

Historical General Assembly:
The Great Māhele
Hawai‘i Pacific Model United Nations
2019

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Aloha and welcome to PacMUN 2019!

Our names are Jackie Osaki and Matt Linker and we are excited to return as Secretary General for PacMUN 2019. Throughout our involvement with PacMUN over the past three years, we have seen this conference grow and flourish. We are happy to say that trend continues this year as we host the largest and most dynamic PacMUN so far, with a variety of General Assembly, Specialized, Crisis, and Joint Crisis committees that tackle some of the most complex and urgent issues that have faced our world.

My name is Jackie and I'm a recent graduate of Stanford University with a BS with Honors in Biology and a BA in Comparative Literature. I currently work for a management and technology consulting firm that specializes in media and entertainment. Throughout my Stanford career, I participated in Model UN as a delegate, vice-captain, and eventually team captain in my last two years. I love being able to bring realism and current issues to Model UN for students to begin thinking about how we can solve the most pressing issues facing society today.

My name is Matt and I'm a 2019 Stanford graduate in Computer Science, and now work in equity derivatives trading and structuring at a major financial services firm. I first participated in MUN early in my own high school career, before rediscovering it my sophomore year at Stanford, eventually serving as vice-captain, captain, and on the board of our MUN team's parent organization, the Society for International Affairs at Stanford. To me, MUN represents a window into the true complexity of world affairs, and an excellent learning opportunity to understand why some challenges are more difficult to resolve than others.

While we are excited to bring what we believe to be the best PacMUN yet into fruition, we are most excited to see relationships continue to build this year. We strive to embody all of our core values, but it is truly special to see *laulima*, or collaboration, in action. We urge all delegates to keep *laulima* in mind to work together to innovate solutions and make new friends in the process. We hope this guide helps you jump start your research for this year's PacMUN and we look forward to seeing you in November!

Sincerely,

Jackie Osaki and Matt Linker

Honorable delegates,

Welcome to PacMUN 2019! My name is Marcel Truong-Chun and I will be your chair for this historical General Assembly committee on the Great Māhele. I am currently a junior at Emerson College studying film production with a specialization in cinematography. Outside of Model UN, I have a passion for foreign languages and cultures, and am currently pursuing a DELF B2-level certification in French.

My Model UN experience started in my sophomore year of high school here in Honolulu, Hawai‘i. I found MUN to be a very enriching experience, which allowed me to develop my communication and speaking skills, learn about current issues, and practice my critical thinking. By my senior year of high school, I had become president of my school’s Model UN club with experience staffing and chairing conferences throughout Hawai‘i, including at previous years of PacMUN. Having participated in every running of PacMUN since 2015, I love meeting new people from across the world. The crossroads between my MUN experience and that of being a filmmaker is the importance of story. Just as I am interested in building and showing stories on the screen, delegates develop the committee’s storyline in creative and interesting ways.

As you will come to learn, the fairness and efficacy of the Great Māhele is still debated among historians, and I encourage all of you this weekend to think creatively in addressing the question of land ownership and tenure in Hawai‘i. For the benefit of all delegates, I have included a list of highly recommended resources that will help direct your research to better understand the full history and background of the topic. I hope this conference will be a memorable learning experience. If you have any questions regarding research or the topic structure, please do not hesitate to contact me at marcel_truongchun@emerson.edu, and I will be happy to help.

Best,

Marcel Truong-Chun

marcel_truongchun@emerson.edu

Introduction

*I will not follow where the path may lead, but I will go where there is no path,
and I will leave a trail. – Muriel Strode*

Topic Introduction

The year is 1845 and the Hawaiian Kingdom faces an important decision that can change the social, political, and economic structure of Hawai'i forever. Propelled by the lucrative trading industry and the valuable geographical location of the kingdom, foreigners seek to solidify their presence in the islands by calling for the ownership of land in 'fee simple,' allowing them to buy and sell property as they can in Europe and America. Such calls by foreign businessmen and missionaries threaten to upend the centuries-long tradition of communal ownership of land, in which a feudal-like structure preserves the islands' resources and creates a hierarchy of commoners, chiefs, and royalty. However, Hawaiian tradition dictates that the land is sacred and essential to all for survival, thus barring the exclusive ownership of it. While a newly signed constitution sought to compromise to reduce tensions between the government and foreigners, the land lease system that it provided did not do enough to settle the Westerners' desires for stable property.

Thus, only two years after foreign land interests resulted in the temporary cession of the islands to Great Britain, the kingdom is again faced with the question of land distribution and the call to allow private ownership of land for the first time. With a growing foreign population, declining native population, and an increasingly outward-looking stance from the Hawaiian government, it is up to an extended session of foreign representatives and members of King

Kamehameha III's government to discuss and negotiate one of the biggest decisions in Hawaiian history.

Committee Information

Powers of Committee

This committee represents an extended meeting among various members of the Hawaiian government, foreign residents, and foreign representatives in order to represent the makeup of the Hawaiian kingdom in 1845. As a result, the committee will have

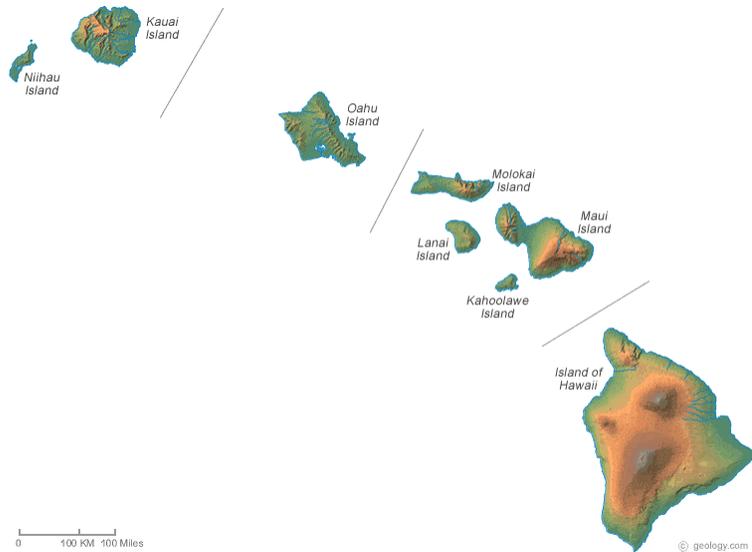


Figure 1: Map of the Hawaiian Islands (Geology.com)

power over all aspects of domestic and foreign policy. As many committee members are foreign citizens, communication to entities not represented in the committee may be permitted at the discretion of the dais.

For this committee, policy will primarily be enacted through resolutions. Working papers must have at least $\frac{1}{4}$ the quorum in signatories in order to be presented to the committee. As there is one overarching topic area in this committee as opposed to multiple, discreet topics, numerous resolutions over the course of the weekend are expected to address each aspect of the overall topic area. Because of the complexity of the issues at hand, detailed resolutions will need to be passed in lieu of less concrete, “umbrella” resolutions that do not adequately address specifics. Thus, a

passed resolution does not necessarily imply in a 'solved' topic as in a typical General Assembly committee; topic areas may be revisited and expanded upon as the committee sees fit.

Technology Policy

Delegates will be allowed the use of devices for drafting and collaborating on working papers. Technology privileges may be suspended at any time at the discretion of the dais.

Position Papers

*Please take note of this section, as you are requested a **different position paper format** than is posted online.* Your position paper is a key product of the research process that will help you form creative and original solutions to the issues at hand. While you might not find explicit statements from your character on their position on the topic area, it is logical to gather information on your character's background, ideals, areas of expertise, and experience to form a rational deduction about his or her stance. As this is a historical simulation, delegates will not be penalized for approaches they take that differ from history and are in fact discouraged from copying and pasting solutions enacted in the past. Creative and original solutions will be looked upon vary favorably by the chair.

Traditionally, position papers start with a summary of the issues at hand and how it affects your character. *This section is **not necessary**, as both you and the chair are already aware of the situation at hand.* It is strongly encouraged that you spend the majority of your paper discussing potential solutions to the problem or courses of action you plan to take. In other words, do not talk so much about what is happening, but what ought to be happening. Stating your character's rationalizations for his or her positions is encouraged and will place you in a better position to act in committee. Most importantly, a highly detailed paper on a few issues is better than a vague one on the whole topic area, so long as you understand the issues as a whole.

Finally, position papers should be around two single-spaced pages (bibliography excluded) in size 12 Times New Roman font with one-inch margins. Please include your character, delegate names, and committee name in separate lines in the heading. Because you are simulating individual characters in this committee, it is acceptable to write as your character in the first person.

Background

Contact: The Arrival of Captain Cook

Captain James Cook was a European explorer and a surveyor in the Royal Navy. In 1778, while leading an expedition of two boats in an attempt to find a Northwest Passage, he became the first European to make contact with the Hawaiian Islands, which he named the Sandwich Islands, after the earl of Sandwich.¹ Captain Cook and his crew were welcomed as gods, as he had arrived at Kealakekua Bay, the sacred harbor of Lono, the god of fertility, agriculture, music, and peace. What he observed was an organization of political and social institutions similar to other Polynesian societies, with *ali'i*, or chiefs, *maka'āinana*, or commoners who worked the land and formed the labor network in society, and *kahuna*, or priests.²

¹ “Captain Cook discovers Hawaii,” *History* online, last modified February 9, 2010. <https://www.history.com/this-day-in-history/cook-discovers-hawaii>.

² “Economic History of Hawaii,” *Economic History Association* online, n.d. <https://eh.net/encyclopedia/economic-history-of-hawaii>.

Relations between the Hawaiians and Captain Cook's crew were initially warm, with the Hawaiians interested in trading for the Europeans' iron. However, relations quickly soured as the explorers were revealed as mere mortals upon the death of one of the crew members. Tensions reached a boiling point as one *ali'i* was shot, and during his retreat Captain Cook was killed as a mob of Hawaiians overwhelmed the crew.³



Figure 2: Captain Cook signals to his crew to hold fire (painting by John Cleveley, Honolulu Academy of Art)

Despite his death, the longer lasting effects of Captain Cook's contact with the Hawaiian Islands are important particularly in respect to land and farming. The Hawaiians, which were recognized at the time by European visitors as skilled farmers who specialized in the production of bananas, taro, sugar cane, and melons, benefited from a new European market to sell their goods.⁴ The recognition of Hawaiians as skilled farmers also played an important role in predisposing Europeans with the perception of Hawaiians as 'owners' of their own lands, whereas in Australia, the British viewed discovered land as *terra nullius*, or unowned land, thereby resulting in the colonization and possession of Australia by the British government.⁵ The difference between these two cases is that indigenous Australians were not viewed as farmers, thereby

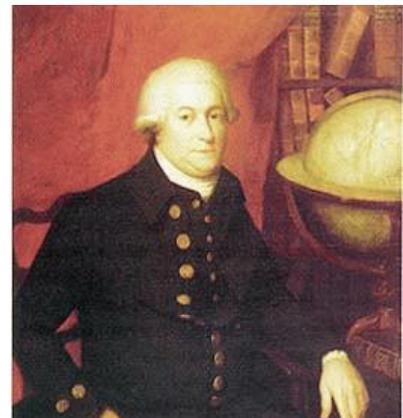


Figure 3: Captain George Vancouver (Biographi.ca)

³ See note 1 above.

⁴ Stuart Banner, "Preparing to Be Colonized: Land Tenure and Legal Strategy in Nineteenth-Century Hawaii," *Law & Society Review* 39, no. 2 (2005): 280.

⁵ Banner, 281.

forfeiting any claim to land. However, as European ships brought disease, sickness resulted in the depopulation and abandonment of many agricultural fields. As historian Stuart Banner writes, observation of abandoned fields “would cause many whites to write less favorably about Hawaiian agriculture, and . . . would provide ammunition for proponents of land tenure reform.”⁶

Captain Cook’s arrival to the Hawaiian Islands marked one of the most important turning points in Hawaiian history, one in which the islands shifted away from isolation as Europeans and foreigners shifted their interests toward the Pacific kingdom. Despite the death of Captain Cook, his writings and observations on Hawai‘i inspired other explorers to visit the islands. Soon enough, Hawai‘i became an *entrepôt* in the Pacific as a popular stop for explorers and merchants. Captain George Vancouver, the second Briton to sail to Hawaii, signed an agreement in 1794 with Kamehameha affirming the islands’ protection by Great Britain and establishing important diplomatic ties. King George III accepted in 1810 Kamehameha’s desire for closer British-Hawaiian relations in exchange for the regular landing of British ships and the Hawaiian Kingdom’s protection of Britons trading and living in the islands.⁷ As foreign interests become a larger and larger factor in Hawaiian politics and society, the question of land tenure would result in one of the most decisive decisions in Hawaiian history: The Great Māhele.

The History of the Reorganization of Indigenous Systems of Land Rights

The principal event of the Great Māhele concerned the conversion of the Hawaiian system of land ownership to that of a European style, which for purposes of this guide will be defined as fee simple ownership. The concept of fee simple ownership had its origins in feudal England, deriving from the word fief, which signified a feudal land holding. In such a feudal system, tenants

⁶ Banner, 280.

⁷ Richard MacAllan, “Richard Charlton: A Reassessment.” *Hawaiian Journal of History* 30, (1996): 55.

of the land had to pay their landlord in the form of some kind of service, whether it be military service as a knight or the provision of resources. When feudalism was abolished, fiefs became ‘simple,’ as tenants no longer had to provide such services. Land owned in fee simple grants the owner the maximum legal rights to the land, allowing the owner to possess the land indefinitely. Fee simple ownership is alienable (meaning that it may be voluntarily sold by the owner), divisible (allowing the property to be distributed along the owner’s wishes), and descendible (allowing the property to be inherited or passed on upon the death of the owner).

The Great Māhele was one of the first examples of the reorganization of an indigenous model of land rights toward a more European model. Since then, colonizers have continued to reshape land ownership systems to closely resemble European methods of land tenure. In New Zealand and Fiji, the UK colonial government created in the 1860s the Native Land Court, converting the usufructuary land rights of the native population to recognizable English fee simple titles, in which land owners have almost complete ownership of their land and possess a title or deed.⁸ Germany followed with similar actions in New Guinea and Samoa. In the United States, the 1887 Dawes Act allowed a similar reorganization of land rights of Native American land.⁹ In all three cases, the new land system mirrors the European system of common field enclosures, in which the government appointed commissioners, who issued written documents of ownership—replacing the indigenous oral property systems—to determine who possessed the rights to use the land resources.¹⁰ This change served two main goals in the eyes of colonial governments. First, it was meant to “civilize” indigenous people and provide incentive to increase their agricultural productivity. Second, it paved the path for the establishment of a real estate market by eliminating

⁸ Banner, “Preparing to Be Colonized,” 273.

⁹ See note 8 above.

¹⁰ Banner, 274.

the unfamiliar property systems used by the indigenous people and allowing land to be bought and sold by European settlers.¹¹

In all cases, the reorganization of land rights led the way to massive transfers of land from indigenous people to colonial settlers, as wealthy incoming foreigners were allowed to buy and sell land. In New Zealand, the establishment of the Native Land Court paved the way for British settlers' ownership of previously Maori land, and the Dawes Act of 1887 in the US resulted in a smaller amount of Native American land under cultivation.¹²

Traditional Hawaiian Land Rights

In Hawaii, the king was the owners of all land, and control over the various districts was allowed to his chiefs and followers. Only when a new chief came to power were lands redistributed accordingly. These divisions of land were divided along natural boundaries and given names to make management easier. The *moku-puni* was the largest unit of land, which would be an entire island. Each island was then divided up into *moku*, or wedge-shaped divisions that extended to the sea. The smallest and most basic unit of land was the *ahupua'a*, which were self-sufficient, small land slices that ran from the center of the island to the sea and were tended and farmed by commoners.¹³ Sometimes, *ahupua'as* contained *'ili*, which were small and often discontinuous parcels of land, usually being a small estate of a chief.

¹¹ See note 10 above.

¹² See note 10 above.

¹³ Jon J. Chinen, *The Great Mahele: Hawaii's Land Division of 1848*. (Honolulu: University of Hawai'i Press, 1958), 3.

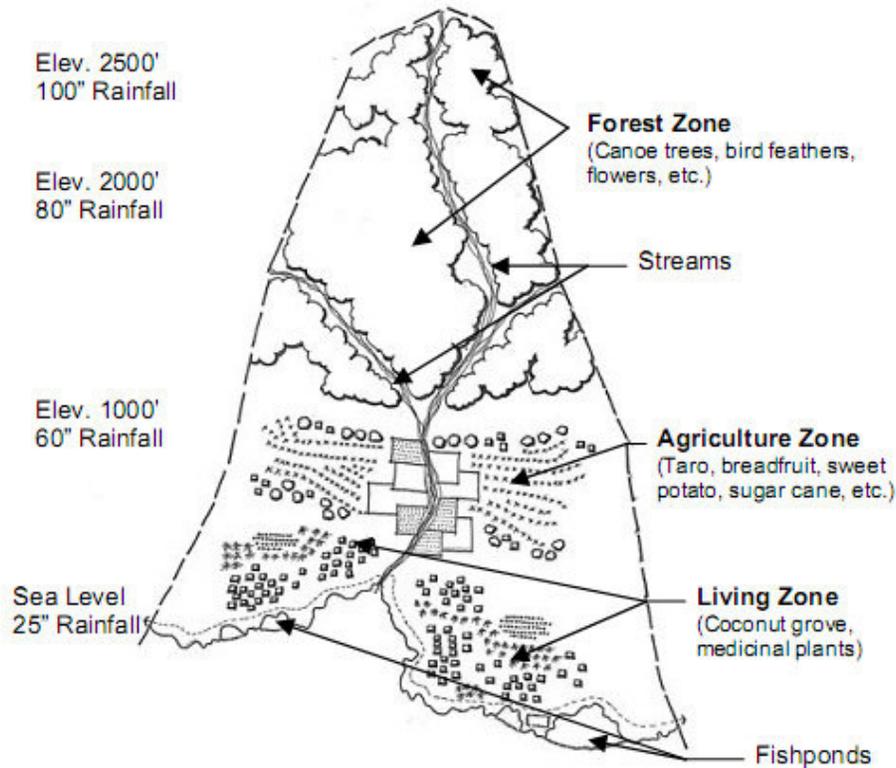


Figure 4: Diagram of a typical ahupua'a, a slice of land running from the center of the island to the sea (Andrew Paul Jacobson)

In this feudal system of land division and management, private ownership of land did not exist. Instead, the king (*Mo'i*) was the owner of the land, of which he would distribute to the *ali'i* (chiefs) to manage and control. It is important to note that all land was revocable, meaning the king could repossess land at any time. Such a practice was a common and even essential part of this feudal system of land; upon the death of a landholder, the king took possession of the land and redistributed it as he saw fit. After the death of Kamehameha I, *ali'i* power increased and their lands were less likely to be disturbed, and at the current day, they likely enjoy a greater sense of land security. Working for the *ali'i* were the *konohiki*, or the headmen of each *ahupua'a*. While *maka'ainana* (commoners) tended the land, they were only tenants, and could only stay under the approval of the *ali'i*, who considered obedience and payment of a share of what was produced as taxes. Some differences between the Hawaiian system and the European feudal system was that

‘owned’ land did not exist and tenants were not tied to the land and could leave freely. For example, if a *konohiki* was too severe in his treatment of tenants, it was likely that they would move. As a result, it is generally believed that *konohiki* did not treat their tenants severely.

Furthermore, because everyone was entitled to a share of what is farmed on the land, certain practices were prohibited, and rules were enacted to preserve the scarce resources.¹⁴ For example, since each *ahupua‘a* extended to the sea, streams often ran down through the *ahupua‘a* and were used as bathing, washing, irrigating, and drinking. As a result, bathing or washing was restricted to the mouth of the stream to keep the water clean. With land possession came rights to fish, use water for agriculture or other purposes, and use forest materials for construction or fabrication.

The Land Status of Foreigners

As early European settlers came to the islands, they were somewhat inserted into this existing system of pre-Māhele land rights. The king would grant a settler a parcel of land and was assigned a number of workers both as servants and as farmers to tend to the land. For example, a Scottish sailor Archibald Campbell was granted 60 acres of land by Pearl Harbor by Kamehameha I. He stated, “fifteen people, with their families, resided upon it [the land], who cultivated the ground as my servants.”¹⁵ In such a way, these early European settlers enjoyed certain privileges of *ali‘i*, such as the right to demand a certain amount of labor from the commoners on their land, while were also subject to the same possibility of dispossession to the king. However, as you will see, foreign land holders unofficially enjoyed more security in their possession of property than did natives. As more and more white settlers (mostly Britons and Americans) arrived, they were

¹⁴ “Land in Hawaii” *Hawaii.gov* online, 2004, http://files.hawaii.gov/dcca/reb/real_ed/re_ed/ce_prelc/land_in_hawaii.pdf

¹⁵ Archibald Campbell, *A Voyage Round the World, from 1806 to 1812* (Roxbury, MA: Allen & Watts, 1825), 111-2, quoted in Stuart Banner, “Preparing to Be Colonized: Land Tenure and Legal Strategy in Nineteenth-Century Hawaii,” *Law & Society Review* 39, no. 2 (2005): 283.

also given similar land grants, but unlike the *ali'i*, did not have the right to the labor of the commoners on their land.¹⁶

Of course, all white settlers owned land in a very different way from the fee simple Euro-American sense, in which they would be able to sell their land and live without the fear of government seizure. Even by the 1830s, the inability to own land in fee simple absolute became a major source of complaint among white settlers in Hawaii, foreshadowing the events of the Great Māhele. In 1836, a determined effort by foreigners to gain the right of fee-simple ownership came to the forefront. The British consul at the time became aware of the seizure of the house of Briton George Chapman after an affray which occurred on the property. Assenting to British pressure to restore ownership to Chapman, the king was approached by Lord Edward Russell who presented a draft treaty to place British property owners on a more stable footing.¹⁷ The king, with serious objections to many clauses, proposed a draft of his own, which the consul and Lord Russell found unacceptable. Lord Russell stated that if the king “would not . . . adopt a policy more favorable to British interests he must declare that there was an end to a good understanding between the two governments.”¹⁸ Days of quarreling ensued and a treaty was finally agreed upon which stated that “English subjects shall be permitted to come . . . to the Sandwich Islands; they shall also be permitted to reside therein, as long as they conform to the laws of these islands, and to build houses, and warehouses for their merchandize, with the consent of the King.”¹⁹ It also stated that while houses may be built, the land on which those houses are constructed are owned by the king, who

¹⁶ Banner, “Preparing to Be Colonized,” 283.

¹⁷ Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai‘i Press, 1980), 148.

¹⁸ Chamberlain, Journal, Nov. 15, 1836 quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai‘i Press, 1980), 148.

¹⁹ Quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai‘i Press, 1980), 148.

shall have no authority to destroy or “injure the property of any British subject.”²⁰ Although the British effort to own land in fee simple failed and reaffirmed crown’s ownership of land, they gained a sense of protection of property, which was later extended to the French. Despite such assurances, the foreign thirst for fee simple ownership was far from quenched.

American Missionaries

The first missionaries to Hawai‘i arrived from New England in 1820, sent from the newly



Figure 5: Reverend and Mrs. Hiram Bingham, two early Protestant missionaries (U.S. National Library of Medicine)

established American Board of Commissioners for Foreign Missions (ABCFM), a Presbyterian organization formed out of the Second Great Awakening with the goal of spreading Christianity throughout the world.²¹ They arrived during the reign of Kamehameha II, who had just abandoned the *kapu* system of religious laws in an event called the ‘*Ai Noa*, resulting in the disbanding of the priest social class and destruction of temples and ancient religious imagery.²² The missionaries sought to fill the resulting religious and social gap by changing society from the top

down, influencing the Hawaiian people though first influencing the *ali‘i* and monarchy. Seen as apolitical entities, missionaries were frequently consulted in matters of trade negotiations and even baptized dozens of *ali‘i*, including the regent for Kamehameha II.²³ As the Hawaiian population followed suit, the missionaries successfully became the new priests in the post-*kapu* social system.

²⁰ See note 19 above.

²¹ Joy Schultz, “Empire of the Young: Missionary Children in Hawai‘i and the Birth of U.S. Colonialism in the Pacific, 1820-1898,” (Doctoral diss., University of Nebraska, 2011), 5.

²² Schultz, “Empire of the Young,” 4.

²³ See note 22 above.

The development of a written language, the translation of the Bible from English to Hawaiian, and the establishment of a missionary-led education system contributed to the increasing prevalence of the ABCFM in Hawaiian society. With over 1,000 common schools, the missionaries instructed the *ali'i* in Western political economy and suppressed many traditional Hawaiian practices.²⁴ Quickly becoming one of the most successful programs of the organization, the Hawai'i mission began attracting large sums of donations and increased domestic support for the ABCFM back in the United



Figure 6: Now a U.S. National Historic Landmark, Kawaiaha'o Church was designed by Rev. Hiram Bingham and was once the national church of the Hawaiian Kingdom (Wikimedia)

States. In fact, it was American President John Quincy Adams who wrote to the Hawaiian monarchy in 1829 encouraging support for ABCFM missionaries in Hawaii.²⁵

As some missionaries became holders of private property and some even receiving government positions in the king's Privy Council, more and more missionary families were demanding permission from the ABCFM to invest in the Hawaiian economy, create institutions to benefit their children, and to establish white settlements outside the control of the ABCFM.²⁶ As one missionary recorded, "they recommend every obstacle [to acquiring private property] be removed . . . Our sons must have employment, and, if they remain in the islands, they must have

²⁴ Sumner J. La Croix, *The Economic History of Hawaii: A Short Introduction* (University of Hawai'i at Manoa, 2002), Working Papers 200203, 5.

²⁵ Schultz, "Empire of the Young," 6.

²⁶ Joy Schultz, *Hawaiian by Birth: Missionary Children, Bicultural Identity, and U.S. Colonialism in the Pacific*. (London: University of Nebraska Press, 2017), 29.

land, horses, and cattle, and who shall provide these things for them?”²⁷ Eventually, pressure mounted on Kamehameha III to reform the land tenure system in Hawaii. In fact, it would be missionary-turned-politician Gerrit Judd who would preside over the Great Māhele.

The Constitution of 1840

As a result of the increasing power of Westerners, some of which who had taken up important positions in the government and others who enforced their property by sending foreign gunships, Hawaiians felt a need to place limits on foreign power. The *ali'i* feared the growing power of foreigners would reduce their own ability to collect labor dues from *maka'āinana*, many of who had become part of the Western plantation economy.²⁸ In addition, economic and social changes brought about by the influx of foreigners and foreign ideas weighed heavily on *maka'āinana*.

To limit foreign influence, Hawaii's first constitution was drafted, titled the 1840 Constitution of the Kingdom of Hawaii. It aimed to address two main problems between Hawaiians and foreigners: attempts by *ali'i* to vest land rights to foreigners, and attempts by foreigners to vest land rights to other foreigners, in both cases without the approval of the king.²⁹ It was thus reaffirmed in the constitution that the king could lose no land without his consent: “wherefore, there was not formerly, and is not now any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom.”³⁰ However, the constitution also stated that the king was not the owner of all lands, in opposition to

²⁷ Levi Chamberlain, correspondence quoted in Joy Schultz, *Hawaiian by Birth: Missionary Children, Bicultural Identity, and U.S. Colonialism in the Pacific*. (London: University of Nebraska Press, 2017), 29.

²⁸ Niel M. Levy, “Native Hawaiian Land Rights,” *California Law Review* 63, no. 4 (1975): 852.

²⁹ Levy, 851.

³⁰ Constitution of 1840 in translation quoted in Niel M. Levy, “Native Hawaiian Land Rights,” *California Law Review* 63, no. 4 (1975): 852.

the traditional Hawaiian system. According to the document's wording, all the entirety of the islands were Kamehameha I's, but were not his private property, and "[the land] belonged to the chiefs and people in common."³¹ This clause suggested for the first time that tenants working the land might have an actual ownership interest, rather than merely possessing the rights to tend to the land. In addition, the constitution stipulated that land that was already held by foreigners would not be seized by the crown, offering additional reassurances to Westerners and avoiding confrontation with the Hawaiian government. Despite such provisions in the constitution and even Kamehameha III's 1841 'plan of accommodation,' which allowed the governors of the islands to offer 50-year land leases to foreigners, tensions over land continued to rise between Westerners and Hawaiians.³²

Attentive readers might recall that *kono* held the right to tax tenants with labor or the provision of supplies as they saw fit. The 1840 constitution included provisions to regulate taxation in the kingdom, which took form in the poll, land, and labor tax. In regards to labor, the most labor required of a tenant by the landlord was six days every month, consisting of three for the landlord and three for the government.³³ In such a way, the labor rendered to the landlord served as rent, while that rendered to the king would be regarded as a tax to support the government. In some cases in which important public works needed to be carried out for the good of the society, such a labor tax could be increased to 12 days. In any case, the labor tax could be commuted through a payment of nine dollars every year, which would be equally divided between the government and the landlord.³⁴

³¹ Quoted in Kuykendall, 272.

³² Levy, 852.

³³ See note 31 above.

³⁴ See note 31 above.

The 1843 Paulet Episode

The 1843 Paulet Episode, also known as the Paulet Affair, was one of the most contentious land disputes in Hawaiian history and became an important event in the collective memory of the people that influenced the decisions of the Great Māhele.

The Road to Dispute

Ever since the arrival of Captain George Vancouver in 1794, the relationship between the Pacific kingdom and Great Britain have been incredibly warm. In fact, historian Ralph Kuykendall writes that “[from 1794] until about 1825 Great Britain held the highest place in the thought of the Hawaiians about foreign countries; they considered themselves under the protection of that nation and frequently referred to themselves as *kanaka no Beritane* (‘men of Britain’).”³⁵

With growing British trading interests in the Pacific, Richard Charlton, a successful trader for the English East India Company in the Pacific, was appointed as the British consul to Hawai‘i by the Foreign Office in 1824. One of his first duties upon arriving to the islands was to announce the arrival of the warship HMS *Blonde*, which had been specially fitted to carry the bodies of Kamehameha II and Queen Kamāmalu (both of who had succumbed to measles during a diplomatic mission to Great Britain) for a full state funeral. The death of Kamehameha II marked



Figure 7: HMS Blonde (painting by Robert Dampier)

³⁵ Kuykendall, 206.

the beginning of the decline of British influence, as the ascending Kamehameha III, his regent (Kamehameha was only a child at the time), and his premier were under the heavy influence of American missionaries. After the arrival of the *Blonde*, Charlton then spent many hours with Hawaiian officials, the ship's commander, and missionaries in forming the first Hawaiian written code of laws. It was during these discussions that tensions between merchants and missionaries grew, as cleric Hiram Bingham was barred by the British from attending the funeral procession of the late king.³⁶ Furthermore, Richard Charlton's untactful behavior alienated himself from the *ali'i*, placing Britain on the backfoot in the fight to maintain their influence in the face of American missionaries and merchants.

Instructed to act as a commercial agent in order to expand British trans-Pacific trade and to prevent any other foreign power from gaining control of the islands, Charlton began to complain in his dispatches to the Foreign Office about the actions of the American missionaries. In November 1839, Charlton wrote, "The King who is too indolent to attend to business leaves everything to the Reverend William Richards formerly a missionary, but who has been appointed by the American Board of Foreign Missions [ABCFM] to be his principal Counsellor."³⁷ Naturally as the Hudson Bay Company began operations in Honolulu, and more British traders followed, competition and contempt grew between Britons and Americans in the islands. The competition between British and American merchants further contributed to the belief of British officials in London that Hawai'i was practically governed by the United States. As one British merchant wrote, "the English and American residents cannot agree at all here, there is a great deal of jealousy

³⁶ MacAllan, 56.

³⁷ Richard Charlton quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai'i Press, 1980), 207.

between them and were the English superior in number to the Americans the latter would suffer a great deal or open war would ensue.”³⁸

As commercial tensions rose, it became natural that British residents would take every opportunity to complain about not only the Americans, but the Hawaiian government who appeared to the British as one dominated by American interests. While many litigations and disputes took place, one of the biggest quarrels to rise was a dispute involving Richard Charlton himself. In 1840, Charlton brought forward a claim that he had received in 1826 for a 299-year lease on a valuable piece of land.³⁹ However, the lease partially covered both land owned by Charlton as well as land owned by Ka‘ahumanu, the queen regent for Kamehameha II. That plot of land had been occupied by her heirs and others since 1826, preceding Charlton’s lease. Furthermore, Kalanimoku, the Premier of the Kingdom at the time, had no authority to grant the disputed land to Charlton in the first place.⁴⁰ As a result, Kamehameha III rejected Charlton’s claim to Ka‘ahumanu’s land. An infuriated Charlton sailed to London in 1842 in order “to lay Statements before Her Majesty’s Government, in hopes that it will be the means of procuring justice for British Subjects residing at or trading to these interesting and beautiful Islands; and also to prevent the undue influence of the United States of America over the minds of the King and the Chiefs.”⁴¹

³⁸ Francis Johnson quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai‘i Press, 1980), 208.

³⁹ Kuykendall, 208.

⁴⁰ Kuykendall, 209.

⁴¹ Richard Charlton quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai‘i Press, 1980), 206.

The Cession of the Islands

During Charlton's absence, Kamehameha III's denial to recognize Charlton's appointment of British trader Alexander Simpson as his replacement and the Hawaiian court's arbitration on a suit against Charlton infuriated the consul. His complaints to British officials made their way to Rear Admiral Richard Thomas, the commander of a British fleet in the Pacific. Acting upon various reports, on January 17, 1843, the admiral ordered Lord George Paulet to sail his frigate *Carysfort* to the Hawaiian Islands to protect the interests of British subjects, and, if the situation was as Charlton presented it, to demand the restoration of Charlton's property.⁴²

On February 10, 1843, Paulet arrived in Honolulu and, after discussing with Alexander Simpson, presented four main demands to Kamehameha III: the restoration of Charlton's property with reparations for the government's proceedings, the acknowledgement of Simpson as acting



Figure 8: Lord George Paulet, captain of the frigate *Carysfort* (Hawai'i Department of Accounting and General Services)

consul, a new trial to reverse a suit against Charlton, and the adoption of a court consisting of half British and half unbiased jurors to settle future disputes.⁴³ After discussion with his advisors, Kamehameha III yielded to Paulet, at the same time signing an appeal to Queen Victoria. Simpson, taking advantage of his new role, demanded the king to sign a ratification of the 299-year lease, insisted on the illegal reversal of land-related court cases, brought forward expensive claims for indemnity, and held daily conferences

with the king. Faced with the imminent possession of the islands by Paulet and Simpson, the king

⁴² Kuykendall, 212.

⁴³ See note 42 above.

even considered ceding the islands to France or the US, but eventually yielded. On February 25, the Hawaiian flag was lowered, and the Union Jack was raised over the islands.

Restoration

Immediately after the cession of the islands, Paulet instructed Alexander Simpson to board a Hawaiian schooner to deliver Paulet's reports of events to London. Secretly, Kamehameha III also instructed American merchant James Marshall to board the same boat—under the pretext of a business trip—to deliver to Washington and London dispatches recounting Kamehameha's own accounts of events.⁴⁴ On July 7, a US frigate arrived carrying the Hawaiian flag and protested the cession of the kingdom to Paulet. In response, Paulet informed Kamehameha III that if he ever was to be saluted under any other flag than the Union Jack, he would “forfeit all claim to protection or consideration from that flag and government.”⁴⁵

Upon receiving information of Paulet's actions, Admiral Thomas arrived in Honolulu on July 26 and met with Kamehameha III next morning to restore the independence of the kingdom. The two signed an agreement guaranteeing the protection and equality of British subjects in Hawaii, and five days later, the Hawaiian flag was again raised. William Miller was named the new British consul, and during the restoration ceremony, Kamehameha III's speech included a phrase that



Figure 9: Admiral Richard Darton Thomas personally sailed to the Hawaiian Islands to restore the kingdom's independence (Wikimedia)

⁴⁴ Kuykendall, 217.

⁴⁵ Paulet to Kamehameha III, July 18, 1843, AH, British Commission Letter Book quoted in Ralph S. Kuykendall, *The Hawaiian Kingdom, 1778-1854, Foundation and Transformation* (Honolulu: University of Hawai'i Press, 1980), 219.

would become the motto of the Hawaiian Kingdom: *Ua Mau ke Ea o ka 'Āina i ka Pono* (the life of the land is perpetuated in righteousness).

Committee Topic: The Question of Land

The year is 1845. Currently, land claims and disputes are brought up and discussed individually, but both Hawaiians and foreigners realize that such a system is naturally unsustainable in the face of increasing foreign residents and land-seekers. With the events of the Paulet Affair still lingering in the minds of many Hawaiians, decisions must be made to ensure the survival of the kingdom. Faced with this newly perceived threat of imminent annexation or seizure by a foreign country—most likely Britain, America, or even France—the demands of foreigners must be taken into consideration to avoid conflict that may lead to foreign intervention. Despite assurances for the recognition of the kingdom's independence on behalf of London and Washington, should foreigners again feel excessively threatened or hindered, commercial interests may prove to be a more powerful motive for a second occupation in the eyes foreign governments. As a result, one of the overarching principles that will guide the decisions of the committee is the balance of foreign and Hawaiian interests to protect the sovereignty of the kingdom.

Designing A New System

Naturally, an initial challenge is negotiating and deciding upon a system of land tenure which can potentially alter the political, social, and economic structure of the kingdom forever. As mentioned earlier, ownership of land is not a part of the familiar tradition for the Hawaiian people, and most Hawaiians have never owned land and do not know the privileges, responsibilities, and rights of land ownership. The traditional system of *ahupua'as* saw communal rights to fishing and land and a generally amical relationship between *konohiki* and *maka'āinana*. As it is the

overwhelming voice of foreigners that is leading the call for fee simple ownership and the overhaul of land rights, many questions remain to be answered. As land is viewed among Hawaiians as something that everyone needs to live, how can it be divided for exclusive use? Should action be taken to ensure that Native Hawaiians are not disadvantaged in the face of the significant economic and political power of foreigners, and if so, how? Most importantly, as previously discussed, the Constitution of 1840 seems to grant a degree of ownership interests to tenants. Whether this clause was written to rationalize the existing land system or reformat it to appeal to Western ideas of land tenure, this committee will need to interpret the meaning of this clause to ensure the constitutionality of the Māhele. In any case, any interpretation should inevitably become the foundation for any major theories or laws developed by this committee.

With any reorganization of the system of land ownership, one must consider preexisting claims. As the Paulet Affair revealed however, land claims can become entangled and difficult to arbitrate. Over the years, land was ‘owned’ according to mutual understandings and was often redistributed. Further complicating the situation, the awarding of land leases by the crown and governors to those who had fought in the wars to unite the islands (and later, foreigners) presents restraints and risks regarding the redistribution of such lands. If it is the king who leased the land in the first place and held the rights to seize it, questions of ownership arise between the king and the tenant. As a result, land must be surveyed and taken into account when designing a system. What is the fairest way to evaluate conflicting claims? How should preexisting ownership be determined from a system where ownership does not exist? One of the most important relating issues is the question of government and crown lands. As the king has been the owner of all land and allowed others to work and live on the land, in what proportions should it be divided to

preserve holdings for the king? In addition, how can the resources of the islands be managed and protected as they were under the traditional land system?

Taxes and Labor

Land reorganization also raises questions of taxation and labor. As mentioned earlier, used both to support the government and as a rent system, taxes and feudal dues (in the form of personal service and a fraction of what was produced on the land) were collected. In addition, labor laws were designed to work with the traditional Hawaiian system of land tenure. In order to maintain the strength and operations of the government, what taxation system should replace the current feudal-style structure currently in place? As any reorganization of land ownership will change the social structure of the kingdom, new labor and taxation laws will also need to be decided upon.

Outline of Blocs British

Politically, the Hawaiian Islands is divided into a number of different factions. While foreigners share the common call for ownership of land in fee simple titles, a bitter commercial rivalry exists between the British and the Americans, each vying for leverage in the strategically placed Pacific kingdom. With the influential British trading company known as the Hudson Bay Company (HBC) controlling much of the trade Oregon territory, Hawai'i is seen as a vital stopover port in the Asia-Pacific trade. The establishment of an HBC office in Honolulu and the growing commercial inroads of other British traders have rendered Americans jealous. In addition, unlike the Americans, the British have very few members involved in the upper echelons of government. Those who are involved are confronted with the challenge of balancing the calls of their compatriots with their years of loyalty, service, and current duties to the crown. For the most part, Britons are most interested with gaining favorable terms by proposing creative plans that will allow

them to expand their commercial empire while at the same time hinder their competition and prevent an American commercial takeover.

Americans

Among the Americans, there exists three different groups: traders, missionaries, and government officials. While both parties are calling for a change in the land tenure system, the two groups have slightly different motives. Merchants are looking to secure and solidify their commanding commercial presence in the islands, thereby laying the foundation for the increased growth of American business through the purchase of land. With the Hawaiian mission being one of the most successful and influential American-led missions, missionaries are seeking greater personal prosperity and social and religious authority among the population. The common argument on behalf of the missionaries for land ownership is that it would develop a more industrious and pious Hawaiian population. It is important to note that those Americans holding government positions have earned their post through years of service to and involvement in the Hawaiian Kingdom and should take thoughtful consideration into balancing the demands of their countrymen and their fidelity, duty, and service to the king.

Hawaiians

Native Hawaiians possess many concerns about foreign demands, principally the fear that unsatisfied foreigners could lead to the loss of the kingdom's independence as was the case in 1843. Generally, Hawaiians have good reason to be concerned about growing Western power, number, and wealth in the kingdom and should be considering ways not only to preserve the power of the *ali'i* and king in the case of a large reorganization of land, but to restore the full strength and authority of the crown in the face of rising foreign interests.

Many chiefs, especially elder chiefs, are exceptionally resistant to change in the land system. After all, their power derives from the feudal system and many see the traditional system as integral to the structure of Hawaiian society and economics. Therefore, few Hawaiians are willing to agree to a change. In addition, as land ownership and governance are so closely tied, a key concern of many Hawaiian governors and politicians is that granting land in fee simple could result in the loss of sovereignty over such land. Land ownership and the government are so interwoven that foreign calls for fee simple ownership incite deep fear within Hawaiians. A strong anti-foreign sentiment exists among the Hawaiian people and many natives in position of power have strong alignments with such agitation. In addition, the *maka'āinana*, with little understanding of land ownership, potentially have the most to lose in this debate, and as representatives of the Hawaiian people, Hawaiian politicians must consider ways to ensure that the interests of commoners are advocated for and protected in any potential deal.

Some Questions to Consider

1. As land is viewed among Hawaiians as something that everyone needs to live, how can it be divided for exclusive use?
2. What are the relationships between land ownership and political and commercial power?
What rights and privileges are included in land ownership?
3. How should land be divided between the king, *ali'i*, *konohiki*, foreigners, and commoners?
4. How should the government deal with issues of labor and taxation?
5. How should the transition to a new system be organized fairly and smoothly?
6. What are the rights of native tenants (commoners who have tended the land but do not own it)?

Suggestions for Further Research

As with many topics in Hawaiian history, research may be more challenging due to the quality and availability of historical documentation. Therefore, valuable resources and tips compiled here will help you dive into the topic and point you in the right direction.

First it is highly recommended to Google the sources cited throughout this background guide. These sources informed the creation of this guide and committee and will be of significant use to many delegates. For many of these sources, links are included in the bibliography. Some research articles may be lengthy, so it is important to focus on any information within the scope of the committee.

More valuable resources are listed here below, which will be of more benefit to those who have closely read the background guide and some cited sources within. Kuykendall's *The Hawaiian Kingdom* is an extremely valuable, well-written, and detailed resource with plenty of information within the timeframe of this committee. Other listed works from some significant historians in Hawaiian history may be of use to delegates seeking supplementary research or more information on certain topics covered in the background guide.

Third, to prepare yourself for the weekend, it is advisable to familiarize yourself with the makeup of the committee. Brief research into the other characters represented will go long ways and give you an edge when anticipating the moves of others and your own potential courses of action. A complete list of characters can be found in the appendix. Most importantly, delegates are also expected to be familiar with their character's field of expertise, which will inform their actions in committee and ensure that each delegation contributes a unique perspective to the conversation.

Finally, I am always available to assist you. As it is essential that you come prepared with an excellent knowledge of the topic and your character, it is only reasonable that I should promote

an outstanding committee experience through helping you achieve these goals. If you have a question regarding the committee or have any difficulties researching, feel free to write an email and I will do my best to help provide you with pointers and material that may point you in the right direction. I'm looking forward to seeing you all in committee!

Ralph S. Kuykendall – *The Hawaiian Kingdom, 1778-1854* (selected chapters)

(available online from this link: <https://bit.ly/2koLu9u>)

A valuable resource with excellent historical detail, The Hawaiian Kingdom is a highly recommended reading for all delegates in their research process. Chapters 11, 13, 15, and 16 provide very detailed information on events and characters relevant to this committee. A brief skim over chapters 12 and 14 may also be of benefit to some readers.

Jon J. Chinen – *The Great Mahele: Hawaii's Land Division of 1848*

(available online from this link: <https://bit.ly/2Gopvar>)

This short reading, while lacking details of certain topics, can be of benefit to delegates seeking a brief overview of the traditional land system and the events of the Māhele.

Lilikalā Kame'eleihiwa – *Native Land and Foreign Desires* (Chapter 8: The Moment of Māhele)

(available online from this link: <https://bit.ly/2y29K4r>)

This chapter is particularly useful for gaining an insight into the leadup to the Great Māhele.

Hawaii.gov – *Land in Hawaii*

(available online from this link: <https://bit.ly/2Mazzav>)

This brief reading may be of use to those seeking an overview on the feudal system of land tenure and a brief summary of events. Please keep in mind that this committee takes place before the establishment of the Land Commission.

Bibliography

Chinen, Jon J. *The Great Mahele: Hawaii's Land Division of 1848*. Honolulu: University of Hawai'i Press, 1958.

Banner, Stuart. "Preparing to Be Colonized: Land Tenure and Legal Strategy in Nineteenth-Century Hawaii." *Law & Society Review* 39, no. 2 (2005): 273–314. www.jstor.org/stable/3557617.

"Economic History of Hawaii." *Economic History Association* online. n.d. <https://eh.net/encyclopedia/economic-history-of-hawaii/>.

"Captain Cook discovers Hawaii." *History.com* online. February 9, 2010. <https://www.history.com/this-day-in-history/cook-discovers-hawaii>.

La Croix, Sumner J. *The Economic History of Hawaii: A Short Introduction*. Working Papers 200203. Honolulu: University of Hawai'i at Manoa, 2002, <https://ideas.repec.org/p/hai/wpaper/200203.html>.

Levy, Neil M. "Native Hawaiian Land Rights." *California Law Review* 63, no. 4 (1975): 848–855. <https://doi.org/10.15779/Z38117N>.

MacAllan, Richard. "Richard Charlton: A Reassessment." *Hawaiian Journal of History* 30 (1996): 53–76. <http://hdl.handle.net/10524/266>.

Schultz, Joy. "Empire of the Young: Missionary Children in Hawai'i and the Birth of U.S. Colonialism in the Pacific, 1820–1898." Doctoral diss. University of Nebraska, 2011, <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1035&context=historydiss>.

Schultz, Joy. *Hawaiian by Birth: Missionary Children, Bicultural Identity, and U.S. Colonialism in the Pacific*. Lincoln; London: University of Nebraska Press, 2017. <http://www.jstor.org/stable/j.ctt1s475n1>.

"Land in Hawaii." *Hawaii.gov* online, 2004. http://files.hawaii.gov/dcca/reb/real_ed/re_ed/ce_prelic/land_in_hawaii.pdf.

Kuykendall, Ralph S. *The Hawaiian Kingdom, 1778–1854, Foundation and Transformation*. Honolulu: University of Hawaii, 1938.

Appendix I: Timeline of Events

1778: Arrival of Captain Cook
1779: Death of Captain Cook
1794: George Vancouver signs agreement establishing protection and diplomatic relations with Great Britain
1795: Kamehameha I unites the Hawaiian Islands
1810: A closer relationship between Hawai'i and Great Britain is established
1819: Death of Kamehameha I, breaking of the *kapu*
1820: The first American missionaries arrive
1824: Death of Kamehameha II, arrival of Richard Charlton
1829: Hudson Bay Company's Honolulu office is created
1839: Hawaii's Bill of Rights created
1840: Hawaii's first constitution is enacted, Charlton brings forward his land claim
1841: 50-year land leases allowed by Kamehameha III
1843: Cession and eventual restoration of Hawaiian Islands
1845: Current day

Appendix II: Position Matrix

Members of the House of Nobles

Aaron KEALI'IAHONUI
Keahikuni KEKAU'ŌNOHI
John KUAKINI
Jonah PI'IKOI

The Hawaiian Government

Premier of the Kingdom
Governor of Hawaii
Governor of Maui
Governor of Oahu
Governor of Kauai
Keoni ANA (Minister of the Interior)
Robert WYLLIE (Minister of Foreign Affairs)
Gerrit JUDD (Minister of Finance)
John RICORD (Attorney General)
William RICHARDS (Privy Council Member)

Other Foreigners

George BROWN (American commissioner to Hawaii)
Rufus ANDERSON (Secretary, ABCFM)
Richard ARMSTRONG
Charles BREWER (C. Brewer & Company)
William L. LEE
William "Guillermo" MILLER (British consul to Hawaii)

Sir George SIMPSON (The Hudson Bay Company)
James STARKEY (Starkey, Janion & Company)