

HAWAIIAN LAND TITLES

By

Robert D. King, Principal Cadastral Engineer

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The transition of Hawaiian land tenure from the feudal system which prevailed in ancient times to the present system of land titles, commenced about the time of the death of Kamehameha I in 1819 and the arrival of the missionaries in 1820, and culminated in what is known as the Mahele (Division) of 1848 in the latter part of the reign of Kamehameha III.

Kamehameha III was the son of the First and became king at the age of twelve, reigning under a regency. At the age of twenty, in 1833, the king announced to his chiefs his intention "to take into his possession the lands for which his father had toiled, the power of life and death, and the undivided sovereignty." But in the meantime there had been an influx of foreigners into the country, many of whom did not or would not understand the existing system of landownership, which involved them in many disputes with the king and chiefs. According to the theory held by the chiefs, all the lands in the kingdom belonged to the king as head of the nation, and could not be transferred without his consent, so that all foreign residents holding lands under some form of tenure were but tenants-at-will.

In ancient times all the lands were considered to be the property of the king and were held for him by the high or district chiefs in fief on condition of tribute and military service. Each district chief divided his territory among chiefs of a lesser rank who owed to him the same service and obedience that he owed to the king. In this way the land was subdivided again and again down to the common people who tilled the soil and performed other services.

The common people were not fixed to the soil but could remove from one land to another; on the other hand as mere tenants-at-will they could be dispossessed at any time. A chief, holding his land in fief was in much the same position, and at his death his holdings reverted to the king by whom it was assigned to a new chief, not

necessarily related to the dead chief. Again at the accession of a new king it was an ancient custom to re-distribute all the lands among the adherents of the new sovereign.

Even in those days the people had with them the tax gatherer. There was the royal tax consisting of products of the soil and the sea which extended over the whole kingdom, each grade of inferior paying to his immediate superior until the whole pile was laid before the king. There was also a labor tax which mainly consisted in cultivating the taro patches of the chief and other forms of a labor tax such as building fish ponds, digging irrigation ditches, building temples and other public work. It has been estimated that the common people did not receive on an average more than one-third of the avails of their industry, while the other two-thirds were divided between the king and the chiefs.

The Hawaiian people had within a few years after the arrival of the missionaries become almost universally Christianized and through diplomatic channels the Hawaiian Kingdom had become recognized as one of the civilized countries of the world. The king and his chiefs fully realized that their whole structure of government needed to be remodeled and as important an item as any was the system of land holding.

This led to the drafting and promulgation of the Declaration of Rights in 1839 and the First Constitution in 1840, thus signalling the emergence of the Hawaiian Kingdom from an absolute monarchy into a constitutional government with a legislative assembly and the king as the head of the state. The following important passage is contained in the Declaration of Rights and in the First Constitution:

Protection is hereby assured to the persons of the people together with their lands, their building lots, and all their property while they conform to the laws of the kingdom, and nothing whatever shall be taken from any individual except by express provision of the laws.

While this clause in the constitution and other acts passed subsequently prevented to a great extent evictions and seizures of the lands occupied by the native tenants, the feudal concept still persisted and no commoner could be certain of the peaceful possession of his home and farm. Neither did the chiefs have any assurance of continued possession of their larger holdings for themselves and their heirs, as all lands held by them were in fief to the king.

Convinced that this feudal system which had worked so well in ancient times was incompatible with a civilized Christian nation operating under a constitutional government, the king and his chiefs resolved to separate and define the undivided interests of all the people in the kingdom. After long and patient investigation, it was finally settled that there were but three classes of persons having vested rights in land; namely, the king, the chiefs and the tenants.

In 1845 the legislature created a "Board of Commissioners to Quiet Land Titles," more commonly known as the Land Commission. The Commission organized in 1846 and adopted certain principles for the information of the people and those claiming under tenancies, and for its own guidance in adjudicating claims. These principles were later ratified by the legislature and therefore had the full effect of the law. The Land Commission decided that if the king should allow to the landlords (the chiefs) one-third to the tenants (the common people) one-third, and retain one-third himself, "he would injure no one unless himself." Full powers were conferred upon the Commission as a court of record to investigate and finally award or reject all claims to land by the tenants occupying and cultivating their holdings previous to December 10, 1845, the date of the passage of the act. Its decisions were only subject to appeal to the Supreme Court which appeal had to be made within ninety days after the date of the Land Commission's decision.

After the passage of the act, the king and chiefs had for two years unsuccessfully endeavored to effectuate a division among themselves which would enable each of them to hold his land independently in fee simple. Finally the whole matter was referred to the Privy Council and on December 18, 1847, certain principles were adopted to carry out the division between the king as feudal suzerain and the chiefs as his feudatories. Once the king and chiefs accepted the principles laid down by the Privy Council the division was carried out with such dispatch that it was completed in forty days on March 7, 1848. The book in which this division is recorded is called the Mahele Book and the division is known as the Mahele of 1848.

Even before the king's division with the chiefs, a second division between himself and the government was clearly contemplated. Certainly the king was entitled to lands in his own right as a chief together with the other chiefs, and he realized as well how desirable it was that there be a public domain, the proceeds of the sales and leases of which should go to the national treasury, and from which his subjects could purchase the lands which they needed. Accordingly on the day after the final division was made with the last chief, the king made a further division of the lands which had been surrendered to him, setting apart about two-thirds of them for the government and reserving the remainder for himself as his own private estate. The former are known as government lands and the latter as crown lands.

Although a chief in surrendering certain of his feudal lands received the undivided interest in the remaining lands, it still was necessary for him to go before the Land Commission and bring evidence of his "Mahele" and thereupon receive an award from the Commission. There are therefore two classes of awards, those confirmed to the commoners as tenants on the land prior to December 10, 1845 and those confirmed to the chiefs who had participated in the Mahele of 1848.

The Land Commission completed its labors and was dissolved on March 31, 1855, and all its records, books and unadjudicated claims were deposited with the Minister of Interior. These records are now on file in the office of the Commissioner of Public Lands. As a result of the work of the Land Commission, the Mahele between the king and the chiefs and the further division between the king and the government, original titles of all lands in Hawaii are derived from but three sources; namely, Land Commission Awards including awards on chiefs' and commoners' lands, from the sales of government lands and from the sales of crown lands.

Government lands were administered by the Minister of the Interior who was empowered by law to sell and lease. As the Land Commission could only consider claims to farms and building lots arising prior to December 10, 1845, many of the people were deprived of the opportunity to secure lands for themselves. So to provide for this class the Minister of Interior was authorized in the early days of the new regime to sell building lots and tracts of land from a fraction of an acre to several hundred acres, at prices ranging from twenty-five cents to one dollar an acre. The Minister of Interior was also authorized to dispose of government lands by sales for many other purposes. This class of conveyance is designated a Royal Patent (Grant) and since the overthrow of the monarchy, as Land Patent (Grant). It is more commonly known as a Grant and so designated on most of the title maps. These grants are recorded in a series of books now deposited in the office of the Commissioner of Public Lands. Many conveyances by the Minister of Interior were by the ordinary deed method which deeds were recorded by the grantees in the Bureau of Conveyances.

The Crown Lands were considered the private property of the king, who sold, leased and mortgaged the same at his pleasure; sales of crown lands were by deeds which were recorded by the several grantees in the Bureau of Conveyances, and were equally

valid with the Royal Patents issued out of the office of the Minister of Interior. Those deeds are commonly known as Kamehameha deeds. Upon the death of Kamehameha III, the Supreme Court decided that the inheritance of the crown lands was limited to the successors to the throne and that each successive possessor may regulate and dispose of the same according to his will and pleasure as private property in like manner as was done by Kamehameha III. However, by the act of January 3, 1865, in the reign of Kamehameha V, the crown lands were made inalienable, which act further provided that such lands remaining unsold shall descend to the heirs and successors of the Hawaiian crown forever, with a further proviso that no leases were to be executed for any term of years to exceed thirty. The act also created a Board of Commissioners of Crown Lands consisting of three persons charged with the duty of administering the crown lands for the benefit of the reigning sovereign, with one of the commissioners acting as land agent.

Upon the overthrow of the monarchy in 1893, a provisional government carried on the affairs of the country much along the same lines as during the monarchy, except that a president was the head of the state and the legislative power was vested in an Advisory Council of fourteen members and the executive power in a cabinet of four members including the president. Government lands continued to be administered by the Minister of Interior and the crown lands by the Crown Commissioners. On July 4, 1894 as a result of a constitutional convention, the republic of Hawaii was proclaimed and one of the articles of the constitution set forth that "That portion of the public domain heretofore known as crown land is hereby declared to have been heretofore, and now to be, the property of the Hawaiian government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues and profits thereof. It shall be subject to alienation and other uses as may be provided by law." The effect of this act was to merge

the crown lands with the government lands, and thereafter these two classes of lands were designated as "public" lands.

The treaty of annexation made between the republic of Hawaii and the United States which was ratified only by the Senate of Hawaii on September 9, 1897 ceded to the United States "the absolute fee and ownership of all public, government or crown lands, public buildings . . ." and the joint resolution of Congress to provide for annexing the Hawaiian Islands to the United States approved July 7, 1898 accepted, ratified and confirmed such cession and further provided that the existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands, but the Congress of the United States shall enact special laws for their management and disposition. The act of Congress organizing Hawaii into a Territory, known as the Organic Act, approved April 30, 1900, abolished amongst others the office of the Minister of the Interior and created the position of a Commissioner of Public Lands who took over the duties of the Minister of the Interior relating to public lands. This act further provided "that the public property ceded and transferred to the United States by the Republic of Hawaii . . . shall be and remain in the possession, use and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the Governor of Hawaii." It will therefore be seen that title to all the public lands vests in the United States although the territory is given a free hand in the disposition thereof except as restricted by the Congress.

By an act of Congress approved July 9, 1921, certain specified lands in the Territory of Hawaii were set apart to be administered by a commission to be known as the "Hawaiian Home Commission" composed of five members for the benefit of the

"native Hawaiian" which the act defines as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778". These lands are known as Hawaiian home lands and the commission is authorized to lease as homesteads to native Hawaiians, residence lots and agricultural tracts for a term of ninety-nine years, each lessee to pay a rental of one dollar a year. Hawaiian home lands are by this act taken from the control and management of the Commissioner of Public Lands and may be considered as no longer a part of the public lands of the Territory.

In 1903 the legislature of Hawaii created what is now known as the Land Court, which court is authorized to conduct hearing for the registration of title to lands and upon the final determination thereof to issue decrees confirming titles to the parties making application. The functions of the Land Court and the procedure in applying for a registered title or a Land Court title as it is more commonly called is treated in another article, but it might be mentioned here that a Land Court title does not annul or cancel out the original titles derived by a Land Commission Award, a Royal or Land Patent (Grant) or a Kamehameha Deed. As a matter of convenience, however, all lands registered in the Land Court are referred to by their application number.

The art of surveying in Hawaii has kept pace with changes and development in land tenure. The ancient Hawaiians had no written language and the manner in which the boundaries and names of land were perpetuated was by word of mouth passed down from generation to generation by certain persons who were selected as the repositories of this information. Boundaries of the land sections constituting the domains of the chiefs were identified by geographical features, such as streams, mountain ridges, hills, capes and other prominent points, and where no such features existed, by stone walls, large rocks, cairns of stones or other material and other artificial monuments. All these features were

generally given names indicative of some physical characteristic or historical event connected therewith.

The smaller parcels of land held by the common people were identified by the extent of their cultivation; wet land patches for the cultivation of the taro were bordered by narrow banks and the areas under dry cultivation were marked by low and narrow ridges of hard-packed earth to delimit the occupation of the individuals. House lots, not always located on the farms, were enclosed by stone walls or wooden fences of cut saplings. In almost every instance each land division down to the smallest unit had a distinctive name of its own.

The geographic divisions of the islands into districts and land sections were probably established as early as five hundred years ago and in a great measure remain unchanged to this day. Each island was divided into several districts or moku, each moku representing the domain of a high chief. The districts varied in extent, there being no fixed dimensions or areas, but the arrangement of a district boundary did conform to a logical pattern geographically and for political control.

The next division of land below the district is the ahupuaa or land section which was the domain of a chief of lesser rank. The typical ahupuaa is a strip of land extending from the sea to the mountain, so that its chief may have his share of all the various products of the mountain region, the cultivated land and the sea. Within the ahupuaa, there are in many instances further subdivisions of land with its own identity, that is, a carefully defined boundary and a name other than that of the ahupuaa.

This class of land is called an ili and might be described as having the status on a parity with and just below the ahupuaa. A peculiarity of the ili is that it often consists of two or more sections in different parts of the ahupuaa, which are called leles, lele being the Hawaiian word for "jump". The ili was generally

held by a chief of lesser rank than the district chief or the ahupuaa chief.

Within the ahupuaa and the ili were the lands cultivated by the common people, separate farms being assigned to different individuals. Aina kalo is the term applied to the taro lands, each patch being termed a loi. Cultivated dry lands were called aina kula and the patches called moo and kihapai. The patches cultivated exclusively for the chief were called koele or hakuone. House lots were called pahale. The word kuleana is defined as a "right of property which pertains to an individual" and in modern times has come to mean a small land claim inside another's land, so that now the awards to the native tenants are generally known as kuleanas. Konohiki originally meant an agent who managed a chief's land but in the course of time the use of the word has been changed so that it now means the chief himself, and it also is applied to the chief's land, as "konohiki land."

Attached to an considered a part of the ahupuaa was the ocean abutting the sea front of the land and as a part of the system under which the lands were held, the exclusive right to fish in the waters of the ocean adjacent to an ahupuaa was considered a part of the chief's estate. By the act of June 7, 1839, the rights of piscary were defined and by subsequent legislation further clarified so that by the time of the Mahele the rights of the chiefs and the common people had become clearly defined. The king had previously surrendered his special privileges, retaining only those which were held by him as the chief of an ahupuaa. In substance a fishing right appurtenant to an ahupuaa extended from low water mark to the reef and if there be no reef then for a distance of one geographical mile. The fisheries appurtenant to government ahupuaas, and after the overthrow of the monarchy of crown ahupuaas, were made free to all the people. In the chiefs' fisheries, a chief had the privilege to tabu and take for himself, one species of fish a year, the tenants of the

ahupuaa thereupon having the right to the remainder of the catch; or by agreement with his tenants, the chief could take one-third of the total catch with the remaining two-thirds for his tenants. This law of fishing rights, with some modifications, is in effect today. Chief's or privately owned fisheries are generally known as "konohiki" fisheries.

To resume the discussion on surveying, the Land Commission required that all claims for awards filed by the tenants should be accompanied by a metes and bounds description and a map. In all these early surveys the magnetic compass an inadequate and unreliable instrument was used in measuring the bearings of the land lines and usually, but not always, the Gunter's chain for the measurement of distances. The chiefs were not required to submit surveys of their lands, their claims being awarded by the names of their particular land sections according to their ancient boundaries. Further provision was later made by which these boundaries, at the option of the land owners, could be defined by survey before a boundary commission, and when these lands were so surveyed the practice was no different.

No real attempt was made to correlate these surveys with one another or to exercise any method of control. Perhaps as many as 40,000 parcels of land, large and small, were surveyed in the manner between the years 1846 and 1870. The crown and government lands generally remained unsurveyed, except in the instances where the king sold some of his lands and the government granted lands out of the public domain. These latter surveys were generally magnetic, but sometimes true bearings were used, the North line being established at the site of the survey.

No base maps were ever made and by 1870 it was quite impossible to determine the area and extent of the crown and government lands. This led to the inception of the Hawaiian Government Survey. The first steps taken were to determine the latitudes and longitudes of initial stations, to measure base lines and to

extend a chain and network of geodetic stations, over the whole group of islands, as a foundation to which all existing surveys could be coordinated and to which all subsequent surveys could be connected.

The United States Coast and Geodetic Survey was consulted for the best practice and methods and besides practical advice, also helped by lending the Hawaiian Government a base-line apparatus and other instruments of precision. The true azimuth system was adopted and thereafter all government surveys were based on this method of surveying. This did not by any means correct the errors of the old surveys or provide for the compulsory surveying of the privately owned land sections. Perhaps as many as two-thirds of the lands of the kingdom were in private hands -- lands for the most part remaining unsurveyed or at the best but poorly surveyed -- so that there still remained much to be done to bring about a system of land and boundary control.

It is easy to imagine that this condition would cause much litigation affecting boundaries, and such is the case, as the Hawaiian courts have had innumerable lawsuits involving land boundaries.

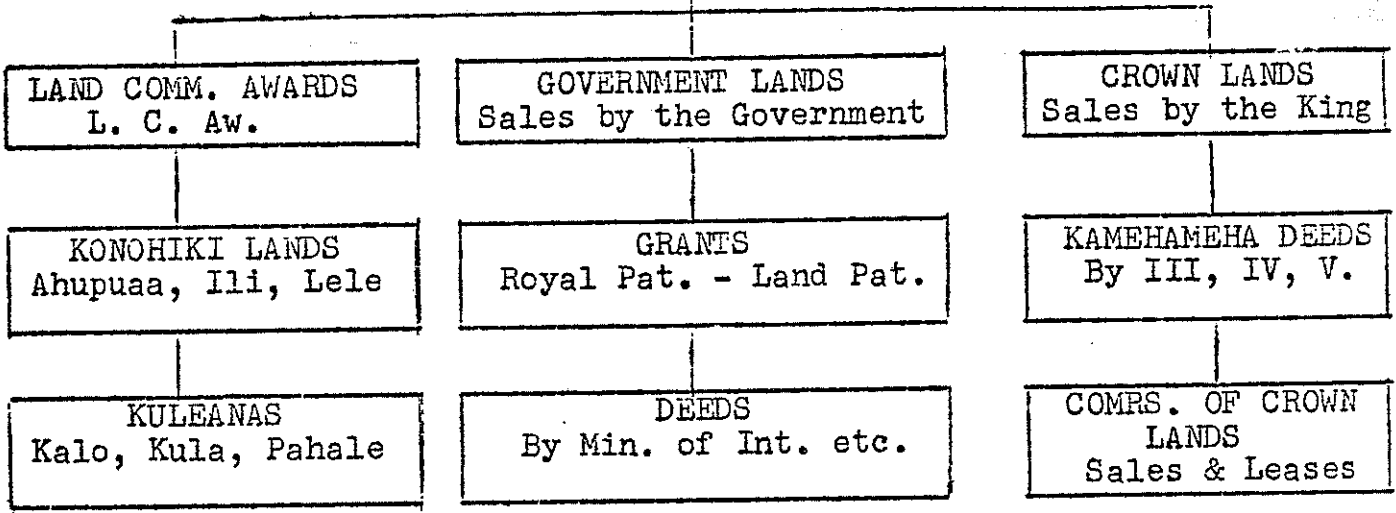
The situation became so acute that thoughtful men acquainted with these problems and familiar with what had been done in other communities conceived the idea of applying the Torrens System of land registration to these islands, the use of which would be optional, and as a result the Land Court came into being.

Respecting surveys submitted in the Land Court, the rules require that a precise surveyor's transit shall be used for measuring angles and that the azimuth shall be used in all descriptions of surveys with zero or 360 degrees at true South and that the initial point of the survey shall clearly show its connection with the government triangulation. Distances shall be measured in feet and decimals of a foot with a steel tape certified to be accurate by the U. S. Bureau of Standards.

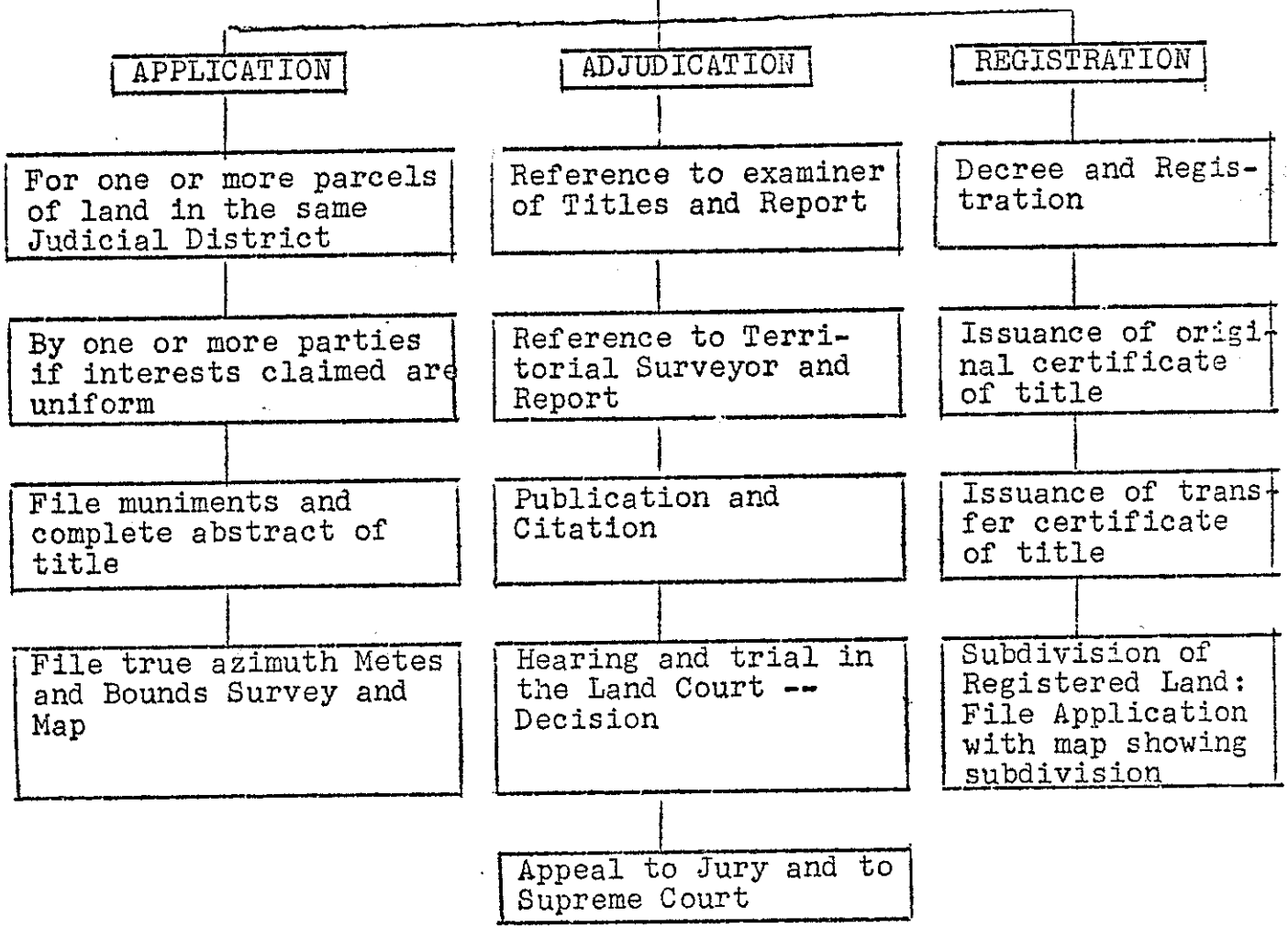
At the present time, a surveyor can readily tie in his work either directly to a government station or to a reference point which has already been tied into the triangulation net. For all ordinary purposes the plane rectangular coordinates are used and are much easier to apply. Where the Cadastral Survey is over a large area and it becomes impractical to have a single plane reference for the entire area, the coordinates can then be reference to the nearest geodetic station and the spherical difference between two or more stations will automatically adjust itself within a reasonable degree of error. In the case of the city survey, coordinates and azimuths can be taken from a nearby street monument which latter is connected with the government triangulation.

We have followed the evolution of the definition of boundaries of lands from ancient times to the present, first by their names and references to certain landmarks, passed down from generation to generation solely by word of mouth; next, by magnetic bearings with unequal variations in the declination in different localities and with unstandardized chains, these surveys being unrelated one to the other; next, the setting up by the government of a triangulation system with geodetic stations to which surveys may be referenced, but no legal means by which precise survey could be substituted for the old inaccurate and imperfect surveys; and lastly, the Land Court system by which any one can come into court and have his title to land quieted for all times, guaranteed by the government and at the same time have his boundaries precisely defined by the most modern methods of surveying.

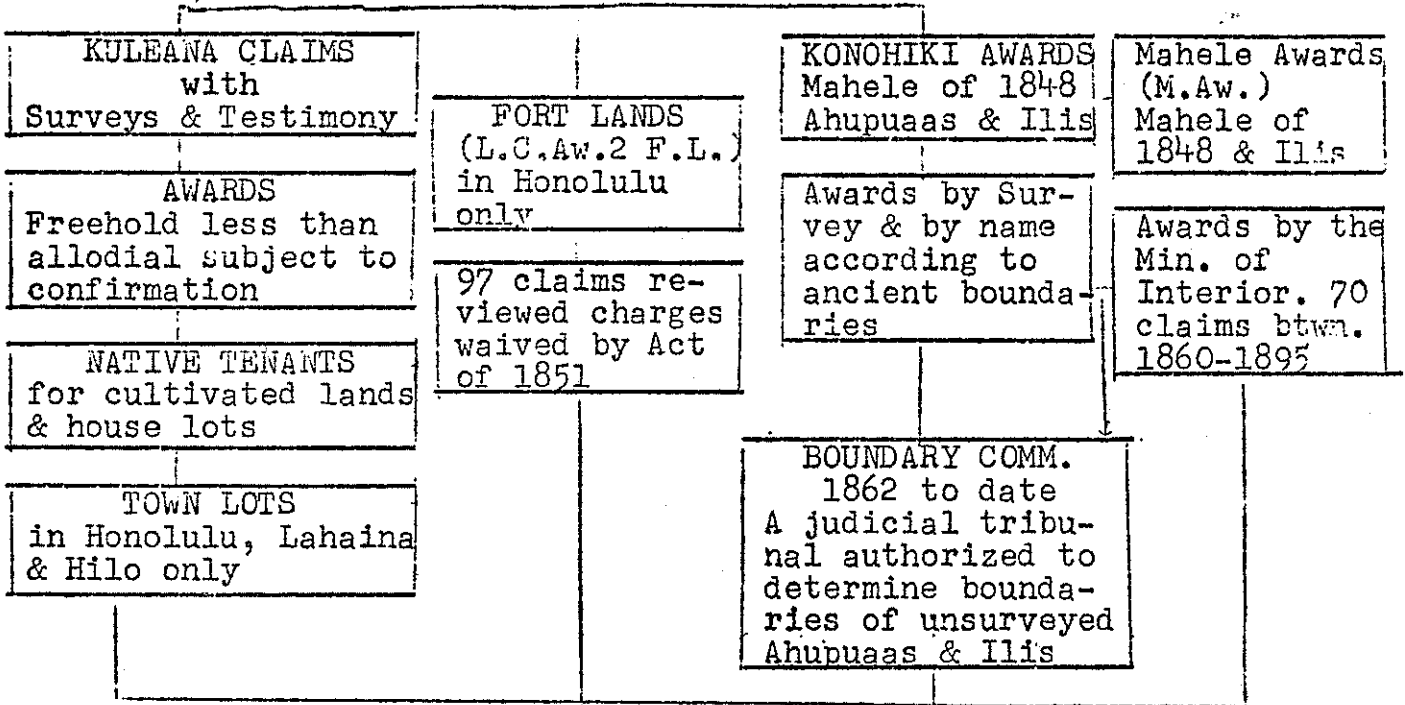
LANDS IN HAWAII
Mahele of 1848



LAND COURT TITLES
(Act 56, Laws of Hawaii, 1903)



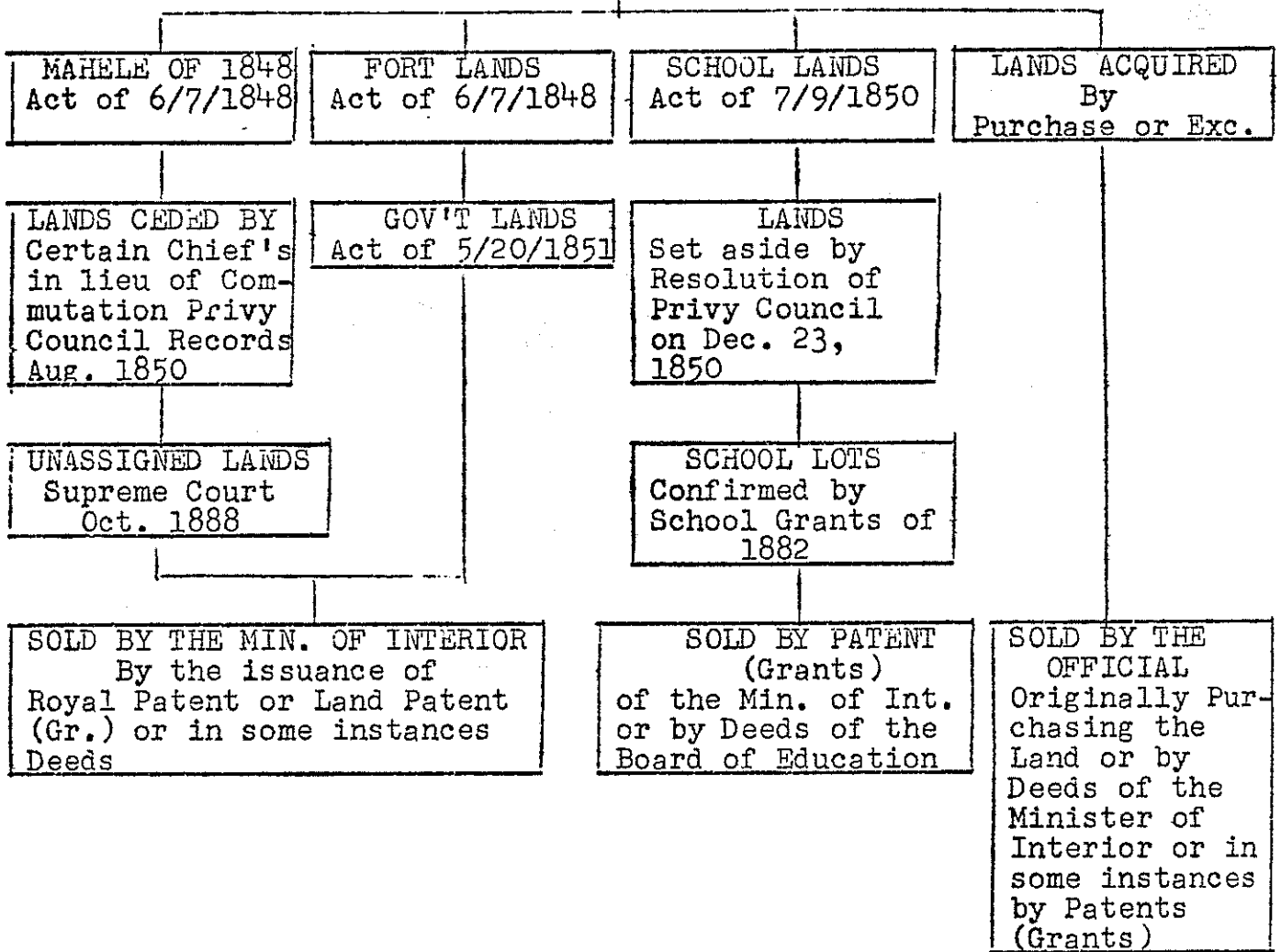
LAND COMMISSION AWARDS (L.C.Aw.)
 Bd. of Commissioners to quiet land titles (Ld. commission)
 13,500 claims adjudicated between 1846 & 1855



ROYAL PATENT OR LAND PATENT IN CONFIRMATION OF AWARD
 Issued by the Min. of Int. during the monarchy (R.P. on Aw.)
 & Republic (L.P. on Aw.) and by the Commissioner of Public
 Lands under the present gov't (L.P. on Aw.) upon application
 with Metes & Bounds Surveys of land & payment of commutation
 due government and other fees.

COMMUTATION		
GOVERNMENT LANDS		None
CROWN LANDS		"
THE KING'S PRIVATE LANDS		"
CERTAIN LANDS OF CERTAIN CHIEFS		"
OTHER CHIEFS	(Payment of 1/3 of the value or thru the privy council cession of certain of the Konohiki Lands	
COMMON PEOPLE	(Kuleanas in Konohiki Lands (Kuleanas in Gov't & Crown Lands (Kuleanas in Hon., Lahaina & Hilo	None 1/3 value 1/4 value

GOVERNMENT LANDS
From 1846 to June 1900



PUBLIC LANDS

GOVERNMENT LANDS AND CROWN LANDS
Republic of Hawaii July 4, 1894

ANNEXATION AND INTERREGNUM
August 12, 1898 to June 14, 1900

TERRITORY OF HAWAII
June 14, 1900 to Date

FEDERAL LANDS
Military and Naval Reservations and other federal uses

TERRITORIAL LANDS
Public lands not otherwise encumbered

COUNTY LANDS
Roads, parks, schools, public building sites

ACQUIRED BY
1. Pres. Proclamation or ord.
2. Executive order of Governor
3. Purchase or exchange

UP TO MAY 27, 1910
Supt. of Public Works authorized to issue ld. pats. (Grants) only on town lots. indicated: Gr. P.W. To

ACQUIRED BY
1. Exec. Order of Governor
2. Purchase

DISPOSITION WHEN NO LONGER REQUIRED FOR FEDERAL PURPOSES
1. Re-transfer to Terr.
2. Re-transfer by Pres.
3. Sale authorized by Congress

SUBSEQUENTLY
Only Comm. of Public Lands authorized to issue land patents (grants) or Deeds

DISPOSITION WHEN NO LONGER REQUIRED
1. Cancellation of order
2. Sale authorized by Board of Supervisors.

LANDS FOR SPECIFIC USES
Placed under control of other Terr. Dept. by Exec. ord. or proclamation of the Governor

CROWN LANDS
1848 to 1894

DIVISION BETWEEN King & Government
Act of June 7, 1848

CROWN LANDS
Made Inalienable
Act of January 3, 1865

UNASSIGNED LANDS
Nine Ahupuaas made Crown Lands by Act of Nov. 14, 1890

ADMINISTERED BY THE KING
Thru an Agent selling & leasing at will

ADMINISTERED BY THREE Commissioners of Crown Lands, Authorized to Lease only and for terms not exceeding 30 years

DEED BY KAMEHAMEHA III, IV & V up to 1861-1862. Recorded in Regular System

COMMISSIONERS AUTHORIZED. To Deed certain parcels on Hawaii and Maui. By Acts of July 21, 1870 and July 29, 1872

MIN. OF INT. AUTHORIZED
To issue Royal Patent (grant) to Claus Spreckels by Act of 7/21/1882 of the Ahupuaa of Wailuku

HAWAIIAN HOME LANDS
 Hawaiian Homes Commission Act, 1920
 Public No. 34-67th Congress, Approved July 9, 1921

ORGANIZATION
 Commission of Five
 1. Gov. of Hawaii
 Chairman.
 2. At least three members 1/2 part Haw'n. and one other, appointed by the Gov. One member to be executive officer and sec'ty.

AVAILABLE LANDS: (a) Excluding forest reservations, (b) Cultivated sugar carelands, and (c) Public lands held under some form of homestead agreement with Commissioner of Public Lands

OPERATION
 1. Commission may select from available lands specific areas for Haw'n home lands.
 2. Commission may transfer by resolution, lands for public use, or semi-public purposes such as school lots, Hospital sites, etc.

Amended by Act 223 74th Congress, July 26, 1935. Commission of Five, at least 3 members 1/4 part Haw'n. Chrnm. & 4 members appointed by the Gov. Comm. appoints executive officer and sec'ty.

Commission may homestead land on 99-year leases at \$1.00 annual rental.
 1. Res. lots - 1/2 Ac. or more
 2. Agr. lots - 20 to 80 Ac.
 3. 1st Cl. Pas.- 100 to 500 Ac.
 4. 2nd Cl. Pas.- 250 to 1000 Ac.
 5. Auwaiolimu, Kewalo, Kalawahine-res. lots only 1/8 to 1/2 Acre special conditions

- HAWAII**
- Puna District
 - 1. Kaohi-Makuu
 - S. Hilo District
 - 2. Keaukaha
 - 3. Panaewa
 - 4. Piihonua
 - N. Hilo District
 - 5. Humuula
 - Hamakua District
 - 6. Nienie
 - 7. Kamoku-Kapulena
 - 8. Waiamanu
 - S. Kohala District
 - 9. Pauahi
 - 10. Kawaihae 1st.
 - 11. Puukapu
 - Kau District
 - 12. Kamaoa-Puueo

- MAUI**
- 1. Kahikinui
 - 2. Waiohuli-Keokea

- MOLOKAI**
- 1. Hoolehua
 - 2. Palaau
 - 3. Kalaupapa
 - 4. Kalamaula
 - 5. Kamiloloa I
 - 6. Kamiloloa II
 - 7. Makakupaia
 - 8. Kapaakea

- OAHU**
- 1. Lualualei
 - 2. Nanakuli
 - 3. Auwaiolimu
 - 4. Kewalo
 - 5. Kalawahine
 - 6. Waimanalo excluding beach land

- KAUAI**
- 1. Moloaa
 - 2. Anahola
 - 3. Kamalomaloo
 - 4. Waimea

ANCIENT RIGHTS APPURTENANT TO LANDS

FISHING RIGHTS

THE KING'S RIGHTS
 Certain deep-sea fish & fisheries.
 Certain inshore fish & fisheries.
 (Act of 6/7/1839)
 Transferred to the Haw'n Gov't. by Laws of 1845 S.VI Art. V. Transferred to all the people (Haw'n subjects) by Act of 7/11/1851, which act included all fishing grounds appurtenant to gov't lands.

KONOHIKI RIGHTS
 Private fishing grounds adjacent to chief's Ahupuaas and Ilis. Right to tabu one species of fish in each year or 1/3 of the catch to be validated after annexation

HOAAINA RIGHTS
 Tenants of the Konohiki entitled to remainder of the fish or 2/3 of the catch

FISH PONDS
 Constructed in ancient times, Title in fee simple

WATER RIGHTS

RIPARIAN PROPRIETOR
 Right to use of water as an incident of his estate. Riparian rights are subject to prescriptive rights of others

AUWAIS
 Constructed in ancient times primarily for wet lands, and water apportioned by agreement in accordance with ancient practice and custom.

WELLS
 The property of the owner of the land on which well is made

RIGHTS OF WAY

THE KING'S HIGHWAY
 The Alaloa (Main roads) which encircled each of the islands were free to all the people

ROADS
 Within the Ahupuaa shall be free to all Hoainas

PRIVATE WAYS
 Established by usage and cannot be extended or enlarged. By necessity: to a gov't road or hwy.

OTHER RIGHTS

COMMON PASTURAGE
 Enjoyed in common by konohikis and Hoainas. Abrogated by Act of Aug. 6, 1850.

RIGHTS OF HOAAINAS
 To gather for private use firewood, house, timber, aho cord, thatch & ti leaf. To drinking water, running water & water from springs but not from private wells & constructed Auwais

RIGHTS OF THE PEOPLE
 Coral and sand may be taken freely from Gov't reefs, Driftwood the property of the finder.

See Sec. 1694-1696 R.L. 1935

DEFINITIONS

TAX MAPS

The representation on a flat surface of a portion of the land area of the Territory prepared especially for taxation purposes and in accordance with requirements of the Tax Department. Tax Maps are drawn on tracings of the uniform size of 21 x 32 inches and to any one of the following scales; 10, 20, 30, 40, 50, 60 feet to the inch or any power of ten times the above mentioned scales.

MAP-PORTFOLIO

An assemblage of tax maps of related areas arranged in the regional order adopted by the Tax Department, and bounded together in portable form.

COUNTER-MAP

A map-portfolio of tax maps used for display in the Tax Office.

TRACING-FILE

The large book or portfolio with 40 to 60 leaves in which are placed for safe keeping the original tracings or base tax maps and retained in the Taxation Maps Bureau.

PARCEL

A lot or piece of land, the ownership of which is held in its entirety by one or more parties. Indicated on the tax maps by the name of the owner or owners and by a parcel number.

PLAT

An area of land with defined boundaries comprising one or more parcels.

Plat-Map: A tax map showing the boundaries of a plat and all the parcels therein. The plat-map carries an index in the lower right-hand corner giving its number and the division, zone and section in which it is situated.

SECTION

An area of land with defined boundaries in which are situated two or more plats, but not over 99 plats.

Section-map: A tax map showing the exterior boundaries of a section and the boundaries and index numbers of all plats contained therein. The section-map carries an index in the lower right-hand corner giving its number and the division and zone in which it is situated.

ZONE

An area of land larger than a section with well defined boundaries, conforming (with the exception of Honolulu District which is divided into three zones) to the boundaries of county districts, and in which are situated the sections with their defined boundaries.

Zone-Map: A tax map showing the exterior boundaries of a zone and the boundaries and index numbers of all sections contained therein. The zone-map carries an index in the lower right-hand corner giving its number and the division in which it is situated.

DIVISION

The taxation division as fixed by law. There are four; First Division, City and County of Honolulu; Second Division, County of Maui; Third Division, County of Hawaii; Fourth Division, County of Kauai.

Division-Map: A tax map showing a division with the breakdown into zones. The division map carries an index in the lower right-hand corner giving its number.

MAP INDEX

The system by which all tax maps are referenced in a uniform manner, as developed and established by the Taxation Maps Bureau.

KEY

The graphic representation of the map index placed on all tax maps, used in designating a parcel with relation to its respective plat, section, zone and division. Also placed on tax returns, tax notices and other tax records.

TRANSFER-SLIPS

The colored slips of paper 4-3/4" x 8-1/2" with key, on which are recorded transfers of title to real property, such as agreements of sale, deeds, probate records, territorial land patent grants, general leases, sales agreements, etc.

For the First Division, buff colored slips are used; for the Second Division, light blue; for the Third Division, chocolate or fawn and for the Fourth Division, pink.

UNDIVIDED INTEREST

Where ownership is a parcel of land, is unpartitioned and is held by two or more persons, whether their rights are equal as to value or quantity or unequal. (Tax Department Terminology)

MULTIPLE CLAIM- ANTS

Where ownership to a parcel of land is claimed by two or more persons either as to the whole or to any undivided interest. (Tax Department Terminology)

CO-OWNERSHIP

Where two or more persons have undivided interest in land; the common characteristic being that owners have no separate rights as regards any distinct portion of the land, but each is interested, according to the extent of his share, in every part of the whole.

Such co-ownership bears different names, and present different characteristics, according to the various methods and circumstances of its creation.

ESTATE IN COMMON (Tenants in) (Common)

Under the laws of Hawaii all grants, conveyances or devices of land or of any interest therein to two or more persons create estates (tenancies) in common unless otherwise provided in the instrument creating the estate.

A tenant in common, though owner of an undivided share and except for the fact that he has not the exclusive possession of the land, he has the right to transfer his undivided interest and all other rights in respect to his share as if he were sole owner, subject to dower or curtesy.

ESTATE IN JOINT
TENANCY

Where a grant, conveyance or devise of land, or of any interest therein, is made to two or more persons as joint tenants.

The leading characteristics of joint tenancy is the fact, that on the death of one joint tenant, the other joint tenant who survives him has the whole estate. If more than two, the last survivor has the whole, and on the death of the last survivor, the whole passes to his estate.

Where husband and wife hold real estate as joint tenants when one dies the survivor is entitled to the whole estate, whether or not either husband or wife died leaving children.

ESTATE BY ENTIRETY
(Tenants by)
(Entireties)

Where a grant, conveyance or devise of land or of any interest therein is made to husband or wife by a single instrument to hold by the entirety.

The most important incident of tenancy by entireties is that the survivor of the marriage, whether the husband or the wife, is entitled to the whole, and that though there is a right of survivorship, neither can convey so as to defeat this right in the other.

There can be no partition of the land held by the entirety nor are the children entitled to any interests in the real estate on the death of one of the parents.

ESTATE BY DOWER

Every woman shall be endowed of one-third part of all lands owned by her husband at any time during marriage, in fee simple, in freehold, or for the term of fifty years or more, so long as twenty-five years of the term remain unexpired, but in no less estate, unless she is lawfully barred thereof. R.L. 1935 Sec. 4845.

ESTATE BY CURTESY

In case the wife shall die first her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife's real estate. R.L. 1935 Sec. 4845.

LIS PENDENS

Issuing out a writ and making attachment (on Mesne process, i.e. process issued between the original and final process) constitute a lis pendens at common law. The doctrine of lis pendens as usually understood, is the control which a court has over the property involved in a suit, during the continuance of the proceedings and until its final judgment has been rendered therein.

In any action, whether at law or in equity, affecting the title or the right of possession of real property, the plaintiff, complainant or petitioner, at the time of filing the complaint or petition or bill in equity, and the defendant or respondent, at the time of filing his answer, when affirmative relief is claimed in such answer shall record in the Bureau of Conveyances a notice of the pendency of the action, containing the names of the parties and the object of the action, and a description of the property affected thereby. From and after the time of filing such notice for record a purchaser or incumbrancer of the property

LIS PENDENS
(Cont'd.)

affected shall be deemed to have a constructive notice of the pendency of such action, and of its pendency against parties designated by their real names. R.L. 1935, Sec. 4086.

Note: For taxation purposes, a lis pendens which involves two or more parties claiming under different titles would place the property in the category of MULTIPLE CLAIMANTS.

LAND TITLE TERMINOLOGIES

- L.C.Aw. LAND COMMISSION AWARD. Examples: L.C.Aw. 5621, L.C.Aw. 1570-B, L.C.Aw. 1570-C, L.C.Aw. 8241-II, L.C.Aw. 8241-0, L.C.Aw. 8241-C0. In designating awards with apanas, indicate thus: L.C.Aw. 5621:1, L.C.Aw. 1570-B:2, L.C.Aw. 8241-II:3. There shall be no open space between figures, hyphen, letters, colon and the figure indicating the apana.
- M. AW. MAHELE AWARD. Designation of numbers and apanas in a manner similar to above.
- L.C.AW.--F.L. LAND COMMISSION--FORT LANDS. Example: L.C.Aw. 12F.L. and add a colon and number to indicate the apana, as L.C.Aw. 12 F.L.:2. There shall be an open space between the number 12 and the letter F.L., but no open space in indicating the apana.
- R.P. or L.P. ROYAL PATENT or LAND PATENT (GRANT). Apanas, lots, parcels or sections are designated as in Land Commission Awards. Examples: Gr. 2560:3, Gr. 2561-B:4, Gr. 8976:A.
- SCH. GR. ROYAL PATENT to THE BOARD OF EDUCATION, ITS SUCCESSORS AND ASSIGNS. Indicated by patent number and apana, as above. One of this class of patents was issued to other than the Board of Education, and that (No. 43) to H.R.H. Liliuokalani.
- GR. (PW). LAND PATENT (GRANT) issued by the Department of Public Works. Example: Gr.(PW) 65.
- KAM. DEED TO Deeds of Crown Lands executed by Kamehameha III, IV and V in their respective reigns. Add the date of the deed and the book and page in which it is recorded. Example: Kam. Deed to . . . Date, Book 21 Pg. 10.
- GOV'T. DEED Deeds issued by various officials of the government at different times for various purposes.
- R.P...(on Aw.) or L.P...(on Aw.) ROYAL PATENT or LAND PATENT (ON AWARDS). To be used only in those instances where a Land Commission Award by name only has been subdivided into two or more portions and on which separate Patents have been issued (by survey) on the different portions of the awards as subdivided. An example is that of the ahupuaa of Kalaoa,

- R.P...(on Aw.) or South Hilo, Hawaii, covered by L.C.Aw. 11216:48
L.P...(on Aw.) (by name only), on which the following Patents
(Cont'd.) (by survey) have been issued: 7139, 7140, 7141,
7160, 7161, 7162 and 8116. The Royal Patent
designation is used.
- LD. CT. APP. LAND COURT APPLICATION. The abbreviations
L.C.Aw., L.C.Appln., C.L.R. Pet., L.C.P., and L.C.
Pet. used with the early numbers should not be
perpetuated.
- R-O-W RIGHT-OF-WAY. An easement over land for ways,
public utilities, etc.
- G.L. GENERAL LEASE. Issued by the Land Office on
general leases of public lands. Licenses are also
recorded in the General Lease book, but the number
of the lease is preceded by the letter L.
Example: G.L. No. L-1746.
- C.O. CERTIFICATE OF OCCUPATION: A form of agree-
ment issued by the Land Office on homesteads with
certain conditions to be fulfilled preliminary to
the issuance of homestead leases.
- H. L. HOMESTEAD LEASE is the 999 year lease issued
by the Land Office on homesteads after compliance
with conditions in the Certificate of Occupation.
- S.S.A. SPECIAL SALES AGREEMENT. Issued by the Land
Office on lands sold at public auction on time
payments or lands taken under preference rights to
purchase.
- S.H.A. SPECIAL HOMESTEAD AGREEMENT. Issued by the
Land Office on homesteads taken up on time payment.
- R.P.L. RIGHT OF PURCHASE LEASE. Issued by the Land
Office on homesteads taken upon a rental basis
with the right to purchase.
- H.H.C.L. HAWAIIAN HOMES COMMISSION LEASE. Leases
issued by the Hawaiian Homes Commission on
Hawaiian Home Lands.
- EXEC. ORD. EXECUTIVE ORDER by the Governor on public
lands set aside for special governmental purposes.
Occasionally lands are set aside by proclamation,
such as forest reserves.
- PRES. ORD. EXECUTIVE ORDER OF THE PRESIDENT OF THE
UNITED STATES. Territorial lands withdrawn from
the public lands for special federal purposes.
Occasionally lands are set aside by presidential
proclamation, such as the Hawaiian Bird Reserva-
tion.
- CERT. TITLE NO. CERTIFICATE OF TITLE. In connection with the
Land Court System of recording documents, the
assistant registrar of the Land Court, who is also
the appointed registrar of conveyances, issues
Certificate of title to owners of registered land.
These are in two forms, original and transfer; the
original is the first certificate issued after
decree is entered in the Land Court, and the
transfer is on subsequent transfers of land or any

portion thereof; all certificates are numbered; Land Court Certificates of Title should not be confused with the certificates of Title made by abstractors in connection with title searches.

F.P.

File plan registered in the Registry of Conveyances.

REG. MAP

Registered Map filed in the Territorial Survey Office.

GLOSSARY OF HAWAIIAN SUBDIVISION

Moku

The Islands were each divided into districts called "Mokus." These seem to have been geographical subdivisions only, for there were no administrators over these Mokus, as districts.

Kalana

The district next smaller than a Moku was called "Kalana."

Ahupuaa

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

Ili

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

Ili Kupono

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

Ili of the Ahupuaa

The other Ili was the "Ili of the Ahupuaa". Ilis of the Ahupuaa were subdivisions for the convenience of the chief holding the Ahupuaa.

Lele

Another feature of the Ili is that an Ili often consisted of several distinct sections of land, one, for instance, would be on the sea shore, another in dry, open land or kula, another in the regularly terraced and watered taro patch section, and still another in the forest section. These detached pieces were called "Leles".

- Moo The arable portions of Ili were divided into small tracts or fields called "Moos" or "Mocainas". A Moo was the divisions of land next less than an Ili and was for the purpose of cultivation only. These Moos were named, which were in reality field names.
- Pauku The division of land next less than a Moo was called "Pauku."
- Kihapai Still smaller than a Pauku was a division called "Kihapai". This was cultivated patch of ground, a field, a potato patch or garden belonging to and cultivated by the tenants or common people for themselves. These also had their names.
- Koele There were also patches and gardens which were planted by the tenants, or common people, for their landlords. These were called "Koeles". These belonged to the chief but cultivated for him by his people, and these also had their names.
- Poalima These Koeles in later years were worked for the chiefs by the tenants on Fridays only, and they then came to be called "Poalimas", poalima being the Hawaiian word for Friday.
- Kuleanas The small areas of an Ahupuaa which the tenants, or common people, had improved or cultivated and used for their own purposes, and to which they substantiated their claims and perfected their rights, securing from the Land Commission an Award of Title in Fee Simple, were known as "Kuleanas". The word itself means "rights"-- a right of property which pertains to an individual--and was applied uniformly during the existence of the Land Commission to the Fee Simple holdings awarded by it to the common people.
- Konohiki The head man of an Ahupuaa or a person who had charge of a land with others under him was called a "Konohiki". He was an agent who managed a chief's lands. The word Konohiki in time came to be applied to the land under such an agent's care, thus the land held by a chief, an Ahupuaa or Ili, was known as "Konohiki Land".

SQUARE MEASURE

61.7264	sq. inches	- iniha kuea	1 sq. link	-----	pauku kuea		
.4356	sq. feet	-----	kapuai kuea	-----			
144.00	sq. inch	-----	iniha kuea	1 sq. foot	-----	kapuai kuea	
.9.00	sq. feet	-----	kapuai kuea	1 sq. yard	-----	iwilei (i-a) kuea	
36.00	sq. feet	-----	kapuai kuea	1 sq. fathom	-----	anana kuea	
100.00	sq. feet	-----	kapuai kuea	1 SQUARE	-----	kuea aina	
625.00	sq. links	-----	pauku kuea	-----			
272.25	sq. feet	-----	kapuai kuea	-----	(rod	-----	roda kuea
30.25	sq. yards	-----	iwilei kuea	1 sq.	(perch	-----	pereka kuea
7.5625	sq. fathoms	-----	anana kuea	-----	(pole	-----	poroka kuea
4,346.00	sq. feet	-----	kapuai kuea	-----			
484.00	sq. yards	-----	iwilei kuea	1 sq. CHAIN	-----	kaulahōa kuea	
121.00	sq. fathoms	-----	anana kuea	-----			
16.00	sq. poles	-----	porōka kuea	-----			
40.00	sq. rods	-----	roda kuea	1 ROOD	-----	ruda	
6,172,640.00	sq. inches	-----	iniha kuea	-----			
100,000.00	sq. links	-----	pauku kuea	-----			
43,560.00	sq. feet	-----	kapuai kuea	-----			
4,840.00	sq. yards	-----	iwilei kuea	1 ACRE	-----	akere or eka	
1,210.00	sq. fathoms	-----	anana kuea	-----			
160.00	sq. rods	-----	roda kuea	-----			
10.00	sq. chains	-----	kaulahao kuea	-----			
4.00	roods	-----	ruda	-----			
100.00	sq. chains	-----	kaulahao kuea	1 sq. stadia	-----	setadia kuea	
10.00	acres	-----	ekere or eka	-----			
30.00	acres	-----	eka	-----	1 yard of land	-----	iwilei aina
100.00	acres	-----	eka	-----	1 hide of land	-----	ili aina
64.00	sq. stadia	-----	setadia	-----	1 sq. mile	-----	mile kuea
640.00	acres	-----	akere or eka	-----			
1.00	sq. mile	-----	mile kuea	-----	1 section	-----	mahale
36.00	sections	-----	mahela	-----	1 township	-----	kaona

MEMSURATION TABLES

Area of a triangle	-----	base x 1/2 altitude
Area of a parallelogram	-----	base x altitude
Area of a trapezoid	-----	altitude x 1/2 the sum of the parallel sides
Area of a trapezium	-----	divide into two triangles and find area of triangles
Circumference of Circle	-----	diameter x 3.1416
Diameter of circle	-----	dircumference x 0.3183
Area of circle	-----	diameter squared x 0.7854
Area of sector of circle	-----	length of arc x 1/2 the radius
Surface of cylinder or prism	-----	area of both ends + length X circumference
Contents of cylinder or prism	-----	area of end x length