129,719	--
2. A. W. Carter	91,038	104,730	--	--	--
3. Hawaiian Agricultural Co.	79,594	56,823	44,503	42,203	--
4. Humuula Sheep Station Co.	53,180	--	--	--	--
5. Ulupalakua Ranch Co.	38,355	23,073	25,815	25,846	11,215
6. W. H. Shipman, Ltd.	34,682	28,627	13,101	13,289	--
7. Kahoolawe Ranch	28,260	28,800	28,800	--	--
8. Kukaiau Ranch Co., Ltd.	22,873	20,073	19,993	20,952	20,952
9. H. W. Rice	20,830	11,288	11,198	--	--
10. Kaeleku Sugar Co., Ltd.	13,907	15,192	2,380	--	--
11. Kekaha Sugar Co., Ltd.	13,052	37,292	28,557	28,440	28,039
12. Olowalu Co.	12,890	--	--	--	--
13. John A. Maguire	10,875	8,987	--	--	--
14. J. F. Woods	10,394	--	--	--	--
15. Richard C. Lane	9,797	--	--	--	--
16. Hutchinson Sugar Plantation Co.	8,040	19,836	14,724	18,369	1,132
17. Lihue Plantation Co., Ltd.	7,137	13,980	13,039	20,357	11,062
18. Makee Sugar Co.	6,851	--	--	--	--
19. Gay and Robinson	5,997	15,616	16,086	2,953	--
20. Kohala Ranch Co.	4,751	--	--	--	--
21. Kaiwiki Sugar Co., Ltd.	4,719	3,413	3,212	3,203	--
22. Pioneer Mill Co., Ltd.	3,460	4,860	4,899	4,949	2,972
23. Waimanalo Sugar Co.	3,311	3,311	3,157	--	--
24. John Gomes	3,017	--	--	--	--
25. Oahu Railway & Land Co.	2,966	--	--	--	--
26. Frank R. Greenwell	2,868	4,420	4,421	4,444	--
27. Pauwela Pineapple Co.	2,312	--	--	--	--
28. Honolua Ranch	2,294	--	--	--	--
29. Hilo Sugar Co.	2,193	2,261	2,030	2,556	--
30. L. L. McCandless	2,028	8,120	2,467	1,258	1,258
31. Waiakea Mill Co.	2,002	2,362	3,707	--	--
32. Waianae Co.	1,944	1,231	--	--	--
33. Honokaa Sugar Co.	1,843	1,971	1,954	1,538	--
34. City and County of Honolulu	1,480	1,480	1,480	1,480	--
35. R. A. Drummond	1,450	--	--	--	--
36. Princeville Plantation Co.	1,290	1,131	--	--	--
37. Hamakua Mill Co.	1,275	1,472	1,468	--	--
38. Kipahulu Sugar Co.	1,196	--	--	--	--
39. Kamawae, et. al	1,034	--	--	--	--
40. J. Marsden & Siemsen	1,015	--	--	--	--
41. *_____	1,000	--	--	--	--
42. F. Wittrock	1,000	--	--	--	--
43. Dr. G. Trousseau	1,000	--	--	--	--
44. *_____	1,000	--	--	--	--
45. *_____	1,000	--	--	--	--
46. Kahua Ranch Co.	--	15,854	15,756	15,752	10,073
47. Choy Leong Chow	--	6,990	6,990	--	--
48. Robinson A. McWayne	--	4,178	4,178	--	--
49. Frank S. Texeira	--	3,017	--	--	--
50. Libby, McNeil & Libby	--	2,332	--	--	--
51. Dwight H. Baldwin	--	2,288	2,219	2,476	--
52. Baldwin Packers, Ltd.	--	2,122	--	--	--
53. Kohala Sugar Co.	--	1,631	1,836	1,836	1,680
54. Thomas H. Pedro, Jr.	--	1,595	--	--	--
55. William S. Lindsey	--	1,185	--	--	--
56. John A. Ramos	--	1,182	--	--	--
57. Richard Smart (Parker Ranch)	--	--	99,176	58,542	53,588
58. Ruddy Fah Tong	--	--	16,274	--	--
59. Alfred Hartwell Carter, Jr.	--	--	15,723	--	--
60. East Maui Irrigation Co., Ltd.	--	--	15,387	--	--
61. Roger James, Jr.	--	--	3,525	--	--
62. Carl Meyer	--	--	3,017	--	--
63. John S. Grace	--	--	1,758	--	--
64. Aiea Dairy, Ltd.	--	--	1,678	1,698	--
65. Joaquin A. Ramos	--	--	1,270	--	--
66. John S. Ramos	--	--	1,182	--	--
67. Roger James	--	--	1,091	--	--
68. Edward C. Hustace, Trustee, Stillman Trust	--	--	--	15,723	--
69. Kaohoulu Ranch Co., Ltd.	--	--	--	6,385	6,385
70. Rogers Farm	--	--	--	4,866	--
71. Walter H. Lau	--	--	--	1,755	--
72. Yee Hop, Ltd.	--	--	--	1,270	1,270

7.	Kahoolawe Ranch	23,200	23,000	23,000		
8.	Kukaiau Ranch Co., Ltd.	22,873	20,073	19,993	20,952	20,952
9.	H. W. Rice	20,830	11,288	11,198	--	--
10.	Kaeleku Sugar Co., Ltd.	13,907	15,192	2,380	--	--
11.	Kekaha Sugar Co., Ltd.	13,052	37,292	28,557	28,440	28,039
12.	Olowalu Co.	12,890	--	--	--	--
13.	John A. Maguire	10,875	8,987	--	--	--
14.	J. F. Woods	10,394	--	--	--	--
15.	Richard C. Lane	9,797	--	--	--	--
16.	Hutchinson Sugar Plantation Co.	8,040	19,836	14,724	18,369	1,132
17.	Lihue Plantation Co., Ltd.	7,137	13,980	13,039	20,357	11,062
18.	Makee Sugar Co.	6,851	--	--	--	--
19.	Gay and Robinson	5,997	15,616	16,086	2,953	--
20.	Kohala Ranch Co.	4,751	--	--	--	--
21.	Kaiwiki Sugar Co., Ltd.	4,719	3,413	3,212	3,203	--
22.	Pioneer Mill Co., Ltd.	3,460	4,860	4,899	4,949	2,972
23.	Waimanalo Sugar Co.	3,311	3,311	3,157	--	--
24.	John Gomes	3,017	--	--	--	--
25.	Oahu Railway & Land Co.	2,966	--	--	--	--
26.	Frank R. Greenwell	2,868	4,420	4,421	4,444	--
27.	Pauwela Pineapple Co.	2,312	--	--	--	--
28.	Honolua Ranch	2,294	--	--	--	--
29.	Hilo Sugar Co.	2,193	2,261	2,030	2,556	--
30.	L. L. McCandless	2,028	8,120	2,467	1,258	1,258
31.	Waiakea Mill Co.	2,002	2,362	3,707	--	--
32.	Waianae Co.	1,944	1,231	--	--	--
33.	Honokaa Sugar Co.	1,843	1,971	1,954	1,538	--
34.	City and County of Honolulu	1,480	1,480	1,480	1,480	--
35.	R. A. Drummond	1,450	--	--	--	--
36.	Princeville Plantation Co.	1,290	1,131	--	--	--
37.	Hamakua Mill Co.	1,275	1,472	1,468	--	--
38.	Kipahulu Sugar Co.	1,196	--	--	--	--
39.	Kamawae, et. al	1,034	--	--	--	--
40.	J. Marsden & Siemsen	1,015	--	--	--	--
41.	*_____	1,000	--	--	--	--
42.	F. Wittrock	1,000	--	--	--	--
43.	Dr. G. Trousseau	1,000	--	--	--	--
44.	*_____	1,000	--	--	--	--
45.	*_____	1,000	--	--	--	--
46.	Kahua Ranch Co.	--	15,854	15,756	15,752	10,073
47.	Choy Leong Chow	--	6,990	6,990	--	--
48.	Robinson A. McWayne	--	4,178	4,178	--	--
49.	Frank S. Texeira	--	3,017	--	--	--
50.	Libby, McNeil & Libby	--	2,332	--	--	--
51.	Dwight H. Baldwin	--	2,288	2,219	2,476	--
52.	Baldwin Packers, Ltd.	--	2,122	--	--	--
53.	Kohala Sugar Co.	--	1,631	1,836	1,836	1,680
54.	Thomas H. Pedro, Jr.	--	1,595	--	--	--
55.	William S. Lindsey	--	1,185	--	--	--
56.	John A. Ramos	--	1,182	--	--	--
57.	Richard Smart (Parker Ranch)	--	--	99,176	58,542	53,588
58.	Ruddy Fah Tong	--	--	16,274	--	--
59.	Alfred Hartwell Carter, Jr.	--	--	15,723	--	--
60.	East Maui Irrigation Co., Ltd.	--	--	15,387	--	--
61.	Roger James, Jr.	--	--	3,525	--	--
62.	Carl Meyer	--	--	3,017	--	--
63.	John S. Grace	--	--	1,758	--	--
64.	Aiea Dairy, Ltd.	--	--	1,678	1,698	--
65.	Joaquin A. Ramos	--	--	1,270	--	--
66.	John S. Ramos	--	--	1,182	--	--
67.	Roger James	--	--	1,091	--	--
68.	Edward C. Hustace, Trustee, Stillman Trust	--	--	--	15,723	--
69.	Kaohoulu Ranch Co., Ltd.	--	--	--	6,385	6,385
70.	Rogers Farm	--	--	--	4,866	--
71.	Walter H. Lau	--	--	--	1,755	--
72.	Yee Hop, Ltd.	--	--	--	1,270	1,270
73.	California Packing Corp.	--	--	--	1,148	--
74.	James L. Taka	--	--	--	1,115	--
75.	Kyuhei Takamoto	--	--	--	1,091	--
76.	Tamotsu Kuramoto & William K. Thompson	--	--	--	1,067	1,080
77.	Dillingham Investment Co.	--	--	--	--	109,987
78.	Hawaiian Ranch Co., Inc.	--	--	--	--	54,569
79.	Dennis, Payton & Kinney	--	--	--	--	9,153
80.	Maui Factors, Inc.	--	--	--	--	4,858
81.	Laupahoehoe Sugar Co.	--	--	--	--	3,292
82.	Palaiu Ranch Trust	--	--	--	--	3,144
83.	Triangle 3	--	--	--	--	2,963
84.	Kaupo Ranch, Ltd.	--	--	--	--	2,476
85.	Samuel K. Thronas	--	--	--	--	2,383
86.	Mauna Kea Sugar Co., Ltd.	--	--	--	--	2,171
87.	Honomalino Agricultural Co., Ltd.	--	--	--	--	2,095
88.	Olokele Sugar Co.	--	--	--	--	1,888
89.	Hamakua Mill Co.	--	--	--	--	1,460
90.	Pepeekeo Sugar Co.	--	--	--	--	1,459
91.	Norman N. Inaba	--	--	--	--	1,091

Source: Biennial Reports of the Commissioner of Public Lands, Territory of Hawaii, 1926, 1936, and 1946, as corrected by reference to primary sources. Data for lessees of public land in 1966 were supplied by major lessees.

*Lessee unidentified.

Table 16

LESSEES OF PUBLIC LAND: 1966

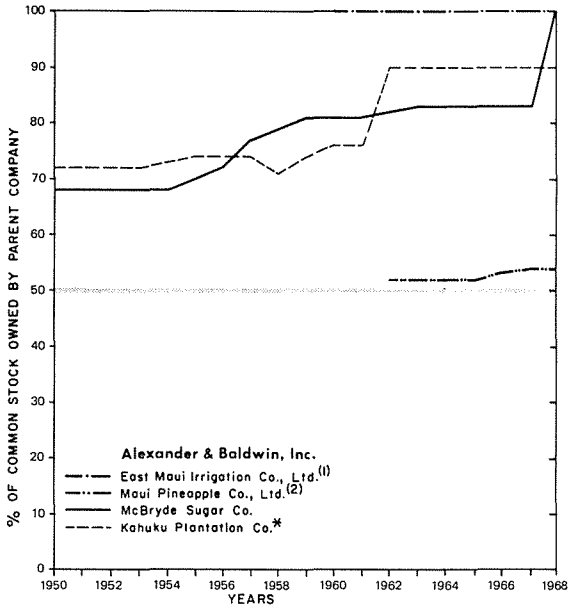
Lessees of 1,000 or More Acres of Public Land	Total Acreage Leased	Lessees of Less than 1,000 Acres of Public Land	Total Acreage Leased
TOTAL ACREAGE UNDER LEASE: 363,940			
Total	354,881		9,059
Percentage of Total Held	97.5		2.5
Dillingham Investment Corp.	109,988	Wilbert P. Costa	960
C. Brewer & Co., Ltd.	61,599	Valentine Redo	731
Hutchinson Sugar Co.	(1,132)*	Roger & Nora James	649
Kilauea Sugar Co., Ltd.	(2)	California Packing Corporation	578
Mauna Kea Sugar Co., Ltd.	(2,171)	Puu Oo Ranch (G. Murphy)	576
Olokele Sugar Co.	(1,889)	Haleakala Ranch Co.	574
Paauhau Sugar Co.	(33)	John Medeiros	563
Pepeekeo Sugar Co.	(1,460)	Volcanite, Ltd.	506
Hawaiian Ranch Co., Inc.	(54,570)	Harold Chung Hoon	477
Wailuku Sugar Co.	(343)	Alexander & Baldwin	428
Richard Smart	53,588	Kahuku Plantation	(10)
American Factors, Ltd.	42,088	Maui Pineapple Co., Ltd.	(396)
Kekaha Sugar Co., Ltd.	(28,040)	McBryde Sugar Co., Ltd.	(22)
Lihue Plantation Co., Ltd.	(11,062)	W. H. Greenwell	423
Oahu Sugar Co., Ltd.	(8)	Hana Tropical Fruit Plantation (Erik Kray)	421
Pioneer Mill Co., Ltd.	(2,972)	Fred Y. K. Yuen	365
AmFac, Inc.	(6)	Joseph Brun & Joseph Rita	360
Theo H. Davies & Co., Ltd.	26,485	Anna Ranch	334
Hamakua Mill Co.	(1,460)	Martin J. Branco	320
Kukaiau Ranch Co., Ltd.	(20,952)	Hawaiian Fruit Packers, Ltd.	307
Honokaa Sugar Co., Ltd.	(780)	John Rapoza	259
Laupahoehoe Sugar Co.	(3,292)	Carl Meyer	228
Ulupalakua Ranch Co.	11,215		
Kahua Ranch, Ltd.	10,074		
Dennis, Payton & Kinney	9,153		
Kaonoulu Ranch Co., Ltd.	6,385		
Maui Factors, Inc.	4,858		
Palani Ranch Trust (Frank R. Greenwell)	3,145		
Triangle 3 (Antionio Salcedo)	2,964		
Kaupo Ranch, Ltd.	2,476		
Samuel K. Thronas	2,383		
Honomalino Agricultural Co., Inc.	2,096		
Castle & Cooke	1,685		
Castle & Cooke	(5)		
Kohala Sugar Co.	(1,681)		
Yee Hop, Ltd.	1,270		
McCandless Heirs	1,258		
Norman N. Inaba	1,091		
William K. Thompson	1,080		

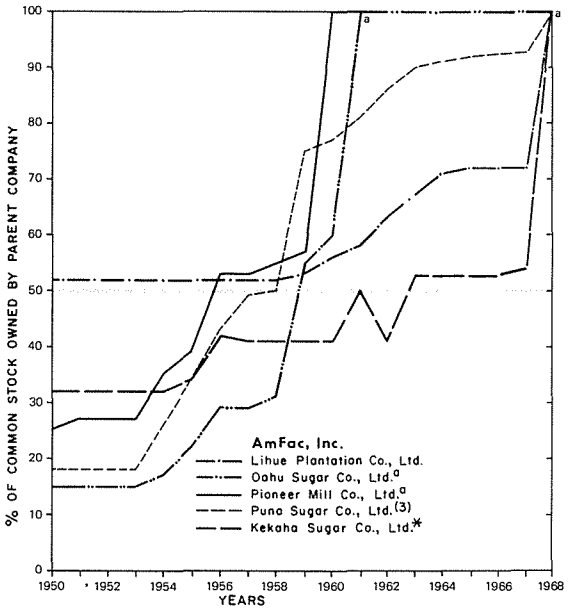
*Acreage figures for subsidiaries are placed in parentheses.

The effect of this arrangement may be seen by considering the data supplied on C. Brewer and Company in Table 16. The total of 61,599 acres of public land leased by C. Brewer and Company has been reached by totaling the acreage of public land leased by each of C. Brewer's subsidiaries. The same principle has been applied to the subsidiary plantations or ranches of AmFac, Inc., Alexander & Baldwin, Inc., Castle & Cooke, Inc., and Theo. H. Davies & Co., Ltd.

This technique of consolidating land leased by subsidiaries under the name of parent companies was not utilized in the presentation of data on major lessees prior to 1966 inasmuch as the process of acquisition of plantation stock by their "factors"[39] had not proceeded far enough in 1956, 1946, or in prior decades to lend support to the hypothesis that leased land was technically controlled by the "factor" rather than by the management of individual plantations. This is evident from Figure 6 which depicts the degree to which each of the large "factors" dealt with in Table 16 had acquired ownership of common stock between 1950-1968. For example, it may be seen that it was not until approximately the late 1950's that AmFac, Inc. secured a controlling interest in the Oahu Sugar Company, Pioneer Mill Company, and Puna Sugar Company. It should be added that while this process of consolidation of formerly independent plantations by the large "factors" appears to be a continuing objective of management, majority interest had, almost without exception, been secured by 1966. Thus, acquisition of common stock by the "factors" since that time would not affect the data presented on leases of public land in Table 16.

Consideration of the sub-totals presented in Table 16 reveals that the five largest lessees of Hawaii's public land as of 1966 held 293,748 acres, or 80.7 per cent of the total of 363,940 acres under lease at that time. The next 15 largest lessees held a total of 61,133 acres, or 16.8 per cent of the total. Taken together, the 20 largest lessees held 97.5 per cent of all land leased by the State. The remaining 20 lessees none of whom leased as much as 1,000 acres, held only 9,059 acres of public land under lease in 1966, or a mere 2.5 per cent of the total. The degree to which this concentration of leased public land contributes to the overall concentration of control of land resources in Hawaii was discussed at some length in the Legislative Reference Bureau's study of Public Land Policy in Hawaii: Major Landowners [37] and need not therefore receive further consideration here.





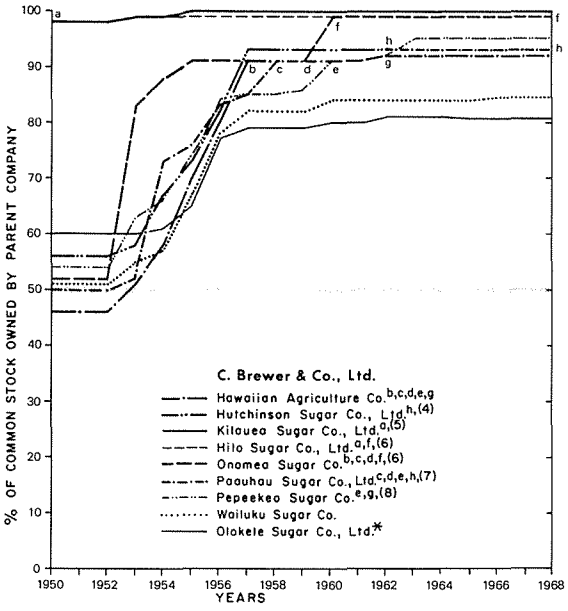
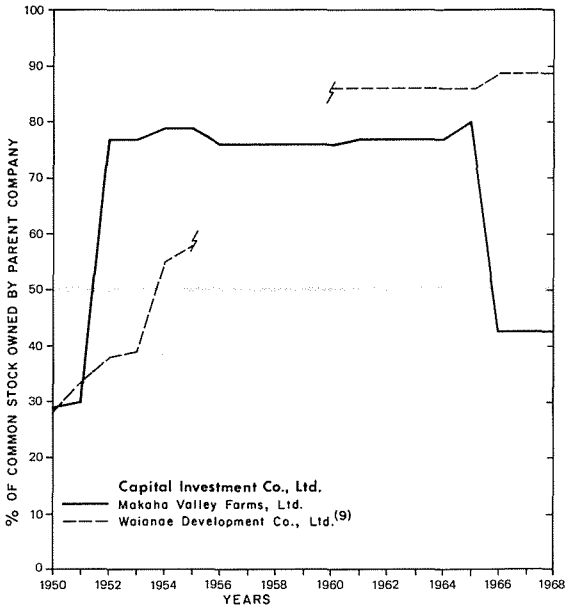
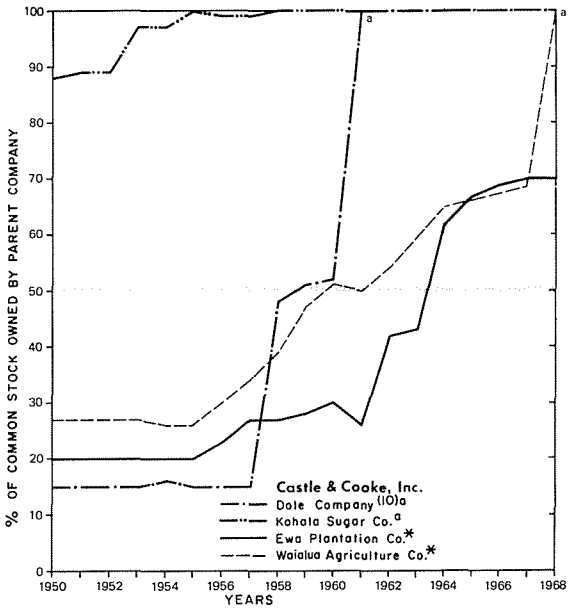


Fig. 6 Hawaii's Major Factors: Common Stock Ownership in Their Subsidiaries

*, (1) See Explanatory Notes in Appendix III

Effective Control





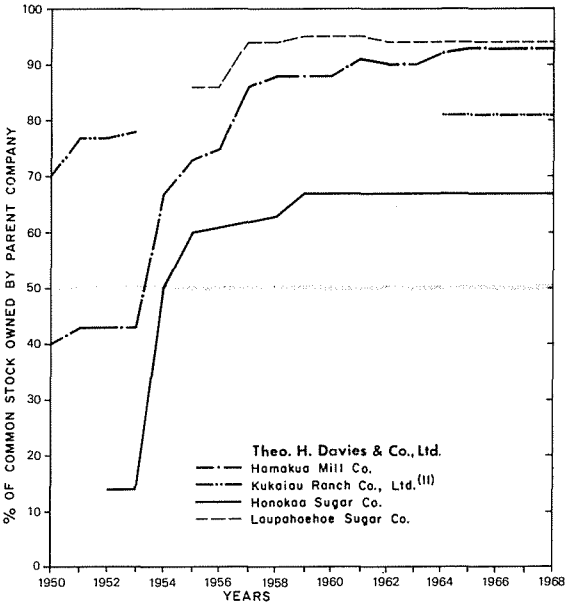


Fig. 6 Hawaii's Major Factors: Common Stock Ownership in Their Subsidiaries

*, (1) See Explanatory Notes in Appendix III

Effective Control

In Table 17 the same ordering principle utilized in Table 16 has been followed by way of facilitating comparison of data. Table 17 presents data on the uses to which lessees of public land reported putting their leased acreage in 1966. For the purposes of this analysis, the lessees were requested to apply the use code developed by the State's Department of Taxation, although it seemed sufficient for the purposes of this report to simplify the Tax Department code by utilizing only seven major use categories, rather than the 29 categories utilized for tax assessments. The precise fashion in which our staff simplified the Tax Department code is indicated in the use key that follows. As is readily evident, our staff lumped all land used for the cultivation of sugar cane in a single category rather than differentiating between the various grades of sugar producing land, as does the Tax Department. The same principle was applied in our categorization of land used for the cultivation of pineapple and grazing.

The largest amount of leased public land being put to productive use in 1966 was for grazing, about 171,000 acres being devoted to that use. Sugar cane was cultivated on some 25,000 acres of leased public land, while pineapple was being grown on slightly more than 4,000 acres. A considerable amount of public land was also utilized for the support of commercial agriculture, as may be seen by considering "attributable uses," while over 160,000 acres were devoted to "other uses." Some of the implications of this widespread use of public land for "other uses" will be discussed in connection with other tables and in the concluding section of this report.

Table 18 presents comparative data on designated uses of Hawaii's public land under lease for the 40-year period 1926-1966. Some of the data presented in this table are deficient in that Hawaii's Commissioners of Public Lands over the decades did not establish consistent categories of land use. Exact comparisons cannot therefore be made, but some tentative suggestions are possible on the basis of available data. It is evident that the total amount of public land leased for agricultural pursuits has decreased steadily and markedly over the past 40 years. The total of over 640,000 acres leased for all agricultural pursuits in 1926 had declined to nearly half that amount by 1966, or some 350,000 acres. The leading cause for this decline has been the dramatic reduction in large-scale ranching. In 1926, the manager of many of Hawaii's large plantations still found it profitable to maintain subsidiary ranching operations on land unsuited to the cultivation of sugar cane or pineapple, as they had for many years. A number of factors coalesced over the years to render these ranching operations unprofitable and most of them have now been reduced or abandoned. Table 18 reveals a reduction

Table 17

USES MADE OF LEASED PUBLIC LAND BY MAJOR LESSEES
1966

Lessee	No. of Leases	Total Acreage Leased	Total Acreage Used in Agriculture	Uses of Leased Land					
				Sugar Cane	Grazing	Pineapple	Attributables	Other Uses	General Agriculture
Total	136	363,940	200,753	24,696	171,223	4,039	1,879	161,308	795
Percentage of Total Acreage Leased			55.2	6.8	47.0	1.1	.5	44.3	.2
ACREAGE LEASED TO LESSEES WITH OVER 1,000 ACRES OF STATE LAND									
Dillingham Investment Corp.	3	109,988	24,093	--	24,093	--	--	85,895	--
C. Brewer & Co., Ltd.	21	61,599	53,598	5,511	48,085	--	165	7,836	2
Hawaiian Ranch Co., Inc.	8	54,570	48,069	712	47,357	--	41	6,460	--
Mauna Kea Sugar Co., Ltd.	2	2,171	1,337	1,334	4	--	74	760	--
Olokele Sugar Co.	1	1,889	1,889	1,889	--	--	--	--	--
Pepeekeo Sugar Co.	3	1,460	1,089	1,089	--	--	45	326	--
Hutchinson Sugar Co.	1	1,132	848	454	394	--	5	279	--
Wailuku Sugar Co.	3	343	343	12	331	--	--	--	--
Paauhau Sugar Co.	2	33	22	22	--	--	--	11	--
Kilauea Sugar Co., Ltd.	1	2	2	--	--	--	--	--	2
Richard Smart (Parker Ranch)	24	53,588	53,097	--	53,097	--	--	491	--
AmFac, Inc.	13	42,088	13,878	13,874	4	--	1,424	26,785	--
Kekaha Sugar Co., Ltd.	3	28,040	7,112	7,109	4	--	951	19,977	--
Lihue Plantation Co., Ltd.	3	11,062	5,670	5,670	--	--	425	4,966	--
Pioneer Mill Co., Ltd.	5	2,972	1,095	1,095	--	--	48	1,829	--
Oahu Sugar Co., Ltd.	1	8	--	--	--	--	--	8	--
AmFac, Inc.	1	6	--	--	--	--	--	6	--
Theo H. Davies & Co., Ltd.	18	26,485	24,070	3,993	20,077	--	72	2,343	--
Kukaiau Ranch Co., Ltd.	6	20,952	20,077	--	20,077	--	--	876	--
Laupahoehoe Sugar Co.	5	3,292	2,406	2,406	--	--	36	851	--
Hamakua Mill Co.	3	1,460	1,127	1,127	--	--	35	298	--
Honokaa Sugar Co., Ltd.	4	780	460	460	--	--	1	319	--
Ulupalakua Ranch, Ltd.	3	11,215	4,437	--	4,437	--	--	6,779	--
Kahua Ranch, Ltd.	2	10,074	10,071	--	10,071	--	3	--	--
Dennis, Payton & Kinney	1	9,153	--	--	--	--	--	9,153	--
Kaonoulu Ranch Co., Ltd.	2	6,385	5,385	--	5,385	--	--	1,000	--
Maui Factors, Inc.	1	4,858	--	--	--	--	--	4,858	--
Palani Ranch Trust (Frank R. Greenwell)	2	3,145	3,145	--	--	3,145	--	--	--
Triangle 3 (Antonio Salcedo)	1	2,964	--	--	--	--	--	2,964	--
Kaupo Ranch, Ltd.	4	2,476	2,427	--	2,427	--	--	49	--
Samuel K. Thronas	3	2,383	--	--	--	--	--	2,383	--
Honomalino Agricultural Co., Inc.	1	2,096	--	--	--	--	--	2,096	--

Table 17 (continued)

Lessee	No. of Leases	Total Acreage Leased	Total Acreage Used in Agriculture	Uses of Leased Land					
				Sugar Cane	Grazing	Pineapple	Attributables	Other Uses	General Agriculture
Castle & Cooke	4	1,685	1,294	1,294	--	--	215	176	--
Kohala Sugar Co.	3	1,680	1,294	1,294	--	--	215	171	--
Castle & Cooke	1	5	--	--	--	--	--	5	--
Yee Hop, Ltd.	1	1,270	--	--	--	--	--	1,270	--
McCandless Heirs	1	1,258	--	--	--	--	--	1,258	--
Norman N. Inaba	1	1,091	1,091	--	1,091	--	--	--	--
William K. Thompson	2	1,080	13	--	13	--	--	1,068	--
ACREAGE LEASED TO LESSEES WITH UNDER 1,000 ACRES OF STATE LAND									
Wilbert P. Costa	1	960	960	--	960	--	--	--	--
Valentine Redo	1	731	--	--	--	--	--	731	--
Roger & Nora James	1	649	--	--	--	--	--	649	--
California Packing Corp.	1	578	556	--	--	556	--	22	--
Puu Oo Ranch (George Murphy)	1	576	576	--	576	--	--	--	--
Haleakala Ranch Co.	2	574	574	--	574	--	--	--	--
John Medeiros	1	563	--	--	--	--	--	563	--
Volcanite, Ltd.	1	506	--	--	--	--	--	506	--
Harold Chung Hoon	1	477	--	--	--	--	--	477	--
Alexander & Baldwin	7	428	241	23	--	211	--	187	7
Maui Pineapple Co., Ltd.	2	396	211	--	--	211	--	185	--
McBryde Sugar Co., Ltd.	3	22	20	13	--	--	--	2	7
Kahuku Plantation	2	10	10	10	--	--	--	--	--
W. H. Greenwell	1	423	--	--	--	--	--	423	--
Hana Tropical Fruit Plantation (Erik Krag)	1	421	421	--	--	--	--	--	421
Fred Y. K. Yuen	1	365	365	--	--	--	--	--	365
Joseph Brun & Joseph Rita	2	360	--	--	--	--	--	360	--
Anna Ranch	1	334	334	--	334	--	--	--	--
Martin J. Branco	1	320	--	--	--	--	--	320	--
Hawaiian Fruit Packers, Ltd.	2	307	127	--	--	127	--	180	--
John Rapoza	1	259	--	--	--	--	--	259	--
Carl Meyer	1	228	--	--	--	--	--	228	--

Table 18

DESIGNATED USES OF PUBLIC LAND
UNDER GENERAL LEASE:
1926-1966

(in acres)

	1926	1936	1946	1956	1966
Total Agriculture	640,728	575,737	545,757	421,550	351,106
General Agriculture	62,811	--	695	601	3,016
Truck Farms	24	140	109	12	--
Water Crops	--	236	186	68	--
Forest	--	--	151	151	--
Nurseries	--	1	6	10	--
Pineapple	--	5,678	1,908	1,776	665
Chickens, Hogs, Dairy	46	15	63	323	--
Sugar Cane	--	48,716	34,028	26,146	29,133
Grazing	577,847	520,951	508,611	392,463	318,292
Total Urban	192	143	217	228	1,152
Housing	88	96	138	67	23
Business	95	27	62	68	259
Industry	9	20	12	14	738
Utilities	--	--	5	79	132
Waste Land	--	--	18,734	25,250	17,159

of almost 260,000 acres in public land leased for grazing during the 40-year period under consideration.

The amount of public land leased for the cultivation of sugar cane declined from about 48,000 acres in 1936 (no reliable acreage figure could be determined for 1926) to approximately 30,000 acres in 1966. The probable explanation for this decline is that, as efficiency increased throughout the sugar industry in Hawaii, marginal land was withdrawn from production. It is also the case that some plantations that had relied heavily upon leases of public land abandoned operations entirely during this period, e.g., Waimanalo on the island of Oahu and Waiakea on the island of Hawaii.

Public land leased for the cultivation of pineapple declined from 5,678 acres in 1936 (no reliable acreage figure could be determined for 1926) to a mere 665 acres in 1966. This decline reflects the demise of many of the smaller producers of pineapple in Hawaii, a trend that is continuing. As the scope of this industry has been cut back in the Islands, the smaller, marginal producers have increasingly been forced out of business, and this includes many independent cultivators, some of whom formerly leased public land for their operations.

The data in Table 18 also suggest that the production of "water crops," particularly rice and taro, on leased public land has decreased markedly, as has "truck farming." At the same time, the amount of public land leased for the production of "chickens, hogs, and dairy cattle" has risen rather sharply. It is not possible to generalize on these findings, since our data are not complete.

Even as substantial decline occurred in the amount of leased public land utilized for agriculture in the Islands, there has been a steady increase in the amount of land leased for urban activities. Although acreage total for urban uses appear small, it must be remembered that such land is used intensively, as contrasted to the extensive use of land in agricultural uses. The value of the products produced on a few acres of land in urban uses may exceed the output of a far greater acreage devoted to agricultural uses. The sharpest increase in leases of land used for urban purposes over the 40-year period, 1926-1966 is for industrial uses. From a total of 9 acres in 1926, there has been an increase to 738 acres in 1966, and this amount may be expected to increase considerably as new industries are established in the Islands. Concomitantly, the amount of public land leased for utilities has increased to 132

acres. Public land leased for business purposes has also increased significantly; from a low of 27 acres in 1936, it had risen to 259 acres by 1966. Further increases in all of these categories may be expected in the years ahead, barring a change in public land policy under which public land for urban uses would be sold rather than leased. Such a policy has, indeed, been adopted with respect to public land suitable for residential use, and this may explain the decrease in acreage reported in this category.[38]

Table 19 presents data on income received by the territorial and state governments from the lease of public land over the period, 1926-1966. Total income from this source has virtually quadrupled during that time, with the largest increase by far having occurred between 1956-1966. Even when account is taken of the pronounced inflationary factor, the increase in real income remains quite significant. The greatest increase in income during that decade was in rentals received from public land leased for urban use, more than a seven-fold gain, with receipts rising from approximately $25,000 to almost $460,000. Land leased for business and industrial uses accounted for virtually all of this increase. The relatively high rentals received for the use of this land are accounted for in part by the scarcity of conveniently located land for business and industrial uses throughout the Islands.[39]

Income received from land leased for agricultural pursuits increased approximately 30 per cent during the same decade, a significant increase when one takes into account the reduction of more than 15 per cent in public land leased for these purposes. The increased rentals from land leased for the cultivation of sugar cane reflect the aforementioned policies of the Department of Land and Natural Resources in executing new lease contracts as old leases expire. Underlying the success of these policies is, of course, the extraordinary tenacity and competence of the management of Hawaii's agricultural corporations in maintaining profitable operations in the face of increasing obstacles. The preservation of the sugar industry especially has contributed enormously to Hawaii's economy throughout the period under discussion, and it should be reiterated that land leased for agricultural purposes produces approximately 70 per cent of total annual rental income received from the public domain.

Table 20 may prove to be an interesting supplement to Table 19 for, among other things, it highlights the changed uses to which Hawaii's public domain has been put between 1894 and 1966, especially

Table 19

INCOME RECEIVED FROM LEASING OF PUBLIC LAND: 1926-1966

	1926	1936	1946	1956	1966
TOTAL	$407,346.95	$465,284.59	$499,513.82	$952,551.56	$1,626,607.22
Total Agriculture	$382,743.95	$425,088.68	$439,895.88	$888,961.98	$1,167,333.64
General Agriculture	305,106.40	--	4,739.40	9,036.72	87,506.15
Truck Farms	300.00	1,333.34	1,066.00	440.70	--
Water Crops	--	1,888.10	776.50	155.30	--
Forest	--	--	--	--	--
Nurseries	--	40.00	600.00	1,532.00	--
Pineapple	--	23,062.00	17,799.32	13,787.55	19,469.08
Chickens, Hogs, Dairy	875.00	201.00	575.00	1,554.00	--
Sugar Cane	--	255,297.96	257,686.00	307,308.86	478,771.69
Grazing	76,462.55	143,266.28	156,649.66	554,408.87	581,463.22
Waste Assoc. w/Agr.	--	--	4.00	737.98	123.50
Total Urban	$24,603.00	$40,195.91	$59,617.94	$63,589.58	$459,273.58
Housing	5,721.60	12,321.60	16,779.94	14,310.44	14,981.50
Business	18,642.30	23,588.46	27,266.00	23,102.64	306,267.96
Industry	239.10	4,285.85	15,437.00	24,200.00	128,021.62
Utilities	--	--	135.00	1,976.50	10,002.50
Total Income from Agr. Leases	$382,744.00	$425,089.00	$439,896.00	$888,962.00	$1,167,334.00
Percentage of Total Income from General Leases	94.0	91.4	88.1	93.3	71.8

Source: Biennial Reports of the Commissioner of Public Lands, Territory of Hawaii, 1926, 1936, 1946, 1956, as corrected; and the Annual Report of the Department of Land and Natural Resources, State of Hawaii, 1966-67.

Table 20

COMPARISON OF USES AND LOCATION
OF PUBLIC LAND LEASED IN 1894 AND 1966

1 8 9 4

Location	Total Owned	Total Leased	Sugar Cane	Grazing	Coffee	Forest	Other
TOTAL	903,262	546,829	12,873	461,016	11,390	60,695	906
Island of Hawaii	685,344[a]	427,585	12,248	359,903	11,390	43,995	49
Hilo District	43,073	29,444	7,975	--	7,380	14,040	49
Hamakua District	252,610	232,124	2,298	223,641	2,500	3,685	--
Kohala District	15,375	13,715	575	12,140	--	--	--
N. Kona District	104,063	84,900	--	83,000	1,310	590	--
S. Kona District	128,507	2,500	--	--	200	2,300	--
Puna District	40,000[a]	--	--	--	--	--	--
Kau District	101,716	65,902	1,400	41,122	--	23,380	--
Island of Maui	90,053	38,759	225	37,933	--	600	1
Island of Lanai	30,847	24,402	--	24,402	--	--	--
Island of Kahoolawe	30,000	30,000	--	30,000	--	--	--
Island of Molokai	20,005	--	--	--	--	--	--
Island of Oahu	24,957	8,328	--	6,773	--	700	856
Island of Kauai	22,056	17,805	400	2,005	--	15,400	--

1 9 6 6

Island	Totals	Cane Land	Pasture Land (Grazing)	Pine Land	Attributables (Roads, Ditches, Drains, Etc.)	Other Uses (Undeveloped, Waste, Etc.)	General Agriculture
TOTALS	363,945	24,696	171,223	4,039	1,885	161,308	795
Oahu	1,072	10	--	556	--	507	--
Maui	31,896	1,107	14,114	211	48	15,994	421
Hawaii	285,965	8,898	156,529	3,145	460	116,933	--
Kauai	44,071	14,681	4	127	1,377	27,874	9
Molokai	941	--	576	--	--	--	365

Source: Biennial Report of Minister of Interior, Republic of Hawaii, Honolulu, Hawaii, 1894, pp. 20-46.

Note: These data understated the Republic's total holdings of public land by approximately 800,000 acres. This probably results from omission of the Crown Land, which was added to the public land following the abrogation of Hawaii's monarchy in 1893.

[a]An approximation.

with respect to the various islands in the Hawaiian chain. A word of caution should be extended to the reader regarding the 1894 data, since, as noted before, land records prior to the territorial period were oftentimes kept in a rather informal manner and published reports were frequently incomplete or inaccurate. For example, the total amount of land officially reported under lease as of 1894 was down to 546,829 acres, while perusal of original documents available in the archives of the Land Department indicate that the 76 largest lessees of public land in 1890 held 752,931 acres. Keeping this caveat in mind, one may still make some tentative comparisons between the reported uses of public land under lease in 1890 and contemporary use of leased public land.

Land was leased in 1894 on seven islands, while today land is no longer leased on Lanai or Kahoolawe. The Lanai leases for grazing were extinguished in the course of the famous land exchange that placed ownership of most of that island in the hands of a single company.[40] Improperly conducted ranching operations, along with failure to follow rudimentary conservation practices, rendered Kahoolawe worthless for agricultural use. Note may also be taken of the disappearance of leases of public land for coffee growing during the period 1890-1966, a reflection of the decline in the market for Hawaii's "Kona coffee." The forest or "wood cutting leases" that were commonplace in 1890 were not renewed after it was realized that destruction of the Islands' forests threatened the entire agricultural economy.[41] One may also note the drastic decline in the amount of public land leased for grazing between 1890 and 1966, an observation that further supports our account of the decline of ranching in Hawaii's economy. The only significant increase in any use category during this entire period was the modest gain recorded for leases of land used for the cultivation of sugar cane. Finally, it is interesting to compare the amounts of public land leased on each of the islands for various uses over this period of some three-quarters of a century.

The presentation and discussion of Tables 21 and 22 conclude our discussion of lease policy. These tables were prepared directly by the computer that analyzed the data provided by the major lessees of public land as of 1966. Included in the schedule prepared by the major lessees were questions regarding land use and lease expiration. It was thus possible to program the computer to provide information on the total amounts of leased land that will be available to the State upon the expiration of leases both in terms of use categories and the island on which the leased land is located. It appeared to

TABLE 21

EXPIRATION OF LEASES OF PUBLIC LAND: TOTAL ACREAGE OF LAND ON EACH ISLAND BY DATE OF LEASE EXPIRATION

Year of Expiration	Oahu	Maui	Hawaii	Kauai	Molokai	Total
1968	3.77	6,003.56	0.00	28,042.04	0.00	34,049.37
1969	0.00	2,800.00	2,393.25	0.00	0.00	5,193.25
1970	0.00	4,622.76	2,792.60	306.70	0.00	7,722.06
1971	5.86	0.00	579.00	11,067.73	0.00	11,652.59
1972	1,062.79	0.00	63,957.36	0.00	0.00	65,020.15
1973	0.00	6,910.82	44,258.23	0.00	0.00	51,169.05
1974	0.00	0.00	37,046.19	0.00	0.00	37,046.19
1975	0.00	0.00	1,121.20	0.00	0.00	1,121.20
1976	0.00	0.00	506.13	0.00	0.00	506.13
1977	0.00	136.40	1,422.20	0.00	0.00	1,558.60
1978	0.00	0.00	0.00	0.00	0.00	0.00
1979	0.00	0.00	0.00	0.00	0.00	0.00
1980	0.00	0.00	0.00	0.00	0.00	0.00
1981	0.00	157.94	413.49	3.70	0.00	575.13
1982	0.00	9,434.59	2,963.83	77.30	0.00	12,475.72
1983	0.00	0.00	876.35	7.23	0.00	883.58
1984	0.00	0.00	138.00	2,175.65	0.00	2,313.65
1985	0.00	0.00	9,166.75	68.69	0.00	9,235.44
1986	0.00	242.60	0.00	467.03	576.12	1,285.75
1987	0.00	41.98	0.00	0.00	0.00	41.98
1988	0.00	0.00	0.00	0.00	0.00	0.00
1989	0.00	1,124.06	1,679.60	0.00	0.00	2,803.66
1990	0.00	0.00	160.20	0.00	0.00	160.20
1991	0.00	0.00	10,437.76	0.00	0.00	10,437.76
1992	0.00	0.00	0.00	0.00	0.00	0.00
1993	0.00	0.00	0.00	0.00	0.00	0.00
1994	0.00	0.00	0.00	0.00	0.00	0.00
1995	0.00	0.00	0.00	0.00	0.00	0.00
1996	0.00	0.00	0.00	0.00	0.00	0.00
1997	0.00	0.00	0.00	0.00	0.00	0.00
1998	0.00	0.00	0.00	0.00	0.00	0.00
1999	0.00	0.00	0.00	0.00	0.00	0.00
2000	0.00	0.00	105,811.58	0.00	0.00	105,811.58
2001	0.00	421.17	0.00	0.00	365.00	786.17
2002	0.00	0.00	0.00	1,855.00	0.00	1,855.00
2003	0.00	0.00	0.00	0.00	0.00	0.00
2004	0.00	0.00	0.00	0.00	0.00	0.00
2005	0.00	0.00	0.00	0.00	0.00	0.00
2006	0.00	0.00	0.00	0.00	0.00	0.00
2007	0.00	0.00	0.00	0.00	0.00	0.00
2008	0.00	0.00	0.00	0.00	0.00	0.00
2009	0.00	0.00	0.00	0.00	0.00	0.00
2010	0.00	0.00	0.00	0.00	0.00	0.00
2011	0.00	0.00	0.00	0.00	0.00	0.00
2012	0.00	0.00	0.00	0.00	0.00	0.00
2013	0.00	0.00	0.00	0.00	0.00	0.00
2014	0.00	0.00	0.00	0.00	0.00	0.00
2015	0.00	0.00	0.00	0.00	0.00	0.00
2016	0.00	0.00	4.50	0.00	0.00	4.50
Totals:	1,072.42	31,895.88	285,728.22	44,071.07	941.12	363,708.71

TABLE 22

EXPIRATION OF LEASES OF PUBLIC LAND: TOTAL ACREAGE
OF LAND LEASED FOR AGRICULTURAL AND OTHER USES BY DATE OF LEASE EXPIRATION

Year of Expiration	Cane	Pasture	Pineapple	Attributables	Other Uses	General Agriculture	Total
1968	7,112.40	5,003.56	0.00	950.73	20,982.68	0.00	34,049.37
1969	454.10	1,819.73	0.00	7.65	2,911.77	0.00	5,193.25
1970	121.60	3,587.29	127.20	7.49	3,878.48	0.00	7,722.06
1971	5,685.86	0.00	0.00	425.49	5,541.24	0.00	11,652.59
1972	1,739.61	5,846.76	555.97	100.79	4,163.02	0.00	65,020.15
1973	0.00	38,148.66	1,536.07	2.90	11,481.42	0.00	51,169.05
1974	0.00	33,786.35	0.00	9.70	3,250.14	0.00	37,046.19
1975	0.00	0.00	0.00	0.00	1,121.20	0.00	1,121.20
1976	0.00	0.00	0.00	0.00	506.13	0.00	506.13
1977	67.55	1,396.64	0.00	3.99	90.42	0.00	1,558.60
1978 - 1980	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1981	0.00	417.19	144.94	0.00	13.00	0.00	575.13
1982	15.61	3,779.73	66.05	0.91	8,613.41	0.00	12,475.72
1983	0.00	0.00	0.00	0.00	876.58	7.00	883.58
1984	1,888.52	138.00	0.00	0.00	287.13	0.00	2,313.65
1985	0.73	12.92	0.00	0.00	9,219.80	1.99	9,235.44
1986	242.60	576.12	0.00	0.00	467.03	0.00	1,285.75
1987	34.81	0.00	0.00	0.00	7.17	0.00	41.98
1988	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1989	2,036.36	0.00	0.00	89.86	677.44	0.00	2,803.66
1990	160.20	0.00	0.00	0.00	0.00	0.00	160.20
1991	4,904.95	3.50	1,608.50	279.24	3,641.57	0.00	10,437.76
1992 - 1999	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2000	0.00	24,092.58	0.00	0.00	81,719.00	0.00	105,811.58
2001	0.00	0.00	0.00	0.00	0.00	786.17	786.17
2002	0.00	0.00	0.00	0.00	1,855.00	0.00	1,855.00
2003 - 2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2016	0.00	0.00	0.00	0.00	4.50	0.00	4.50
Totals:	24,464.90	118,609.03	4,038.73	1,878.75	161,308.13	795.16	363,708.71

us that such information might be of particular interest to Hawaii's policy makers and land managers for these data inform them of the precise amounts, types, and location of land for future disposition.

These computer-prepared tables indicate that all leases of public land held by major lessees as of 1966 (comprising a total of approximately 363,000 acres) will expire by the year 2016. Table 21 provides total acreages of all public land under lease as of 1966 with an indication of the expiration date by island and by year. Consideration of this table reveals that the only significant lease expirations in 1968 are on the Island of Maui (6,003 acres) and the Island of Kauai (28,042 acres), where the lease of the Kekaha Sugar Company expired. Especially significant in terms of temporary policy formulation is the information on the total amount of public land on which leases will expire during the next five or so years. Such land will then be available for lease renegotiations which will, as a matter of course, take account of potential "higher and better" uses.

During the five-year period, 1968-1972, leases comprising 1,072 acres will expire on Oahu, 13,426 acres on Maui, 39,416 acres on Kauai (including the aforementioned Kekaha Plantation lease, which has already been renewed), and 69,722 acres on the island of Hawaii. This total of nearly 124,000 acres constitutes approximately one-third of all public land presently under lease in the Islands. If one also takes into account the fact that leases comprising an additional 81,304 acres will expire on the island of Hawaii in the years 1973-74, the total acreage of expiring leases will be approximately 200,000 acres. The amount of land under leases expiring for some years thereafter is relatively small. Indeed, it is not until 1982 that further lease expiration will occur in substantial amounts. These findings suggest that the State's policy makers and managers of public land enjoy somewhat unique opportunities at the present time to consider and even to implement policy changes with respect to some of Hawaii's most valuable public land.[42]

Part IV
CONCLUSION

By way of concluding this historical analysis of public land policy in Hawaii, it is necessary to provide significant, summary data on the disposition and management of Hawaii's public domain from the time of the Great Mahele to the present. These data corroborate our prior identification of three distinct phases or periods in the development of public land policy in the Islands, and they may also prove to be useful in providing a basis for reflection by Hawaii's policy makers in developing various alternative future land policies.

The three historical periods utilized in this concluding analysis of public land policy in Hawaii since the mahele are: Period One: 1846-1865; Period Two: Post Civil War to Statehood; Period Three: Post Statehood.

Period One: 1846-1865

The first clearly discernible period of public land policy after the Great Mahele extended from 1846 to about 1865, a period during which the land disposition policy of the mahele was extended to the sale of public land. In keeping with the mahele, a paramount objective of this policy was to terminate Hawaii's traditional, quasi-feudal, land tenure system by vesting ownership of additional land in private hands. Accordingly, over half a million acres of public land was sold outright in a space of twenty years. Not only was the total acreage of the public domain thereby significantly diminished, but also--and much more importantly--the land disposed of during this relatively brief period included some of the most valuable agricultural acreage in the Islands.

The characteristics of land sale policy during this time were so influential in terms of their consequences for the character of the remaining public domain that somewhat detailed consideration of these sales is in order. But a word of caution must be introduced at this point. Although it has been possible to ascertain with reasonable accuracy the total amount of public land sold in the two decades following the mahele, it is impossible to guarantee accuracy regarding every detail of these land sales. During that part of the 19th century in which sales of public land were most extensive, surveying techniques were not of consistently high quality and the

mechanics of record keeping were imperfectly developed in Hawaii. Furthermore, governmental officials manifested little interest in those days in maintaining comprehensive records of the disposition of public land. Available public records provide conflicting evidence, and it was impossible for our staff to square these varying accounts. It was necessary, therefore, to turn to the original records of land sales to the extent that they were available in the vaults of the Department of Land and Natural Resources. These records were combed for pertinent data on land patents, and all materials were prepared for computer analysis. Among the data gathered were patent numbers, the location of each land sale (including land district as well as island whenever possible), the amount of land recorded for each sale, purchase price, and date of sale. It would have been extraordinarily interesting to have determined the precise use to which purchasers placed their land, but, unfortunately, it was not possible to secure adequate information. Lacking such data, we nevertheless felt that it might prove useful to attempt to classify these land sales by size categories.

The determination of the categories utilized in this portion of the study was based on such evidence of intended use as was available in the records of land sales. The precise size of these categories was modified as a result of extended discussions with agricultural economists and other authorities most familiar with land-use patterns in Hawaii. Still, it should be emphasized that this technique of categorization is intended at most to be suggestive. It may prove to be useful to those who are intent upon developing conjectures regarding the probable intended use of land parcels--provided they also take into account the location of the land and other variables. For example, land parcels of a quarter-acre or less located in or near an urban area have generally been utilized for house sites (category "A-1"), while land parcels consisting of more than 100 acres and located in rural areas have frequently been utilized for grazing (category "F").

The full range of categories utilized in this tentative classification of data on land sales, along with indications of recurring use patterns, follows:

Category	Acreage	Recurring Uses
"A-1"	.25 acre or less	House sites, business sites, and industrial uses,

Category	Acreage	Recurring Uses
"A-2"	.25-1 acre	Taro cultivation and other forms of "wet farming", commercial and industrial uses,
"B"	1.1-10.9 acres	Truck gardening and other types of intensive agricultural uses,
"C"	11-30.9 acres	"Family farming", coffee cultivation; (many homesteading enterprises were undertaken on farms of this size),
"D"	31-100 acres	Small ranching operations, and various other kinds of homesteading,
"E"	100 acres or more	Ranching
"F"	Acreage could not be ascertained from available records	----

Initiation of Sales of Public Land in Hawaii

The widespread sale of Hawaii's public land was initiated in 1846 shortly after the official recognition by Kamehameha III of the right of private ownership of land in the Islands. The Minister of Interior was charged with responsibility for disposing of public land, and his authority to sell was unrestricted except for a long-standing prohibition on the sale of public land to aliens and the formal requirement for approval of sales by the King in privy council. The Minister's discretion was somewhat curtailed by the requirement imposed in 1876 that the sale of public land be made through auction.

Roughly five-sixths of the public land sold during the period between the Great Mahele and the abrogation of Hawaii's monarchy in

1893 was disposed of between 1846-1865. The greatest number of individual land sales also occurred during this time, 2,830, or 82 per cent of the total of 3,458 land sales recorded from 1846 through 1893.

Consideration of Tables 25 through 30 (Appendix 2, pp. 181-183) reveals that the apparent purposes for which this land was purchased was for the development of numerous family farms, small ranches, and orchards--in addition to the provision of home sites.

The average price per acre of public land sold during this twenty-year period was $1.11, with the lowest price per acre recorded in 1861, a mere four cents per acre. The highest price per acre, $3.27, was recorded in 1848, but this high price is explained in part by the fact that roughly half of the sales that year were on Oahu, as well as by the fact that total sales in that year were far lower than the average during the twenty-year period under consideration.

By way of briefly considering some of the most significant aspects of public land sales on each of the major islands during the period 1846-1865, we may note that peak sales on Oahu took place between 1849-1855. During these seven years a total of 37,577 acres of public land was sold, or 86 per cent of the total acreage sold on Oahu between 1846-1893. Over one-half of this land was sold in the Waialua district.

Sales of public land were highest on the island of Hawaii during the period 1850-1862, both in terms of acreage and the total number of individual sales. The number of sales of lots of one acre or less was very small, only 22 such sales having been recorded for the entire period. Some 311 sales of parcels ranging in size from 1.1 to 31 acres were recorded, while 733 sales were made of parcels of more than 31 acres. The largest single sale of public land in the history of the Islands was made to C. C. Harris in 1861. He secured 184,294 acres for a price of $3,100, or 1.68 cents per acre. This sale to Harris explains in part why the average price per acre for public land sales in 1861 was extraordinarily low.

Sales of public land on Maui were greatest during the years 1847-1862 both in terms of total acreage sold and the number of individual sales. Sales were concentrated in the category of parcels ranging in size from 1 to 31 acres.

On Kauai, sales of public land were greatest between 1848 and 1856, with the highest number of sales being for parcels under 11 acres in size. The second largest single sale of public land during this period took place in 1864 on Niihau. The owners of the Niihau Ranch purchased 90,000 acres for a price of $10,000, or an average price of 11 cents per acre. Only one other sale of public land was ever made on Niihau, 50 acres in 1855.

Two major conclusions may be drawn with respect to Hawaii's public land policy during this period. First of all, the policy clearly conformed to one of the major, expressed purposes of the Great Mahele, namely, that the area designated as public or government land by the mahele be utilized to help defray current governmental expenses. It was somewhat less certain that the initiators of the mahele intended that these revenues be realized almost exclusively through the outright sale of public land. In any event, it quickly became evident that the indiscriminate sale of public land to secure revenue would soon lead to the liquidation of the most valuable portions of the public domain. Indeed, sales of public land were "temporarily suspended" in July, 1856 on the grounds that the price being received from land sales was excessively low. The average price per acre received from sales of public land was strikingly low during this entire period, and one may raise questions--with the benefit of hindsight--about the wisdom of this policy of wholesale disposition of the public domain.

Secondly, it is now evident that many of the original purchasers of public land did not maintain possession. While no detailed study of the process of land transfers was possible within the context of this study, even a superficial scrutiny of land transfers reveals that many small land owners sold their land to plantations, large-scale ranching operations, and to others. One overall effect of these sales was to re-establish in the Islands the pre-mahele pattern of concentrated ownership, control, and utilization of land.

Period Two

Consideration of Table 25 (Appendix 2, p. 181) reveals that the disposition of Hawaii's public domain through land sales diminished significantly at the very time when plantation agriculture was successfully established in the Islands. Where there is no suggestion here of any necessary, direct casual relationship between these facts, it is demonstrable that the entrepreneurs who established

the first, large-scale plantations in the Islands depended extensively upon the leasing of land rather than the outright purchase of land. As has been noted in some detail in Parts I and III of this report, the owners or managers of Hawaii's emerging plantations oftentimes found it preferable to lease land rather than to buy it, particularly upon the initiation of plantation enterprises--when demands on their capital were especially heavy and the outcome of their enterprises was uncertain. It was less costly for them to abandon leased tracts, if necessary, particularly tracts of leased public land, than to try to sell land owned in fee in the event of the failure of a plantation enterprise.

It is not surprising, therefore, to discover that one of the most characteristic aspects of public land policy during this period was the securing of long-term leases of public land. This approach was accentuated when through complementary actions, Hawaii's judiciary and legislature declared the rich "Crown lands" of the monarch inalienable. This action halted the indiscriminate sale of the remaining "Crown land," over three quarters of a million acres. Thereafter, Hawaii's royalty realized income from this land chiefly through leasing it for plantation use under long-term leases.

Limited sale of public land did continue throughout the remainder of the 19th century, but, as we have already observed, only slightly more than 100,000 acres were sold to individual purchasers during the years, 1866-1893.

During this period there was established in the Islands a pattern of use of Hawaii's public land that extended through the territorial period. As Tables 14 and 15 reveal, the bulk of Hawaii's arable public land that was leased during this entire period was utilized by a remarkable small number of major lessees. Many of these lessees made large investments in land development and were able to enjoy uninterrupted use of this leased land for many decades. Renewal of major leases of agricultural land was--with few exceptions--little more than a formality, for there was generally but a single bidder, the incumbent lessee. One may observe from Table 16 that this situation has prevailed to the present time, for the five largest lessees of Hawaii's public land hold over 80 per cent of the total public land under lease, while the twenty largest lessees hold 97.5 per cent of the total.

Once the homesteading issue was effectively settled in the Islands through passage of the Hawaiian Homes Commission legislation

and the failure of the Waiakea "experiment,"[1] the pattern of use of public land was basically determined for the remainder of the territorial period. During that time most of Hawaii's arable public domain was utilized in the following fashion:

(1) A small number of lessees, who were generally included among Hawaii's major private landowners, leased most of the arable public land. This had the effect of increasing the already high degree of concentration of land ownership, control, and utilization throughout the Islands.

(2) There were always a number of lessees of small parcels of public land, but, as Table 14 reveals, at no time during the territorial period did the small lessees occupy more than a very small percentage of the total amount of public land under lease.

(3) These major lessees utilized Hawaii's public land in what might best be characterized as a pattern of "single-use". By this term we intend to suggest that very large tracts of public land were generally used for the production of a single commodity, initially sugar, with some land leased for the cultivation of pineapple after the turn of the century. Great tracts were leased for ranching throughout this period. The greater part of the public land not leased for direct agricultural use was "locked up" in watersheds. As such, it served the needs of conservation, while providing water supplies for Hawaii's urban areas and for commercial agriculture.[2]

In characterizing this period of public land policy, one may draw the following conclusions:

(1) Use of the public domain contributed significantly in transforming pre-civil war Hawaii from an economically depressed, depopulated area into one of the world's richest agricultural communities. Commercial agriculture played a decisive part in changing an "underdeveloped", debt-ridden kingdom into a highly developed, economically stable community that was to become a major exporter of capital, as well as of agricultural produce. Indeed, Hawaii was to become the prototype for twentieth century "factory-in-the-field" plantation agriculture that was subsequently to become the norm in other areas of the world.

(2) The success of these plantation entrepreneurs was such that, even with the very low tax rates that prevailed throughout this period, the income generated by leases of public land played an important part in keeping Hawaii's public treasury solvent.

Having acknowledged the very significant, positive contributions made by prevailing public land policy during this period, consideration must also be afforded the inadequacies of this policy. Among other things, it must be recognized that there was a pronounced tendency to consider Hawaii's public domain almost exclusively in rather narrow economic terms, specifically in terms of the contributions, direct or indirect, that it could make to commercial agriculture. It followed that there was a notable failure to promote the broader, long-range uses of public land recommended as early as the beginning of the twentieth century, uses that would have been perfectly compatible with the continued support of commercial agriculture.[3] Programs were not initiated that would have provided the basis for sustained-yield, commercial forestry and associated industries that would have been of enormous economical and social benefit to the Islands today had the advice of such men as William A. Hall of the U.S. Bureau of Forestry and Ralph Hosmer, the first territorial forester, been followed.

The concentration of single-use patterns of land utilization and the export economy based on sugar and pineapple made Hawaii excessively dependent on the importation of many products and manufactured articles that could and should have been produced in the Islands. This, in turn, contributed to the extraordinarily high degree of concentration of business and commercial activities in the hands of a relatively few firms. Among the consequences of these oligopolistic conditions have been high prices for many commodities, lack of competition in many areas, and associated economic and social patterns strikingly different from those prevailing in communities characterized by freer competition.

The prevailing, quasi-colonial economy characteristic of Hawaii's territorial period was accentuated by the unwillingness or inability of Hawaii's government to provide vigorous support for even those limited homesteading programs that could feasibly have been developed and maintained, even while large-scale, commercial agriculture continued to dominate the Islands' economy.

On balance, one may fairly conclude that public land policy in Hawaii during this period was reasonably successful, given its somewhat narrow and limited objectives. But the principles that underlay its continued applicability were radically changed through Hawaii's role in World War II. The part played by the Islands in that conflict opened the way for the contemporary period in Hawaii's public land policy, although it was some years after the end of the war before this became generally evident.

Period Three: Contemporary Hawaii

In the course of serving as America's most important military base during and after World War II, Hawaii's economy was radically changed. Among the elements of this transformation most relevant to public land policy were the following:

(1) Tens of thousands of new jobs were created during and after World War II. They were filled by mainland workers and by the movement of thousands of men who were drawn from the established patterns of plantation employment and living. This contributed to the rather rapid development of a far larger middle-class than had hitherto existed in the Islands.

(2) The war indirectly assisted those who sought the unionization of Hawaii's labor force. This movement was to have long-range implications for the character of the community and public land policy.

(3) Honolulu, along with some other metropolitan areas of the Islands, increased rapidly in size, thereby effecting the demise of some major plantations and threatening the continued existence of still others.

(4) The war facilitated the introduction of labor-saving machinery, thereby contributing toward the astonishing rapid shrinking of the labor force required to man the plantations.

These, along with many other factors that need not here be enumerated, contributed to the emergence of a new Hawaii in the decades following the end of World War II. Governor Stainback and the leadership of the territorial legislature recognized that these changing conditions would call for a fresh approach to public land

policy after the War. Accordingly, they created the Land Laws Revision Commission, the work of which has already been discussed.[4] No specific steps were taken to implement the recommendations of the Land Laws Revision Commission, but its report did serve to broaden the discussion of better utilization of Hawaii's public domain.

These post-World War II discussions of new dimensions in public land policy may be capsulized here to provide a possible focal point for consideration by Hawaii's public policy makers. Stated in the most summary fashion, contemporary discussion of public land policy may be understood to suggest that it is no longer considered sound to take into account economic considerations alone in formulating land policy. Applying this principle directly to the problems of contemporary public land policy in these Islands, we must reiterate the most basic finding to which each of the major studies in public land policy in Hawaii has pointed, namely, that the "single-use" approach to management of our public domain is no longer applicable. The single-use approach, which holds that a given land area should be utilized exclusively for one purpose at any given time, effectively forecloses the full realization of the potential of Hawaii's public domain.

Throughout the United States, the single-use approach to land management is giving way to the multiple-use approach. The overall objective of the multiple-use approach to management of natural resources is that of sharing their benefits as broadly as possible throughout the community. On the American mainland we can observe tens of millions of acres of land, both publicly and privately owned, being put to multiple-use. An ever-increasing part of this land is being used to provide much-needed recreational facilities: camping grounds, trails for hiking, and waterways for fishing and boating. Even as these areas affording recreation, they simultaneously provide their owners substantial revenues through scientific forest management. Such management permits sustained yields of valuable timber, controlled grazing of cattle in some instances, and other uses as well. The productivity of Hawaii's largely underdeveloped public domain, to say nothing of enormous tracts of privately owned land, could be enormously increased through application of the principles of multiple-use. Within the public domain alone there has been identified roughly half a million acres of potential commercial forest land. This area, which is presently little used, has the capacity to support a commercial timber industry in Hawaii which, given today's prices for hardwood timber, lumber, and other

products, could be worth as much as one hundred million dollars per year to the Islands' economy. While this area is producing valuable timber, it could also materially improve the functioning of major watersheds. Portions of this land could be used for seasonal grazing, thereby perhaps bolstering Hawaii's faltering ranching industry. More significantly, by putting suitable portions of the public domain to multiple-use, desperately needed recreational recourses could be secured for Hawaii's burgeoning tourist industry and to meet the leisure-time needs of an expanding and more affluent citizenry.

It is not difficult to understand why Hawaii's land managers, public and private alike, were reluctant to consider adoption of the multiple-use approach in the past. It appeared to them that the single-use approach to land management adequately met the needs of a much smaller and less complex community. Furthermore, an economy based primarily on the export of sugar and pineapple, along with subsidiary ranching enterprises, was more easily managed through the single-use approach to land management. The return on capital invested in commercial agriculture was excellent until recent years, and there was therefore little incentive to enlarge the scope of Hawaii's economy. Furthermore, commercial timbering in the Islands, together with concomitant wood-working industries, could have competed with commercial agriculture for the perennially short labor supply. The harvesting of timber in watershed areas above plantations might have required rights-of-way through the fields at lower elevations, a situation that plantation management was understandably anxious to avoid. A kind of tension has long existed in Hawaii between the needs of the plantations and the development of urban communities. The growth of the cities has to a great extent taken place at the expense of the plantation communities. The development of wood-working industries, such as furniture manufacturing, processing of timber for export, milling and the like would have pulled youngsters from the plantations into new jobs in urban areas. Altogether, the Islands' economy and society would have been more difficult to manage, and it is therefore perfectly understandable that in the past most of Hawaii's policy makers showed a marked preference for stability rather than for broad-scale development.

But policies that were suited to past conditions--and which were by no means reprehensible in that context--are no longer applicable to contemporary needs. Today, the continued application of the single-use approach to management of Hawaii's public domain

is responsible for the loss of enormous potential benefits. Great as this waste of resources is at present, it will be dwarfed by future losses of incalculable magnitude if there is continued failure to apply the principles of multiple-use to resource management in these land-hungry islands.

The scepticism with which some will meet these suggestions will be increased by the realization that somewhat increased governmental appropriations would be required, at least in the short run, to manage Hawaii's public domain according to the principles of multiple-use. This consideration is especially pressing in a community that bears an extraordinarily heavy burden of taxation. It is undeniable that the implementation of a sound multiple-use approach to resource management would, in the short-run, require increased expenditures for such work as the:

(1) Clearing of land,

(2) Planting of commercially valuable timber species,

(3) Development of roads, fire protection facilities, and other supporting services required for commercial forestry,

(4) Building of recreational facilities, cabins, lodges, camp ground facilities, and the like,

(5) Development of lakes, boating and fishing areas, possible hunting areas.

These total expenses would be considerable, although the cost of clearing land and planting it to commercially valuable timber species is remarkably low, thanks in part to the availability of heavy equipment that can perform tasks in a few hours that formerly would have required days of hand labor.[6]

Still, the investments required to initiate and to maintain proper multiple-use programs on Hawaii's public domain would be repaid many times over in the decades ahead. Nor would these dividends be only monetary, though the economic gains would be great. The full utilization of Hawaii's public domain would contribute enormously to the enrichment and fulfillment of the Islands' human resources--to the building of a stronger, healthier, and more contented citizenry. The realization of the more salutary way of life for the people of Hawaii is, after all, the ultimate goal of every dimension of public policy.

Table 23

MAJOR PRIVATE OWNERSHIP OF LAND AND
IMPROVEMENTS WITH AGGREGATE ASSESSED VALUE
(1966)

Name of Owner	Total Acreage Owned in State	All Districts Assessed Value			Hawaii			Kauai, Niihau			Maui, Molokai, Lanai			C	
		Land	Building	Total	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	A Lar
Alexander and Baldwin, Inc.	118,998	29,842,435	11,280,604	41,123,039											
Alexander and Baldwin, Inc.	49,917	21,420,276	7,742,831	29,163,107				151	116,196	372,475	49,766	21,304,080	7,370,356		
East Maui Irrigation, Co., Ltd.	19,143	198,507	100,401	298,908							19,143	198,507	100,401		
McBryde Sugar Co., Ltd.	22,305	2,571,930	1,029,841	3,601,771				22,305	2,571,930	1,029,841					
Maui Pineapple Co., Ltd.	27,633	5,651,722	2,407,531	8,059,253							27,633	5,651,722	2,407,531		
AmFac, Inc.	77,872	32,032,088	17,535,890	49,567,978											
Lihue Plantation Co., Ltd.	43,152	7,521,662	4,253,551	11,775,213				43,152	7,521,662	4,253,551					
Oahu Sugar Co., Ltd.	1,286	9,727,079	4,295,444	14,022,523										1,286	9,72
Pioneer Mill Co., Ltd.	15,368	12,666,955	7,064,414	19,731,369							15,368	12,666,955	7,064,414		
Puna Sugar Co., Ltd.	17,931	1,683,109	565,762	2,248,871	17,931	1,683,109	565,762								
Kekaha Sugar Co., Ltd.	135	433,283	1,356,719	1,790,002				135	433,283	1,356,719					
Austin Heirs	4,525	2,149,392	185,108	2,334,500							1,871	182,018	10,033	2,654	1,96
Bishop Estate, B. P.	369,699	200,921,870	95,532,508	296,454,378	291,729	6,698,162	2,208,756	11,727	110,493	6,328	7,236	468,316	22,481	59,007	193,64
Bishop Museum, B. P.	5,256	4,956,597	1,481,097	6,437,694	4,330	86,469	3,891							926	4,87
Brewer, C. & Co., Ltd.	171,092	12,362,582	5,796,107	18,158,689											
C. Brewer & Co., Ltd.	22,101	846,767	195,248	1,042,015	22,100	513,468	54,382							1	33
Hawaiian Agricultural Co.	6,697	1,294,778	1,218,828	2,513,606	6,697	1,294,778	1,218,828								
Hutchinson Sugar Co., Ltd.	10,272	1,411,263	672,459	2,083,722	10,272	1,411,263	672,459								
Kilauea Sugar Co., Ltd.	12,615	851,320	450,774	1,302,094				12,615	851,320	450,774					
Mauna Kea Sugar Co., Inc.	40,096	2,272,647	885,047	3,157,694	40,096	2,272,647	885,047								
Paahau Sugar Co., Ltd.	4,342	738,967	442,726	1,181,693	4,342	738,967	442,726								
Pepeekeo Sugar Co.	25,292	1,687,188	1,276,712	2,963,900	25,292	1,687,188	1,276,712								
Wailuku Sugar Co.	26,493	2,759,140	601,854	3,360,994							26,493	2,759,140	601,854		
Hawaiian Ranch Co.	23,184	500,512	52,459	552,971	23,184	500,512	52,459								
Brown, Francis H. Ii	6,517	237,830	48,869	286,699	165	158,473	2,965				6,349	40,980	---	3	3
Campbell, James, Estate of	81,382	29,306,092	22,762,907	52,068,999	25,461	174,946	---				5,750	147,851	123	50,171	28,98
Capital Investment Co., Ltd.	5,463	2,790,134	38,230	2,828,364											
Makaha Valley Farms, Ltd.	3,977	2,425,058	7,243	2,432,301										3,977	2,42
Waianae Development Co.	1,486	365,076	30,987	396,063										1,486	36
Castle, Harold K. L. (Kaneohe Ranch Co., Ltd.)	8,583	61,726,692	58,809,950	120,536,642										8,583	61,72
Castle & Cooke, Inc.	152,185	31,400,018	7,844,622	39,244,640											
Castle & Cooke, Inc.	42,781	24,466,026	5,597,958	30,063,984										42,781	24,46
Dole Company	88,793	4,822,463	1,441,185	6,263,648							88,793	4,822,463	1,441,185		
Kohala Sugar Co.	20,611	2,111,529	805,479	2,917,008	20,611	2,111,529	805,479								

Table 23

MAJOR PRIVATE OWNERSHIP OF LAND AND
IMPROVEMENTS WITH AGGREGATE ASSESSED VALUE
(1966)

of Owner	Total Acreage Owned in State	All Districts Assessed Value			Hawaii			Kauai, Niihau			Maui, Molokai, Lanai			Oahu		
		Land	Building	Total	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building
Baldwin, Inc.	118,998	29,842,435	11,280,604	41,123,039												
and Baldwin, Inc.	49,917	21,420,276	7,742,831	29,163,107				151	116,196	372,475	49,766	21,304,080	7,370,356			
Irrigation, Co., Ltd.	19,143	198,507	100,401	298,908							19,143	198,507	100,401			
gar Co., Ltd.	22,305	2,571,930	1,029,841	3,601,771				22,305	2,571,930	1,029,841						
pple Co., Ltd.	27,633	5,651,722	2,407,531	8,059,253							27,633	5,651,722	2,407,531			
	77,872	32,032,088	17,535,890	49,567,978												
tation Co., Ltd.	43,152	7,521,662	4,253,551	11,775,213				43,152	7,521,662	4,253,551						
Co., Ltd.	1,286	9,727,079	4,295,444	14,022,523										1,286	9,727,079	4,295,444
ll Co., Ltd.	15,368	12,666,955	7,064,414	19,731,369							15,368	12,666,955	7,064,414			
Co., Ltd.	17,931	1,683,109	565,762	2,248,871	17,931	1,683,109	565,762									
ar Co., Ltd.	135	433,283	1,356,719	1,790,002				135	433,283	1,356,719						
	4,525	2,149,392	185,108	2,334,500							1,871	182,018	10,033	2,654	1,967,374	175,075
, B. P.	369,699	200,921,870	95,532,508	296,454,378	291,729	6,698,162	2,208,756	11,727	110,493	6,328	7,236	468,316	22,481	59,007	193,644,899	93,294,943
, B. P.	5,256	4,956,597	1,481,097	6,437,694	4,330	86,469	3,891							926	4,870,128	1,477,206
Co., Ltd.	171,092	12,362,582	5,796,107	18,158,689												
& Co., Ltd.	22,101	846,767	195,248	1,042,015	22,100	513,468	54,382							1	333,299	140,866
gricultural Co.	6,697	1,294,778	1,218,828	2,513,606	6,697	1,294,778	1,218,828									
Sugar Co., Ltd.	10,272	1,411,263	672,459	2,083,722	10,272	1,411,263	672,459									
gar Co., Ltd.	12,615	851,320	450,774	1,302,094				12,615	851,320	450,774						
Sugar Co., Inc.	40,096	2,272,647	885,047	3,157,694	40,096	2,272,647	885,047									
ar Co., Ltd.	4,342	738,967	442,726	1,181,693	4,342	738,967	442,726									
igar Co.	25,292	1,687,188	1,276,712	2,963,900	25,292	1,687,188	1,276,712									
gar Co.	26,493	2,759,140	601,854	3,360,994							26,493	2,759,140	601,854			
anch Co.	23,184	500,512	52,459	552,971	23,184	500,512	52,459									
s H. Ii	6,517	237,830	48,869	286,699	165	158,473	2,965				6,349	40,980	---	3	38,377	45,904
es, Estate of	81,382	29,306,092	22,762,907	52,068,999	25,461	174,946	---				5,750	147,851	123	50,171	28,983,295	22,762,784
tment Co., Ltd.	5,463	2,790,134	38,230	2,828,364												
ley Farms, Ltd.	3,977	2,425,058	7,243	2,432,301										3,977	2,425,058	7,243
velopment Co.	1,486	365,076	30,987	396,063										1,486	365,076	30,987
d K. L. anch Co., Ltd.)	8,583	61,726,692	58,809,950	120,536,642										8,583	61,726,692	58,809,950
e, Inc.	152,185	31,400,018	7,844,622	39,244,640												
ooke, Inc.	42,781	24,466,026	5,597,958	30,063,984										42,781	24,466,026	5,597,958
ny	88,793	4,822,463	1,441,185	6,263,648							88,793	4,822,463	1,441,185			
ar Co.	20,611	2,111,529	805,479	2,917,008	20,611	2,111,529	805,479									

Table 23 (continued)

Name of Owner	Total Acreage Owned in State	All Districts Assessed Value Land	All Districts Assessed Value Building	All Districts Assessed Value Total	Hawaii Acreage	Hawaii Assessed Value Land	Hawaii Assessed Value Building	Kauai, Niihau Acreage	Kauai, Niihau Assessed Value Land	Kauai, Niihau Assessed Value Building	Maui, Molokai, Lanai Acreage	Maui, Molokai, Lanai Assessed Value Land	Maui, Molokai, Lanai Assessed Value Building	Oahu Acreage	Oahu Assessed Value Land	Oahu Assessed Value Building
Charles Notley Estate	6,121	361,391	46,129	407,520	6,121	361,391	46,129									
Crawford Oil Corp.	3,982	185,919	---	185,919	3,982	185,919	---									
Crescent Acres, Ltd.	1,100	134,200	---	134,200	1,100	134,200	---									
Damon, Samuel M. Estate of	143,599	30,552,538	8,269,857	38,822,395	139,505	227,441	111,201							4,094	30,325,097	8,158,656
Theo. H. Davies & Co., Ltd.	44,767	4,497,425	3,197,020	7,694,445												
Hamakua Mill Co.	20,576	1,728,243	1,146,143	2,874,386	20,576	1,728,243	1,146,143									
Kukaiau Ranch Co., Ltd.	2,023	64,107	2,563	66,670	2,023	64,107	2,563									
Honokaa Sugar Co.	13,614	1,515,222	634,712	2,149,934	13,614	1,515,222	634,712									
Laupahoehoe Sugar Co.	8,554	1,189,853	1,413,602	2,603,455	8,554	1,189,853	1,413,602									
Dillingham Corp.	1,962	32,246,286	31,266,246	63,512,532												
Hawaiian Land Co.	1,962	32,246,286	31,266,246	63,512,532										1,962	32,246,286	31,266,246
Dillingham Investment Corp.	11,830	318,718	151,441	470,159	11,830	318,718	151,441									
Dunbar, William B.	1,146	38,254	11,021	49,275							1,146	38,254	11,021			
Elizabeth K. Booth Trust, et al.	2,613	10,067	---	10,067	2,613	10,067	---									
Eric A. & August F. Knudsen Trust	5,813	1,539,067	143,399	1,682,466				5,813	1,539,067	143,399						
Flagg, Morgan & Claire E.	1,545	64,832	---	64,832	1,545	64,832	---									
Fong, Hiram L. & Man On Chun	1,194	415,491	---	415,491										1,194	415,491	
Foster, Neoma, et al.	1,555	33,396	5,668	39,064							1,555	33,396	5,668			
Friel, S. C. & Pearl	1,843	30,961	2,000	32,961							1,843	30,961	2,000			
Gay & Robinson	56,514	4,013,144	1,981,124	5,994,268				56,514	4,013,144	1,981,124						
George Galbraith Trust Estate	2,221	1,404,063	389,259	1,793,322										2,221	1,404,063	389,259
Golden State Hawaiian Corp.	1,070	400,212	---	400,212	1,070	400,212	---									
Greenwell, W. H., Ltd.	12,117	513,763	231,357	745,120	12,117	513,763	231,357									
Grove Farm Co., Inc.	26,616	2,382,477	1,149,758	3,532,235				26,616	2,382,477	1,149,758						
Haleakala Ranch Co.	33,063	890,731	207,767	1,098,498							33,063	890,731	207,767			

Table 23 (continued)

Name of Owner	Total Acreage Owned in State	All Districts			Hawaii			Kauai, Niihau			Maui, Molokai, Lanai			Oahu		
		Assessed Value				Assessed Value			Assessed Value			Assessed Value			Assessed Value	
		Land	Building	Total	Acreage	Land	Building	Acreage	Land	Building	Acreage	Land	Building	Acreage	Land	Building
Hana Ranch Co., Ltd.	7,889	763,554	973,739	1,737,293							7,889	763,554	973,739			
Hanahuli Assoc.	2,206	111,773	18,898	130,671							2,206	111,773	18,898			
Hawaiian Mountain View Development Corp.	1,794	294,324	---	294,324	1,794	294,324	---									
Hawaiian Evangelical Association	3,421	145,318	107,574	252,892	3,421	145,318	107,574									
Hawaiian Ocean View Estate	6,974	3,074,082	---	3,074,082	6,974	3,074,082	---									
Hawaiian Paradise Park Corp.	5,774	990,072	12,760	1,002,832	5,774	990,072	12,760									
Hui of Kahana (Heirs of Mary E. Foster included)	5,237	2,149,923	37,033	2,186,956										5,237	2,149,923	37,033
Hustace, H. P.	1,548	60,779	6,819	67,598							1,548	60,779	6,819			
James Robinson Properties	4,730	15,178,230	4,426,320	19,604,550										4,730	15,178,230	4,426,320
Kahua Ranch, Ltd.	13,725	383,598	10,337	393,935	13,722	379,503	10,337	3	4,095	---						
Kanoa Heirs	1,710	596,426	95,698	692,124				1,707	247,965	53,776				3	348,461	41,922
Kaonoulu Ranch Co., Ltd.	8,916	367,187	97,171	464,358							8,916	367,187	97,171			
Kapoho Land & Development Co., Ltd.	5,263	492,781	13,852	506,633	5,263	492,781	13,852									
Kaupo Ranch, Ltd.	10,440	203,530	34,612	238,142							10,440	203,530	34,612			
Klein, Victor D., et al.	1,442	63,461	---	63,461	1,442	63,461	---									
Kualoa Ranch, Ltd.	4,003	4,774,747	1,134,217	5,908,964										4,003	4,774,747	1,134,217
Lucas, Mary N. Estate of	3,475	274,367	---	274,367				3,475	274,367	---						
Maui Realty Co., Inc.	1,107	509,151	11,935	521,086							1,107	509,151	11,935			
McCandless Heirs	37,800	3,120,337	1,170,848	4,291,185	30,863	339,012	114,781							6,937	2,781,325	1,056,067
Mendonca Estate	2,680	1,161,693	123,680	1,285,373										2,680	1,161,693	123,680
Meyer, R. W., Ltd. & A. A. Meyer Family	2,886	255,022	33,556	288,578							2,886	255,022	33,556			
Mokuleia Ranch & Land Co., Ltd.	3,012	2,017,703	478,994	2,496,697										3,012	2,017,703	478,994
Molokai Ranch, Ltd.	61,308	2,630,161	1,233,574	3,863,735							61,308	2,630,161	1,233,574			

Table 23 (continued)

Name of Owner	Total Acreage Owned in State	All Districts Assessed Value			Hawaii			Kauai, Niihau			Maui, Molokai, Lanai			Oa	
		Land	Building	Total	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	Assessed Value Land	Building	Acreage	As Land
Niihau Ranch	46,065	185,137	61,950	247,087				46,065	185,137	61,950					
Palani Ranch Trust (F. R. Greenwell)	10,385	662,584	162,359	824,943	10,385	662,584	162,359								
Puu-O-Hoku Ranch (George W. Murphy)	13,816	253,954	89,751	343,705							13,816	253,954	89,751		
Queen's Hospital (The)	12,507	25,332,925	20,970,103	46,303,028	10,013	175,986	411							2,494	25,156
Queen Liliuokalani Trust	9,434	7,020,338	3,732,230	10,752,568	9,382	319,000	89,993							52	6,701
Rice, William Hyde, Ltd.	3,043	326,921	178,304	505,225				3,043	326,921	178,304					
Roman Catholic Church	2,923	11,337,679	11,239,679	22,577,358	2,072	1,108,534	1,467,225	101	175,656	193,241	420	622,016	1,288,592	330	9,431
Shipman, W. H., Ltd.	23,385	1,685,303	502,395	2,187,698	23,385	1,685,303	502,395								
Smart, Richard (Parker Ranch)	185,610	3,868,940	778,278	4,647,218	185,610	3,868,940	778,278								
Stewart-Gadbois Co.	1,575	56,512	739	57,251	1,575	56,512	739								
Stillman Trust (Huehue Ranch)	15,746	282,034	35,278	317,312	15,746	282,034	35,278								
Ulupalakua Ranch, Inc.	22,327	873,589	150,279	1,023,868							22,327	873,589	150,279		
Waterhouse, John T.	1,088	219,539	10,867	230,406				1,073	69,181	4,585				15	150
Wong, E. L. Ranch, Ltd.	1,882	58,498	2,720	61,218	1,882	58,498	2,720								
Yee Hop, Ltd.	21,185	5,009	62,059	67,068	21,185	5,009	62,059								
Zion Securities Corp.	6,437	2,451,765	2,518,383	4,970,148										6,437	2,451
TOTAL	1,936,991	581,997,611	318,884,929	900,882,540	1,067,348	40,046,432	15,287,375	234,495	20,822,894	11,235,825	418,872	55,886,090	23,183,760	216,276	465,243

Table 23 (continued)

ıe of Owner	Total Acreage Owned in State	All Districts Assessed Value			Hawaii	Assessed Value		Kauai, Niihau	Assessed Value		Maui, Molokai, Lanai	Assessed Value		Oahu	Assessed Value	
		Land	Building	Total	Acreage	Land	Building	Acreage	Land	Building	Acreage	Land	Building	Acreage	Land	Building
:h	46,065	185,137	61,950	247,087				46,065	185,137	61,950						
:h Trust :enwell)	10,385	662,584	162,359	824,943	10,385	662,584	162,359									
Ranch Murphy)	13,816	253,954	89,751	343,705							13,816	253,954	89,751			
:pital (The)	12,507	25,332,925	20,970,103	46,303,028	10,013	175,986	411							2,494	25,156,939	20,969,692
ıokalani Trust	9,434	7,020,338	3,732,230	10,752,568	9,382	319,000	89,993							52	6,701,338	3,642,237
.am Hyde, Ltd.	3,043	326,921	178,304	505,225				3,043	326,921	178,304						
›lic Church	2,923	11,337,679	11,239,679	22,577,358	2,072	1,108,534	1,467,225	101	175,656	193,241	420	622,016	1,288,592	330	9,431,473	8,290,621
H., Ltd.	23,385	1,685,303	502,395	2,187,698	23,385	1,685,303	502,395									
ıard (Parker Ranch)	185,610	3,868,940	778,278	4,647,218	185,610	3,868,940	778,278									
.bois Co.	1,575	56,512	739	57,251	1,575	56,512	739									
·ust (Huehue Ranch)	15,746	282,034	35,278	317,312	15,746	282,034	35,278									
Ranch, Inc.	22,327	873,589	150,279	1,023,868							22,327	873,589	150,279			
John T.	1,088	219,539	10,867	230,406				1,073	69,181	4,585				15	150,358	6,282
Ranch, Ltd.	1,882	58,498	2,720	61,218	1,882	58,498	2,720									
:d.	21,185	5,009	62,059	67,068	21,185	5,009	62,059									
.ties Corp.	6,437	2,451,765	2,518,383	4,970,148										6,437	2,451,765	2,518,383
.L	1,936,991	581,997,611	318,884,929	900,882,540	1,067,348	40,046,432	15,287,375	234,495	20,822,894	11,235,825	418,872	55,886,090	23,183,760	216,276	465,242,195	269,177,969

FOOTNOTES

Part I

1. The Polynesian, October 25, 1845, No. XXIII, New Series, Vol. II. For a definitive discussion of the background and content of agricultural fundamentalism, family farming, and the underlying political and economic theory of the homesteading movement in the United States, see especially J. B. Waters, "The Conflicts in Agricultural Policy Making" (unpublished doctoral dissertation, Michigan State University, 1965). See especially Chapters II-IV.

2. Biography: Sanford B. Dole, MS, Taylor Collection, Public Archives of Hawaii, Box 1, Document No. 33, p. 1.

3. Ralph S. Kuykendall, The Hawaiian Kingdom, 1854-1874, Twenty Critical Years (Honolulu: University of Hawaii Press, 1953), p. 189. See also, The Pacific Commercial Advertiser, October 16, 1869, p. 3.

4. The Pacific Commercial Advertiser, October 26, 1872.

5. Ibid.; cf. John Locke, Two Treatises of Government, ed. Thomas I. Cooke (New York: Hafner, 1947), p. 141. See especially the argument of Paragraph 41 of The Second Treatise.

6. Sanford B. Dole, "Hawaiian Land Policy," Hawaiian Almanac and Annual for 1898 (Honolulu: 1898), p. 125.

7. Ibid.

8. Sanford B. Dole, "The Political Importance of Small Land Holdings in the Hawaiian Islands," Paper presented before the Honolulu Social Science Association, Honolulu, Hawaii, March 23, 1891.

9. Ibid., p. 1.

10. Ibid., pp. 1-2.

11. Ibid., p. 2.

12. Sanford B. Dole, "Hawaiian Land Policy," p. 126.

13. Civil Laws of 1897, sec. 169, emphasis added.

14. Civil Laws of 1897, sec. 203.

15. Ibid.

16. Report of the Commissioners of Public Lands for the Period 1896-1897, hereafter cited as Report of the Commissioners...and date.

17. Civil Laws of 1897, sec. 201.

18. The "Olaa lots", which were located near Hilo, Hawaii, were made available under Part IX of the Land Act of 1895, which made special provision for the purchase of land held under former Crown leases. This section also provided for the purchase of additional land, up to a maximum of 200 acres, by lessees who already had thirty acres under cultivation.

19. Report of the Commissioners...1896-1897, p. 18.

20. Ibid.

21. William L. Hall, The Forests of the Hawaiian Islands, U. S. Bureau of Forestry Bulletin No. 48 (Washington: 1904), pp. 20-21. See also William V. Frame and Robert H. Horwitz, Public Land Policy in Hawaii: The Multiple-Use Approach, University of Hawaii, Legislative Reference Bureau, Report No. 1 (Honolulu: 1965), pp. 4-8.

22. Report of the Commissioners...1898-1899, p. 13.

23. Joint Resolution of July 7, 1898, 30 Stat. 750.

24. This problem was not resolved until June 14, 1900, when the United States Congress finally put the Organic Act into effect for governing the Territory of Hawaii; Act of April 30, 1900, ch. 339, 31 Stat. 141.

25. Joint Resolution of July 7, 1898, 30 Stat. 750.

26. President McKinley, Second Annual State of the Union Message, December 5, 1898.

27. 22 Ops. Att'y Gen. 627-637 (1899).

28. Letter of February 7, 1899, Archives of the United States, Washington, D. C., Army Records 213729.

29. Letter of February 14, 1899, Archives of the United States, Washington, D. C., Army Records 213729.

30. Seventh Endorsement of Compton Report, May 27, 1899, Archives of the United States, Washington, D. C., Army Records 213729.

31. 22 Ops. Att'y Gen. 574-577 (1899).

32. Act of April 30, 1900, ch. 339, 31 Stat. 141.

33. President McKinley's executive order consisted simply of his signature of endorsement on the back of the War Department letter. The informality which characterized many of Hawaii's land transactions during this transition period makes research difficult and it is virtually impossible to determine if all the data have been collected.

34. Three Presidential Proclamations have been located in the United States National Archives: those of November 2, 1898; November 10, 1899; and January 5 1900, as well as two Executive Orders: those of July 20, 1899 and December 18, 1899.

35. Act of April 30, 1900, ch. 339, 31 Stat. 141.

36. Ibid.

37. Ibid.

38. Report of the Commissioner of Public Lands for the Year Ending June 30, 1903, p. 12, hereafter cited as Report of the Commissioner of Public Lands...and date.

39. Hall, p. 21.

40. J. S. Mollett, Capital in Hawaiian Sugar: Its Formation and Relation to Labor and Output, 1870-1957, Hawaii Agricultural Experiment Station, Agricultural Economics Bulletin 21 (Honolulu: 1961).

41. An interesting exchange of cables and letters regarding Dole's resignation as Governor is available in the Public Archives of Hawaii, see Dole file.

42. It was George Carter who consummated the largest business merger in Hawaii's history. In 1909, two years after leaving the governor's office, Carter negotiated the merger of the William Irwin & Company interests (Irwin served as the factor for eight plantation companies as well as the agent for the Oceanic Steamship Company and Baldwin Locomotive Works in Hawaii). Through this important merger the Honolulu-based, planter interests gained control of the sugar refining aspect of the industry. See Jacob Adler, Claus Spreckels: The Sugar King in Hawaii (Honolulu: University of Hawaii Press, 1966), pp. 102-103. Cf. footnote 50 below.

43. Report of the Governor of the Territory of Hawaii to the Secretary of Interior, 1904, p. 42, hereafter cited as Report of the Governor...and date.

44. U. S., Congress, House, Committee on Territories, Report, Leasing of Land in Hawaii, 62nd Cong., 1st Sess., 1912, p. 73.

45. Report of the Governor...1904, pp. 10-11.

46. Ibid., p. 11.

47. Ibid., p. 20 and Report of the Governor...1905, pp. 47-48.

48. Report of the Governor...1904, p. 20.

49. Report of the Governor...1905, p. 46.

50. For a detailed account of the Lanai exchange, see Robert H. Horwitz, Public Land Policy in Hawaii: Land Exchanges, University of Hawaii, Legislative Reference Bureau, Report No. 2 (Honolulu: 1964), especially pp. 14-21. Although title to the government land on Lanai was transferred to an apparently independent rancher, Charles Gay, it was understood by Governor Carter and the other principals to the transaction that Gay was absolutely dependent in this transaction on funds made available by William Irwin, a director of one of the large sugar factors. Gay mortgaged the Lanai lands to Irwin for $192,279 on the very day the exchange took place, which suggests that the exchange may have been designed to avoid the Organic Act's prohibition against the acquisition of more than 1,000 acres of land by corporations. Irwin did, in fact, subsequently take possession of the Lanai land from Gay.

51. Report of the Governor...1907, pp. 4-5.

52. Report of the Governor...1908, p. 31.

53. Act of April 2, 1908, ch. 124, 35 Stat. 56.

54. Report of the Governor...1909, pp. 38-39.

55. Report of the Governor...1910, pp. 8-9. Mr. James Dunn, who served for many years as the Territorial and State Surveyor, has pointed out that the provision forbidding "aliens, corporations, and larger landholders from obtaining control "of homesteaded land remained in effect throughout the Territorial period. This was also true, he has said, of the prohibition against any one already owning 80 acres of land from acquiring any homesteaded land, before or after patent.

56. Report of the Governor...1911, p. 51.

57. Report of the Governor...1912, pp. 9-10.

58. Letter from Delegate Jonah Kuhio Kalanianaole to Secretary for the Interior Walter L. Fisher, December 2, 1911, The Papers of Delegate Jonah Kuhio Kalanianaole, Public Archives of Hawaii.

59. Mollett, see especially pp. 21ff.

60. Ibid., see especially p. 27, and also cf. records of the Hawaiian Sugar Planters' Association.

61. Lawrence H. Fuchs, Hawaii Pono, A Social History (New York: Harcourt, Brace & World, 1961), p. 171.

62. Memorandum from John H. Wilson to President Woodrow Wilson, July 16, 1914, The Papers of Mayor John H. Wilson, Public Archives of Hawaii. Also, see Mollett, especially p. 35, Tables 6 and 7. During the period, 1910-1920, the net output from Hawaiian sugar production rose from $28,000,000 to $58,000,000. Still, inflationary forces were so marked during this decade that--in terms of "constant (1910-1914) dollars"--net output appears actually to have declined.

63. Lucius E. Pinkham, "The Agricultural Lands of the Hawaiian Islands and Their Problem in Comparison with American Standards," Honolulu Engineering Association Press Bulletin, No. 4 (July, 1906), 5.

64. Ibid., p. 11.

65. Ibid., pp. 11-12.

66. Ibid., pp. 14-15, emphasis added.

67. On this matter, see especially the extremely interesting exchange of letters between Governor Pinkham and Prince Kuhio, Hawaii's Delegate to the U. S. Congress. At one point, when Prince Kuhio wrote to Pinkham seeking his view on the homesteading issue, he received a reply from the Governor which he termed "distinctly disappointing". Letter from Delegate Jonah Kuhio Kalanianaole to Lucius E. Pinkham, August 28, 1919, The Papers of Delegate Jonah Kuhio Kalanianaole, Public Archives of Hawaii.

68. Pinkham, p. 15.

69. Ibid., p. 17.

70. Fuchs, p. 187.

71. Ibid.

72. Ibid., p. 186.

73. The Pacific Commercial Advertiser, June 23, 1918.

74. "Report of February 21, 1945" (Land Laws Revision Commission, Territory of Hawaii), p. 4. (Typewritten).

75. Stanley D. Porteus, A Century of Social Thinking in Hawaii (Palo Alto, Calif.: Pacific Bks., 1963), p. 282.

76. "Report of December 31, 1946" (Land Laws Revision Commission, Territory of Hawaii), pp. 7-10. (Mimeographed).

77. For a provocative analysis of the background of the Hawaiian Homes program, see Marylyn M. Vause, "The Hawaiian Homes Commission Act, 1920, History and Analysis" (unpublished Master of Arts thesis, University of Hawaii, 1962).

78. Consult the series of studies published by the Legislative Reference Bureau in 1964: The Hawaiian Homes Program: 1920-1963; Legal Aspects of the Hawaiian Homes Program; Land Aspects of the Hawaiian Homes Program; Social Aspects of the Hawaiian Homes Program; The Maori Affairs Program.

79. Report of the Commissioner of Public Lands...1920, p. 85.

80. Act of July 9, 1921, ch. 42, 42 Stat. 108, as amended. This Act is generally cited as the "Hawaiian Homes Commission Act, 1920".

81. Report of the Commissioner of Public Lands...1926, p. v.

82. Report of the Governor...1924, p. 52.

83. Report of the Governor...1923, p. 10.

84. Report of the Governor...1925, pp. 2-3.

85. Report of the Governor...1924, p. 1.

86. Report of the Governor...1923, p. 10.

87. Letters from H. A. Baldwin to Wallace R. Farrington, January 12, 1926 and March 9, 1926, Letters of Wallace R. Farrington, Public Archives of Hawaii. Also letter from H. A. Baldwin to Lawrence M. Judd, January 9, 1932, Papers of Lawrence M. Judd, Public Archives of Hawaii.

88. Lawrence M. Judd, Inaugural Address, July 5, 1929, Papers of Lawrence M. Judd, Public Archives of Hawaii. (Reprinted in the Hawaiian Almanac and Annual for 1930, pp. 42-46).

89. Fuchs, p. 292.

90. Report of the Governor...1938, p. 35.

91. Ibid.

92. Ibid.

93. Report of the Governor...1935, p. 14. See also Report of the Governor...1938, p. 34. Among the improvements noted by the Governor were the macadamizing of Todd, Desha, Kauhane, and Andrews Avenues by the County of Hawaii. Speaking of this project, Governor Poindexter said, "The improvement and growth of this project with financial assistance from the commissions are very gratifying [and demonstrate], that Hawaiians are capable of building homes out of their own earnings when opportunities are afforded them to settle upon the land."

94. Herman S. Doi and Robert H. Horwitz, Public Land Policy in Hawaii: Land Reserved for Public Use, University of Hawaii, Legislative Reference Bureau, Report No. 2 (Honolulu: 1966), as well as Part II of this report.

95. Fuchs, p. 310.

96. Honolulu Advertiser, February 25, 1945.

97. "Report of December 31, 1946," p. 1.

98. Ibid.

99. Ibid., p. 44.

100. Ibid., pp. 44-45.

101. Ibid., p. 45.

102. Ibid., pp. 7-10.

103. Ibid., p. 54.

104. Ibid., pp. 7-10.

105. Ibid., pp. 55-56.

106. Report of the Governor...1946, p. 24.

107. Report of the Governor...1947, p. 29.

108. Report of the Governor...1950, p. 8.

109. Ibid., p. 9.

110. Report of the Governor...1948, p. 46.

111. Report of the Governor...1951, p. 14.

112. Report of the Governor...1952, p. 45.

113. Report of the Governor...1954, p. 26, emphasis added. Information available from the Governor's reports was supplemented by a personal interview with Miss Marguerite Ashford, who served as Land Commissioner during Governor King's administration. Miss Ashford, an attorney, also served as a delegate to Hawaii's pre-statehood constitutional convention in 1950. Both as a convention delegate and Land Commissioner she was distinguished by her outspoken position on public land policy and her forthright advocacy of policies she regarded as sound.

114. Information secured from a personal interview with Mr. James Dunn, State Surveyor.

115. Report of the Governor...1955, p. 49.

116. Letter from Marguerite K. Ashford, Commissioner of Public Lands to Governor Samuel Wilder King, "Legislative Proposals," October 29, 1954 (in the files of the Department of Land and Natural Resources, Honolulu, Hawaii).

117. Information secured from a personal interview with Circuit Court Judge Samuel P. King, son of the late Governor, September 13, 1965.

118. Horwitz, Land Exchanges, pp. 10-14, 20-22.

119. Report of the Governor...1958, p. 45.

120. Report of the Governor...1959, p. 43.

121. William F. Quinn, Address at G. O. P. Rally, Puunene, Maui, October 31, 1958, pp. 10-11. (Copies typed from tape; available at the

Public Archives of Hawaii).

122. Honolulu Star-Bulletin, July 23, 1959.

123. This conclusion is based on an analysis of all available "Second Mahele" policy statements, particularly the exchange of questions and answers between Governor William F. Quinn and Representative Joseph R. Garcia, Jr., September 15, 1959 and September 21, 1959 (available at the Public Archives of Hawaii), and the questions and answers Quinn discussed in his television message, "The Second Mahele," September 22, 1959 (available at the Public Archives of Hawaii).

124. William F. Quinn, "The Second Mahele," Television Address, September 22, 1959, pp. 2-3 (available at the Public Archives of Hawaii), emphasis added.

125. Memorandum from Jess Walters to the Department of Land and Natural Resources, "The Administration's Legislative Program for 1961...Compilation and Revision of Land Laws," August 3, 1960 (in the files of the Department of Land and Natural Resources, Honolulu, Hawaii).

126. Memorandum from E. H. Cook, Director, Department of Land and Natural Resources to Jess Walters, Legislative Assistant to the Governor, "Compilation and Revision of Land Laws" (in the files of the Department of Land and Natural Resources, Honolulu, Hawaii).

127. This analysis was presented over the signature of the Chairman of the Board of Land and Natural Resources.

128. Memorandum from E. H. Cook to Jess Walters, p. 3.

129. Ibid., p. 4.

130. William F. Quinn, Message to the Members of the Legislature, State of Hawaii, First General Session, February 15, 1961, p. 7.

131. Ibid., p. 5.

132. Ibid., p. 6.

133. William F. Quinn, "The Island's Dilemma - and the Key," Address before the Annual Meeting of the Hawaiian Sugar Planters' Association, Honolulu, Hawaii, December 5, 1961, p. 4.

134. William F. Quinn, "A Land Policy for the State of Hawaii," p. 6 (Public Archives of Hawaii).

135. William F. Quinn, Address to the First Regular Session, First Legislature of the State of Hawaii, February 17, 1960, pp. 19-20.

136. William F. Quinn, Remarks to District 50 Lions Convention, Kona Cultural Center, Kona, Hawaii, May 18, 1962, p. 1 (Public Archives of Hawaii).

137. William F. Quinn, Message to the Members of the Legislature, State of Hawaii, First General Session, February 15, 1961, p. 6.

138. See Robert H. Horwitz and Norman Meller, Land and Politics in Hawaii (3rd ed.; Honolulu: University of Hawaii Press, 1966). A considerable part of the discussion of the public land policies of Governors Quinn and Burns is paraphrased or quoted from this case study, see especially p. 2 and pp. 50-55. Permission for the utilization of this material has been received from the holder of the copyright, from the Director of the University of Hawaii Press, and the authors.

139. William F. Quinn, Message to the First Legislature, State of Hawaii, Budget Session of 1962, February 21, 1962, p. 7.

140. Governor Burns was interviewed by the authors during the course of this study, as was the Director of the Department of Land and Natural Resources and most of the personnel of the Department.

141. Horwitz and Meller, p. 54.

142. Ibid., p. 55.

143. On July 3, 1968, Governor Burns appointed Mr. Sunao Kido, former deputy director of the State Board of Land and Natural Resources as board chairman on an interim basis. Kido replaced Jim P. Ferry, and was confirmed for a full-term appointment during the 1969 session of Hawaii's legislature.

144. Horwitz and Meller, p. 55.

Part II

1. With regard to the legal aspects of this issue, see Herman S. Doi and Robert H. Horwitz, Public Land Policy in Hawaii: Land Reserved for Public Use, University of Hawaii, Legislative Reference Bureau, Report No. 2 (Honolulu: 1966), especially pp. 60-68. Consider also the discussion of opinions of the United States Attorney General and other Federal and Territorial officials regarding the authority of the United States government to control land in Hawaii in Part I, above. Many additional aspects of the matters discussed in Part I relate to matters discussed in Part II, since Territorial and Federal public land policies have necessarily been closely related since Annexation.

2. For a more detailed consideration of public land policy on the American mainland, see the summary history by Charles S. James, Public Land Policies of the United States and the Mainland States, University of Hawaii, Legislative Reference Bureau, Report No. 5 (Honolulu: 1961).

3. Joint Resolution of July 7, 1898, 30 Stat. 750.

4. Ibid.

5. Ibid.

6. This interim period of nearly two years between passage of the Newlands Resolution and passage of the Organic Act was dealt with by a ruling of the Attorney General of the United States in 32 Ops. Att'y Gen. 574 (1899). This opinion provided that the laws of Hawaii were to continue in force except that the government of Hawaii was not empowered to dispose of public land inasmuch as title to such land was held by the federal government in "special trust" for the benefit of the people of Hawaii. See also Fasi v. Land Commissioner, 41 H. 461, 466-467 (1956).

7. It should be emphasized that one of the most significant provisions of the Organic Act with respect to Hawaii's public land was its authorization for the President or his appointed Governor

of the Territory of Hawaii to "set aside" such portions of the Ceded Land as might be required for a wide variety of public purposes.

8. Act of May 27, 1910, ch. 258, sec. 73, 36 Stat. 444 and sec. 91, 36 Stat. 447 were amended.

9. Act of April 21, 1941, ch. 394, 55 Stat. 658.

10. The reporting requirements of the Admission Act and the lands covered by it were clarified by the Act of December 23, 1963, 77 Stat. 472.

11. 42 Ops. Att'y Gen. No. 4 (June 12, 1961). See Doi and Horwitz, pp. 60ff for a discussion of this opinion.

12. U. S., Congress, Senate, Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, Hawaii Lands, Hearings, 88th Cong., 1st Sess., 1963.

13. Letter from Kermit Gordon to Lyndon B. Johnson, President of the Senate, October 28, 1963.

14. Act of March 18, 1959, Pub. L. 86-3, 73 Stat. 5, sec. 5(d).

15. Though none of the large objectives was obtained, it is possible that some of the multiple-use provisions in the leases were the result of the Democrats' efforts: other small benefits may also have been gained through these negotiations.

16. Letter from George W. Abbott, Solicitor, June 30, 1960.

17. 42 Ops. Att'y Gen. No. 4 (June 12, 1961).

18. At the time of the suit Mr. Bell was no longer Director of the Bureau; Mr. Kermit Gordon was his successor.

19. See Motion for Leave to File Complaint, dated April, 1962, p. 6. Mr. Abe Fortas, assisted the State with the case as a member then of the law firm of Arnold, Fortas, and Porter.

20. Honolulu Star-Bulletin, August 7, 1963.

21. Honolulu Star-Bulletin, November 1, 1963.

22. Honolulu Star-Bulletin, August 7, 1963.

23. Honolulu Advertiser, May 28, 1963.

24. Thomas P. Gill, "Federal Surplus Land in Hawaii," July 15, 1963.

25. The view of these Democrats was that the Court suit would prove to be a less effective means for securing return of the land than their proposal for direct legislation.

26. Honolulu Star-Bulletin, May 12, 1963.

27. Ibid.

28. See U. S., Congress, Senate, Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, Hawaii Lands, Hearings.

29. Ibid.

30. Honolulu Star-Bulletin, June 18, 1963.

31. U. S., Congress, Senate, Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, Hawaii Lands, Hearings.

32. Ibid.

33. Honolulu Star-Bulletin, August 9, 1963.

34. Ibid.

35. Honolulu Star-Bulletin, August 3, 1963.

36. Gill, "Federal Surplus Land."

37. Ibid.

38. Land returned under 5(e) of the Statehood Act could be used for the wide variety of purposes set out in Section 5(f).

39. Honolulu Advertiser, June 19, 1963.

40. Honolulu Star-Bulletin, June 18, 1963.

41. Honolulu Star-Bulletin, November 1, 1963.

42. Ibid.

Part III

1. For current information on the sources of Hawaii's income, see Economic Indicators, an excellent, detailed monthly report prepared by Dr. Thomas K. Hitch and published by the First Hawaiian Bank of Hawaii.

2. For a detailed account of the fashion by which Claus Spreckels acquired these leases, see Jacob Adler, Claus Spreckels: The Sugar King in Hawaii (Honolulu: University of Hawaii Press, 1966), Chapter III, especially pp. 36-37.

3. See Table 14.

4. Ibid.

5. The meaning of this provision of the Admission Act (Act of March 18, 1959, Pub. L. 86-3, 73 Stat. 4) was keenly disputed when Hawaii's First Legislature failed to enact new public laws within a two-year period after Statehood. Hawaii's Attorney General presented Governor Quinn with an opinion (Opinion No. 61-68, July 3, 1961) holding that the provision in question in the Admission Act was "not applicable to the public land laws". On the broader political controversy behind this question, see Robert H. Horwitz and Norman Meller, Land and Politics in Hawaii (3rd ed.; Honolulu: University of Hawaii Press, 1966), pp. 46-47, 50-51.

6. Sess. Laws of Hawaii 1962, Act 32.

7. See Horwitz and Meller, pp. 54-55, regarding major amendments to Act 32.

8. Ibid.

9. Ibid., p. 49.

10. See Table 14.

11. Such restrictions on lease assignment may be especially onerous for a corporation if it no longer requires a lease of minor importance to

Hawaii (now Dawson Corporation). When the State agreed to afford non-negotiable timber rights to this company, it thereby greatly increased the value of the company. There is nothing to prevent such a corporation from being sold, and it should be noted that the valuable timber rights are in the corporation's name, not in the name of an individual. Those critical of such arrangements argue that such leases of rights to natural resources should be non-negotiable. Some also argue that the State should receive a sizeable percentage of any profits received from the sale of such a company, when the profit is based on leases or rights to natural resources.

32. See Horwitz and Meller, p. 39.

33. Ibid., pp. 51-52.

34. See Robert H. Horwitz, Public Land Policy in Hawaii: Land Exchanges, University of Hawaii, Legislative Reference Bureau, Report No. 2 (Honolulu: 1964).

35. In this connection, note should be made of Act 68, 1968. This act amends section 103A-56.1 of the Revised Laws of Hawaii, 1955, in order to accelerate the development of state land for residential and commercial use. Under the provisions of section 2(a) of this act, the board of land and natural resources "may, by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the Legislature by concurrent resolution approving a development project, (1) lease public lands. . .to be reclaimed at the developer's. . .expense, to a private developer or developers, or (2) enter into a development agreement. . .for development and subdivision of such public lands as a leasehold project for agricultural, industrial, single-family or multiple-family residential, commercial, business or hotel and resort uses . . . ." Under section 2(b), the board may, subject to the same requirements, "dispose of public lands . . .by sale of the fee, for single-family or multiple-family residential uses. . . ." This act, which was passed well after the text of this report was written, is completely compatible with the various suggestions we have made regarding possible changes in public land policy.

36. While it proved possible to secure information on the amount of land held under each lease, the names of lessees were not always available. Hence, the 1890 data in Table 14 are incomplete in this respect, but should be found reliable with respect to acreage figures and totals.

37. Robert H. Horwitz and Judith B. Finn, Public Land Policy in Hawaii: Major Landowners, University of Hawaii, Legislative Reference Bureau, Report No. 3(Honolulu: 1967), p. 19 ff.

38. The provisions of Act 68, 1968, discussed in footnote 35, above, point to a broadening of this policy of sale of public land in fee simple for commercial and industrial use.

39. See the recently released report of Economics Research Associates, Hawaii Land Study: Study of Land Tenure, Land Cost, and Future Land Use in Hawaii (Los Angeles: 1969).

40. See Horwitz, Public Land Policy in Hawaii: Land Exchanges, p. 14 ff.

41. See Frame and Horwitz, p. 4 ff.

42. Considerations of alternative uses of public land can hardly be undertaken in Hawaii without affording due consideration to the characteristics of private ownership of land; a point developed at some length in an earlier report in this series: Public Land Policy in Hawaii: Major Landowners, Foreword, p. ii. The data presented in that study are therefore amplified somewhat by inclusion of further information on private ownership of land (and improvements) in terms of assessed valuation, see Table 23. The essentially harmonious relationship that prevailed in the past between Hawaii's large private landowners and the custodians of public land should facilitate the cooperative development of multiple-use programs and other measures designed to achieve greater productivity from the public domain. This, of course, was the assumption underlying Act 68, 1968, which, as already, noted, enables private developers to enter into a variety of development agreements for the development of public land.

Part IV

1. See Part I, above, p. 36 ff.

2. See William V. Frame and Robert H. Horwitz, Public Land Policy in Hawaii: The Multiple-Use Approach, University of Hawaii, Legislative Reference Bureau, Report No. 1 (Honolulu: 1965), p. 13 ff.

3. Ibid., pp. 10-12.

4. The Commission was created under the terms of Joint Resolution 10, 1943. Mr. E. C. Peters was named Chairman, and Mr. Garner Anthony and Mr. George M. Collins were the other two members of this distinguished Commission. These members were continued in office by Act 180, 1945. The Commission's final report was submitted to Governor Stainback on December 31, 1946.

5. "Report of December 31, 1946" (Land Laws Revision Commission, Territory of Hawaii), p. 54. (Mimeographed).

6. The cost of clearing and planting acreage for timber use remains surprisingly low, as may be seen through examination of the annual reports of the Department of Land and Natural Resources, as well as current data available from the Forestry Division. It may be suggested that if only one-third to one-half of the receipts presently received from the use of Hawaii's public land were reinvested in tree planting programs, that the long-range objectives of development of commercial forestry in the State could easily be met.

its overall business. A major corporation will not likely be able to plead "extreme economic hardship" in such circumstances, yet it will be burdened with an unwanted lease.

12. William V. Frame and Robert H. Horwitz, Public Land Policy in Hawaii: The Multiple-Use Approach, University of Hawaii, Legislative Reference Bureau, Report No. 1 (Honolulu: 1965), see especially Chapter VI.

13. Input-output tables are being developed in conjunction with the Oahu Transportation Study. For a brief description see, "Honolulu's Input-Output Table," Hawaii Economic Review (Winter, 1965), 1-3.

14. Act 32, "An Act Relating to the Public Lands of the State" was passed as an "urgency measure" during the 1962 Budget Session of the First State Legislature. An analysis of the Act is provided in Horwitz and Meller. For amendments to Act 32, see Sess. Laws of Hawaii 1965, Act 239, Sess. Laws of Hawaii 1967, Act 234, and Sess. Laws of Hawaii 1968, Act 68.

15. Sess. Laws of Hawaii 1962, Act 32, sec. 56.

16. Rev. Laws of Hawaii, sec. 103A-42 (Suppl. 1965).

17. The Department of Land and Natural Resources has found that in drawing up such leases it is convenient to use gross return. Studies made by the staff of the Land Department reveal that the relationship between gross and net returns (particularly in sugar production) remain consistent enough to permit this simplification.

18. A common complaint made by lessees of public land is that the contribution of good land management is not properly taken into account in the determination of rent, especially when rent is based on a percentage of gross return from the land.

19. Rev. Laws of Hawaii, sec. 103A-17(b) (Suppl. 1965). Most appraisals of public land are made by the staff of the Department of Land and Natural Resources. Section 103A-17(a) permits staff appraisal where land is let at public auction. Section 103-17(b) requires independent appraisers if land is let through negotiation or drawing. Under section 103A-49, independent appraisers are required for remnant sales. Independent appraisers may also be utilized should special appraisal skills be required.

20. Rev. Laws of Hawaii, sec. 103A-57 (Suppl. 1965).

21. Two of Hawaii's very important landowners, the Bishop Estate and the Campbell Estate, are severely restricted with respect to the operation of their properties. They are thus forced to lease their land to others, though not necessarily through lack of capital or interest in broadening the scope of estate management. It should also be added that some of Hawaii's large landowners have developed their own land. This is especially true of the major factors, the "Big Five" (Alexander & Baldwin, Amfac, C. Brewer, Castle & Cooke, and Davies), and the Dillinghams, Richard Smart, and Gay and Robinson.

22. It was originally intended that such data be gathered for this study, but preliminary efforts indicate that the time and staff required for this task greatly exceeded available resources. It should be noted that the land managers of some of the major factors indicated their willingness to cooperate in supplying data, and that most of the major leases of privately owned land are publicly recorded. They can be examined in the Bureau of Conveyances. The details of these private leases have on occasion been disclosed to governmental agencies. Public leases are, of course, open to inspection in the Department of Land and Natural Resources. These records are generally kept by lease number, thereby keeping pertinent materials together.

23. At the same time, it should be noted that on islands other than Oahu, leases of privately owned land are oftentimes written for twenty or more years. Nor have long-term leases always been confined to the Neighbor Islands. For example, some 90 per cent of the land cultivated by the Waialua Agricultural Company has been obtained under three major leases (Bishop Estate, Mendonca Estate, and Castle & Cooke, Inc.), with these leases having been negotiated for terms of from thirty to forty years. It is evident that any valid comparisons between the practices of private and public lessors with respect to length of leases would require considerable analysis of past and present leasing practices. Given the critical importance of such information for policy-makers in Hawaii, it is to be hoped that the information required for a full analysis will eventually be secured.

24. The Campbell Estate entered into percentage leases with Ewa, Oahu, and Kahuku Plantations between 1929 and 1933. Again, much more complete information than has been gathered to date is required for meaningful generalizations on questions such as this.

25. For existing provisions of the public land laws regarding lease negotiations and selection of applicants, see Rev. Laws of Hawaii, sec. 103A-56 (Suppl. 1965).

26. It may be noted that lessors and lessees of privately owned land may encounter the same problem through application of the right of eminent domain.

27. Rev. Laws of Hawaii, sec. 103A-37 (Suppl. 1965) mandates that land under agricultural or pasture lease is subject to withdrawal only for public uses.

28. See pp. 36-38 in the discussion of gubernatorial land policy, above.

29. See Rev. Laws of Hawaii, sec. 103A-36(e) (Suppl. 1965) which permits assignment of leases in certain limited cases. Lease assignment may, of course, take place through default to a mortgagee.

30. This may be compared to the practice of some major lessees of private lands who have traditionally subleased land to smaller tenants. For example, the Kahuku Plantation has an agreement with the Campbell Estate through which it subleases with the Estate's consent and divides rental receipts on a 50-50 basis. Such subleases are for pasture use, diversified farming, residential, industrial, and commercial uses. The plantation makes the critical determination as to whether each such use is consistent with the sound, overall operation of the plantation.

31. A possible case in point that may be offered here is that of the Canadian Pacific Corporation of

Appendix I

Table 24

SALES OF PUBLIC LAND IN HAWAII
1846-1893

	Number of Sales	Acres	Average Price Per Acre
TOTALS	3,458	613,233	.92
1846	5	843	.63
1847	62	2,306	2.10
1848	39	732	3.27
1849	66	12,792	2.28
1850	305	27,083	1.27
1851	180	20,095	1.29
1852	411	36,132	.91
1853	186	12,196	1.13
1854	211	11,753	1.51
1855	422	28,080	.82
1856	265	17,683	.84
1857	150	10,743	1.37
1858	89	6,304	.69
1859	144	14,407	.89
1860	52	8,469	.77
1861	66	189,414	.04
1862	84	8,897	.59
1863	36	4,580	1.13
1864	34	92,715	.16
1865	19	1,831	.60
1866	35	1,469	.94
1867	27	2,335	1.64
1868	4	375	.79
1869	7	336	.90
1870	6	597	1.39
1871	11	1,747	2.32
1872	6	2	12.61
1873	17	2,322	1.72
1874	29	1,260	20.63
1875	9	47,268	.13

Table 24 (continued)

	Number of Sales	Acres	Average Price Per Acre
1876	9	9,964	.50
1877	21	548	8.66
1878	17	423	40.06
1879	39	3,466	3.93
1880	26	236	50.35
1881	46	444	48.61
1882	35	231	121.92
1883	20	478	12.85
1884	6	113	20.51
1885	9	72	35.72
1886	5	122	4.05
1887	27	8,950	1.73
1888	13	1,453	2.10
1889	17	2,614	6.15
1890	44	547	61.67
1891	52	14,393	37.00
1892	50	652	3.14
1893	45	3,761	6.31

Appendix II

KEY TO TABLES 25-30

Category	Acreage	Recurring Uses
"A-1"	.25 acres or less	House sites, business sites, and industrial uses,
"A-2"	.25-1 acre	Taro cultivation and other forms of "wet farming", commercial and industrial uses,
"B"	1.1-10.9 acres	Truck gardening and other types of intensive agricultural uses,
"C"	11-30.9 acres	"Family farming", coffee cultivation; (many homesteading enterprises were undertaken on farms of this size),
"D"	31-100 acres	Small ranching operations, and various other kinds of homesteading,
"E"	100 acres or more	Ranching
"F"	Acreage could not be ascertained from available records	----

Table 25

ANNUAL SALE OF PUBLIC LAND
ON HAWAII: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	0	0	0	0	0	0	0	0
1847	0	0	2	0	0	3	0	5
1848	0	0	0	0	0	0	1	1
1849	0	0	0	0	0	0	0	0
1850	0	0	1	2	4	3	0	10
1851	1	1	5	9	21	9	0	46
1852	0	3	37	81	111	45	0	277
1853	0	0	2	15	26	6	0	49
1854	0	1	6	5	26	13	0	51
1855	5	5	15	25	85	35	1	171
1856	0	0	9	16	39	45	0	109
1857	0	0	6	7	30	40	0	83
1858	0	0	4	3	24	21	0	52
1859	0	0	4	3	18	20	0	45
1860	0	0	2	1	10	16	0	29
1861	0	0	3	4	14	18	0	39
1862	1	0	0	3	2	6	0	12
1863	0	0	1	0	0	3	0	4
1864	0	0	2	1	0	5	0	8
1865	0	0	0	1	3	2	0	6
1866	0	0	0	1	3	2	0	6
1867	0	0	0	0	4	3	0	7
1868	0	0	0	1	1	0	0	2
1869	0	0	1	0	1	0	0	2
1870	0	0	0	1	1	1	0	3
1871	0	0	0	0	0	1	0	1
1872	0	0	0	0	0	0	0	0
1873	0	0	0	0	0	2	0	2
1874	0	0	0	0	1	4	0	5
1875	0	1	0	1	1	1	0	4
1876	0	0	1	0	2	3	0	6
1877	0	0	1	1	1	2	0	5
1878	0	0	1	0	0	1	0	2
1879	0	0	4	1	5	4	0	14
1880	0	0	0	0	1	0	0	1
1881	0	0	0	0	0	1	0	1
1882	1	0	0	0	0	0	0	1
1883	0	1	1	1	0	0	0	3
1884	0	0	0	0	0	0	0	0
1885	0	0	1	0	0	0	0	1
1886	0	0	0	0	0	0	0	0
1887	0	0	2	4	2	5	0	13
1888	0	1	0	1	1	1	0	4
1889	0	0	1	0	0	0	0	1
1890	0	0	1	0	0	0	0	1
1891	0	0	1	0	1	1	0	3
1892	0	0	4	1	1	1	0	7
1893	1	0	2	2	6	3	0	14
Total Sales by Category	9	13	120	191	445	326	2	1106

Table 26

ANNUAL SALE OF PUBLIC LAND
ON MAUI: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	0	0	0	0	0	0	0	0
1847	0	0	4	1	2	3	0	10
1848	0	0	0	8	2	0	0	10
1849	0	0	0	1	8	9	0	18
1850	0	1	39	27	14	12	0	93
1851	0	0	6	11	5	8	0	30
1852	0	0	11	10	9	11	0	41
1853	4	2	31	25	20	12	0	94
1854	1	0	28	40	23	7	0	99
1855	22	25	39	25	17	12	0	140
1856	1	7	29	34	17	12	0	100
1857	0	1	7	5	3	2	0	18
1858	0	1	7	6	7	1	0	22
1859	1	2	13	16	11	7	0	50
1860	0	0	0	0	0	0	0	0
1861	0	1	5	8	3	2	0	19
1862	0	3	23	21	8	4	0	59
1863	2	1	2	4	4	1	0	14
1864	0	0	8	5	2	3	0	18
1865	0	2	3	2	4	1	0	12
1866	0	1	1	3	2	1	0	8
1867	0	0	5	2	1	1	0	9
1868	0	0	0	1	0	1	0	2
1869	0	0	1	1	2	1	0	5
1870	0	0	0	0	1	1	0	2
1871	0	0	1	1	2	4	0	8
1872	0	0	0	0	0	0	0	0
1873	0	0	5	2	0	0	0	7
1874	0	0	0	0	0	0	0	0
1875	0	0	0	0	0	0	1	1
1876	0	0	0	1	1	0	0	2
1877	0	2	2	1	2	0	0	7
1878	0	0	1	1	1	1	0	4
1879	0	2	7	4	1	4	0	18
1880	0	0	5	3	1	0	0	9
1881	0	1	0	0	0	0	0	1
1882	0	1	1	2	2	0	0	6
1883	1	1	0	4	3	1	0	10
1884	0	0	1	1	2	0	0	4
1885	0	0	1	2	0	0	0	3
1886	0	0	3	0	0	1	0	4
1887	0	0	0	0	0	0	0	0
1888	0	0	2	0	0	1	0	3
1889	0	0	2	2	1	5	0	10
1890	0	0	0	1	1	2	0	4
1891	0	0	0	2	3	0	0	5
1892	0	2	1	1	0	1	0	5
1893	0	0	0	0	0	0	0	0
Total Sales by Category	32	56	294	284	185	132	1	984

Table 27

ANNUAL SALE OF PUBLIC LAND
ON OAHU: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	1	1	2	0	0	1	0	5
1847	4	9	31	3	0	0	0	47
1848	1	3	11	4	3	0	0	22
1849	0	6	18	11	6	5	0	46
1850	3	20	58	15	66	34	0	196
1851	2	2	50	7	5	14	0	80
1852	3	3	17	4	13	12	0	52
1853	2	2	8	1	8	6	0	27
1854	2	5	15	8	7	5	0	42
1855	6	12	32	6	20	11	0	87
1856	6	7	7	2	1	2	0	25
1857	6	11	13	1	1	2	0	34
1858	0	2	2	0	1	0	0	5
1859	3	8	13	5	3	0	0	32
1860	4	1	5	1	1	2	0	14
1861	0	1	3	1	3	0	0	8
1862	1	2	4	2	1	1	0	11
1863	2	2	6	0	0	1	0	11
1864	0	1	1	0	0	0	0	2
1865	0	1	0	0	0	0	0	1
1866	2	0	0	0	0	1	0	3
1867	1	1	1	0	2	0	0	5
1868	0	0	0	0	0	0	0	0
1869	0	0	0	0	0	0	0	0
1870	0	1	0	0	0	0	0	1
1871	1	0	0	1	0	0	0	2
1872	0	0	0	0	0	0	0	0
1873	1	2	0	0	0	1	0	4
1874	2	10	10	1	0	0	0	23
1875	1	1	0	0	0	0	0	2
1876	0	0	0	0	0	0	0	0
1877	5	0	3	0	0	0	0	8
1878	6	2	3	0	0	0	0	11
1879	1	2	3	1	0	0	0	7
1880	1	8	7	0	0	0	0	16
1881	2	14	27	1	0	0	0	44
1882	0	11	16	0	1	0	0	28
1883	0	4	3	0	0	0	0	7
1884	2	0	0	0	0	0	0	2
1885	2	0	3	0	0	0	0	5
1886	0	0	1	0	0	0	0	1
1887	3	1	5	2	2	1	0	14
1888	0	3	0	1	0	0	0	4
1889	4	1	1	0	0	0	0	6
1890	9	19	10	1	0	0	0	39
1891	9	28	4	0	1	1	0	43
1892	9	14	13	2	0	0	0	38
1893	11	7	11	1	0	0	0	30
Total Sales by Category	118	228	417	82	145	100	0	1090

Table 28

ANNUAL SALE OF PUBLIC LAND
ON KAUAI: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	0	0	0	0	0	0	0	0
1847	0	0	0	0	0	0	0	0
1848	0	1	1	2	2	0	0	6
1849	0	0	1	0	0	1	0	2
1850	0	0	0	0	3	2	0	5
1851	0	0	3	5	5	4	0	17
1852	0	0	2	0	1	1	0	4
1853	0	0	0	1	0	1	0	2
1854	0	2	0	2	15	0	0	19
1855	0	1	2	0	0	1	0	4
1856	2	7	13	1	1	0	0	24
1857	2	5	7	0	0	0	0	14
1858	0	0	1	0	0	0	0	1
1859	0	0	0	0	0	0	0	0
1860	0	1	5	1	0	0	0	7
1861	0	0	0	0	0	0	0	0
1862	0	0	1	1	0	0	0	2
1863	0	4	1	0	0	1	0	6
1864	0	1	2	0	0	0	0	3
1865	0	0	0	0	0	0	0	0
1866	0	1	2	0	0	0	0	3
1867	1	1	3	0	0	0	0	5
1868	0	0	0	0	0	0	0	0
1869	0	0	0	0	0	0	0	0
1870	0	0	0	0	0	0	0	0
1871	0	0	0	0	0	0	0	0
1872	0	0	0	0	0	0	0	0
1873	0	0	0	0	0	0	0	0
1874	0	0	0	0	0	0	0	0
1875	0	0	0	0	0	0	0	0
1876	0	0	0	0	0	1	0	1
1877	0	0	0	0	0	0	0	0
1878	0	0	0	0	0	0	0	0
1879	0	0	0	0	0	0	0	0
1880	0	0	0	0	0	0	0	0
1881	0	0	0	0	0	0	0	0
1882	0	0	0	0	0	0	0	0
1883	0	0	0	0	0	0	0	0
1884	0	0	0	0	0	0	0	0
1885	0	0	0	0	0	0	0	0
1886	0	0	0	0	0	0	0	0
1887	0	0	0	0	0	0	0	0
1888	0	0	0	0	0	0	0	0
1889	0	0	0	0	0	0	0	0
1890	0	0	0	0	0	0	0	0
1891	0	0	0	0	0	0	0	0
1892	0	0	0	0	0	0	0	0
1893	0	0	0	0	0	1	0	1
Total Sales by Category	5	24	44	15	27	13	0	126

Table 29

ANNUAL SALE OF PUBLIC LAND
ON MOLOKAI: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	0	0	0	0	0	0	0	0
1847	0	0	0	0	0	0	0	0
1848	0	0	0	0	0	0	0	0
1849	0	0	0	0	0	0	0	0
1850	0	0	0	0	0	1	0	1
1851	0	1	4	0	2	0	0	7
1852	13	6	11	1	3	3	0	37
1853	3	1	6	2	1	1	0	14
1854	0	0	0	0	0	0	0	0
1855	2	2	5	1	4	1	0	15
1856	1	2	2	0	1	1	0	7
1857	0	0	0	0	0	0	0	0
1858	1	1	5	1	1	0	0	9
1859	2	0	6	3	5	1	0	17
1860	0	0	0	0	1	1	0	2
1861	0	0	0	0	0	0	0	0
1862	0	0	0	0	0	0	0	0
1863	0	0	0	0	0	0	0	0
1864	0	0	0	1	0	0	0	1
1865	0	0	0	0	0	0	0	0
1866	0	0	8	2	0	0	0	10
1867	0	0	0	0	0	0	0	0
1868	0	0	0	0	0	0	0	0
1869	0	0	0	0	0	0	0	0
1870	0	0	0	0	0	0	0	0
1871	0	0	0	0	0	0	0	0
1872	2	4	0	0	0	0	0	6
1873	0	0	0	1	1	1	1	4
1874	0	0	0	0	1	0	0	1
1875	0	1	0	0	0	1	0	2
1876	0	0	0	0	0	0	0	0
1877	0	0	0	0	1	0	0	1
1878	0	0	0	0	0	0	0	0
1879	0	0	0	0	0	0	0	0
1880	0	0	0	0	0	0	0	0
1881	0	0	0	0	0	0	0	0
1882	0	0	0	0	0	0	0	0
1883	0	0	0	0	0	0	0	0
1884	0	0	0	0	0	0	0	0
1885	0	0	0	0	0	0	0	0
1886	0	0	0	0	0	0	0	0
1887	0	0	0	0	0	0	0	0
1888	0	0	0	1	0	1	0	2
1889	0	0	0	0	0	0	0	0
1890	0	0	0	0	0	0	0	0
1891	0	0	0	0	0	1	0	1
1892	0	0	0	0	0	0	0	0
1893	0	0	0	0	0	0	0	0
Total Sales by Category	24	18	47	13	21	13	1	137

Table 30

ANNUAL SALE OF PUBLIC LAND
ON LANAI: 1846-1893
CLASSIFICATION BY SIZE OF LAND PARCELS

Year	A1	A2	B	C	D	E	F	Total Annual Land Sales
1846	0	0	0	0	0	0	0	0
1847	0	0	0	0	0	0	0	0
1848	0	0	0	0	0	0	0	0
1849	0	0	0	0	0	0	0	0
1850	0	0	0	0	0	0	0	0
1851	0	0	0	0	0	0	0	0
1852	0	0	0	0	0	0	0	0
1853	0	0	0	0	0	0	0	0
1854	0	0	0	0	0	0	0	0
1855	0	0	0	2	2	0	0	4
1856	0	0	0	0	0	0	0	0
1857	0	0	1	0	0	0	0	1
1858	0	0	0	0	0	0	0	0
1859	0	0	0	0	0	0	0	0
1860	0	0	0	0	0	0	0	0
1861	0	0	0	0	0	0	0	0
1862	0	0	0	0	0	0	0	0
1863	0	0	0	0	1	0	0	1
1864	0	0	0	0	1	0	0	1
1865	0	0	0	0	0	0	0	0
1866	0	0	0	2	2	1	0	5
1867	0	0	0	0	0	1	0	1
1868	0	0	0	0	0	0	0	0
1869	0	0	0	0	0	0	0	0
1870	0	0	0	0	0	0	0	0
1871	0	0	0	0	0	0	0	0
1872	0	0	0	0	0	0	0	0
1873	0	0	0	0	0	0	0	0
1874	0	0	0	0	0	0	0	0
1875	0	0	0	0	0	0	0	0
1876	0	0	0	0	0	0	0	0
1877	0	0	0	0	0	0	0	0
1878	0	0	0	0	0	0	0	0
1879	0	0	0	0	0	0	0	0
1880	0	0	0	0	0	0	0	0
1881	0	0	0	0	0	0	0	0
1882	0	0	0	0	0	0	0	0
1883	0	0	0	0	0	0	0	0
1884	0	0	0	0	0	0	0	0
1885	0	0	0	0	0	0	0	0
1886	0	0	0	0	0	0	0	0
1887	0	0	0	0	0	0	0	0
1888	0	0	0	0	0	0	0	0
1889	0	0	0	0	0	0	0	0
1890	0	0	0	0	0	0	0	0
1891	0	0	0	0	0	0	0	0
1892	0	0	0	0	0	0	0	0
1893	0	0	0	0	0	0	0	0
Total Sales by Category	0	0	1	4	6	2	0	13

Table 31

SALE OF PUBLIC LAND: 1846-1893
ANNUAL ACREAGE SALES BY ISLAND

Year	Oahu	Hawaii	Maui	Kauai	Lanai	Molokai	Niihau	Grand Total
1846	843,17	0,00	0,00	0,00	0,00	0,00	0,00	843,17
1847	167,65	772,74	1365,61	0,00	0,00	0,00	0,00	2306,00
1848	308,49	0,00	213,90	209,90	0,00	0,00	0,00	732,29
1849	2223,58	0,00	8693,54	1875,50	0,00	0,00	0,00	12792,62
1850	15712,69	1314,08	7657,57	1028,51	0,00	1371,10	0,00	27083,95
1851	5777,44	5220,65	6997,74	2007,20	0,00	92,47	0,00	20095,50
1852	6661,28	21003,81	7390,04	167,22	0,00	910,22	0,00	36132,57
1853	1432,84	3033,29	6643,78	770,00	0,00	316,13	0,00	12196,04
1854	2027,83	4231,22	4784,09	710,33	0,00	0,00	0,00	11753,47
1855	5741,31	16040,07	3697,87	3956,96	105,76	490,29	50,00	28080,26
1856	427,08	13401,50	3414,94	109,83	0,00	330,13	0,00	17683,48
1857	387,02	9743,00	567,96	44,09	1,64	0,00	0,00	10743,71
1858	60,63	5583,31	584,11	1,13	0,00	75,13	0,00	6304,31
1859	290,07	11633,37	2039,09	0,00	0,00	444,81	0,00	14407,34
1860	533,74	6696,69	0,00	24,27	0,00	1214,48	0,00	8469,18
1861	237,59	188438,58	738,23	0,00	0,00	0,00	0,00	189414,40
1862	213,17	6712,43	1948,21	23,78	0,00	0,00	0,00	8897,59
1863	421,89	482,50	599,47	3024,74	52,07	0,00	0,00	4580,67
1864	1,84	1974,75	674,80	3,23	33,00	28,00	90000,00	92715,62
1865	0,88	716,65	1114,36	0,00	0,00	0,00	0,00	1831,89
1866	208,03	492,45	258,04	3,72	417,72	89,38	0,00	1469,34
1867	78,50	1913,80	198,59	16,71	128,00	0,00	0,00	2335,60
1868	0,00	118,75	256,25	0,00	0,00	0,00	0,00	375,00
1869	0,00	65,30	271,06	0,00	0,00	0,00	0,00	336,36
1870	0,27	443,62	154,00	0,00	0,00	0,00	0,00	597,89
1871	24,48	154,00	1569,06	0,00	0,00	0,00	0,00	1747,54
1872	0,00	0,00	0,00	0,00	0,00	2,22	0,00	2,22
1873	119,97	1897,00	57,94	0,00	8,00	247,87	0,00	2322,78
1874	44,26	1121,00	0,00	0,00	0,00	95,20	0,00	1260,46
1875	0,52	767,38	0,00	0,00	0,00	46500,60	0,00	47268,50
1876	0,00	9591,76	72,50	300,00	0,00	0,00	0,00	9964,26
1877	11,79	356,40	123,53	0,00	0,00	57,10	0,00	548,82
1878	12,70	138,21	272,39	0,00	0,00	0,00	0,00	423,30
1879	31,09	2720,85	714,20	0,00	0,00	0,00	0,00	3466,14
1880	19,63	77,60	139,52	0,00	0,00	0,00	0,00	236,75
1881	91,49	352,00	0,99	0,00	0,00	0,00	0,00	444,48
1882	95,26	0,01	135,78	0,00	0,00	0,00	0,00	231,05
1883	8,71	25,82	443,67	0,00	0,00	0,00	0,00	478,20
1884	0,34	0,00	113,26	0,00	0,00	0,00	0,00	113,60
1885	14,97	3,33	54,61	0,00	0,00	0,00	0,00	72,91
1886	1,40	0,00	121,03	0,00	0,00	0,00	0,00	122,43
1887	578,61	8372,08	0,00	0,00	0,00	0,00	0,00	8950,69
1888	17,88	180,14	195,53	0,00	0,00	1060,00	0,00	1453,55
1889	5,35	1,00	2608,00	0,00	0,00	0,00	0,00	2614,35
1890	61,33	8,73	477,25	0,00	0,00	0,00	0,00	547,31
1891	453,52	8489,54	210,92	0,00	0,00	5240,00	0,00	14393,98
1892	116,02	343,70	192,28	0,00	0,00	0,00	0,00	652,00
1893	69,40	2475,16	0,00	1217,00	0,00	0,00	0,00	3761,56
Acreage Totals by Island	46565,71	337108,27	67765,71	15494,12	736,19	58565,13	90050,00	613255,13

Table 32

SALE OF PUBLIC LAND ON OAHU: 1846-1893
ANNUAL ACREAGE SALES BY DISTRICT

Year	Kona (Honolulu)	Ewa	Waianae	Waialua	Koolauloa	Koolaupoko	Island Total
1846	7,17	0,00	0,00	836,00	0,00	0,00	843,17
1847	167,65	0,00	0,00	0,00	0,00	0,00	167,65
1848	294,99	0,00	0,00	13,50	0,00	0,00	308,49
1849	1159,46	233,27	0,00	0,00	0,00	830,85	2223,58
1850	932,35	73,13	0,00	9179,62	2345,00	3182,59	15712,69
1851	385,76	0,00	284,00	3975,28	933,58	198,82	5777,44
1852	105,71	700,20	0,00	4076,65	1329,22	449,50	6661,28
1853	3,83	0,00	0,00	1027,30	0,00	401,71	1432,84
1854	59,38	0,00	0,00	1394,06	574,39	0,00	2027,83
1855	68,82	214,00	0,00	2552,59	711,89	4,01	3741,31
1856	24,36	0,00	0,00	336,06	0,00	66,66	427,08
1857	193,39	0,00	0,00	0,00	123,00	70,63	387,02
1858	6,83	0,00	0,00	0,00	0,00	53,80	60,63
1859	233,57	0,00	0,00	0,00	0,00	56,50	290,07
1860	7,45	0,00	0,00	0,00	0,00	526,29	533,74
1861	237,59	0,00	0,00	0,00	0,00	0,00	237,59
1862	34,96	3,25	0,00	0,00	0,00	174,96	213,17
1863	16,64	0,00	0,00	0,00	0,00	405,25	421,89
1864	1,84	0,00	0,00	0,00	0,00	0,00	1,84
1865	0,88	0,00	0,00	0,00	0,00	0,00	0,88
1866	0,01	0,00	0,00	0,00	208,02	0,00	208,03
1867	78,50	0,00	0,00	0,00	0,00	0,00	78,50
1868	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1869	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1870	0,27	0,00	0,00	0,00	0,00	0,00	0,27
1871	24,48	0,00	0,00	0,00	0,00	0,00	24,48
1872	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1873	119,97	0,00	0,00	0,00	0,00	0,00	119,97
1874	27,26	17,00	0,00	0,00	0,00	0,00	44,26
1875	0,52	0,00	0,00	0,00	0,00	0,00	0,52
1876	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1877	11,79	0,00	0,00	0,00	0,00	0,00	11,79
1878	12,70	0,00	0,00	0,00	0,00	0,00	12,70
1879	31,09	0,00	0,00	0,00	0,00	0,00	31,09
1880	19,63	0,00	0,00	0,00	0,00	0,00	19,63
1881	91,49	0,00	0,00	0,00	0,00	0,00	91,49
1882	95,26	0,00	0,00	0,00	0,00	0,00	95,26
1883	8,71	0,00	0,00	0,00	0,00	0,00	8,71
1884	0,34	0,00	0,00	0,00	0,00	0,00	0,34
1885	14,97	0,00	0,00	0,00	0,00	0,00	14,97
1886	1,40	0,00	0,00	0,00	0,00	0,00	1,40
1887	578,61	0,00	0,00	0,00	0,00	0,00	578,61
1888	17,88	0,00	0,00	0,00	0,00	0,00	17,88
1889	0,87	4,48	0,00	0,00	0,00	0,00	5,35
1890	61,33	0,00	0,00	0,00	0,00	0,00	61,33
1891	453,52	0,00	0,00	0,00	0,00	0,00	453,52
1892	116,02	0,00	0,00	0,00	0,00	0,00	116,02
1893	69,40	0,00	0,00	0,00	0,00	0,00	69,40
Acreage Totals by District	5778,65	1245,33	284,00	23391,06	6225,10	6421,57	43535,71

Table 33

SALE OF PUBLIC LAND ON HAWAII: 1846-1893
ANNUAL ACREAGE SALES BY DISTRICT

Year	Kohala	Hamakua	Hilo	Puna	Kau	South Kona	North Kona	Island Total
1846	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1847	10,00	2,00	266,60	0,00	0,00	0,00	494,14	772,74
1848	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1849	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1850	94,00	45,00	627,38	0,00	0,00	0,00	547,70	1314,08
1851	1550,81	3192,51	257,37	125,00	0,00	0,21	94,75	5220,65
1852	3659,89	4951,55	4834,99	2807,02	1596,22	1326,80	1827,34	21003,81
1853	579,60	437,00	358,54	151,25	0,00	1150,90	356,00	3033,29
1854	0,00	44,50	816,64	800,02	1741,58	392,73	435,75	4231,22
1855	1386,50	2680,25	280,02	745,62	1447,90	3580,81	5918,97	16040,07
1856	3552,50	1886,50	813,46	571,20	1886,52	2645,25	2046,07	13401,50
1857	2346,22	2509,62	676,60	840,40	2565,75	141,25	663,16	9743,00
1858	1976,25	1261,25	247,07	139,60	1959,14	0,00	0,00	5583,31
1859	914,77	255,00	403,25	650,11	8329,24	1081,00	0,00	11633,37
1860	1965,20	253,00	335,76	773,05	1764,83	1453,00	151,85	6696,69
1861	2657,45	37,89	131,43	87,20	185420,61	0,00	104,00	188438,58
1862	114,55	60,00	17,73	4289,40	1491,00	739,75	0,00	6712,43
1863	0,00	0,00	7,00	0,00	325,50	150,00	0,00	482,50
1864	0,00	0,00	3,60	30,81	1010,59	0,00	929,75	1974,75
1865	50,00	27,50	100,00	31,00	50,15	458,00	0,00	716,65
1866	0,00	0,00	0,00	0,00	45,40	117,50	329,55	492,45
1867	0,00	0,00	0,00	0,00	0,00	1878,60	35,20	1913,80
1868	0,00	29,50	89,25	0,00	0,00	0,00	0,00	118,75
1869	0,00	55,00	0,00	0,00	10,30	0,00	0,00	65,30
1870	0,00	338,00	0,00	0,00	0,00	87,25	18,37	443,62
1871	0,00	0,00	0,00	0,00	0,00	0,00	154,00	154,00
1872	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1873	0,00	1312,00	0,00	0,00	0,00	0,00	585,00	1897,00
1874	0,00	191,00	710,00	0,00	0,00	220,00	0,00	1121,00
1875	0,00	643,00	0,00	0,00	25,60	0,30	98,48	767,38
1876	0,00	530,84	0,00	0,00	0,00	1032,00	8028,92	9591,76
1877	0,00	120,00	68,10	0,00	10,30	158,00	0,00	356,40
1878	0,00	0,00	0,00	136,40	0,00	1,81	0,00	138,21
1879	0,00	14,90	13,55	1273,95	1290,00	128,45	0,00	2720,85
1880	0,00	77,60	0,00	0,00	0,00	0,00	0,00	77,60
1881	0,00	0,00	0,00	352,00	0,00	0,00	0,00	352,00
1882	0,00	0,00	0,00	0,00	0,00	0,01	0,00	0,01
1883	0,00	1,82	24,00	0,00	0,00	0,00	0,00	25,82
1884	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1885	0,00	3,33	0,00	0,00	0,00	0,00	0,00	3,33
1886	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
1887	378,00	294,08	2200,00	0,00	0,00	5500,00	0,00	8372,08
1888	0,00	0,00	0,00	19,34	0,00	56,80	104,00	180,14
1889	0,00	1,00	0,00	0,00	0,00	0,00	0,00	1,00
1890	0,00	0,00	8,73	0,00	0,00	0,00	0,00	8,73
1891	1,54	0,00	8488,00	0,00	0,00	0,00	0,00	8489,54
1892	0,00	23,25	0,00	52,70	0,00	266,46	1,29	343,70
1893	0,00	0,00	1170,22	4,12	1262,50	0,00	38,32	2475,16
Acreage Totals by District	21237,28	21278,89	22949,29	13880,19	212233,13	22566,88	22962,61	337108,27

Table 34

SALE OF PUBLIC LAND ON KAUAI: 1846-1893
ANNUAL ACREAGE SALES BY DISTRICT

Year	Halelea	Koolau	Puna	Kona	Napali	Island Total
1846	0,00	0,00	0,00	0,00	0,00	0,00
1847	0,00	0,00	0,00	0,00	0,00	0,00
1848	151,00	0,00	0,00	58,90	0,00	209,90
1849	0,00	0,00	1872,00	3,50	0,00	1875,50
1850	37,82	446,47	544,22	0,00	0,00	1028,51
1851	0,00	1292,10	622,06	93,04	0,00	2007,20
1852	0,00	157,00	0,00	10,22	0,00	167,22
1853	0,00	30,00	0,00	740,00	0,00	770,00
1854	0,77	36,41	0,00	673,15	0,00	710,33
1855	2,00	1,46	0,00	3953,50	0,00	3956,96
1856	7,89	0,00	0,00	0,00	101,94	109,83
1857	0,56	0,95	0,00	0,25	42,33	44,09
1858	1,13	0,00	0,00	0,00	0,00	1,13
1859	0,00	0,00	0,00	0,00	0,00	0,00
1860	24,27	0,00	0,00	0,00	0,00	24,27
1861	0,00	0,00	0,00	0,00	0,00	0,00
1862	23,78	0,00	0,00	0,00	0,00	23,78
1863	7,76	3016,98	0,00	0,00	0,00	3024,74
1864	3,23	0,00	0,00	0,00	0,00	3,23
1865	0,00	0,00	0,00	0,00	0,00	0,00
1866	3,72	0,00	0,00	0,00	0,00	3,72
1867	16,71	0,00	0,00	0,00	0,00	16,71
1868	0,00	0,00	0,00	0,00	0,00	0,00
1869	0,00	0,00	0,00	0,00	0,00	0,00
1870	0,00	0,00	0,00	0,00	0,00	0,00
1871	0,00	0,00	0,00	0,00	0,00	0,00
1872	0,00	0,00	0,00	0,00	0,00	0,00
1873	0,00	0,00	0,00	0,00	0,00	0,00
1874	0,00	0,00	0,00	0,00	0,00	0,00
1875	0,00	0,00	0,00	0,00	0,00	0,00
1876	0,00	0,00	300,00	0,00	0,00	300,00
1877	0,00	0,00	0,00	0,00	0,00	0,00
1878	0,00	0,00	0,00	0,00	0,00	0,00
1879	0,00	0,00	0,00	0,00	0,00	0,00
1880	0,00	0,00	0,00	0,00	0,00	0,00
1881	0,00	0,00	0,00	0,00	0,00	0,00
1882	0,00	0,00	0,00	0,00	0,00	0,00
1883	0,00	0,00	0,00	0,00	0,00	0,00
1884	0,00	0,00	0,00	0,00	0,00	0,00
1885	0,00	0,00	0,00	0,00	0,00	0,00
1886	0,00	0,00	0,00	0,00	0,00	0,00
1887	0,00	0,00	0,00	0,00	0,00	0,00
1888	0,00	0,00	0,00	0,00	0,00	0,00
1889	0,00	0,00	0,00	0,00	0,00	0,00
1890	0,00	0,00	0,00	0,00	0,00	0,00
1891	0,00	0,00	0,00	0,00	0,00	0,00
1892	0,00	0,00	0,00	0,00	0,00	0,00
1893	1217,00	0,00	0,00	0,00	0,00	1217,00
Acreage Totals by District	1497,64	4981,37	3338,28	5532,56	144,27	15494,12

Table 35

SALE OF PUBLIC LAND ON MOLOKAI: 1846-1893
ANNUAL ACREAGE SALES BY DISTRICT

Year	Koolau	Kaluakoi	Kona	Island Total
1846	0,00	0,00	0,00	0,00
1847	0,00	0,00	0,00	0,00
1848	0,00	0,00	0,00	0,00
1849	0,00	0,00	0,00	0,00
1850	0,00	0,00	1371,10	1371,10
1851	0,00	0,00	92,47	92,47
1852	16,69	0,00	893,53	910,22
1853	0,00	195,60	120,53	316,13
1854	0,00	0,00	0,00	0,00
1855	52,02	0,00	438,27	490,29
1856	6,31	55,00	268,82	330,13
1857	0,00	0,00	0,00	0,00
1858	0,00	0,00	75,13	75,13
1859	83,72	46,00	315,09	444,81
1860	0,00	0,00	1214,48	1214,48
1861	0,00	0,00	0,00	0,00
1862	0,00	0,00	0,00	0,00
1863	0,00	0,00	0,00	0,00
1864	0,00	0,00	28,00	28,00
1865	0,00	0,00	0,00	0,00
1866	0,00	0,00	89,38	89,38
1867	0,00	0,00	0,00	0,00
1868	0,00	0,00	0,00	0,00
1869	0,00	0,00	0,00	0,00
1870	0,00	0,00	0,00	0,00
1871	0,00	0,00	0,00	0,00
1872	0,00	0,00	2,22	2,22
1873	0,00	0,00	247,87	247,87
1874	0,00	0,00	95,20	95,20
1875	0,00	46500,00	0,60	46500,60
1876	0,00	0,00	0,00	0,00
1877	0,00	0,00	57,10	57,10
1878	0,00	0,00	0,00	0,00
1879	0,00	0,00	0,00	0,00
1880	0,00	0,00	0,00	0,00
1881	0,00	0,00	0,00	0,00
1882	0,00	0,00	0,00	0,00
1883	0,00	0,00	0,00	0,00
1884	0,00	0,00	0,00	0,00
1885	0,00	0,00	0,00	0,00
1886	0,00	0,00	0,00	0,00
1887	0,00	0,00	0,00	0,00
1888	0,00	0,00	1060,00	1060,00
1889	0,00	0,00	0,00	0,00
1890	0,00	0,00	0,00	0,00
1891	0,00	0,00	5240,00	5240,00
1892	0,00	0,00	0,00	0,00
1893	0,00	0,00	0,00	0,00
Acreage Totals by District	158,74	46796.60	11609,79	58565,13

Table 36

SALE OF PUBLIC LAND
ON LANAI: 1846-1893
ANNUAL ACREAGE SALES
BY DISTRICT

YEAR	ISLAND TOTAL
1846	0,00
1847	0,00
1848	0,00
1849	0,00
1850	0,00
1851	0,00
1852	0,00
1853	0,00
1854	0,00
1855	103,76
1856	0,00
1857	1,64
1858	0,00
1859	0,00
1860	0,00
1861	0,00
1862	0,00
1863	52,07
1864	33,00
1865	0,00
1866	417,72
1867	128,00
1868	0,00
1869	0,00
1870	0,00
1871	0,00
1872	0,00
1873	0,00
1874	0,00
1875	0,00
1876	0,00
1877	0,00
1878	0,00
1879	0,00
1880	0,00
1881	0,00
1882	0,00
1883	0,00
1884	0,00
1885	0,00
1886	0,00
1887	0,00
1888	0,00
1889	0,00
1890	0,00
1891	0,00
1892	0,00
1893	0,00
Acreage Totals by District	736,19

Table 37

SALE OF PUBLIC LAND
ON NIIHAU: 1846-1893
ANNUAL ACREAGE SALES
BY DISTRICT

YEAR	ISLAND TOTAL
1846	0,00
1847	0,00
1848	0,00
1849	0,00
1850	0,00
1851	0,00
1852	0,00
1853	0,00
1854	0,00
1855	50,00
1856	0,00
1857	0,00
1858	0,00
1859	0,00
1860	0,00
1861	0,00
1862	0,00
1863	0,00
1864	90000,00
1865	0,00
1866	0,00
1867	0,00
1868	0,00
1869	0,00
1870	0,00
1871	0,00
1872	0,00
1873	0,00
1874	0,00
1875	0,00
1876	0,00
1877	0,00
1878	0,00
1879	0,00
1880	0,00
1881	0,00
1882	0,00
1883	0,00
1884	0,00
1885	0,00
1886	0,00
1887	0,00
1888	0,00
1889	0,00
1890	0,00
1891	0,00
1892	0,00
1893	0,00
Acreage Totals by District	90050,00

Appendix III

HAWAII'S MAJOR FACTORS: COMMON STOCK OWNERSHIP IN SUBSIDIARIES
(PERCENTAGES)

Major Factors and Subsidiaries	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
Alexander & Baldwin, Inc.																			
East Maui Irrigation Co., Ltd.[1]											100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Maui Pineapple Co., Ltd.[2]													52.18	52.18	52.18	52.30	53.70	54.10	54.00
McBryde Sugar Co.	68.24	68.24	68.24	68.24	68.24	70.41	72.38	76.58	79.02	80.73	81.15	81.25	82.31	83.38	83.38	83.40	83.40	83.40	100.00
*Kahuku Plantation Co.	71.53	71.53	71.53	72.19	72.99	74.11	74.11	74.11	71.41	74.41	75.77	76.18	89.51	89.51	89.51	89.50	89.50	89.50	90.00
Amfac, Inc.																			
Lihue Plantation Co., Ltd.	52.12	52.12	52.12	52.12	52.12	52.12	52.12	52.12	52.12	53.24	56.28	58.30	63.11	66.50	71.40	72.00	72.00	72.10	100.00
Oahu Sugar Co., Ltd.	15.10	15.10	15.10	15.10	17.23	22.23	28.98	29.30	30.65	55.20	59.72	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Pioneer Mill Co., Ltd.	25.22	27.15	27.15	27.15	35.44	39.24	53.16	53.24	54.86	57.13	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Puna Sugar Co., Ltd.[3]	18.18	18.18	18.18	18.18	26.23	34.23	43.79	49.22	50.25	74.71	77.22	81.20	86.28	89.50	91.40	92.10	92.60	92.80	100.00
*Kekaha Sugar Co., Ltd.	32.17	32.17	32.17	32.17	32.17	34.11	41.63	41.20	41.20	41.20	41.20	50.30	41.20	52.90	53.90	53.90	53.90	54.30	100.00
C. Brewer & Co., Ltd.																			
Hawaiian Agricultural Co.	45.86	45.86	45.86	50.66	57.85	69.19	79.90	90.98	90.98	91.00	91.38	91.49	91.86	92.13	92.14	92.14	92.16	92.16	92.23
Hutchinson Sugar Co., Ltd.[4]	56.17	56.17	56.17	57.12	67.67	72.86	81.69	92.72	92.72	92.97	92.97	93.10	93.41	93.41	93.47	93.53	93.68	93.78	93.78
Kilauea Sugar Co., Ltd.[5]	98.44	98.44	98.44	98.68	99.15	99.85	99.85	99.85	99.85	99.85	99.92	99.92	99.92	99.92	99.92	99.92	99.92	99.92	99.92
Mauna Kea Sugar Co., Inc.[6]																			
[Hilo Sugar Co., Ltd.]	97.90	97.90	98.20	99.30	99.30	99.30	99.30	99.40	99.40	99.40	99.40	99.40	99.40	99.40	99.40	99.03	99.09	99.09	99.09
[Onomea Sugar Co.]	52.01	52.01	52.01	83.45	87.54	90.68	91.07	91.18	91.18	91.18	98.64	98.67	98.72	98.72	98.72				
Paauhau Sugar Co., Ltd.[7]	50.38	50.38	50.38	52.34	73.30	75.55	82.81	84.96	91.16	91.37	91.47	91.73	92.98	92.99	93.18	93.24	93.28	93.60	93.63
Pepeekeo Sugar Co.[8]	54.27	54.27	54.27	62.98	67.19	73.81	83.50	85.38	85.38	86.32	90.91	91.87	92.27	95.36	95.36	95.36	95.36	95.37	95.37
Wailuku Sugar Co.	50.81	50.81	50.81	54.68	57.21	66.87	77.83	82.03	82.03	82.03	83.76	83.96	84.06	84.20	84.20	84.37	84.71	84.71	85.17
*Olokele Sugar Co., Ltd.	60.00	60.00	60.00	60.39	61.12	64.74	76.56	78.98	78.98	78.98	79.79	80.36	80.62	80.62	80.68	80.68	80.76	80.76	80.76
Capital Investment Co., Ltd.																			
Makaha Valley Farms, Ltd.	28.60	30.11	77.00	77.00	79.00	79.00	76.00	76.00	76.00	76.30	76.30	76.53	76.53	77.55	77.55	80.05	42.65	42.65	42.65
Waianae Development Co., Ltd.[9]	28.35	34.25	37.50	39.40	55.19	57.59					85.83	85.83	85.83	85.83	85.83	85.83	89.17	89.17	89.17
Castle & Cooke, Inc.																			
Dole Company[10]	15.14	15.13	15.13	15.13	16.12	15.11	15.17	15.44	48.15	51.21	52.17	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Kohala Sugar Co.	88.22	88.99	88.99	97.12	97.29	99.90	99.11	99.11	99.87	99.87	99.87	99.86	99.87	99.86	99.87	99.87	99.87	99.90	100.00
*Ewa Plantation	20.11	20.11	20.11	20.11	20.20	20.23	23.14	27.20	27.20	27.98	29.56	26.00	42.23	43.17	62.47	67.42	69.76	70.00	100.00
*Waialua Agricultural Co.	26.63	26.63	26.63	26.63	26.16	26.21	30.21	34.24	38.60	46.50	51.35	50.00	54.26	50.00	64.99	66.25	67.40	69.00	100.00

Appendix III (Continued)

Major Factors and Subsidiaries	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
Theo H. Davies & Co., Ltd.																			
Hamakua Mill Co.	39.96	43.29	43.29	43.29	67.12	72.79	75.13	86.13	87.64	87.80	87.80	90.50	90.00	90.00	92.04	93.00	93.00	93.00	93.00
Kukaiau Ranch Co., Ltd.[11]	69.80	77.16	77.16	78.24												81.00	81.00	81.00	81.00
Honokaa Sugar Co.			13.80	13.80	49.64	59.33	60.73	62.14	62.59	66.72	67.10	67.10	67.00	67.00	67.00	67.00	67.00	67.00	67.00
Laupahoehoe Sugar Co.						86.20	86.20	93.76	93.76	94.82	94.82	94.50	94.00	94.00	94.00	94.00	94.00	94.00	94.00
Dillingham Corp.																			
Hawaiian Land Co.[12]												100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

*These companies are not major landowners but control substantial amounts of land through their leasehold. Kahuku Plantation Co. leases 6,860 acres, Kekaha Sugar Co., Ltd. leases 28,232 acres, Olokele Sugar Co., Ltd. leases 5,859 acres, Ewa Plantation leases 11,081 acres, and Waialua Agricultural Co. leases 30,360 acres.

1. Hawaiian Commercial & Sugar Co., Ltd. held over 99% of the stock of East Maui Irrigation Co., Ltd. from 1950 through 1959. During that same period Alexander & Baldwin, Inc. held between 34% and 41% of the stock of Hawaiian Commercial & Sugar Co., Ltd. On January 2, 1962 Hawaiian Commercial & Sugar Co., Ltd. was merged with and absorbed by Alexander & Baldwin, Inc.

2. Haleakala Pineapple Co., Ltd. held 50% of the stock of Maui Pineapple Co., Ltd. from 1950 through 1961. During that same period Hawaiian Commercial & Sugar Co. owned 49% of the stock of Maui Pineapple Co., Ltd. On December 12, 1962 Haleakala Pineapple Co., Ltd. was merged with and absorbed by Maui Pineapple Co., Ltd.

3. This stock was under the name of Olaa Sugar Co. from 1950 through 1959. On April 1, 1960 the name of Olaa Sugar Co. was changed to Puna Sugar Co.

4. This stock was under the name of Hutchinson Sugar Plantation Co. from 1950 through 1955. On December 31, 1955 Hutchinson Sugar Plantation Co. was merged with and absorbed by Hutchinson Sugar Co., Ltd.

5. This stock was under the name of Kilauea Sugar Plantation Co. from 1950 through 1955. On December 31, 1955 Kilauea Sugar Plantation Co. was merged with and absorbed by Kilauea Sugar Co., Ltd.

6. Mauna Kea Sugar Co., Inc. is the surviving company of Hilo Sugar Co., Ltd. and Onomea Sugar Co. From 1950 through 1955 Hilo Sugar Co., Ltd. was under the name of Hilo Sugar Plantation Co. On December 31, 1955 Hilo Sugar Plantation Co. was merged with and absorbed by Hilo Sugar Co., Ltd. On July 26, 1965 Hilo Sugar Co., Ltd. was merged with an absorbed by Onomea Sugar Co., Inc. On that same day the name of Onomea Sugar Co., Inc. was changed to Mauna Kea Sugar Co., Inc.

7. This stock was under the name of Paauhau Sugar Plantation from 1950 through 1955. On December 31, 1955 Paauhau Sugar Plantation Co. was merged with and absorbed by Paauhau Sugar Co., Ltd.

8. Pepeekeo Sugar Co. is the surviving company of Hakalau Sugar Plantation Co., which was merged with and absorbed by Hakalau Sugar Co., Ltd. on December 31, 1955. In 1950 C. Brewer & Co., Ltd. held 86% of the stock of Hakalau Sugar Plantation Co. By 1962 C. Brewer & Co., Ltd. held 99% of the stock of Hakalau Sugar Co., Ltd. On December 31, 1962 Hakalau Sugar Co., Ltd. was merged with and absorbed by Pepeekeo Sugar Co.

9. Makaha Valley Farms held over 69% of the stock of Waianae Development Co., Ltd. from 1956 through 1959. During this same period Capital Investment Co., Ltd. held over 76% of the stock of Makaha Valley Farms. In 1966 Makaha Valley Farms, Ltd. was incorporated and renamed Makaha Valley, Inc.

10. This stock was under the name of Hawaiian Pineapple Co., Ltd. from 1950 through 1960. On September 30, 1960 the name of Hawaiian Pineapple Co., Ltd. was changed to Dole Corporation. Dole Corporation was merged with and absorbed by Castle & Cooke, Inc. on May 1, 1964.

Appendix III (Continued)

11. In 1954 Hamakua Mill Co. held 80% of the stock of Kukaiau Ranch Co., Ltd. By 1964 this percentage had increased to 81%. Theo H. Davies & Co., Ltd. held 39% of the stock of Hamakua Mill Co. in 1950. By 1964 this percentage had increased to 92%.

12. Hawaiian Dredging Co., Ltd. held 100% of the stock of Hawaiian Land Co. from 1950 through 1956. From 1957 through 1960 Hawaiian Dredging and Construction Co., Ltd. held 100% of the stock of Hawaiian Land Co. From 1950 through 1960 various members of the Dillingham family held a majority of the stock of Hawaiian Dredging Co., Ltd. which was later called Hawaiian Dredging & Construction Co., Ltd.

ADDENDA

PUBLIC LAND POLICY IN HAWAII:
AN HISTORICAL ANALYSIS

Report No. 5, 1969
Legislative Reference Bureau

Pages 148-149, Table 17

The use code utilized in Table 17 was derived from 29 categories used by the Tax Department and simplified in the following manner. No leases on "water licenses" were found. The State Tax Office use code number is in parentheses.

"Cane land" includes:
- Cane land rated as good ($180 per acre) (1)
- " " " " medium ($140 per acre) (2)
- " " " " poor ($105 per acre) (3)
- " " that is not rated by the State Tax Office (28)

"Grazing" includes:
- Pasture land rated A ($78 per acre) (4)
- " " " B ($60 per acre) (5)
- " " " C ($42 per acre) (6)
- " " " D ($24 per acre) (7)
- " " " E ($5 per acre) (8)

"Pineapple" includes:
- Pine land rated A (above $650 per acre) (9)
- " " " B ($650 per acre) (10)
- " " " C ($543 per acre) (11)
- " " " D ($363 per acre) (12)
- " " " E ($181 per acre) (13)

"Attributables" includes:
- Roads (14)
- Ditches (15)
- Drains, siphons (16)
- Easements (17)
- Water systems, reservoirs, fish ponds (18)
- Others (19)

"Other Uses" includes:
- Undeveloped (20)
- Waste, unused (21)
- Sub-leased (22)
- Forest (23)
- Pasture (24)
- Fallow or abandoned fields (25)
- Others (26)

"Water License" (27)

"General Agriculture" includes:
- Agricultural cane land that is used for agricultural purposes besides the cultivation of cane (29)

Page 157, Table 22

For the year 1972, entry under "Pasture" should read 58,460.76 rather than 5,846.76.

Page 173-178, Table 23

Source for Table 23 was the State Department of Taxation. Explanation of Table 23 may be found in footnote 42 of Part III.