

THE MĀHELE ‘ĀINA (LAND DIVISION) AND ESTABLISHMENT OF LAND TITLE ON LĀNA‘I IN 1848

The history of the Māhele ‘Āina (Land Division of 1848) between the King, Chiefs, Government and commoners, and establishment of fee-simple land title on Lāna‘i was researched and compiled by Kepā and Onaona Maly (Kumu Pono Associates LLC) as a part of a detailed ethnographic study on the island of Lāna‘i for the Lāna‘i Archaeological Committee and Lāna‘i Culture & Heritage Center. The Māhele ‘Āina and associated Helu or Land Commission Award Numbers (L.C.A.), identifying the original holders of title to lands on Lāna‘i (and throughout the Hawaiian Islands) also remain in use in the present day. The story of the Māhele ‘Āina on Lāna‘i reveals much about residency, land use and land tenure on the island, but also leaves much unanswered—the answers to some questions may never be fully understood. In this paper, readers are provided the first fully detailed account of the original history of land title (and failed claims for title) on Lāna‘i.

The manuscript—with digital images of the original Hawaiian language documents and full translations prepared by Kepā Maly—is organized by subsections meant to provide readers with access to the wide range of documentation recorded as a part of the Māhele ‘Āina. The subsections include:

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Overview of Land Stewardship and Title

In pre-western contact Hawai‘i, all ‘āina (land), kai lawai‘a (fisheries) and natural resources extending from the mountain tops to the depths of the ocean were held in “trust” by the high chiefs (mō‘ī, ali‘i ‘ai moku, or ali‘i ‘ai ahupua‘a). The right to use of lands, fisheries, and the resources therein was given to the hoā‘āina (native tenants) at the prerogative of the ali‘i and their representatives or land agents (often referred to as konohiki or haku ‘āina). Following a strict code of conduct, which was based on ceremonial and ritual observances, the people of the land were generally able to collect all of the natural resources—including terrestrial and aquatic—for their own sustenance; and with which to pay tribute to the class of chiefs and priests, who oversaw them and ensured the prosperity of the natural environment through their divine mana (spiritual power-godly associations).

Shortly after the arrival of foreigners in the islands, the western concept of property rights began to infiltrate the Hawaiian system. While Kamehameha I, who secured rule over all of the islands, granted perpetual interest in select lands and fisheries to some foreign residents, Kamehameha, and his chiefs under him generally remained in control of all resources. Following the death of Kamehameha I in 1819, and the arrival of the Calvinist missionaries in 1820, the concepts of property rights began to evolve under Kamehameha II and his young brother, Kauikeaouli (Kamehameha III), who ruled Hawai'i through the years in which private property rights, including those of fisheries, were developed and codified.

The accounts and narratives below, are verbatim excerpts from Kingdom laws—with descriptions of customs associated with land and ocean resources—recorded during the period of the evolution of fee-simple property rights in the Hawaiian Islands. These laws are the basis of land tenure on Lāna'i, thus some of the broader citations—those which were applied throughout the islands—set the foundation for tenancy rights and responsibilities on Lāna'i.

Kānāwai, Nā Kuleana a me nā Pono Kānaka: Laws, Responsibilities and Rights of the People (ca. 1833-1846)

Interestingly, it was in the area of fisheries—including the rights of the common people to catch fish, and the rights of the ali'i and konohiki classes to select a choice fish for their private use—that what might be termed “fee-simple property rights” made its early headway in the native system. Kamehameha III formally defined the ancient fishing rights and practices of the Hawaiian people in the Constitution and Laws of June 7, 1839, and reconfirmed them on November 9, 1840 (Hawaiian Laws, 1842; Hawaiian Laws compiled from between the years of 1833 to 1842).

By the Law respecting fisheries, Kamehameha III distributed the fishing grounds and resources between himself, the chiefs and the people of the land. The law granted fisheries from near shore, to those of the deep ocean beyond the sight of land to the common people in general. He also specifically, noted that fisheries on coral reefs fronting various lands were for the landlords (konohiki) and the people who lived on their given lands (ahupua'a) under the konohiki. The fisheries of Lāna'i are cited in the law below (marked by underlining>:

No na Kai noa, a me na Kai kapu.

(Of free and prohibited fishing grounds) (1839-1841)

I. —Of free fishing grounds. (No ka noa ana o ke kai)

His majesty the King hereby takes the fishing grounds from those who now possess them, from Hawaii to Kauai, and gives one portion of them to the common people, another portion to the land-lords, and a portion he reserves to himself.

These are the fishing grounds which his Majesty the King takes and gives to the people; the fishing grounds without the coral reef. viz. the Kilohee grounds, the Luhee ground, the Malolo ground, together with the ocean beyond.

But the fishing grounds from the coral reefs to the sea beach are for the landlords, and for the tenants of their several lands, but not for others. But if that species of fish which the landlord selects as his own personal portion, should go onto the grounds which are given to the common people, then that species of fish and that only is taboo. If the squid, then the squid only; or if some other species of fish, that only and [1842:36] not the squid. And thus it shall be in all places all over the islands; if the squid, that only; and if in some other place it be another fish, then that only and not the squid.

If any of the people take the fish which the landlord taboos for himself, this is the penalty, for two years he shall not fish at all on any fishing ground. And the several landlords shall

give immediate notice respecting said fisherman, that the landlords may protect their fishing grounds, lest he go and take fish on other grounds.

If there be a variety of fish on the ground where the landlord taboos his particular fish, then the tenants of his own land may take them, but not the tenants of other lands, lest they take also the fish tabooed by the landlord. The people shall give to the landlord one third of the fish thus taken. Furthermore, there shall no duty whatever be laid on the fish taken by the people on grounds given to them, nor shall any canoe be taxed or taboo'd.

If a landlord having fishing grounds lay any duty on the fish taken by the people on their own fishing grounds, the penalty shall be as follows: for one full year his own fish shall be taboo'd for the tenants of his own particular land, and notice shall be given of the same, so that a landlord who lays a duty on the fish of the people may be known.

If any of the landlords lay a protective taboo on their fish, when the proper fishing season arrives all the people may take fish, and when the fish are collected, they shall be divided—one third to the fishermen, and two thirds to the landlord. If there is a canoe full, one third part shall belong to the fishermen, and two [1842:37] thirds to the landlord. If the landlord seize all the fish and leave none for the fishermen, the punishment is the same as that of the landlords who lay a duty on the fish of the people.

If, however, there is any plantation having fishing grounds belonging to it, but no reef, the sea being deep, it shall be proper for the landlord to lay a taboo on one species of fish for himself, but one species only. If the parrot fish, then the parrot fish only; but if some other fish, then that only and not the parrot fish. These are the enactments respecting the free fishing grounds, and respecting the taking of fish.

2.—Respecting the taboo'd fishing grounds. (No na kai kapu)

Those fishing grounds which are known by the people to have shoals of fish remaining upon them, shall at the proper season for fishing be placed under the protective taboo of the tax officers, for the King. The fishing grounds...thus protected, are...On Lanai the Bonito and the Parrot fish... and all the transient shoal fish from Hawaii to Niihau, if in sufficient quantity to fill two or more canoes, but not so small a quantity as to fill one canoe only. But if the fishermen go and borrow a large canoe, that all the fish may be put into one, then there shall be a duty upon them... [1842:38]

...But no restrictions whatever shall by any means be laid on the sea without the reef even to the deepest ocean. Though the particular fish which the general tax officer prohibits, and those of the landlords which swim into those seas, are taboo. The fine of those who take prohibited fish is specified above. [1842:39]

On May 31st, 1841, the King and House of Nobles signed into law several alterations to the above Law on fisheries. The changes in the old laws are as follows:

5. OF SHOAL FISH. (1842)

From the eighth section of the third chapter of this law, which is found on the thirty-eighth page, certain words shall be erased, as follows; ("If in sufficient quantities to fill two or more canoes, but not so small a quantity as to fill one canoe only.["])

The transient shoal fish spoken of in this law are,

- 1 The Kule,
- 2 The Anaeholo,

- 3 The Alalauwa,
- 4 The Uhukai,
- 5 The Kawelea,
- 6 The Kawakawa,
- 7 The Kalaku.

These kinds of fish shall be divided equally, whenever they arrive, at these islands, or whenever they drift along. [1842:84]

9. OF THE PUNISHMENT OF FISHERMEN. (1842)

In the third Chapter, eighth section, page 37th, the following words are erased; “For two years he shall not fish at all on any fishing ground.” The following words shall also be inserted in their place; “If he take one fish criminally he shall pay five, and always at that rate. And if a canoe full be taken then five canoes full shall [1842:85] be paid, according to the amount taken, even to the farthest extent.” [1842:86 (Hawaii State Archives collection, KFH 30 1842a. A233)]

Statute Laws of His Majesty Kamehameha III (1846)

In 1846, Article V of the “Statute Laws of His Majesty Kamehameha III” was published. The law defined the responsibilities and rights the konohiki and people to the wide range of fishing grounds and resources. The law also addressed the practice of designating kapu or restrictions on the taking of fish, tribute of fish paid to the King, and identified specific types of fisheries from the freshwater and pond fisheries to those on the high seas under the jurisdiction of the Kingdom:

ARTICLE V.—OF THE PUBLIC AND PRIVATE RIGHTS OF PISCARY¹ (1846)

SECTION I. The entire marine space, without and seaward of the reefs, upon the coasts of the several islands, comprising the several fishing grounds commonly known as the Kilohee grounds—the Luhee grounds—the Malolo ground, and the fishery of the ocean, from said reefs to the limit of the marine jurisdiction in the first article of this chapter defined, shall be free to the people of these islands. The people shall not be molested in the enjoyment thereof except as hereinafter provided.

SECTION II. The fishing grounds from the reefs, and where there happen to be no reefs from the distance of one geographical mile seaward to the beach at low water mark, shall in law be considered the private property of the landlords whose lands, by ancient regulation, belong to the same; in the possession of which private fisheries, the said landholders shall not be molested except to the extent of the reservations and prohibitions hereinafter set forth.

SECTION III. The landholders shall be considered in law to hold said private fisheries for the equal use of themselves and the [1846:90] tenants on their respective lands; and the tenants shall be at liberty to use the fisheries of their landlords, subject to the restrictions in this article imposed.

SECTION IV. The landlords shall have power, each year, to set apart for themselves one given species or variety of fish natural to their respective fisheries, giving public notice by viva voce proclamation to their tenants and others residing on their lands, and signifying to the minister of the interior, in writing, through his agents in their districts, the kind and description of fish which they have chosen to set apart for themselves. The landlords

¹ *Piscary: “The right of fishing; the right of fishing in waters belonging to another person.” (MacKenzie et al., 1991:308)*

shall respectively pay for such notification, the fees prescribed by the third part of this act; and it shall be the duty of the minister of the interior yearly to furnish the director of the government press with a list of said landlords, the districts and island of their residence, and the kind of fish specially set apart by each, in the form of a catalogue; which catalogue the said director shall cause to be once inserted in Hawaiian and English languages, in the Polynesian newspaper, for public information, at the expense of said minister to be included by him, according to a fixed rate, in the fees to be received at his department from the respective landlords.

SECTION V. The specific fish so set apart shall be exclusively for use of the landlords, if caught within the bounds of his fishery, and neither his tenants nor others shall be at liberty to appropriate such reserved fish to their private use; but when caught, such reserved fish shall be the property of the landlord, for which he shall be at liberty to sue and recover the value from any fisherman appropriating the same; and more over, if he take one fish criminally he shall pay five, and in the proportion shall he pay to the full amount of what he may have taken wrongfully. Whoever may have taken fish in violation of this law, without paying as about, shall be fined fifty dollars for each offence.

SECTION VI. The landlords shall not have power to lay any tax or impose any other restriction upon their tenants regarding the private fisheries that is in the preceding section prescribed, neither shall such further restrictions be valid. [1846:91]

SECTION VII. It shall be competent to the landlords, on consultation with the tenants of their lands, in lieu of setting apart some peculiar fish to their exclusive use, as hereinbefore allowed, to prohibit during certain indicated months of the year, all fishing of every description upon their fisheries; and, during the fishing season to exact of each fisherman among their tenants, one thirds part of all the fish taken upon their private fishing grounds. In every such case it shall be incumbent on the landlords to comply in like manner with the requirements of the fourth section of this article.

SECTION VIII. The royal fish shall appertain to the Hawaiian government, and shall be the following, viz:

1st. The bonito when off any part of the coast of Lanai.

2nd. The albacore of Hawaii.

3rd. The mullet of Huleia, Anehola [Anahola], and Hanalei; the squid and freshwater fish of Mana on Kauai.

4th. The shoal fish taken at the following places, noted for the abundance of fish frequenting them; off Oahu: 1, Kalia; 2, Keehi; 3, Kapapa; 4, Malaeakuli, and 5, Pahihi.

5th. Off Molokai: 1, Punalau; 2, Ooia; 3, Kawai; 4, Koholanui; 5, Kaonini; 6, Aikoolua; 7, Waiokama, and 8, Heleiki.

6th. And off Maui; the kuleku of Honuaula; and the same whenever found off said island.

7th. All the following transient fish, viz:—1, the kule; 2, the anaeholo; 3, the alalauwa; 4, the uhukai; 5, the kawelea; 6, the kawakawa; 7, the kalaku.

These shall be divided equally between the king and fishermen. But on all the prohibited fishing grounds the landlords shall be entitled to one species of fish, and those who have walled fish ponds shall be allowed to scoop up small fish to replenish their ponds. If the

prohibited fish of the landlord be mingled with the royal fish, then the landlord shall be entitled to one third of the whole of the fish taken, though this applies only to Molokai, Oahu and the rivers of Kauai.

All which shall be yearly protected by the king's taboo, to be imposed by the minister of the interior, by means of circular from his department, as prescribed in the act to organize the executive ministry; and during the specified season of taboo they shall not be subject to be taken by the people. [1846:92]

SECTION IX. At the expiration of the taboo seasons, all persons inhabiting these islands shall be at liberty to take the protected fish, accounting to the fishery agents of the respective districts off which the same shall have been caught, for the half or portion, so taken; and the minister of the interior shall make known through his agents by viva voce proclamation, the respective months or seasons of the year during which the said royal fisheries may be used and the said protected fish taken.

SECTION X. The minister of the interior shall appoint suitable and proper fishing agents in the several coast districts of the respective islands, to superintend the fisheries aforesaid, to whom he shall from time to time give directions through the respective governors, in regard to the sale or other disposition of the share of fish accruing to the government.

SECTION XI. It shall be the duty of the agents appointed, to exact and receive of all fishermen, for the use of the royal exchequer, during the legalized fishing seasons the one half part, or portion of all protected fish taken without the reefs, whether at the respective places in the eighth section of this article indicated, or in the channels and enclosed seas dividing these islands, or upon the high seas within the marine jurisdiction of this country. And if any officer or agent of this government shall exact more fish of the people than is in and by this section expressly allowed, he shall on conviction, forfeit his office, and be liable to pecuniary fine, in the discretion of the court, before which he shall have been convicted.

SECTION XII. It shall be competent for His Majesty, by an order in council, from time to time, to set apart any given portion, or any definite kind of the said protected fish, or any proportional part of the avails therefrom arising, for the use of the royal palace, to be delivered or paid over to the chamberlain of his household, created by the third part of this act.

SECTION XIII. It shall be incumbent on the minister of the interior to provide, by instructions to the respective governors, for the sale and disposal of all fish received by the said fishing agents, and to pay the avails thereof to the minister of finance. [1846:93]

SECTION XIV. If any person shall, in violation of this article, take out of season the fish protected by the king's taboo, or if any person shall, within the free fishing seasons, take any of the protected fish, without delivering to the agent appointed for that purpose the proportion accruing to the royal exchequer, he shall, on conviction, forfeit all fish found in his possession, and shall, in addition, pay fivefold for all fish thus taken, or he may be put in confinement, at the discretion of the court condemning him. [1846:94; Hawaii State Archives collection KFH 25 .A24 1825/46]

Māhele ‘Āina: Codification of Fee-Simple Property and Fishery Rights (ca. 1846-1855)

In the period leading into the middle 1840s, the Hawaiian system of land tenure was undergoing radical alteration. Not only were fisher-rights being defined and codified, but also those of land rights. These laws set the foundation for implementing the Māhele ‘Āina of 1848, which granted fee-simple ownership rights to the *hoā‘āina* (common people of the land, native tenants). As in the preceding acts associated with fisheries, this development of laws pertaining to land tenure was promoted by the missionaries and the growing business interests in the island kingdom.

On December 10th, 1845, Kamehameha III signed into law, a joint resolution establishing and outlining the responsibilities of the Board of Commissioners to Quiet Land Titles, setting in motion the division of lands and natural resources between the king and his subjects. Among the actions called for, and laws to be implemented were:

ARTICLE IV. –OF THE BOARD OF COMMISSIONERS TO QUIET LAND TITLES.

SECTION I. His Majesty shall appoint through the minister of the interior, and upon consultation with the privy council, five commissioners, one of whom shall be the attorney general of this kingdom, to be a board for the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior to the passage of this act; the awards of which board, unless appealed from as hereinafter allowed, shall be binding upon the minister of the interior and upon the applicant...

SECTION VII. The decisions of said board shall be in accordance with the principles established by the civil code of this kingdom in regard to prescription, occupancy, fixtures, native usages in regard to landed tenures, water privileges and rights of piscary, the rights of women, the rights of absentees, tenancy and subtenancy, —primogeniture and rights of adoption; which decisions being of a majority in number of said board, shall be only subject to appeal to the supreme court, and when such appeal shall not have been taken, they shall be final...

SECTION XIII. The titles of all lands claimed of the Hawaiian government anterior to the passage of this act, upon being confirmed as aforesaid, in whole or in part by the board of commissioners, shall be deemed to be forever settled, as awarded by said board, unless appeal be taken to the supreme court, as already prescribed. And all claims rejected by said board, unless appeal be taken as aforesaid, shall be deemed to be forever barred and foreclosed, from the expiration of the time allowed for such appeal. [In *The Polynesian*; January 3, 1846:140]

As the Māhele evolved, it defined the land interests of Kauikeaouli (King Kamehameha III), some 252 high-ranking Ali‘i and Konohiki (including several foreigners who had been befriended by members of the Kamehameha line), and the Government. As a result of the Māhele, all lands—and associated fisheries as described in the laws above—in the Kingdom of Hawai‘i came to be placed in one of three categories: (1) Crown Lands (for the occupant of the throne); (2) Government Lands; and (3) Konohiki Lands. The “Enabling” or “Kuleana Act” of the Māhele (December 21, 1849) further defined the frame work by which *hoā‘āina* (native tenants) could apply for, and be granted fee-simple interest in “Kuleana” lands (cf. Kamakau in *Ke Au Okoa* July 8 & 15, 1869; 1961:403-403). The Kuleana Act also reconfirmed the rights of *hoā‘āina* to: access; and subsistence and collection of resources from mountains to the shore, necessary to their life, within their given *ahupua‘a*. Though not specifically stated in this Act, the rights of piscary (to fisheries and fishing) had already been granted and were protected by preceding laws.

The Kuleana Act, which remains the foundation of law pertaining to native tenant rights, sets forth the following:

August 6, 1850

An Act confirming certain resolutions of the King and Privy Council passed on the 21st day of December 1849, granting to the common people allodial titles for their own lands and house lots, and certain other privileges.

Be it enacted by the Nobles and Representatives of the People of the Hawaiian Islands in Legislative Council assembled;

That the following sections which were passed by the King in Privy Council on the 21st day of December A.D. 1849 when the Legislature was not in session, be, and are hereby confirmed, and that certain other provisions be inserted, as follows:

Section 1. Resolved. That fee simple titles, free of commutation, be and are hereby granted to all native tenants, who occupy and improve any portion of any Government land, for the land they so occupy and improve, and whose claims to said lands shall be recognized as genuine by the Land Commission; Provided, however, that the Resolution shall not extend to Konohikis or other persons having the care of Government lands or to the house lots and other lands, in which the Government have an interest, in the Districts of Honolulu, Lahaina and Hilo.

Section 2. By and with the consent of the King and Chiefs in Privy Council assembled, it is hereby resolved, that fee simple titles free of commutation, be and are hereby granted to all native tenants who occupy and improve any lands other than those mentioned in the preceding Resolution, held by the King or any chief or Konohiki for the land they so occupy and improve. Provided however, this Resolution shall not extend to house lots or other lands situated in the Districts of Honolulu, Lahaina and Hilo.

Section 3. Resolved that the Board of Commissioners to quiet Land titles be, and is hereby empowered to award fee simple titles in accordance with the foregoing Resolutions; to define and separate the portions belonging to different individuals; and to provide for an equitable exchange of such different portions where it can be done, so that each man's land may be by itself.

Section 4. Resolved that a certain portion of the Government lands in each Island shall be set apart, and placed in the hands of special agents to be disposed of in lots of from one to fifty acres in fee simple to such natives as may not be otherwise furnished with sufficient lands at a minimum price of fifty cents per acre.

Section 5. In granting to the People, their House lots in fee simple, such as are separate and distinct from their cultivated lands, the amount of land in each of said House lots shall not exceed one quarter of an acre.

Section 6. In granting to the people their cultivated grounds, or Kalo lands, they shall only be entitled to what they have really cultivated, and which lie in the form of cultivated lands; and not such as the people may have cultivated in different spots, with the seeming intention of enlarging their lots; nor shall they be entitled to the waste lands. [Generally wet lands, ponds and fallow fields (see citations later in this section).]

Section 7. When the Landlords have taken allodial titles to their lands the people on each of their lands shall not be deprived of the right to take firewood, aho cord, thatch, or ti leaf

from the land on which they live, for their own private use, should they need them, but they shall not have a right to take such articles to sell for profit. They shall also inform the Landlord or his agent, and proceed with his consent. The people shall also have a right to drinking water, and running water, and the right of way. The springs of water, and running water, and roads shall be free to all should they need them, on all lands granted in fee simple. Provided, that this shall not be applicable to wells and water courses which individuals have made for their own use.

Done and passed at the Council House, Honolulu this 6th day of August 1850. [copied from original hand written “Enabling Act”² – Hawaii State Archives, DLNR 2-4]

Procedures of the Land Commission (1848-1855)

The most important source of documentation that describes native Hawaiian residency and land use practices—identifying specific residents, types of land use, fishery and fishing rights, crops cultivated, and features on the landscape—is found in the records of the Māhele ‘Āina. The Māhele ‘Āina gave the hoā‘āina an opportunity to acquire fee-simple property interest (kuleana) on land which they lived and actively cultivated, but the process required them to provide personal testimonies regarding their residency and land use practices. As a result, records of the Māhele ‘Āina present readers with first-hand accounts from native tenants generally spanning the period from ca. 1819 to 1855.

The lands awarded to the hoā‘āina became known as “Kuleana Lands.” All of the claims and awards (the Land Commission Awards or L.C.A.) were numbered, and the L.C.A. numbers remain in use today to identify the original owners of lands in Hawai‘i.

The work of the Land Commission was brought to a close on March 31, 1855. The program, directed by principles adopted on August 20, 1846, met with mixed results. In its statement to the King, the Commissioners to Quiet Land Titles (George M. Robertson, March 31, 1855) summarized events that had transpired during the life of the Commission:

...The first award made by the Commission was that of John Voss on the 31st March 1847.

The time originally granted to the Board for the hearing and settlement of all the land claims in the kingdom was two years, ending the fourteenth day of February, 1848.

Before the expiration of that term it became evident that a longer time would be required to perform a work... Accordingly, the Legislature on the 26th day of August 1847, passed an Act to extend the duration of the Board to the 14th of February, 1849, adding one year to the term first prescribed, not however, for the purpose of admitting fresh claims, but for the purposes of hearing, adjudicating and surveying those claims that should be presented by the 14th February, 1848. It became apparent to the Legislature of 1848 that the labors of the Land Commission had never been fully understood, nor the magnitude of the work assigned to them properly appreciated, and that it was necessary again to extend the duration of the Board. An act was accordingly passed, wisely extending the powers of the Commissioners “for such a period of time from the 14th day of February 1849, as shall be necessary for the full and faithful examination, settlement and award upon all such claims as may have been presented to said Board.” ...[T]he Board appointed a number of Sub-Commissioners in various parts of the kingdom, chiefly gentlemen connected with the American Mission, who from their intelligence, knowledge of the Hawaiian language, and well-known desire to forward any work which they believed to be for the good of the people, were better calculated than any other class of men on the islands to be useful auxiliaries to the Board at Honolulu...

² See also *Kanawai Hoopai Karaima no ko Hawaii Pae Aina* (Penal Code) 1850.

...During the ten months that elapsed between the constitution of the Board and the end of the year 1846, only 371 claims were received at the office; during the year 1847 only 2,460, while 8,478 came in after the first day of January 1848. To these are to be added 2,100 claims, bearing supplementary numbers, chiefly consisting of claims which had been forwarded to the Board, but lost or destroyed on the way. In the year 1851, 105 new claims were admitted, for Kuleanas in the Fort Lands of Honolulu, by order of the Legislature. The total number of claims therefore, amounts to 13,514, of which 209 belonged to foreigners and their descendants. The original papers, as they were received at the office, were numbered and copied into the Registers of the Commission, which highly necessary part of the work entailed no small amount of labor...

...The whole number of Awards perfected by the Board up to its dissolution is 9,337, leaving an apparent balance of claims not awarded of say 4,200. Of these, at least 1,500 may be ranked as duplicates, and of the remaining 2,700 perhaps 1,500 have been rejected as bad, while of the balance some have not been prosecuted by the parties interested; many have been relinquished and given up to the Konohikis, even after surveys were procured by the Board, and hundreds of claimants have died, leaving no legal representatives. It is probable also that on account of the dilatoriness of some claimants in prosecuting their rights before the Commission, there are even now, after the great length of time which has been afforded, some perfectly good claims on the Registers of the Board, the owners of which have never taken the trouble to prove them. If there are any such, they deserve no commiseration, for every pains has been taken by the Commissioners and their agents, by means of oft repeated public notices and renewed visits to the different districts of the Islands, to afford all and every of the claimants an opportunity of securing their rights... [Minister of Interior Report, 1856:10-17]

It has been reported that the total amount of land—around the Hawaiian Islands—awarded to hoā‘āina equaled approximately 28,658 acres (cf. Kame‘eleihiwa 1992:295).

Results of the Māhele ‘Āina on Lāna‘i

The following documentation was compiled by Kumu Pono Associates LLC, as a part of a detailed ethnographic study of land tenure on the Island of Lāna‘i. The pages below, present the findings of a review of all records compiled as a part of the Māhele ‘Āina of 1848, with subsequent actions of the Land Commission and Government through issuance of Royal Patents on the Awards. As a result of the Māhele ‘Āina:

- **A total of 110** claims which could be verified for Lāna‘i were recorded. These include both chiefly and commoner/native tenant claims.
- **105** claim records were located in the volumes of the Native Register.
- **88** claim records were located in the volumes of the Native Testimony.
- **2** claim records were located in the volumes of the Foreign Register.
- **21** claim records were located in the volumes of the Foreign Testimony.
- **64** of the claims were surveyed and recorded in the Mahele Award Survey Books.
- **51** claim records were recorded in the volumes of the Royal Patent Books.

The combined claims from Lānaʻi, represent 331 separate documents (some overlapping in records of the Native and Foreign Books):

- **56** claims were awarded.

Of those awarded, five claimants were chiefly awardees, who received entire ahupuaʻa.

- **51** awards made to native tenants and individuals of lower chiefly lineage, totaled a little over 600 acres of the approximately 89,000 acres of land on Lānaʻi.

Native Terms Used to Describe Features and Activities in Māhele Claims on the Island of Lānaʻi

Ahupuaa (traditional land management units.)

Ahupuaʻa generally cover an area extending from a fishery fronting the land division to a point on the mountains. Such blocks of land provided native tenants with access to all the basic resources necessary for sustainable life upon the land. The island of Lānaʻi is known to have thirteen (13) individual ahupuaʻa. Interestingly, three of the ahupuaʻa cross the entire island, passing from the koʻolau (windward) fisheries, over the mountain, to the kona (leeward) fisheries.

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Ala, Alanui Aupuni (trails and Government Roads).

Only one specific citation of “ala” trail was located in claims registered on Lānaʻi (Helu 8557).

Auwai (irrigation channel).

Occurrence of an ‘auwai was made known by one claimant at Maunalei.

Awawa (a valley, grotto or ravine).

A sheltered area in which crops were grown.

Hale kula (School house).

Two (2) native tenants provided descriptions of their kuleana in reference to Hale kula. One each at Maunalei and Kaunolū (both on the windward facing shore of Lānaʻi).

Ia & Kai (fish and fisheries).

Claims for iʻa (fish) and kai (fisheries) from the moana deep sea to near shore shallows were cited in two group claims, made by sixty eight (68) native tenants. The fishery of Kaholo (Pali Kaholo) was specifically named in the claims.

Ili, Ili aina (a native land division).

ʻIli are traditional land divisions, usually running mauka (upland) – makai (shoreward). They were designed to make smaller tracts of land within the larger ahupuaʻa, available to native tenants for residency and cultivation. Sometimes ʻili might be laid out in contiguous pieces or separated, with certain sections of the ʻili situated at various elevational zones to coincide with seasonal variations in crop production.

Kahua hale, Kulanahale, Pahale (houses).

House sites were identified in forty three (43) individual claims, with other group claims in which references to house claims were made, but not specifically numbered.

Kihapai (a small section of cultivated land).

Kihapai were small garden plots within larger parcels of land. Smaller than paukū.

Konohiki (land and resource managers).

Konohiki were generally people assigned to oversee certain aspects of the natural resources and tenancy within ahupua'a. They were usually of chiefly lineage, though in many of the claims for Lāna'i, they were the high chief awardees of entire ahupua'a.

Kula (plain, field, dry land cultivated areas).

Kula lands were named for their appearance, or location where they occurred. Generally, they were open lands used by native tenants for cultivating crops, and in later times as lands upon which animals might be grazed.

Kuleana (claim, property, title, responsibility, right).

By the Māhele and Kuleana Act of 1850, kuleana were the lands of the native tenants, those lands which they actively cultivated, collected resources from, or lived upon. Depending on the context of usage in a narrative, the word may be translated in several ways, and is sometimes interchangeable.

Loi kalo (taro pond fields).

At least seventy one (71) loi kalo were specifically claimed by native tenants. In addition, many other references to loi kalo and taro lands were made in claims, but no specific number of features was given. All loi kalo on Lāna'i were situated deep in the valley of Maunalei, with the side gulch of Ho'okio also hosting some loi; while other taro lands appear to have also occurred in the dryland, or forest zone.

Loko paakai (salt making ponds). Two (2) claimants offered specific documentation in their claims for pa'akai (salt) making areas.

Mahina, Mahina ai (a garden patch). Mahina parcels were small cultivated plots within the larger land divisions.

Moku mauu (grass land section or pasture). The term moku mau'u, literally describes a grass land area. As native tenants were restricted to claiming only areas which they were actively utilizing, the assumption here, is that the 33 individuals who listed moku mau'u in their claims were identifying areas upon which goats or other animals were grazed. This assumption is supported in various forms of records of historic period land use.

Moo (a narrow stretch of land). Mo'o parcels are smaller than 'ili, and usually run mauka-makai. They were plots of land upon which crops were cultivated, either as dry land or wet land crops.

Pauku (a small section of land). Paukū were land sections, smaller than mo'o, used to cultivate crops.

Poalima (literally, Friday). Three (3) native tenants identified lots known as "poalima" (pō'alima) parcels in, or adjoining their properties. By the 1820s, as taxation was taking on a western approach, parcels of land designated as "Poalima" were worked on Fridays for the chiefs. All produce from these parcels belonged to the chiefs.

Roda (Rod). An old English measurement unit. A rod is a length equal to 16.5 feet or 5.5 yards. A rod is the same length as a perch and a pole (terms also used in defining in metes and bounds of a property).

Ruda (Rood). An old English measurement unit. A rood is an area, equal to one quarter of an acre, i.e. 10,890 square feet.

Cultivated Crops Identified by Lāna‘i Claimants:

Ipu (gourds).

Six (6) claimants listed ipu as a cultivated crop.

Kalo, ai (taro).

At least twenty nine (29) claimants listed kalo or ‘ai as a cultivated crop.

Ki (ti leaves).

One (1) claimant listed kī as a cultivated crop.

Ko (sugarcane).

Four (4) claimants listed kō as a cultivated crop.

Kou (Cordia trees).

One (1) claimant listed a grove of kou trees as a cultivated crop.

Maia (bananas).

Three (3) claimants listed mai‘a as a cultivated crop.

Niu (coconut trees).

One (1) claimant listed a grove of niu as a cultivated crop.

Pulu (cotton or the fiber of the native tree fern).

One (1) claimant listed pulu as a cultivated crop. Pulu in traditional times was the down of the native hāpu‘u (tree fern); in historical times, it was also the name of cotton. Being that the claim in which pulu was cited was situated in Ka‘ā Ahupua‘a, it is assumed that the term refers to introduced cotton.

Uala (sweet potatoes).

Native claimants cited at least fifty two (52) land areas (kula, mahina, kīhāpai, paukū, mo‘o and ‘ili) as ‘uala growing sites. With additional claims for mahakea or kula pā‘ō‘ō for fallow land.

Wauke (the paper mulberry).

One (1) claimant listed wauke as a cultivated crop.

Animals, Animal Husbandry:

Kao (goats).

Three (3) claimants listed kao as a herd on their lands.

Kula hanai holoholona (Open land for feeding animals / pasture).

One (1) claimant cited a kula hānai holoholona as a part of his land claim.

Directional References found in Mahele Claims of Lana‘i

Mauka (towards the uplands, or above).

Makai (towards the shore or below).

Kaena (the north-western point on Lānaʻi), and **Kamaiki** (the south-western point on Lānaʻi). Kaʻena and Kamaiki are given as the primary locational references when describing the sides of parcels being claimed as kuleana.

Place Names Referenced in Claims by Applicants

Eighty-six (86) place names from Lānaʻi were recorded in the sets of records provided to the Land Commissioners:

Named Places and ʻIli

Ahua
 Ahupau
 Ailau
 Ainaiki
 Aumoku 1 & 2
 Elialii
 Halapuu
 Haleaha
 Haleohai
 Haupu
 Hookio
 Hua
 Iomo
 Iwiolē³
 Kaa kai
 Kaa loko
 Kaaealii
 Kaaina
 Kaapela
 Kaapopo
 Kaena
 Kahaawinui
 Kahalapalaoa (Kahalepalaoa)
 Kahaulehale
 Kahawainui
 Kahea
 Kahokunui (Hokunui)
 Kaholo
 Kalanihale
 Kalihi
 Kaluaakea
 Kaluakupua
 Kamaiki
 Kamoku
 Kanaiu
 Kapano kai
 Kapano uka
 Kapano
 Kauhilua
 Kauiki

Ahupuaa

Kaunolu
 Kalulu
 Kalulu
 Maunalei
 Kamoku
 Kalulu
 Kaa
 Maunalei
 Maunalei
 Kaunolu
 Maunalei
 Maunalei
 Kalulu
 Kamoku
 Palawai
 Palawai
 Maunalei
 Kaa
 Kaunolu
 Kamao
 Kaa
 Mahana
 Kaohai
 Mahana
 Kalulu
 Palawai
 Mahana
 Mahana
 Mahana
 Kaa
 Kaa
 Mahana
 Kaohai
 Kalulu
 Kalulu
 Kalulu
 Kalulu
 Kalulu
 Mahana
 Maunalei

³ Iwiolē appears to be given as a land name in one claim in the *ahupuaʻa* of Kamoku. But in land records from the Department of Interior dated 1875, Iwiolē is named as one of the leaders of a group of applicants to lease the Government land of Paomaʻi.

Named Places and 'Ili

Kaumalapau
 Kawahapoko
 Keanaawa
 Keanapapa
 Keawawaiki
 Keaweloi
 Keomoku (Keomuku)
 Kiholena
 Kikiwi
 Kikoa
 Kuahua uka
 Kuahua
 Kuapohaku
 Kukuihapuu
 Kukuikahi
 Kulelelua (Kalelelua)
 Kumukukui
 Lanakahua
 Lelehaka
 Makaliili
 Makapeapea
 Malau
 Manele
 Miki
 Miloonohi
 Moanauli (Moenauli)
 Moano
 Mokuha
 Mooloa
 Moouli
 Namakaokahai
 Naopae
 Neua (Newa)
 Nihokele (Nihokela)
 Paiwi
 Pakihi
 Palawai
 Paoole
 Piiloa
 Pohakuloa
 Pohakuoahi
 Pohakupili
 Pueo
 Punanana
 Puuokani
 Wailoa

Ahupuaa

Kamoku
 Kaohai
 Maunalei
 Kaohai
 Kalulu
 Maunalei
 Palawai
 Kalulu
 Maunalei
 Kaohai
 Mahana
 Mahana
 Kaunolu
 Kalulu
 Kaa
 Kamoku
 Mahana
 Kaa
 Kaunolu
 Kamoku
 Kaunolu
 Mahana
 Palawai
 Kaunolu
 Kaunolu
 Kaunolu
 Kamoku
 Kaa
 Kamoku
 Palawai
 Kaunolu
 Maunalei
 Kaunolu
 Kaunolu
 Kaunolu
 (Ahupua'a not given)
 Kaunolu
 Palawai
 Kaunolu
 Kaa
 Mahana
 Mahana
 Maunalei
 Kalulu
 Kaunolu
 (Ahupua'a not given)
 Kaohai

Disposition of Ahupua'a and Konohiki Claims on Lāna'i

As a part of the Māhele the King and Chiefs were required to file their claims for their personal lands, determine how they would pay for their lands—usually by giving up certain lands, in lieu of cash payment—and to claim their kapu (restricted) fish and the wood of their land. The latter items were

the 'Konohiki' rights to resources with which to sustain themselves, and generate revenues for their support. In eliciting claims and documentation of rights, the chiefs began submitting letters for the record, to the Minister of the Interior. There were only limited letters submitted for Lāna'i. There follows below, the letters found in the Interior Department Lands files, now housed in the Hawai'i State Archives. Of particular interest is a letter dated August 26, 1852 from Noa Pali, to Keoni Ana, Minister of the Interior, documenting the "kapu" or "konohiki" fish and trees for eleven of Lāna'i's thirteen ahupua'a.

Lanihuli Hale
15, Dekemaba 1847
N. Namauu; to G.P. Judd, Clerk:

Aloha oe,

Ke hai aku nei au i na inoa o na aina ponoi o ka Moi e like me kau i kauoha mai ai i'au.
Eia no ka papa inoa o na aina, a me na mokupuni ma lalo iho.

... Mokupuni Lanai

Helu 4 Paomai.

Mokupuni o Kahoolawe Helu 5...

Oia ka'u i ike, a i lohe, a i kaulana no hoi, no Kamehameha I, K. II. I. III... [Hawaii State Archives, Interior Department Lands]

Aloha to you,

I hereby tell you the names of the lands the rightly belong to the King, as you instructed me to do so. Here is the list of names of the lands and the islands, below:

Island Lanai.

Number 4. Paomai.

Island of Kahoolawe, Number 5... [Maly translator]

Iolani Hale
15, Deke. 1847
Report of M. Kekauonohi:

Eia ka'u mau aina o Kamehameha I i ike ai mai Hawaii a Kauai.

...Kalulu Lanai
Kaunolu "
Kaohai " ...

Oia ko'u i lohe, a i ike no ke Lii.

Owau no ke ka mahalo,

M. Kekauonohi. [Hawaii State Archives, Interior Department Lands]

Here are my Lands from Kamehameha I, known from Hawaii to Kauai:

... Kalulu Lanai
Kaunolu ”
Kaohai ” ...

That is what I have heard and known from the King.

I am yours with appreciation,

M. Kekauonohi. [Maly, translator]

Dec. 1847

Report of C. Kanaina; to Minister of the Interior:

Na Aina Pono i o ka Moi a'u i ike ai, a i lohe ai ma keia Pae Aina:

...Helu 4 Mokupuni o Lanai

Kaunolu
Kaohai
Kalulu
Paomai... [Hawaii State Archives, Interior Department Lands]

The King's own lands that I have seen and heard of in these Islands.

Number 4. Island of Lanai.

Kaunolu
Kaohai
Kalulu
Paomai... [Maly, translator]

August 26, 1852

Noa Pali; to Minister of the Interior:

Forbidden fish of the Konohiki and the prohibited woods.

According to law.

Konohiki	Land	Fish	Wood
Mataio Kekuanaoa	Kaa	Uhu	Koko
Mataio Kekuanaoa	Kaohai	Hee	Naio
Nahaolelua	Maunalei	Hee	Kukui
Kanaina	Mahana	Hee	Ahakea
Kanaina	Paomai	Hee	Aiea
Haalelea	Palawai	Anae	Ahakea
Kaeo	Kealia [Kapu]	Uhu	—
Kaahou	Kamao	Hee	Koko
Ii	Kalulu	Hee	Ahakea
Pali	Kamoku	Uhu	Koko
Pali	Kealia [Aupuni]	Uhu	Koko.

Your Highness, this is for you to decide in your office. [Hawaii State Archives, Interior Department Lands]

Ka Hae Hawaii
Feberuari 18, 1857 (aoao 203)
Olelo Hoolaha

Ke Hoakaka ia nei ma keia Olelo Hoolaha ka inoa o na IA kapu a na Konohiki i hoouna mai iloko o ke Keena Kalaiaina, e like me ka olelo o ka Kanawai.

Konohiki	Ili Aina	Ia Kapu.
...Pane	Maunalei	Hee.

Ua hoouna mai no kekahi poe Konohiki i ka inoa o ko lakou mau la hookapu no lakou mau aina, aka aole nae i hoouna mai i ke dala hookahi no ka hoolaha ana'ku a ke Keena Oihana...

S. Spencer, Kakauolelo.

...This advertisement hereby makes know the named of the Restricted Fish and the Konohiki who have sent them into the Department of the Interior pursuant to the Law.

Konohiki	Land Area	Restricted fish.
...Pane	Maunalei	Hee.

Other Konohiki have sent in the name of their restricted fish, by they have not sent in their one dollar fee for advertisement by the Department...

S. Spencer, Secretary. [Maly, translator]

Ka Hae Hawaii
Sepetemaba 30, 1857 (aoao 107)

Keena Kalaiaina la 15 o Sepetemaba, 1857. Ke kauoha ia'ku na mea a pau o na inoa malalo nei, e kii koke mai i ko lakou mau kuleana e waiho nei maloko o keia keena, he mau kuleana ua hooko ia. Nolaila, e pono no ia oukou e kii koke mai i ko oukou ma kuleana. Ina ua make ka mea nona ke kuleana, e kii mai na hooilina.

Department of the Interior, September 15, 1857. Those people whose names are below, are hereby instructed to immediately pick up their property (records) that are sitting at this office. They are confirmed claims. Therefore, you must pick up you kuleana. If the one to whom the kuleana belongs has died, it is for the heirs to get... [Maly, translator]

...Lanai.	
Kaleo	Maunalei.
Kanoohoheo	Kaunolu
Oapolo	Mahana...

Buke Mahele (Land Division Book), 1848

In preparation for the final “Division” of lands between the King, Konohiki and Government, a “Buke Mahele” was kept as a log of the agreed upon division. This book is the basis of the Crown and Government land inventory now known as the Ceded Lands. There are thirteen (13) ahupua‘a on Lāna‘i. Disposition of ten (10) ahupua‘a was recorded in the Buke Māhele (1848) and before the Land Commissioners. Three (3) ahupua‘a were apparently dropped through an oversight on the part of the King, Commissioners and staff. At the close the Land Commission, the following title was confirmed:

Ahupua‘a	Claimant	Disposition	Buke Mahele (1848)
Kaa	Victoria Kamamalu	Awarded	Page 4, Jan. 27, 1848
Kalulu	Daniela li	Crown	Testimony of M. Kekauonohi, Dec. 1847
Kamao	Kahanaumaikai	Government	Page 47, Jan. 31, 1848
Kamoku	No record	Crown	Record of Boundary Commission (1877)
Kaohai	M. Kekuaiwa (M. Kekuanaoa)	Awarded	Page 14, Jan. 27, 1848
Kaunolu	Keliiahonui	Government	Page 130, Feb. 9, 1848 Page 209, Mar. 8, 1848
Kealia Aupuni	Kahanaumaikai	Government	Page 47, Jan. 31, 1848 Page 209, Mar. 8, 1848
Kealia Kapu	Iosua Kaeo	Awarded	Page 34, Jan. 28, 1848
Mahana	Wm. C. Lunalilo	Government	Page 22, Jan. 28, 1848
Maunalei	Pane (Fanny Young)	Awarded	Page 161, Feb. 12, 1848
Palawai	M. Kekauonohi	Awarded	Page 26, Jan. 28, 1848
Paomai	No record	Crown	Testimony of C. Kanaina, Dec. 1847
Pawili	Wm. C. Lunalilo	Government	Page 21, Jan. 28, 1848 Page 207, Mar. 8, 1848
Ili of Kaumalapau 1 & 2	Oleloa (wahine)	Government	Page 105, Feb. 7, 1848 Page 209, Mar. 8, 1848