

LITERACY, STATECRAFT AND SOVEREIGNTY:
KAMEHAMEHA III'S DEFENSE OF THE HAWAIIAN KINGDOM IN THE 1840s

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ABSTRACT

Kamehameha III's struggle for sovereign control of his kingdom began in earnest in 1842 when he sent his diplomats on their long journey to confront the world's greatest maritime powers in their own capitals. His struggle began several years before that, however, when as a young boy he pronounced that his rule would be characterized by literacy, and he ordered his people to learn to read and write. Without literacy, Kamehameha III could not have defended his sovereign rights and privileges in the public forums of his opponents—and without literacy, there would be no record from the king himself how he chose to meet the threats that confronted his kingdom.

Although Kamehameha III (r. 1825-1854) secured guarantees of territorial sovereignty in 1843-1844 from Great Britain, France and the United States, those guarantees did not preclude western agents' attempts to limit the king's ability to exercise his sovereign powers by imposing extraterritorial restrictions over key economic and juridical functions. Kamehameha III recognized that his loss of authority to exercise functional powers threatened the Hawaiian kingdom's ability to retain its territorial sovereignty. Western opponents already had a foothold in the kingdom, and the king needed innovative tactics and strategies to prevail in his struggle.

This dissertation examines the comprehensive strategy that Kamehameha III devised to retake full sovereign control of Hawaiian kingdom governance. Documentary evidence demonstrates that the king collaborated with his chiefs, ministers and legislators to implement specific governance, political and diplomatic measures. Kamehameha III's tactics worked in tandem to structure the kingdom's political interactions with western nation-states in ways that would restore power and authority to the Hawaiian government and secure continued independence.

This dissertation explores kingdom governance records and other contemporary evidence about each of the measures taken, the king's rationale for selecting the specific measure, its implementation, and its effectiveness. These records easily disprove accusations contemporary to his times that Kamehameha III's ministers ruled in his stead. This examination contributes to a reevaluation of Kamehameha III's leadership role and an expanded understanding of the threats and opportunities presented him during his reign.

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LIST OF ABBREVIATIONS

ABCFM	American Board of Commissioners of Foreign Missions
CMS	Church Missionary Society
FO&EX	Foreign Office and Executive Records at HSA
HHS	Hawaiian Historical Society
HMCS	Hawaiian Mission Children's Society
HMHA	Hawaiian Mission Houses Historic Site and Archives
HSA	Hawaii State Archives
HJH	Hawaiian Journal of History
LMS	London Missionary Society
SIM	Sandwich Islands Mission
WMMS	Wesleyan Methodist Missionary Society

ORTHOGRAPHY AND TRANSLATIONS

Members of the Sandwich Islands Mission (SIM) created the Hawaiian orthography in 1822 with linguistic guidance from members of the London Missionary Society (LMS) who had created the Tahitian orthography in 1805, and members of the Church Mission Society (CMS) who had created the Māori orthography in 1820. The alphabet contains five vowels—a, e, i, o, and u—and seven consonants—h, k, l, m, n, p, and w. Other consonants are frequently used to render non-Hawaiian names: Farani, for French, for example, and Batimea, for Bartimus.

Noted Hawaiian language scholar and translator M. Puakea Nogelmeier writes of the harm resulting to historical authenticity from the loss of scholarly understanding of the Hawaiian language, and he urges that scholars revisit “every form of history written, every cultural study undertaken, and every assumption made over most of the last century” in order to include knowledge from neglected archival records.¹ James Belich calls records like these ‘embalmed evidence,’ apposite points of view to the dominant historical interpretation, which have suffered an historiographic defeat.² Nogelmeier offers the same remedy that Belich had offered years earlier: even if embalmed evidence has been tucked away and forgotten, it can nonetheless be brought out and consulted.³ But Bryan K. Kuwada finds that a sizeable number of native Hawaiian-language speakers are opposed to the use of translations. Kuwada participated in collaborative efforts to translate legacy texts, and he wrote of the concerns voiced by native linguists. Difficulties arise when outsiders misinterpret historical texts, they told Kuwada.

¹ M. Puakea Nogelmeier, *Mai Pa‘a i Ka Leo: Historical Voice in Hawaiian Primary Materials, Looking Forward and Listening Back* (Honolulu: Bishop Museum Press, 2010), xi.

² James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland: Auckland Univ. Press, 1986), 333-5.

³ *Ibid.*

Because the Hawaiian worldview and epistemology are wrapped up in the way the language is expressed, unschooled translators can fail to perceive idioms and/or misunderstand cultural connotations. Additionally, the Hawaiian language is replete with kaona (polysemy) words which have several meanings. Kuwada cautions that potential translators should abandon the idea of producing so-called “literal” translations and focus instead on producing interpretive translations.⁴

For example, does the salutation “Auhea oukou” mean literally “Where are you?” or does it have an idiomatic meaning that calls the listeners’ attention to what is about to be said?⁵ Does “ke alii” refer to some unnamed person who is a chief, or is it a cultural reference to the king?⁶ Does “Aole ia oe ka olelo o keia wahi” literally mean “You don’t speak at this place,” or is the linguistic meaning of olelo such that the sentence should be translated “You don’t give the orders here”?⁷

Other translation challenges arise from stylistic writing conventions. Letters invariably begin with “Ke hai aku nei au ia oe (I am telling you),” as if speaking to the recipient. This merging of oral and written manners also appeared in nineteenth-century Māori and Tahitian writings.⁸ Translators Charles Langlas and Jeffrey Kapali Lyon also note that punctuation in

⁴ Bryan Kamaoli Kuwada, “To Translate or Not to Translate: Revising the Translating of Hawaiian Language Texts,” *Biography* 32, no. 1 (Winter 2009):54-65.

⁵ G. P. Judd, “King’s speech,” 27 February 1843, Broadside Collection, HHS; see also M. Kekūanā‘a to John Robson, December 8, 1841, trans. E. H. Hart, Series 402-7-167, Chronological File, FO&EX, HSA.

⁶ Paulo Kānoa to Timoteo Ha’alilio and William Richards, 06 May 1843, Letters Miscellaneous Correspondents, Hawaiian Chiefs, M-59, Manuscript Collection, HSA.

⁷ M. Kekūanā‘a memorandum of conversations with French whaling captain and British and American Consuls in which he refused to countermand Hawaiian law regarding rebellious sailors, 31 August 1838, Box 140, Miscellaneous, Interior Department, HSA.

⁸ Scholars note that Māori and Tahitian writers used an oratorical writing style to elicit an emotional response. See Lyndsay Head, “*Kupu Pai, Kupu Kino: Good and Bad Words in Māori Political Writing*” in *Rere atu, taku manu! Discovering history, language and politics in Maori-language newspapers*, ed. Jenifer Curnow, Ngapare Hopa & Jane McRae (Auckland: Auckland Univ. Press, 2002), 135; Jane McRae, “Oral Tradition in Newspaper Writing” in *Rere atu*, 42-53; For an example of Tahitian writing reflecting speech habits, see Pōmare, Queen of Tahiti, “The

nineteenth-century Hawaiian writings reflected the habits of spoken language, and capitalization, word division, spelling and grammar appear to have depended on the impulse of the writer.⁹

Although my dissertation relies heavily on Hawaiian and English texts taken from official records and other nineteenth-century sources, I have made no attempt to rewrite or retranslate any official or contemporary records into modern styles and usages when there are contemporary bilingual sources available. As with any handwritten or printed materials, occasionally the reader will find the sorts of spelling, grammar and punctuation errors in the Hawaiian text as described by Langlas and Lyon. The ink in some of the documents is faded, and sometimes the pages are torn, making the handwriting difficult to read. There are also omitted words, cumbersome language, and minor textual differences in both the Hawaiian and English texts. However, both the Hawaiian and the English texts were used to inform participants and readers contemporary to the events. For that reason, I have chosen to cite material in both languages exactly as it appears in the official records or other contemporary sources.

Bilingual privy and cabinet council meeting minutes appear together in bound ledger volumes as recorded by a secretary appointed to that task. When I cite these texts, I cite the Hawaiian text immediately followed by the English text, with the two texts separated by ellipses, thusly: “[Hawaiian text] . . . [English text].” Together the two texts form one citation from a particular record, and my footnotes show from which official record the texts are taken. Where the official texts are taken from two different contemporary documents, I separate the two with a semi-colon, thusly: “[Hawaiian text]” ; “[English text].” Footnotes to those citations give the two

Queen of Tahiti to the Queen of England,” *The Freeman’s Journal*, 31 August 1843, where the letter was printed in English without a Tahitian text.

⁹ Charles Langlas and Jeffrey Lyon, eds. and trans., *The Mo’olelo Hawai’i of Davida Malo: Vol. 2, Text and Translation* (Honolulu: Univ. of Hawai’i, forthcoming), 2:ix-x.

records from which the citations are taken. Modern translations of nineteenth-century texts are shown in traditional fashion, thusly: “[Hawaiian text]” (English translation), and I note the identity of the translator in footnotes.

A conversation that Kauikeaouli had in 1847 provides insight as to why there may be what seem to be inaccurate renderings from English to Hawaiian, or vice versa in the official government records from his administration. Foreign Affairs Minister Robert C. Wyllie asked the king what his opinion was of the terms of Her Britannic Majesty Queen Victoria’s message to him that had accompanied the ratified copy of the 1846 treaty between the two nations.

Kauikeaouli responded in Hawaiian, and William Richards interpreted:

ua nana au i na hua a ke Alii Wahine i oleloai i kona hooko ana i ke kuikahi, ua ikaika, a na nui ke ano ma ka io. Aole kau pono ka makou olelo i ka hoakaka loa i ka manao ma ke ano ikaika e like me ia, aole hoi e hiki ke hoakaka loa i ko makou manao iho. Nolaila ua makemake au, e huli oia ma ka oukou olelo a loa na hua i oi aku ka ikaika a me ke kupono, a ma ia mau hua e hoakaka aku i ku’u olioli nui i ke ano o kela mau olelo a ke Alii Wahine i kona hooko ana ia kuikahi; e hoohana like hoi oia i ke ano o na hua o kana olelo me ka ke Alii Wahine i olelo ai.

....

I perceive the terms in which the Queen has ratified the Treaty are strong and exceedingly significant. Our language is not adapted to express ideas in so strong a manner, and often fails to express in full even our own feelings. I wish him [meaning Wyllie] therefore to search the English language for the strongest and most appropriate terms in which to express my high satisfaction at the form in which the Queen has ratified that Treaty, and let him use language which shall correspond in its character with that which the Queen has used.¹⁰

¹⁰ Minutes, 19 April 1847, Series 421, vol. 2, Privy Council, HSA. Attendees were the king, the kuhina nui, Wyllie, Judd, Richards, Ricord, Kekūānāo‘a, Kānehōa, Pākī, Kana‘ina, ʻĪʻĪ, and Keohokālole. This passage is the exception to the rewriting rules I stated earlier. The Hawaiian text needed to be emended by Dr. Lyon from the official text which was clearly copied by someone who did not read Hawaiian well. In the minutes, the Hawaiian text reads “ua nana au i na hua a ke Alie Wahine i oleloai i hona hooko ana i ke kaikahi, na ikaika, a na nui ke ano malotio. Aole ka pono ka makonolelo i ka kaakakaloa i ka manao nea ke ano ikaika e like me ia, aole hoi e hiki ke hoaka loa i kamakou manoo iho nolaila na makemakeau, e huli oia ma ka oukou olelo a loa na hua i oi aka ka ikaika a me ke kupono, a ma ia mauhua e hoakaka aku hoi oleli nui ikeano o kela manolelo a ke alie Wahine e kona hooko ana ia kuikahi; e hoohalike hoi oia i keano o na hua o kana olelo me ka ke alii Wahine i olelo oi.” The English text is official.

Not all governance and contemporary records were translated at the time they were recorded. For that reason, I also sought the assistance of Hawaiian language scholar Jeffrey Kapali Lyon for translations of Hawaiian letters and documents not contemporaneously translated, and for texts from other sources, such as *Ka Moʻoolelo Hawaii* and S. M. Kamakau’s newspaper articles either as they originally appeared in *Ka Nupepa Kuokoa* and *Ke Au Okoa* or as compiled in *Ke Aupuni Mō‘ī: Ka Mo‘olelo Hawai‘i no Kauikeaouli Keiki Ho‘oilina a Kamehameha a me ke Aupuni āna i Noho Mō‘ī Ai*. In all cases, I accredited the translator or translation source in footnotes. My own translations are so noted.

When citing Hawaiian language texts, I did not add the diacritical marks ‘okina (glottal stop) and kahakō (macron) to texts that did not use them or to the names of publications that are not from the modern era. However, I did use the modern spellings with diacritical marks for the names of nineteenth-century individuals, which I took from Nogelmeier’s editorial work in *Ke Aupuni Mō‘ī*. In those cases where an individual’s name does not appear in *Ke Aupuni Mō‘ī*, I did not use diacritical marks. Having first introduced a Hawaiian word or term and given its English meaning, I thereafter used the English word: *aupuni*, government or kingdom, for example, and *ali‘i*, chief. There are exceptions: I retained the title *kuhina nui*, chief advisor or premier, throughout, and used the Hawaiian word *maka‘āinana* for commoner. Attached is a glossary of the Hawaiian words used most frequently. In some cases, I also regularized punctuation for nineteenth-century texts by inserting commas where needed to enhance comprehension. My footnotes reflect those texts where I inserted a punctuation mark.

Translations from French documents are my own, and I have noted that in footnotes.

REMEMBERING KAUIKEAOULI

There is a plaque affixed to a stone at Keauhou, Kona that identifies its important role in the birth of the king. Named the Kauikeaouli Stone, it is a rounded, dark, volcanic boulder which was originally somewhat saucer-shaped. A pili grass structure where the birth actually took place stood nearby. No remains of the structure or its foundations are visible today. The Keauhou, North Kona site is registered with the National Parks Service as an historic place and is maintained by the Daughters of Hawai‘i.

Kauikeaouli’s high-ranking chiefly mother Keōpūolani had chosen the ali‘i Kuakini to raise her baby as his hānai (adopted) child. Kuakini was notified that the queen had entered the pili birthing hut, and he arrived accompanied by Davida Malo. At birth the baby appeared to be stillborn, however, and Kuakini refused to accept him. The ali‘i (chief) Kaikio‘ewa stepped in, took the child, and handed him into the care of a kahuna named Kapihe. Kapihe washed the apparently lifeless infant, then took him out to a nearby boulder protruding from the earth. Kapihe placed Kauikeaouli in a depression in the stone’s top, fanned him, sprinkled him with water, and chanted a “chant of the living.” Before long the baby began to stir and was soon completely revived. The kahuna named him Keaweawe‘ula, “the Red Trail,” for the path by which a god descends from heaven. Keōpūolani gave Kaikio‘ewa custody of the child, and the chief took Kauikeaouli to ‘O‘oma in the North Kona district where he was cared for until his fifth year.¹

¹ Statement of Significance, “Kamehameha III’s Birthplace,” National Register of Historic Places Inventory – Nomination Form, 20 January 1978. See also Samuel Mānaiakalani Kamakau, *Ke Aupuni Mō‘ī: Ka Mo‘olelo Hawai‘i no Kauikeaouli Keiki Ho‘oilina a Kamehameha a me ke Aupuni āna i Noho Mō‘ī Ai* (Honolulu: Kamehameha Schools Press, 2001), 12-3.

The month and day of Kauikeaouli's birth are uncertain, but most scholars favor March 17, and that is the date that the king celebrated as his birthday. There is confusion over the year, however. The year given at his funeral services was 1813; the memorial plaque affixed to the Kauikeaouli Stone lists the birth year as 1814.² Even Hawaiian historian S. M. Kamakau vacillated, claiming first it was 1814, then that it was 1813.³ Malo believed that 1813 was the correct year, but he placed the birth in December, not March.⁴

Keōpūolani bore Kamehameha I two other surviving children: the eldest, a son named Liholiho who ruled as Kamehameha II, was born at Hilo in 1797; and the youngest, a daughter named Nāhi'ena'ena was born at Keauhou, North Kona in 1815.⁵ An 'aha'ōlelo (chiefly council) affirmed Kauikeaouli as the ruling chief Kamehameha III following the death of Liholiho in London in 1824. Ka'ahumanu served as regent for the young king until her death in 1832.

Born into the old traditions of the ancient kapu, Kauikeaouli entered adulthood heady with the knowledge that he no longer acted in the shadow of his regent and determined to rule on his own. Addressing the crowd that had gathered in 1832 to learn who the chiefly council had selected as the king's new kuhina nui (chief advisor, frequently translated as premier), Kauikeaouli emphatically retook control of his royal prerogatives over the laws and land distributions that Ka'ahumanu had assumed while regent and initially refused to acknowledge

² "Funeral of His Late Majesty, Kamehameha III," *Polynesian*, 13 January 1855.

³ In an article published on 14 March 1868 in *Ke Au Okoa*, Kamakau gives the year as 1814, and in an article he published on 30 September 1869 in *Ke Au Okoa*, he gives the year as 1813. Biographer P. Christiaan Klieger also vacillated. See Klieger, *Moku'ula: Maui's Sacred Island* (Honolulu: Bishop Museum Press, 1998), 23 where he gives the year as 1814, and Klieger, *Kamehameha III: He Mo'olelo no ka Mō'i Lokomaika'i* (San Francisco: Green Arrow Press, 2015), 35 where he gives the year as 1813. See also W. D. Alexander, *A Brief History of the Hawaiian People* (New York: American Book Company, 1891), 320 where Alexander cited the birthdate as August 11, 1813. Differences in the month and day appear to stem from interpretations of the Hawaiian calendar. Differences in opinion about the year are not explained.

⁴ Davida Malo, "Na Makahiki o Kauikeaouli," *Ka Nonanona*, 23 July 1844.

⁵ Kamakau, *Ke Aupuni Mō'i*, 7.

the chiefly council's choice of Kīna'u as Kuhina Nui Ka'ahumanu II.⁶ A year later, twenty-year-old Kauikeaouli brashly declared "I shall rule with justice over all the land, make and promulgate all laws: neither the chiefs nor the foreigners have any voice in making laws for this country. I alone am the one."⁷ Refusing counsel from the new kuhina nui or the chiefly council, Kauikeaouli rescinded the 1826 liquor laws and vacillated between enjoying his riotous amusements and performing his royal duties.⁸ The Hawaiian polity would tolerate having a ruling chief enjoy his pleasures, but members of the chiefly council were shocked by the king's unilateral rescission of the laws. When Kauikeaouli continued to insist that he held sole control over the laws and the land, the chiefs considered carrying the young king off to Maui—willingly or unwillingly—and keeping him there, unable to exercise power on his own cognizance.⁹ Their plan failed, however, and matters continued along the same unsteady course for several more months.¹⁰

Maturity tempered his brash and disruptive behavior, however, and Kauikeaouli soon developed into a king who engaged in discussions with the kuhina nui, chiefs and ministers, and who preserved the sovereignty of his kingdom through the selective adaptation of western institutions.¹¹ In 1838, Kauikeaouli sat among his chiefs while together they studied western

⁶ "He Mau Olelo Hoakaka no ko Mana Lohe Ana," Series 402-3-42, FO&EX, HSA.

⁷ Ralph S. Kuykendall, *The Hawaiian Kingdom, Volume I, 1778-1854, Foundation and Transformation* (Reprint: Honolulu: Univ. Press of Hawaii, 1938), 1:135, citing a letter from Henry A. Pierce to J. Hunnewell dated April 8, 1833.

⁸ Levi Chamberlain, Journal, 06 August 1832, 9-19 March 1833, Journal Collection, HMHA; John Papa 'Ī'ī, "He Moolelo," *Ke Kumu Hawaii*, 22 May 1839.

⁹ Chamberlain, Journal, 17, 23 June 1833, HMHA.

¹⁰ Marshall Sahlins characterized the king's behavior as "personal disorderliness" akin to the behavior exhibited following the death of a ruling chief when the laws were suspended for a period of time. Kauikeaouli's removal of the laws was a manifestation of that state, Sahlins explained, and his series of rebellions were calculated to result in a return to a lawful state through the restoration of his royal powers. See Sahlins, *Historical Metaphors and Mythical Realities: Structure in the Early History of the Sandwich Islands Kingdom* (Ann Arbor: Univ. of Michigan Press, 1981), 65-6.

¹¹ Chief Justice A. F. Judd, *Evening Bulletin*, 03 February 1896. Judd was one of G. P. Judd's nine children.

political economy and collaborated on the writing of a constitution that changed the form of their government. William Richards watched while the king led the chiefs in discussion. He exhibited reasoning skills, Richards reported, “worthy of a King. . . . [who] appeared to understand perfectly the subject on which he was conversing and to have a mind of his own.”¹² When Kamehameha III presented new statutes in his opening speech at the 1846 legislative session, he drew the legislators into the same sort of collaborative process that he had used with the chiefs, encouraging them to “hoolohe paha oukou i ka olelo a kanaka, a e hana hou, a e hoano e, a e hoopau e like me ka mea e pomaikai ai na kanaka malalo o’u. . . .listen to the public voice, and alter, modify or repeal, as the interests of my faithful subjects shall require.”¹³

Everyone who knew Kamehameha III commented on his basic goodness. S. M. Kamakau, for example, extolled the king’s humble nature and love for his people.¹⁴ Robert C. Wyllie reported in 1844 that he had heard nothing unfavorable about Kamehameha III, and that “none profess to doubt the soundness of his intentions.”¹⁵ Kamehameha III’s leadership skills and modernizing reforms continued to earn so much respect that when filibusters from California threatened to invade the kingdom in 1854 and join with foreign residents to depose Kamehameha III, British Consul General William Miller assured the king that he had nothing to fear from the foreign residents: “there is no person safer in Your Kingdom than Your Majesty, under any

¹² Mary Atherton Richards, ed., *The Hawaiian Chiefs’ Children’s School 1839-1850: A Record Compiled from the Diary and Letters of Amos Starr Cooke and Juliette Montague Cooke*, rev. ed. (Tokyo, Japan: Charles E. Tuttle Co. 1970), 74.

¹³ King’s Speech, 31 July 1846, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA. Official texts. See also *Polynesian*, 01 August 1846, for the English text, HSA.

¹⁴ Kamakau, *Ke Aupuni Mō’ī*, 14.

¹⁵ Robert C. Wyllie, “68. King and Court,” in “Notes on the Shipping, Trade, Agriculture, Climate, Diseases, Religious Institutions, Civil and Social Condition, Mercantile and Financial Policy of the Sandwich or Hawaiian Islands, Viewed in Relation to Other Groups of Islands, and to the Natural and Acquired Advantages of the Sandwich or Hawaiian Islands,” *Friend*, 01 November 1844. Wyllie’s Notes were serialized over several issues from July through December 1844. The notes were printed before Wyllie assumed the position of Foreign Affairs Minister.

circumstances whatever. You require neither soldiers nor guns for your personal protection and above all there is not a foreigner who would touch a hair of your head.”¹⁶

Kauikeaouli died unexpectedly in December 1854 after a brief illness. Spectators lined the streets of Honolulu to view the king’s funeral procession as it passed by on January 10, 1855. A royal feather cloak that had belonged to Kamehameha I covered the coffin. A dense throng of Hawaiians eight and ten deep followed behind the cortege, and a long, low wail arose from the thousands who crowded at the sepulcher when he was interred. In a sense, his people’s great love for Kauikeaouli and his successful defense of the kingdom’s sovereignty were the fulfillment of the prayers chanted at his birth. Speaking to the crowd of Hawaiians in their own language, Kamehameha IV paid tribute to his predecessor’s legacy: “The age of Kamehameha III was that of progress and of liberty—of schools and of civilization. He gave us a Constitution and fixed laws; he secured the people in the title to their lands, and removed the last chain of oppression. He gave them a voice in his councils and in the making of the laws by which they are governed.”¹⁷

¹⁶ British Consul General Miller’s notes of his remarks to the King, 18, 21 September 1854, Series 410, Box 3, vol. 16, Letters No. 116, Consular Correspondence, HSA.

¹⁷ As delivered on January 10, 1855, “Funeral of His Late Majesty, Kamehameha III,” *Polynesian*, 13 January 1855.

CHAPTER 1

INTRODUCTION: A NATION IMPERILED

Flush from his June 20 victory over Queen Pōmare at Tahiti, French Commander Cyrille P. T LaPlace sailed his man-of-war *l'Artemise* into Honolulu harbor on July 9, 1839 and proclaimed that he had come to put an end “soit par la force, soit par la persuasion” (by force or by persuasion) to the “ill-treatment” of French citizens at the Sandwich Islands. Like Queen Pōmare, LaPlace announced, the King of the Sandwich Islands must be compelled to sign a Manifesto agreeing to permit the free exercise of Roman Catholicism in his kingdom. In addition, the king must pay \$20,000 to LaPlace as surety that he would meet that obligation. If Kamehameha III refused, LaPlace warned, then “la guerre serait commencée sur-le-champ” (war will begin immediately).¹ Demonstrating his resolve, LaPlace’s gunboat blockaded Honolulu harbor, and he sent warning letters ashore to the British and American consuls to shelter their citizens from his ship’s cannon-fire.²

The king’s representatives signed and handed over the money.³

A few days later, LaPlace presented the king with a non-negotiable document drawn up as a treaty of amity and commerce. LaPlace reportedly told the king to sign the treaty by “breakfast time” the following day, or France would send even more ships and take control of

¹ M. LaPlace, *Campagne de Circumnavigation de la frigate l'Artemise, pendant les années 1837, 1838, 1839 et 1840 sous le commandement de M. LaPlace* (Paris: Arthus Bertrand, 1853), 440, 529, 531, 533. My own translations. The islands were named “Sandwich Islands” by British Captain James Cook when he happened on them in 1778. Unless the text requires it, I will refer to the islands as “Hawai’i.” Kamehameha III was better known by his personal name, Kauikeaouli.

² J. J. Jarves, “Art. VI Account of the Visit of the French Frigate *l'Artemise*,” *Hawaiian Spectator* 2, no. 3 (July 1839):352-5. *Hawaiian Spectator* was an English language magazine published quarterly in Honolulu in 1838-1839.

³ Jarves, “*l'Artemise* Account,” 355; The receipt for the \$20,000 named Kekūanā’oa, Ha’alilio, and Kana’ina as the representatives, see Series 402-5-103, Chronological File, FO&EX, HSA; LaPlace, *l'Artemise*, 531-4.

O‘ahu. James Jackson Jarves was an on-the-scene American journalist, and he reported in *Hawaiian Spectator* that “there was bitter sarcasm in the inquiry His Majesty made to Capt. LaPlace—when he asked him, ‘If this was the friendship promised? If he called this peace?’”⁴

The king signed the treaty of amity and commerce.⁵

On June 7 the following year, another French man-of-war arrived at Honolulu harbor, *La Pylade*, under the command of Captain Felix Bernard.⁶ Missionary wife Juliette Montague Cooke learned details of the meeting between the king and the captain from the Rev. William Richards, and she repeated them in a letter to her sister. Bernard had inquired deeply into the actions of LaPlace a year earlier, she wrote, and Bernard offered his opinion to the king that the French government “would do justice” and that the money “would doubtless be returned.” At that, reported Mrs. Cooke, “the King told him that the money was a thing of small moment in his estimation, but justice was not so. He did not even wish to talk about the money. He wished to know whether this nation had a standing among the kingdoms of the earth.”⁷

Beyond the obvious displays of kingly ire, both anecdotes evidence Kauikeaouli’s intellectual reach above the facts of the events to understand the nature of Hawai‘i’s vulnerability to imperialist assaults on its sovereign rights. Simply by posing his question to Captain Bernard, Kauikeaouli turned the discussion away from France’s grievances to a discussion about Hawai‘i’s rights under international law as an independent state.⁸ Is Hawai‘i a member of the

⁴ Jarves, “*l’Artemise* Account,” 361-2.

⁵ LaPlace, *l’Artemise*, 534-6.

⁶ “Marine News,” *Polynesian*, 27 June 1840.

⁷ Juliette Montague Cooke to My dear Sister, begun 12 January 1840 and completed 03 July 1840, “Amos Starr Cooke, Missionary Letters 1840-1842 to Juliette Cooke’s Family,” Missionary Letters Collection, HMHA. It was common practice to begin a letter, then add to it every few days until a ship was ready to carry the next packet of letters home. The king spoke English, but his usual practice was to have a translator in attendance, and Richards must have attended the meeting in that capacity.

⁸ Kauikeaouli was familiar with Emer de Vattel’s treatise on the rights of sovereign states under international law. See Vattel, *The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations*

international community of nation-states, or is it not, the King asked. Taking a realistic look at the prospects of the Hawaiian kingdom remaining independent, Kamehameha no doubt remembered the policy advice of chiefly advisor Davida Malo, who had already warned about the atavistic instincts which propel large nations to overpower and consume small nations.⁹

After much deliberation, Kamehameha dispatched his own emissaries to Great Britain, France and the United States and charged them that their “grand, ultimate object. . . is to secure the acknowledgment, by those governments, of the independence of this nation.”¹⁰ The task is urgent, emphasized the king in his letter of instruction to William Richards and Sir George Simpson, for “we feel it to be our final struggle for existence.”¹¹

The king’s emissaries carried with them a variety of papers and documents which depicted Hawai‘i as a well-organized, literate nation with western-style educational and governance structures sufficient to regulate its domestic and foreign affairs.¹² The emissaries overcame the last British objections when they produced documents concerning the conduct of negotiations with the Belgian king for a joint-stock contract creating a colonization enterprise at Kaua‘i. That showing of documents evidenced the king’s ability to engage his nation with the global affairs of other nation-states and persuaded British Foreign Secretary Lord Aberdeen to withdraw his objections.¹³ On November 28, 1843, by joint Declaration the monarchs of Great

and Sovereigns, trans., New Edition (London: G. G. and J. Robinson, 1797). Vattel’s work was first published in 1758.

⁹ Davida Malo to Kaahumanu 2 and Mataio, 18 August 1837, Series 402-4-76, Chronological File, FO&EX, HSA. This is Malo’s oft-cited letter with its warning that ‘big fish eat little fish.’

¹⁰ Exhibit: “Instructions from Kamehameha III to Richards and Simpson, 08 April 1842,” *Report of the Proceedings and Evidence in the Arbitration between the King and Government of the Hawaiian Islands and Messrs. Ladd & Co.* (Honolulu: Government Press, 1846), 41.

¹¹ “Instructions from Kamehameha III to Richards and Simpson,” 08 April 1842, *Ladd Arbitration*, 42.

¹² “Examination of Mr. Richards,” *Ladd Arbitration*, 76.

¹³ “To His Majesty from T. Ha‘alilio, W. Richards, and J. F. B. Marshall, 18 August 1843,” Appendix, *Ladd Arbitration*, 118-20.

Britain and France agreed to “consider the Sandwich Islands as an independent State.”¹⁴ On July 6, 1844, President John Tyler assured the “full recognition on the part of the United States of the independence of the Hawaiian Government.”¹⁵

Kauikeaouli had sought recognition so that the kingdom would be free from outside interference; instead, however, he found that assaults on its sovereignty continued. The formal state of independence conferred on the kingdom by the three maritime powers should have brought what Robert H. Jackson termed “negative sovereignty,” where nonintervention in domestic affairs is the reciprocal duty of the affirming states.¹⁶ But agents of the three maritime powers continued to use strong-arm threats and forced unequal treaty terms on Kauikeaouli in an on-going attempt to privilege the personal and commercial interests of their own citizens. Both the French treaty of 1839 and the British Treaty of Lahaina of 1844 imposed extraterritorial provisions which limited the king’s authority over the functions of the courts and the levying of import restrictions and duties, and the American consul demanded that the same terms apply for U. S. citizens.¹⁷ Clashes continued between the private interests of foreign traders and merchants and the kingdom’s interest in maintaining its exclusive right as an independent state to exercise its sovereign powers and authority.

The 1840s were a period of intense transformation in Hawaiian society.¹⁸ Hawaiians of all classes were on the cusp of political and cultural change, and opinions differed among them as to how to proceed. Intellectuals like Davida Malo saw the same dangers that Kauikeaouli saw,

¹⁴ Kuykendall, *Hawaiian Kingdom*, 1:203.

¹⁵ J. C. Calhoun to Ha’alilio and William. Richards, 06 July 1844, *Polynesian*, 29 March 1845.

¹⁶ Robert H. Jackson, *Quasi-states: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge Univ. Press, 1996), 27.

¹⁷ “Convention between Great Britain and the Sandwich Islands,” *Friend*, 20 February 1844.

¹⁸ Noelani Arista, “Part 2: Davida Malo, A Hawaiian Life by Noelani Arista” in *The Mo‘olelo Hawai‘i of Davida Malo, Vol 2: Text and Translation*, ed. Charles Langlas and Jeffrey Lyon (Honolulu: Univ. of Hawai‘i Press, forthcoming), 2:68-70.

but the two of them posed different solutions. Malo advocated that historical knowledge and precedent should inform the choices of the present, and the chiefs should seek appropriate courses of action among themselves.¹⁹ But Kamehameha ruled in a kingdom threatened by the geopolitical trade rivalries between Great Britain and France, complicated by the emergent Pacific ambitions of the United States, and beset with an influx of foreigners seeking to get rich. He faced western opponents who already had a foothold in the kingdom, and the king needed innovative tactics and strategies to prevail in his struggle to retain his hold on the kingdom's functional sovereign powers.

The solution

Kamehameha put into place an active, affirmative defense of his kingdom's prerogatives designed to prevent conflicts with foreigners from overwhelming his ability to govern. He spoke bluntly about the dangers to the kingdom posed by the clashes with foreign interests. In June 1846, for example, Kamehameha announced to visiting U. S. Commodore Robert F. Stockton that "the march of my Government [cannot] be steady and uniform if my jurisdiction is to be resisted, my laws to be infringed, and my policy influenced today by one nation, one way and tomorrow, by another nation, in another way."²⁰ It was in his September 1846 letter to U. S. President James K. Polk (1845-1849), however, that Kamehameha moved beyond identifying the harm that would result to the kingdom and made a bold strategic argument about the harm that would result to international states should his sovereign rights not be maintained: "I look to your Excellency to support me in all the rights of sovereignty. . . . Any interference with my jurisdiction or my laws

¹⁹ Arista, "Part 2," 2:114.

²⁰ King's speech to Commodore Robert F. Stockton, 20 June 1846, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. There is no Hawaiian text in the file for this letter.

would endanger my Sovereignty, and the neutral position of my Islands.”²¹ Put very simply, Kauikeaouli’s argument carried an implied threat if support was not forthcoming: ‘if I lose sovereignty to one of your rivals, then you lose trade.’ The crux of the king’s argument played on the international jealousies rampant in the kingdom and the heavy investment by foreign interests in its lucrative trade markets as well as the kingdom’s central location along global trade networks.²²

I was struck by the intellectual depth and political acumen that the king revealed in his letters and speeches. Kauikeaouli’s conversation with Bernard, for example, evidenced the king’s understanding that only international recognition could prevent international assaults on the kingdom’s sovereign rights and privileges. And the very courteous manner in which the king delivered his threat to Polk of potential commercial losses should his sovereignty not be respected showed a mastery of diplomatic skills.

As I researched further into kingdom records, evidence of a deliberate strategy emerged.

The strategy

Kingdom documents showed that Kauikeaouli presented variations of the threat he used with Polk at several other critical junctures. At the same time, he put in place specific political and diplomatic measures to contain international jealousies and to trade on the kingdom’s global importance to international commerce. Viewed together, these measures provided tactical

²¹ Kamehameha III to President of the United States Polk, 30 September 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA. There is no Hawaiian text in the file for this letter.

²² R. C. Wyllie to Archibald Barclay, 14 March 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

support for a strategy to maintain freedom from outside interference by restructuring the kingdom's political interactions with the three maritime powers.

Hawaiian chiefs lacked the technical skills of western statecraft necessary to make strong diplomatic and legal defenses of the kingdom's rights and privileges, and so the king sought tactical advantage by hiring western-educated ministers to interact with diplomatic, naval, and consular agents of foreign powers. That decision proved to be a necessary first step to implement the strategic initiatives that followed. Reform of judicial processes by western-educated legal professionals reduced foreign animosities by implementing familiar western-style law codes and court systems. Western-educated ministers negotiated treaties with the maritime powers to remove the extraterritorial restrictions. When the danger of another foreign assault resurfaced, Kamehameha III turned his kingdom's military weakness into a political strength by stepping up the threat he had used with Polk to voluntarily surrender sovereignty to a rival power. Throughout, the king exploited the international reach of print media as a diplomatic tool to defend his statecraft decisions in foreign metropolises.

None of these statecraft and diplomatic measures could have been implemented, however, without literacy, and the acquisition of literacy would not have become a state directive without Kamehameha III's endorsement. At the beginning of his reign in 1825, Kamehameha III declared that his rule would be characterized by literacy, and he repeated the 1823 command of Kamehameha II (Liholiho) that the people learn to read and write.²³ The king's decision to embed literacy into the fabric of the kingdom was the first of his strategic initiatives and the key to his overall success.

²³ Kamakau, *Ke Aupuni Mō'ī*, 2.

While other historians have focused on the political accommodations Kauikeaouli made when faced with foreigners' demands backed by military threats, I examined the means the king took in the 1840s to implement a targeted strategy designed to secure his ability to govern free from international interference. What sets my analysis apart from other studies of statecraft during Kauikeaouli's reign is the fact that I used the king's own politically authoritative speech recorded in his own language in kingdom governance records as evidence for statecraft decisions. Linking statecraft actions directly to Kauikeaouli's personal orders removes the historiographic marginalization of Kauikeaouli as a leader because the official records easily disprove accusations begun during his lifetime that the king's white ministers ruled in his stead. Instead, I have redrawn a picture of Kauikeaouli backed by his chiefs as the leaders who were structuring change to provide the legal foundation necessary to negate international interference yet still meet the kingdom's treaty obligations.

Kauikeaouli's strategy succeeded. When his reign ended in 1854, the king's functional powers were largely intact and diplomatic relations with Great Britain, France and the United States were cordial. Treaties had been revised,²⁴ and western forms of jurisprudence delivered justice to foreigners and Hawaiians alike. Fee simple land rights had been created for persons at all levels of society. While unintended consequences flowed in later years from some of his policies (land distribution and white ministers, for example), critics of his decisions argue from hindsight. What is clear is that Kauikeaouli's decisions kept the kingdom territorially and functionally independent during a very perilous time.

²⁴ Conditions were not favorable in 1853 and 1854 for renewed treaty negotiations with France, however, and the French consul postponed discussions until the reign of Kamehameha IV. Kuykendall, *Hawaiian Kingdom*, 1:407.

My analysis will contribute to an expanded understanding of the threats and opportunities faced by Kamehameha during his reign, but other contentious issues remain to be explored. Implementation of the oath of allegiance and the code of etiquette served important kingdom needs but stimulated strong pushback from resident foreigners and consular agents. The post-1844 development of western-style jurisprudence and the underlying rationale for land distribution decisions require further historiographic analysis.

Sources

My evidence comes from the Hawai'i State Archives (HSA) collection of the kingdom's Hawaiian, English and French language administrative and foreign office records, public and private letters, consular correspondence, treaties, manuscript collections, and legislative files. I relied on politically authoritative speech in Hawaiian wherever possible. Kingdom governance documents (such as privy council meeting minutes) often recorded politically authoritative speech by the king and his chiefs in Hawaiian and English language texts written side-by-side.

Hawaiian Mission Houses Historic Site and Archives (HMHA) and the Hawaiian Historical Society (HHS) both contain extensive archival collections of American Board of Commissioners for Foreign Missions (ABCFM) correspondence and reports, journals, missionaries' personal correspondence, and ships' logs.

Supporting evidence of the king's authoritative speech comes from newspapers of the period printed both in Hawaiian (*Ke Kumu Hawaii, Ka Elele Hawaii, Ka Nonanona*) and in English (the *Friend*, the *Polynesian*, *Sandwich Island Gazette*, *Sandwich Isles News*). The editors of the *Friend* and the *Polynesian* also printed some articles in Hawaiian, usually with the English translation immediately following.

I discovered, however, that few modern scholars consulted primary sources in the Hawaiian language. Instead, scholars relied on translations and on sources written in English, French and Spanish to explain the governance changes made while Kamehameha ruled. The exclusion of sources in their native language precludes an apposite point of view that aids historical understanding of the threats and opportunities confronting Hawaiian rulers in the 1840s.

The first history of the Hawaiian kingdom was printed in the Hawaiian language in 1838 under the title *Ka Moolelo Hawaii*. *Ka Moolelo* is an arrangement by the Rev. Sheldon Dibble of accounts collected by Lahainaluna Seminary students from interviews with older Hawaiians. The accounts present an amalgam of native and foreign cultural and historical narratives along with Dibble's critical commentary about Hawai'i's pre-Christian culture. The magazine *Hawaiian Spectator* published an English translation of *Ka Moolelo Hawaii* in 1839, and a French translation printed in Paris appeared in 1862. While Dibble's role as editor introduced a missionary bias to the text, historians continue to refer to *Ka Moolelo Hawaii* because of the place it occupies as the first book on Hawai'i's culture and history. A facsimile reprint of the original Hawaiian text was published in 2005 under the title *Ka Moolelo Hawaii: The History of Hawai'i*.

David Malo is believed to have been the principal essayist for *Ka Moolelo Hawaii*, and he continued to compile notes begun in 1835 that amplified those cultural narratives into an ethnography of the same name. Malo's work was not published until 1903 when it appeared in English translation as *Hawaiian Antiquities (Moolelo Hawaii)*. A retranslation edited by Charles Langas and Jeffrey Lyon entitled *The Mo'olelo Hawai'i of David Malo* is forthcoming from University of Hawai'i press. Sheldon Dibble's *History of the Sandwich Islands* published in 1843

is also an important period piece, but it lacks historiographic authority because he injected Christian morality into his analyses.²⁵ James J. Jarves' factual *History of the Hawaiian Islands* first printed in 1843 provides important background details that Jarves drew from many contemporary sources, including kingdom archival documents.

Samuel Mānaiakalani Kamakau's extensive chronological history of the kingdom that Kamehameha I founded appeared in serialized form in two Hawaiian-language newspapers (*Ka Nupepa Kuokoa* and *Ke Au Okoa*) from 1866 to 1869. A heavily edited and redacted English language version of the series entitled *Ruling Chiefs of Hawaii* was published in book form in 1961, and the original articles were reprinted under the titles *Ke Kumu Aupuni: Ka mo'olelo Hawai'i no Kamehameha: Ka Na'i Aupuni a me kāna aupuni i ho'okumu ai* and *Ke Aupuni Mō'ī: Ka Mo'olelo Hawai'i no Kauikeaouli keiki ho'oilina a Kamehameha a me ke aupuni āna i noho mō'ī ai* in 1996 and 2001. Kamakau had been at Lahainaluna when the accounts for *Ka Mooolelo Hawaii* were collected, and he interjected his own analysis of events into his serialized accounts along with a cultural perspective. While the original articles provide greater historic detail in a more ordered sequence of events than does *Ruling Chiefs*, most scholars prefer to consult the edited English-language version. Bitter controversies erupted during Kamakau's lifetime over the accuracy of the legends, biographies and genealogies that he published.²⁶ One critic, John Papa 'Ī'ī (who was a contemporary of Kamakau and also a memorialist), claimed that Kamakau's accounts contained numerous errors, and so 'Ī'ī published his own accounts under the title "Na Hunahuna o ka Moolelo Hawaii" which ran in *Ka Nupepa Kuokoa* from 1866 to

²⁵ Thos G. Thrum reported in 1917 that it was "common knowledge, though in a vague way" that Dibble used his students' compositions to compile the history. See "Brief Sketch of the Life and Labors of S. M. Kamakau, Hawaiian Historian," *HHS Annual Report for 1917* (1918):40.

²⁶ Thrum, "Brief Sketch of Kamakau," 48.

1870. ʻŪiʻs articles were translated by Mary Kawena Pukui and published in 1959 under the title *Fragments of Hawaiian History*.

Ralph S. Kuykendall's three-volume history entitled *The Hawaiian Kingdom* was the first comprehensive historiographic treatment of events in the Hawaiian kingdom.²⁷ Kuykendall relied on source materials from archives and museums in several countries as he narrativized westernizing influences on the kingdom from the perspective of missionaries, traders and governments. Harold Whitman Bradley authored another widely-cited text in 1968 entitled *The American Frontier in Hawaii: The Pioneers 1789-1843*. Relying principally on western journals and correspondence, Bradley analyzed how the tide of western influences presented by missionaries, traders, and ships' captains transformed Hawaiian culture. The scope and depth of Kuykendall's research contribute to his series' continuing historiographic importance, and Bradley's use of an economic lens adds a less-analyzed dimension. Both histories are reflective of the colonial school that manifests a belief in the inevitable progression of western civilization.

Indigenous scholars originated a post-colonial historiographic line in the 1990s which used native Hawaiian voices as a methodological technique to portray Hawaiians as victims of the political changes wrought by colonialist influences. David A. Chappell points out in "Active Agents versus Passive Victims: Decolonized Historiography or Problematic Paradigm?" that agency and victimhood are not necessarily mutually exclusive; an agent can also be a victim and vice versa. Such narrative choices demonstrate the complexity of both human history and its competing interpretations, especially during struggles over power and voice.²⁸ Lilikalā Kameʻeleihiwa, for example, leverages Hawaiian language and cultural attitudes in her 1992

²⁷ Volume 1 was published in 1938, Volume 2 in 1953, and Volume 3 in 1967.

²⁸ David A. Chappell, "Active Agents versus Passive Victims: Decolonized Historiography or Problematic Paradigm?" *The Contemporary Pacific* 7, no. 2 (Fall 1995):309-13.

publication of *Native Land and Foreign Desires: Pehea Lā E Pono Ai?* to describe the damaging effects of the colonizers' culture and urge a return to a Hawaiian worldview. Other authors have used native voices to picture Hawaiians as passively vulnerable to cultural harm (Haunani K. Trask, 1999, *From a Native Daughter: Colonialism and Sovereignty in Hawai'i*), helpless as western influences slowly eroded native confidence (Jonathan K. K. Osorio, 2002, *Dismembering Lahui: A History of the Hawaiian Nation to 1887*), resistant to assimilation and colonization (Noenoe K. Silva, 2004, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*), or powerless to resist the transformative force of western law (Sally Engle Merry, 2000, *Colonizing Hawai'i: The Cultural Power of Law*).

Kamanamaikalani Beamer also analyzes events through the use of native voices, but he reaches a contrary conclusion in his 2014 publication *No Mākou Ka Mana: Liberating the Nation*. Beamer studied chiefly actions using a methodology he described as “ōiwi optics.” When he interprets archival materials through the lens of native agency, Beamer concludes that Hawaiians acted deliberately to modernize and hybridize governmental systems by selectively incorporating western institutions and practices. Recent scholarship by Keanu Sai and Lorenz Rudolph Gonschor supports Beamer's conclusion. On the other hand, Noelani Arista seeks out native voices in her 2019 publication *The Kingdom and the Republic: Sovereign Hawai'i and the Early United States* to conclude that transformations in Hawaiian governance and law were not efforts to modernize, but rather were continuations of customary Hawaiian practices.

Historiography

I quickly noticed that a familiar trope dominated historiography that appeared to contradict my research proposition: Hawai'i's indigenous culture had modernized in the nineteenth century not

through the agency of Hawaiians but through the inevitable progress of western civilization introduced by white missionaries, traders, and imperialist naval powers.²⁹

I found that even during Kauikeaouli's lifetime, contemporary white observers credited the ABCFM missionaries for introducing western culture, institutions and governance. Dibble, an ABCFM teacher, historian, and translator at Lahainaluna Seminary between the years 1836 and 1845, praised the steps taken by the missionaries to "enlighten and civilize" the chiefs and the people so that they could remedy "the evils of the Government."³⁰ Jarves, an American historian and Honolulu newspaper publisher between the years 1840 to 1848, credited the missionaries for bringing about the "gradual and increasing ascendancy of Christianity and civilization." Jarves particularly noted that it was a result of the influence that the Rev. William Richards had with the king and his chiefs that brought about "a settled form of government."³¹ Scotsman Robert C. Wyllie, who served as Foreign Minister in Kauikeaouli's government, agreed. After Richards' death in 1847, Wyllie wrote to Henry Hill, ABCFM Secretary to the Board of Foreign Missions, praising Richards' performance as teacher of the king for having given "the first impulse to a systematic improvement of the government in the right road to virtue & Beneficence."³²

²⁹ See, for example, Sheldon Dibble, *History of the Sandwich Islands* (Lahainaluna: Press of the Mission Seminary, 1843), 432; Kuykendall, *Hawaiian Kingdom* 1:157; Harold Whitman Bradley, *The American Frontier in Hawaii: The Pioneers 1789-1843* (Gloucester, Mass.: P. Smith, 1968), 319.

³⁰ The ABCFM was headquartered in Boston, MA and Congregationalist in origin. The goal of the ABCFM was to spread Christianity worldwide. For the history of its missionary activities at the Sandwich Islands, see Dr. Rufus Anderson, *A Heathen Nation Evangelized: History of the Sandwich Islands Mission* (London: Hodder & Stoughton, 1872); Dibble, *History of the Sandwich Islands*, 432.

³¹ James Jackson Jarves, *History of the Hawaiian or Sandwich Islands, Embracing their Antiquities, Mythology, Legends, Discovery by Europeans in the Sixteenth Century, Re-Discovery by Cook, with their Civil, Religious and Political History, from the Earliest Traditionary Period to the Present Time* (Boston: Tappan & Dennet, 1843), vi, 343-4. Jarves' third edition published in 1847 omitted much of this discussion about Richards' influence.

³² R. C. Wyllie to Henry Hill, 11 December 1847, Wyllie Letters 1847-1854, HMHA.

Kuykendall and Bradley built on those earlier accounts by white contemporaries. Kuykendall developed a narrative of progressive inevitability to explain that the minds of the ruling chiefs had been prepared for change by the “general enlightenment resulting from the teaching of the missionaries and from the contact with foreigners.”³³ Conversely, Bradley refuted the idea that the chiefs had become enlightened. Were it not for the actions of American missionaries such as Richards and Dr. Gerrit P. Judd, postulated Bradley, the chiefs would not have been induced to consent to such far-reaching modifications in their traditional political institutions. Bradley enlarged on his point by asserting that “the inspiration for [the 1840 constitution and the 1839 code of laws] came from the missionaries rather than from the chiefs. Inertia and self-interest combined to keep the majority of the chiefs content with the political institutions which they had inherited from Kamehameha and Kaahumanu. Few missionaries shared that complacency.”³⁴ While Kuykendall and Bradley may have disagreed about whether the missionaries were instruments or drivers of change, they did agree that it was the principles of western enlightenment that had worked to bring about progressive institutional change in Kūiākeaouli’s government.

A postcolonial line of historiography emerged in the late twentieth century where scholars searched for indigenous authenticity in the telling of Pacific histories. Ranginui Walker, a native Māori, provides a compelling view of the Māori struggles to withstand the cultural assault perpetuated on them by the westerners’ introduction of Christianity and British imperialism.³⁵ Vicente M. Diaz uses the story of the martyrdom of the seventeenth-century founder of the Spanish Catholic Church on Guam to peel away layers of cultural meaning and

³³ Kuykendall, *Hawaiian Kingdom*, 1:157.

³⁴ Bradley, *American Frontier*, 319.

³⁵ Ranginui Walker, *Ka Whawhai Tonu Matou: Struggle Without End* (Auckland: Penguin Books, 1990).

reveal that present-day Chamorros use the Church's version of events to structure their own modern-day indigenous cultural identity.³⁶ Greg Dening presented several versions of the 1792 death of William Gooch on O'ahu to demonstrate how retelling can reshape events and alter present-day understandings about past events.³⁷

Postcolonial scholars of Hawaiian monarchial history also use indigenous voices to explain the sweeping legal and governance changes that occurred during Kamehameha I's reign, and they develop a picture of Kamehameha I and his chiefs as hapless victims beset by aggressive colonial agents. Merry alleges that the pressures of warfare, maritime violence, and the capitalist economy drove the chiefs to invite missionaries and jurists to transform governmental institutions.³⁸ Trask and Silva argue that the king and chiefs reluctantly assented to institutional change to escape foreign aggression and avoid colonization.³⁹ Kamehameha II describes an erosion of confidence in their own social and political institutions that over time led to loss of cultural identity, land, and nationhood.⁴⁰ Osorio agrees, reasoning that first, the missionaries' western moral code caused Hawaiians to lose confidence in their own social and political institutions, and then the king and the chiefs accepted the advice of foreigners to make changes they only imperfectly understood.⁴¹ Osorio cites as evidence historian Henry E. Chambers' 1896 treatise, *Constitutional History of Hawaii*, in which Chambers assessed the 1840 Constitution as

³⁶ Vicente M. Diaz, *Repositioning the Missionary: Rewriting the Histories of Colonialism* (Honolulu: Univ. of Hawai'i Press, 2010).

³⁷ Greg Dening, *The Death of William Gooch: A History's Anthropology* (Honolulu: Univ. of Hawai'i Press, 1995).

³⁸ Sally Engle Merry, *Colonizing Hawai'i: The Cultural Power of Law* (Princeton: Princeton Univ. Press, 2000), 43, 45-6.

³⁹ Haunani Kay Trask, *From a Native Daughter: Colonialism and Sovereignty in Hawai'i* (Honolulu: Univ. of Hawai'i Press, 1999), 5-6; Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham: Duke Univ. Press, 2004), 37, 43.

⁴⁰ Lilikalā Kamehameha II, *Native Land and Foreign Desires: Pehea Lā E Pono Ai?* (Honolulu: Bishop Museum Press, 1992). 197.

⁴¹ Jonathan K. K. Osorio, *Dismembering Lahui: A History of the Hawaiian Nation to 1887* (Honolulu: Univ. of Hawai'i Press, 2002), 24-26.

“crude and loosely drawn.” Chambers faulted Kauikeaouli for that result because—according to Chambers—Kauikeaouli copied political forms which he did not understand.⁴²

A corollary argument arose that Kauikeaouli did not actively direct public affairs.⁴³ Merry, for example, does not take notice of the well-documented leadership role that Kauikeaouli played and instead casts the chief Hoapili and William Richards as the drivers of the 1838 movement to adopt a western system of governance and law.⁴⁴ Even Kauikeaouli’s biographer P. Christiaan Klieger identifies Richards as the chief architect of the institutional changes despite Richards’ own published account to the contrary.⁴⁵ Bradley characterized Kauikeaouli as “only mildly interested in the details of official business, and “generally indifferent” to affairs of state.⁴⁶ State policy, Bradley alleged, was determined by a small group of elder chiefs who ruled as an oligarchy.⁴⁷

Although proceeding from different premises—that Hawaiians were either the beneficiaries or the victims of a foreign culture—both lines of historiography painted an unflattering picture: Kauikeaouli and his chiefs were not very bright, easily led, and the willing tools of American advisors.

Another historiographic line is emerging, however, that focuses on the positive use of native agency to position the kingdom as an independent state. Keanu Sai and Lorenz Rudolph

⁴² Osorio, *Dismembering Lahui*, 29; Henry E. Chambers, *Constitutional History of Hawaii*, Johns Hopkins University Studies in Historical and Political Science, Fourteenth Series, I (Baltimore: The Johns Hopkins Press, January 1896), 13, 15.

⁴³ Bradley, *American Frontier*, 321-2.

⁴⁴ Merry, *Colonizing Hawai‘i*, 41, 43-4.

⁴⁵ P. Christiann Klieger, *Kamehameha III :He Mo‘olelo no ka Mō‘ī Lokomaika‘i, King of the Hawaiian Islands, 1824-1854* (San Francisco: Green Arrow Press, 2015), 267-8; Bernice Judd, ed., “William Richards’ Report to the Sandwich Islands Mission on His First Year in Government Service, 1838-1839,” *HHS Fifty-First Annual Report* (1942), 65-9; see also “Abstract of the Laws,” *Missionary Herald* 36, no. 3 (1840):101-4 for its reprint of “Art. V. Sandwich Islands Laws,” *Hawaiian Spectator*, 2, no. 3 (July 1839):347.

⁴⁶ Bradley, *American Frontier*, 276.

⁴⁷ Bradley, *American Frontier*, 276-7.

Gonschor examine how Hawaiian leaders used the western legal concept of a nation-state to achieve recognition from the maritime powers as a co-equal, sovereign state.⁴⁸ Beamer also finds that Kauikeaouli and the chiefs acted deliberately when they made institutional changes. In proof of his conclusion, Beamer notices that Osorio had failed to investigate the level of chiefly involvement in making legal changes or the chiefs' motivation in doing so. Merry glosses over the purposeful involvement of the chiefs in the transformation, Beamer points out, and she characterizes some of the legal changes as Anglo-American when in fact the chiefs structured them on Hawaiian customs. In fact, Kauikeaouli's rule was a "successful and prolonged exercise of ali'i agency and 'Ōiwi leadership,'" Beamer concludes, because the king had selectively blended western ideas and tools with traditional elements to create a strong hybrid governance apparatus.⁴⁹ Chappell finds a similar mix of outside influences and traditional heritage from his studies of Africa and Kanaky New Caledonia,⁵⁰ and Beamer's argument that the rulers had exercised agency to reach a middle ground is reminiscent of an argument propounded by K. R. Howe and Nicholas Thomas that Pacific islanders acted to creatively adapt foreign knowledge and skills for their own use.⁵¹ More recently, Arista has sounded a note of warning about the dangers of investing Hawaiian historical actors with agency. Instead, Arista recommends that

⁴⁸ Keanu Sai, "The American Occupation of the Hawaiian Kingdom: Beginning the Transition from Occupied to Restored State" (doctoral dissertation, Univ. of Hawai'i at Mānoa, 2008), 71-4; Lorenz Rudolf Gonschor, "'A Power in the World': The Hawaiian Kingdom as a Model of Hybrid Statecraft in Oceania and a Progenitor of Pan-Oceanianism" (doctoral dissertation, Univ. of Hawai'i at Mānoa, 2016), 144-5.

⁴⁹ Kamanamaikalani Beamer, *No Mākou Ka Mana: Liberating the Nation* (Honolulu: Kamehameha Publishing, 2014), 122-3, 153.

⁵⁰ Chappell, "Active Agents," 305; David A. Chappell, *The Kanak Awakening* (Honolulu: Univ. of Hawai'i Press, 2013).

⁵¹ K. R. Howe, *Where the Waves Fall: A New South Sea Islands History from First Settlement to Colonial Rule*. (Honolulu: Univ. of Hawai'i Press, 1984), 348; Nicholas Thomas, *Islanders: The Pacific in the Age of Empire* (New Haven: Yale Univ. Press, 2010), 3.

scholars seek out cultural differences to explain the political and legal transformations in Hawai‘i after 1820.⁵²

In 1836, Kamehameha II still ruled with the same broad power and authority that his father Kamehameha I had exercised. Although the ruler had complete control over the government as its supreme head, he was expected to rely on advice and support from a chiefly council composed of high-ranking chiefs and knowledgeable persons selected by him.⁵³ However, while the kingdom met Benedict Anderson’s modern sovereignty test because its administration was fully operative over all of its claimed territory, its traditional governance lacked a documented definition of the kingdom’s polity structure, geographic scope, or the functional power and authority of the ruler and other officials.⁵⁴

Kamehameha II’s chiefly predecessors had made sweeping governance changes when circumstances dictated. The fifteenth-century O‘ahu chief Mā‘ilikūkahikihi enacted a broad reform of land tenure by dividing the people into classes, turning land holdings into organizational units, and replacing kinship rights to land with rights tied to chiefly relationships.⁵⁵ Kūali‘i, who ruled O‘ahu during the early eighteenth century, appointed a governor to administer a portion of the territory he held on Kaua‘i. Kahekili II of Maui continued that practice in the late eighteenth century when he sent his son to Maui to act as governor while he remained on O‘ahu to consolidate his control over his newly-conquered territory.⁵⁶ Kamehameha II’s father, Kamehameha

⁵² Noelani Arista, *The Kingdom and the Republic: Sovereign Hawai‘i and the Early United States* (Philadelphia: Univ. of Pennsylvania Press 2019), 7-8.

⁵³ Kamakau, *Ke Aupuni Mō‘ī*, 75.

⁵⁴ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso Press, rev. ed., 1991), 19.

⁵⁵ Patrick V. Kirch, *How Chiefs Became Kings: Divine Kingship and the Rise of Archaic States in Ancient Hawaii* (Berkeley: Univ. of Calif. Press, 2010), 102; Patrick Vinton Kirch, *A Shark Going Inland is My Chief: The Island Civilization of Ancient Hawaii* (Berkeley: Univ. of Calif. Press, 2012), 138-9.

⁵⁶ Robert J. Hommon, *The Ancient Hawaiian State: Origins of a Political Society* (New York: Oxford Univ. Press, 2013), 259, 269.

I, appointed governors after he had united the islands under his sole rule, and his brother, Liholiho, established a new political and cultural order when he abrogated the traditional religion in 1819 and defeated the rival chiefly forces under Kekuaoakalani who sought to reestablish the gods' control over Hawaiian society.⁵⁷ Thus the record clearly shows a long tradition of Hawaiian rulers who were willing to make institutional change as circumstances dictated.

Merry, however, argues that it was acts of maritime violence that convinced Hawaiians to accept change. Indeed, contemporary journals and correspondence written by participants about the 1836 and 1837 port visits of the *U.S.S. Peacock*, *H.M.S. Acteon*, and the *H.M.S. Sulphur* document acts of violence perpetrated by naval commanders in support of efforts to secure property, religious, and residence rights for their resident-citizens which were denied them by Hawaiian law.⁵⁸ Those same records, however, also document that the naval commanders' efforts were unsuccessful despite their threats. U. S. Commodore Edmund P. Kennedy, *U.S.S. Peacock*, for example, failed in his September 1836 effort to convince Kauikeaouli to grant the American consul's demands.⁵⁹ British captain Lord Edward Russell, *H.M.S. Acteon*, failed also when he arrived the following month, despite his threat to end British diplomatic relations with the kingdom, and despite British trade consul Charlton's threat to have the *Acteon*'s guns shell the town.⁶⁰ In April 1837, the king refused to permit two Roman Catholic priests to debark from the British-registry trading brig *Clementine*, arguing that "one religion was abundantly sufficient

⁵⁷ Kekuaoakalani's forces were defeated in December 1819. See Sahlins, *Historical Metaphors*, 76 at note 19.

⁵⁸ The incidents were not reported by *Ke Kumu Hawaii* because a lack of newsprint prevented publication from August 1836 through December 1836.

⁵⁹ Levi Chamberlain, Journal, 07 October 1836, Journal Collection, HMHA.

⁶⁰ Chamberlain, Journal, 24-31 October, 01-21 November 1836, HMHA. Chamberlain translated documents and translated for the king during the meetings between the parties; Kuykendall, *Hawaiian Kingdom*, 1:148. The treaty that Russell and Kauikeaouli agreed to had granted the rights Russell requested so long as the king consented. Nothing, however, required the king to consent.

for 100,000 or 150,000 inhabitants.”⁶¹ When British captain Edward Belcher, *H.M.S. Sulphur*, arrived he dispatched a squad of British marines to land the priests, and both Belcher and Charlton threatened physical harm to Hawaiian agents if they did not permit the priests to remain. As he had with Kennedy and Russell, however, Kauikeaouli prevailed in his refusal to permit threats from merchants to override his sovereign right to refuse residency to any foreigner—even when the merchants’ threats were backed by the threat of naval attack by a maritime power—and the priests departed.⁶²

Kuykendall characterized these demands as the ‘zealous pursuit’ by agents of foreign governments for personal rights that their traders and merchants would enjoy when in fact they were examples of what Robert C. Ritchie and David J. Starkey describe as a European state’s maritime policy to use force as a political weapon in pursuit of their own merchants’ trade advantage.⁶³ According to Janice E. Thomason, a state’s defense of its merchants’ competitive trade positions was grounded in “the actual or threatened use of violence,” and it could be exercised in both the political and economic arenas, over state as well as non-state actors.⁶⁴ But Jackson’s finding that the central principle of the law of nations is an independent state’s right to be free from outside interference validates Kauikeaouli’s arguments.⁶⁵ In fact, Kauikeaouli’s

⁶¹ Théodore-Adolphe Barrot, *Unless Haste is Made: A French Skeptic’s Account of the Sandwich Islands in 1836*, trans. Rev. Daniel Dole (Kailua, Hawai‘i: Press Pacifica, 1978), 87. This is a translation of Barrot’s *Les Iles Sandwich* originally published in *Revue des deux mondes*, 01 and 15 August 1839.

⁶² Richard Charlton to Kamehameha III, 31 May 1837, Series 402-4-64, Chronological File, FO&EX, HSA; Chamberlain, *Journal*, 10-24 July 1837, HMHA; Jarves, *History*, 3d. ed., 156-7; Ross H. Gast, *Contentious Consul: A Biography of John Coffin Jones* (Los Angeles: Dawson’s Book Shop, 1976), 150.

⁶³ Kuykendall, *Hawaiian Kingdom*, 1:137-8; Robert C. Ritchie, “Government Measures against Piracy and Privateering in the Atlantic Area, 1750-1850,” in *Pirates and Privateers: New Perspectives on the War on Trade in the Eighteenth and Nineteenth Centuries*, eds. David J. Starkey, E. S. van Eyck van Heslinga, and J. A. de Moor (Exeter: Univ. of Exeter Press, 1997), 23-4; David J. Starkey, *British Privateering Enterprise in the Eighteenth Century* (Exeter: Univ. of Exeter Press, 1990), 254-9.

⁶⁴ Ritchie, “Government Measures,” in *Pirates and Privateers*, 24; Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton: Princeton Univ. Press, 1994), 3-5.

⁶⁵ Jackson, *Quasi-states*, 27.

affirmative defense of his rights and privileges as reported by witnesses refutes the corollary argument that Kauikeaouli did not actively direct public affairs because he was pictured as engaged, able to articulate his political decisions in persuasive terms, and determined not to surrender his sovereign powers.

By that time, Swiss diplomat Emer de Vattel's (1714-1769) articulation that states and nations have exclusive jurisdiction, territorial integrity, and the right to be free from intervention in their domestic affairs had become the foundation for the doctrine of state sovereignty that developed into the central maxim of international law. Vattel further postulated that a nation which is incapable of preserving itself may procure the protection of a more powerful state.⁶⁶ Application of Vattel's doctrine assumed greater importance to western nations as they spread further into the Americas and the Pacific, and imperialists used Vattel's construction to deny sovereignty to indigenous peoples.⁶⁷ Copies of *Missionary Herald* issues in 1831 and 1832 covering the U. S. Supreme Court case in *Worcester v. Georgia*, 31. U. S. (6 Pet.) 515 (1832) which upheld Cherokee sovereignty were broadly circulated throughout ABCFM's mission stations, including the Hawaiian stations.⁶⁸ Jarves confirmed that the king's meetings with Kennedy in 1836 had enlarged Kauikeaouli's idea of a national polity and bettered his understanding of the law of nations.⁶⁹ Belcher met privately with Kauikeaouli in 1837 before they finalized documents ending the confrontation that had begun with the arrival of French

⁶⁶ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford Univ. Press, 2004), 21; Vattel, *Law of Nations*, Section 192, Book 1, Chapter 16.

⁶⁷ Anaya, *Indigenous Peoples*, 1-4. Anaya's central contention is that international law changed its focus in the twentieth century and was used to support indigenous peoples' demands for recognition.

⁶⁸ Marshall's decision laid the foundation for the U. S. doctrine of tribal sovereignty. The Court's decision, however, did not prevent President Andrew Jackson from implementing the 1830 Indian Removal Act which forced several southeastern Indian tribes to resettle on western lands.

⁶⁹ Jarves, *History of the Hawaiian Islands: Embracing their Antiquities, Mythology, Legends, Discovery by Europeans in the Sixteenth Century, Re-Discovery by Cook, with their Civil, Religious and Political History, from the Earliest Traditional Period to the Present Time*. 3rd ed. (Honolulu: Charles Edwin Hitchcock, 1847)., 154.

priests aboard the *Clementine*, and he read to the king from several passages in Vattel's treatise as they discussed what actions the king should take.⁷⁰ Missionary Hiram Bingham also confirmed the king's familiarity with Vattel's sovereignty postulations.⁷¹ Developing an understanding of international governance models emerged as Kauikeaouli's preeminent political goal. Even before *H.M.S. Acteon* sailed in 1836, Kauikeaouli had tasked Richards to locate a tutor for the chiefs to educate them in alternative governance models.⁷² The 1840 development of a constitutional framework to demonstrate the kingdom's political capability to engage with other nation-states was the first strategic step taken by the king to secure recognition as an equal sovereign state.⁷³

I discovered support for both the progressive school of historiography and Beamer's agency conclusion when I researched the circumstances and events surrounding the adoption of the 1839 declaration of rights and tax code (*He kumu kanawai, a me ke kanawai hooponopono waiwai, no ko Hawaii nei pae aina*, enacted on June 7, 1839) and the 1840 Constitution (*Ke Kumu Kanawai a me na Kanawai o ko Hawaii pae aina* enacted on October 8, 1840).⁷⁴ Richards, a former missionary, guided the chiefly deliberations which produced the two documents. Richards based his lectures on Baptist minister Francis Wayland's text *Elements of Political Economy* in which Christian principles align with a capitalist system to produce the greatest good

⁷⁰ Sir Edward Belcher and Richard Brinsley Hinds, *Narrative of a Voyage Round the World: Performed in Her Majesty's Ship Sulphur, during the years 1836-1842, Including Details of the Naval Operations in China, from Dec. 1840, to Nov. 1841; Published under the Authority of the Lords Commissioners of the Admiralty*, Vol. 1 (London: Henry Colburn, 1843), 1:59.

⁷¹ Hiram Bingham, *A Residence of Twenty-One Years in the Sandwich Islands; or the Civil, Religious, and Political History of those Islands*, 3rd ed. rev. (Canandaigua, N.Y.: H. D. Goodwin, 1855), 506. From his notes about the *Clementine* affair in his chapter on events in 1837.

⁷² Chamberlain, *Journal*, 07 November 1836, HMHA.

⁷³ Jackson, *Quasi-states*, 29, where Jackson identified that as a characteristic of the exercise of positive sovereignty.

⁷⁴ *Ka Ho 'oilina: Puke Pai 'Ōlelo Hawai'i, The Legacy: Journal of Hawaiian Language Sources* (Honolulu: Kamehameha Schools and the Univ. of Hawai'i, 2002). For a discussion of the two documents, see Kuykendall, *Hawaiian Kingdom*, 1:159-61, 1:167-9.

for a nation's citizens.⁷⁵ That would suggest that the inspiration for the two documents came from the missionaries, as Kuykendall and Bradley had concluded. But Richards' own notes and correspondence described the keen participation of the chiefs and the strong leadership of Kauikeaouli as the drivers of change, supporting Beamer's conclusion that the agency of Hawaiians drove the changes.⁷⁶

Cultural bias (see Kuykendall and Bradley) or righteous defense (see Kame'elehiwa, Trask, Silva, Osorio and Merry) can influence choices of emphasis and interpretations in doing history. But Kauikeaouli's adoption of western governance models and his subsequent deployment of a strategy designed to safeguard his sovereign rights and privileges validates the emerging line of scholarship that Hawaiians occupied the central role as the principal agents of institutional change.

Analysis

Documentary evidence demonstrates that Kauikeaouli and the chiefs acted deliberately to implement a well-crafted strategy supported by targeted statecraft decisions to ensure that the kingdom retained the power and authority over key functional areas necessary to ensure the free exercise of sovereign control. While it is demonstrable that the missionaries and other foreigners introduced a framework for change from their own western orientation, the actions that Kauikeaouli and his chiefs took were predicated on their reinterpretation and adaptation of their

⁷⁵ B. Judd, ed., "Richards Report," 66.

⁷⁶ B. Judd, ed., "Richards Report," 67. Richards frequently stated in his correspondence that he knew his position was subordinate to the king's wishes. See William Richards to Commander Charles Wilkes, 15 March 1841, Box 1-8, M-126, William Richards Collection, Manuscript Collection, HSA; William Richards to Kamehameha III, 03 April [no year], Series 402-1-13.161, Chronological File, FO&EX, archival English translation, HSA; Kamehameha III to William Richards, 09 July 1842, Series 402-7-176, Chronological File, FO&EX, archival English translation, HSA.

political and cultural history as informed by current events. Recognizing that the ruling chiefs' decisions flowed from their own circumstances and history places Hawaiians in the central role as the principal agents of change and relegates the influence of missionaries and other foreigners to supporting roles. I have focused on those statecraft decisions and their implementing measures at length in succeeding chapters to identify the king's rationale for each tactical measure, problems encountered during implementation, and an evaluation of each measure's effectiveness.

Chapter 2 "Literacy as Strategy" traces the arrival of literacy in Polynesia and the realization by Hawaiians that they could appropriate the Europeans' writing system for their own use. Within a decade of British Captain James Cook's arrival in 1778, Hawaiians had learned to make use of Europeans' literate communications to boost their own trading advantage and to forge diplomatic relationships with western rulers. When the first contingent of missionaries sent by the ABCFM arrived in Hawai'i in 1820, they found a willing populace already acquainted with literacy and impatient to learn to read and write. Hawaiians of all classes and ranks enthusiastically greeted the 1822 development of the Hawaiian language alphabet, and they flocked to schools in large numbers. In 1825, Kamehameha II emphatically pronounced that his rule would be characterized by literacy, and he ordered his people to learn to read and write. His people complied, and the use of literate communications became embedded in the social fabric. With literacy as the central tool and printing technologies as the delivery platform, an educated middle class arose that joined with the Hawaiian rulers to study alternative political knowledge based on theories of political economy. While evangelical missionaries used literacy to bring about religious change, Kamehameha II and his chiefs used literacy to bring about political change as they shaped governance into a written framework consonant with international law.

Chapter 3 “Changing Hawai‘i in the 1840s” sets the context for a reading of subsequent chapters. During the 1840s, Kamehameha III and the chiefs hybridized the kingdom’s traditional governance structure with western-style modifications. The traditional kuhina nui role was codified, and new governmental roles were created to staff western-style executive ministries. Composition of the cabinet and privy council was fixed by statute, and procedural habits were established. Members of the cabinet and privy council in attendance at the first privy council meeting on July 29, 1845 are profiled. Measures were put into place to absorb the growing number of foreigners into the body politic, including a naturalization policy. Social changes brought commercial expansion, new agricultural opportunities, and labor shortages, while plans moved forward to convert the traditional land tenure system to fee simple ownership. As the king and his chiefs considered what actions to take to retain control over the kingdom’s territorial sovereignty, they also worked to restrain the westernizing influences that threatened to overwhelm the Hawaiian kingdom.

Complex statecraft issues involving questions of an independent state’s right to exercise its functional powers arose after Hawai‘i received international recognition of its territorial sovereignty. Western agents of maritime powers challenged Hawaiian legal processes, and extraterritorial treaty terms limited the kingdom’s juridical and economic powers. Hawaiian chiefs serving in the House of Nobles and Privy Council in 1844 lacked familiarity with the technical skills of western statecraft necessary to make strong diplomatic and legal defenses of the kingdom’s rights and privileges. Facing the prospect of further erosion of his functional control in key areas, Kamehameha III implemented the first of several statecraft tactics by hiring western-educated whites to serve as ministers and engage with agents of western powers. Chapter 4 “Western-educated Ministers Defend Sovereign Rights” uses the king’s own words to

explore his rationale for the policy, his response to the hostility it generated, and his own evaluation of the effectiveness of the governance actions that flowed from the policy. Although Kauikeaouli's decision engendered harsh criticism from white residents, foreign consular agents, and ordinary Hawaiians, the employment of western-educated white ministers laid the foundation for control of international political interactions.

Chapter 5 "Legal and Land Reforms" examines the king's tactical use of reforms to safeguard his executive power and authority to legislate and adjudicate legal processes and land ownership rights. In the years following 1840, angry residents and gunboat commanders challenged Kauikeaouli's ability to exercise both executive powers. When a British naval captain favored his own citizens by reversing Hawaiian court decisions and alienating the king's ownership of a physical piece of his soil, Kauikeaouli set two processes into motion to ward off similar attacks in the future. The reforms were multi-year processes approved by the privy council, enabled by legislative enactments and carried out simultaneously under the western-trained legal skills of the king's white ministers. Both tactical reforms were carried to fruition, for by the end of the decade, Kauikeaouli held firm functional control over the judicial system, and the customary land tenure practices that had vested the ruling chief with allodial ownership of the kingdom's lands had been changed to individual fee simple ownership.⁷⁷

In 1844, British and American diplomatic agents used their consular correspondence as platforms to attack the integrity and competency of Kauikeaouli and his white ministers. In order to counter the threat posed by their partisan criticisms, Kauikeaouli made the tactical decision to purchase the *Polynesian* newspaper and its press and implement a two-fold print media policy.

⁷⁷ The term allodial is used in scholarly works about traditional Hawaiian land tenure practices to denote lands held in absolute ownership, in this case, by the ruling chief.

First, the press would publicize news and information about his views and policies through its circulation to Europe and America that would demonstrate his capability to conduct relations with other sovereign nations. Second, the press would publish correspondence from both sides of diplomatic disputes, and that full disclosure would reveal that the king rightfully exercised his sovereign powers. Chapter 6 “Tactical Use of Print Media” examines the international reach of the press, its editorial engagement in support of the king’s policies, and its aggressive defensive role as a platform on which to publish foreign agents’ correspondence about diplomatic disputes. When an opposition press run by foreign agents began publication, strong editorial pushback in the *Polynesian* exposed their political attacks. By 1849, Kāiākeaouli’s two-pronged print media strategy had developed firm international support for his governance and defeated the efforts of foreign agents to destabilize his administration.

International recognition in 1843-44 of Hawai‘i’s sovereign independence spurred a significant increase in shipping traffic and trade. As the king’s ministers struggled to develop revenue streams to fund the need for improved government functions, new British and French unequal treaties imposed in 1846 perpetuated the restrictive import trade and duty levels from earlier treaties that depressed government revenues. When French gunboats assaulted Honolulu in 1849 seeking further political accommodations, Kāiākeaouli and the council put together a multi-stage diplomatic plan crafted to lift the onerous treaty restrictions and secure guarantees of military protection from hostile attacks. Should achievement of the plan falter, however, then Kāiākeaouli would signal his intent to transfer sovereignty to another state in the expectation that simply making the threat would either gain concessions from a negotiating partner or galvanize military support from the offending nation’s commercial rivals. Chapter 7 “Treaties and Secret Orders” examines the progress of the plan and how repeated use of the alienation threat required

an increasing level of subterfuge in order to maintain its credibility. Use of the threat had a dramatic impact on the success of the multi-stage diplomatic plan, which by 1854 had delivered almost universal relief from the onerous treaty terms as well as tripartite guarantees of Hawaiian independence.

Kauikeaouli defeated the efforts of maritime agents to control his sovereign functional powers by implementing ‘new ways of doing things’ that comported with the modern social and political climate in which he ruled. The king possessed excellent strategic skills and a sure sense of how to secure tactical advantage. It was a difficult political balancing act, as Kauikeaouli leveraged international commercial rivalries and traded on the kingdom’s perceived value as an important site in global trade networks. Chapter 8 “Conclusion: Sovereignty Secured” examines the success of the tactics analyzed in earlier chapters as part of a cohesive strategy with three distinct phases. Success of his overall strategy ensured that Kauikeaouli’s heir would exercise full functional power and authority over an independent kingdom whose future security was guaranteed by the three maritime powers.

CHAPTER 2

LITERACY AS STRATEGY

Like other Polynesians, Hawaiians quickly realized that the writing system they saw Europeans use could be appropriated for their own economic and political use and could even replace their oral communications.¹ When word traveled along informal networks from Tahiti to other island groups that Protestant Evangelicals had created an alphabet for the Tahitian language, Polynesians everywhere clamored for teachers and books so that they could learn to read and write in their own languages.² Tahitians also brought that news to Hawaiians, so that when ABCFM missionaries arrived at Hawai‘i in 1820, they found a willing populace already acquainted with literacy and impatient to learn to read and write.³

But while the missionaries promoted literacy as a means to conversion, the Hawaiians focused on its secular uses. Under Kamehameha II's 1825 directive, the use of literacy soon became embedded in the social fabric. Schools run by the missionaries used print technology to deliver instructional materials to a wide swath of the Hawaiian populace. A new class of educated Hawaiians used their writing skills to communicate with each other, and print media created public forums where they could exchange information and opinions. In 1839, the king and his chiefs studied alternative theories of political economy reinterpreted in their own language, and they used their new knowledge to transform the kingdom from a state centralized under the authority of a ruling chief into a constitutional monarchy, where the lower house of representatives was elected by popular vote.

¹ G. S. Parsonson, "The Literate Revolution in Polynesia," *The Journal of Pacific History* 2 (1967):44-5.

² Parsonson, "Literate Revolution," 49.

³ *Missionary Herald* 19, no. 6(1823):183.

While the ABCFM missionaries continued to concentrate on the use of literacy to bring about religious change, Kauikeaouli and his chiefs used literacy to bring about the political change that would position the kingdom as a member of the international community of independent, sovereign states.

Traditional messaging methods

Prior to 1778, Hawaiians used symbols to convey information through body tattoo motifs, *kapa* cloth designs, and petroglyphs (prehistoric pictures and symbols cut into a rock surface) that closely modeled the same communications media used in other areas of western Polynesia.⁴ Tattoos, *kapa* designs and petroglyphs used geometric designs and repetitive motifs that some scholars have linked to the Lapita culture found elsewhere in Oceania because of their design similarities to the markings stamped onto Lapita pottery.⁵ While it is presumed that tattoo and *kapa* motifs were designed to convey information, little is known about the meaning of the geometric symbols or the significance of the motif design placements.⁶ Unlike tattoos or *kapa*, petroglyphs were clearly intended to communicate about actions or activities; however, the ability to decipher them has been lost.⁷

⁴ P. F. Kwiatkowski, *The Hawaiian Tattoo* (Honolulu: Mutual Publishing, 2012), 1.

⁵ Kwiatkowski, *Tattoo*, 1, 21-4; Tricia Allen, *Tattoo Traditions of Hawai'i* (Honolulu: Mutual Publishing, 2005), 2-3; Patrick Vinton Kirch demonstrated that the Lapita culture did not travel beyond Samoa and Tonga despite the fact that Polynesians dispersed from there to settle East Polynesia. See Kirch, *The Lapita Peoples: Ancestors of the Oceanic World* (Cambridge: Blackwell Publishers, 1997), 68-74. Note that scientific findings place the dispersal of Polynesian peoples into New Zealand, Rapa Nui and Hawai'i c. 1100-1200 C.E. See Janet M. Wilmschurst, Terry L. Hunt, Carl P. Lipo and Atholl J. Anderson, "High-Precision Radiocarbon Dating Shows Recent and Rapid Initial Human Colonization of East Polynesia," *Proceedings of the National Academy of Sciences of the United States of America* 108, no. 5 (February 2011):1815.

⁶ Allen, *Tattoo Traditions*, 3; Kwiatkowski, *Tattoo*, 21; J. Halley Cox with Edward Stasak, *Hawaiian Petroglyphs*, Bernice P. Bishop Museum Special Publication 60 (Honolulu: Bishop Museum Press, 1980), 67.

⁷ Likeke R. McBride, *Petroglyphs of Hawai'i*, rev. ed. (Hilo: Petroglyph Press, 1997), 23-28; Cox with Stasak, *Petroglyphs*, 65, 67.

Petroglyphs, of course, were not portable. They remained in the same location in which they were created and presented a static message to passers-by. Another means had to be used when one chief wanted to deliver a timely message to another chief. Every island had an extensive network of trails serving as information highways along which kūkini (long-distance runners) or ‘elele (couriers) could swiftly carry messages between chiefs living in different locations.⁸ When Kamehameha I (r. 1795-1819) wanted to communicate with others at a distance, he would tell his message to a runner, or have a select class of rowers deliver the messenger by canoe. The courier carried Kamehameha I’s three-inch silver coin as a sign that he came from the king. Other people sent simple messages to each other by word-of-mouth but transacted important business by going in person.⁹

Literacy brought the ability for individuals of all classes to communicate complex messages to each other at a distance. Over time, literacy was used to supplant traditional messaging means, memorialize important events, and serve as the medium for instruction.

Evangelism and literacy

David Paul Nord in his studies about literacy and religion emphasizes that some American missionaries believed cultural change must precede conversion, and that only literacy would deliver the knowledge necessary to effect cultural change.¹⁰ Barry O’Connell also studied the relationship between literacy and religion and finds that the most important conversion tool used

⁸ Dawn Henry, “Hawai‘i’s First Runners,” (Hilo: Univ. of Hawai‘i, May 16, 2009).

⁹ “18th. Manner of communicating at a distance before the introduction of writing,” William Richards to Capt. Charles Wilkes, 15 March 1841, William Richards Collection, M-126, HSA. Richards responded to questions posed by Wilkes with answers that had been approved by Kauikeaouli.

¹⁰ David Paul Nord, “Benevolent Books: Printing, Religion, and Reform,” in *History of the Book in America*, Vol. 2, “An Extensive Republic Print, Culture, and Society in the New Nation, 1790-1840,” eds. Robert A Gross and Mary Kelley, (Chapel Hill: Univ. of North Carolina, 2010), 2:239, 246.

by American missionaries was giving non-Christians the ability to read religious texts.¹¹ Other studies by Colin W. Newbury,¹² Martin Daly,¹³ C. J. Parr,¹⁴ and Emily Conroy-Krutz¹⁵ of different missionary groups in the South Pacific, India and among Native American Indians demonstrate that all groups emphasized literacy as a first step to conversion.

Whereas Martin Luther translated the Bible into vernacular languages in the sixteenth century so that people who were already Christians could read the texts for themselves, here the missionaries' emphasis was on teaching non-Christians how to read religious texts to motivate them to be converted. Consequently, between 1797 and 1850, the first goal of missionaries at different Pacific island groups was the creation of Polynesian orthographies. As Nord's research indicates would happen, literacy in their own languages became the central tool and new printing technologies became the delivery platform for the spreading of religious texts intended to energize non-Christian Polynesians to accept the customs, beliefs and behaviors of western civilizations.¹⁶

But G. S. Parsonson found from his studies that it was the secular uses for literacy that intrigued Polynesians. And the most powerful inducement for conversion that the missionaries could offer was not the promise of salvation, Parsonson concludes, it was the promise of literacy. Islanders already had grasped from contact with eighteenth-century European maritime explorers

¹¹ Barry O'Connell, "Literacy and Colonization: The Case of the Cherokees" in *A History of the Book in America: Vol. 2: "An Extensive Republic Print, Culture, and Society in the New Nation, 1790-1840,"* eds. Robert A. Gross and Mary Kelley (Chapel Hill: Univ. of North Carolina, 2010), 2:499. See also, Emily Conroy-Krutz, *Christian Imperialism: Converting the World in the Early American Republic* (Ithaca: Cornell Univ. Press, 2015), 87.

¹² C. W. Newbury, *Tahiti Nui: Change and Survival in French Polynesia, 1767-1945* (Honolulu: Univ. Press of Hawai'i, 1980), 35, 70, where he studied the London Missionary Society (LMS).

¹³ Martin Daly, "'Another Agency in This Great Work': The Beginnings of Missionary Printing in Tonga," *Journal of Pacific History* 43, no. 3 (2008):368, where he studied the Wesleyan Methodist Missionary Society (WMMS).

¹⁴ C. J. Parr, "A Missionary Library: Printed Attempts to Instruct the Maori, 1815-1845," *Journal of the Polynesian Society* 70, no. 4 (1961):429, where he studied the Church Missionary Society (CMS).

¹⁵ Conroy-Krutz, *Christian Imperialism*, 85, 87, where she studied the American Board of Commissioners for Foreign Missions (ABCFM).

¹⁶ Nord, "Benevolent Books," 2:246.

that “the key to the new world with all its evident power was the written word.”¹⁷ That sudden insight sparked a literate revolution, claims Parsonson, and he cites a British missionary’s observation that “the art of writing amazed the natives as much as any novelty introduced by foreigners. What seems to have impressed them most was its usefulness.”¹⁸ Even though they could not read or write themselves, Parsonson demonstrates that Polynesians easily discerned from looking at different types of documents that writing and other marks could be used for several purposes:

Vancouver describes the chief of Matavai in Tahiti who brought to him a portrait of Captain Cook ‘drawn by Mr Webber’: ‘This picture was deposited in the house of the chief at Matavai and is become the public register. On the back of it is written that the *Pandora* had quitted this island on the 8th of May 1791.’ In 1792 Vancouver also inspected a letter in Spanish with an English translation presented by Kamehameha, and various certificates from four different commanders who had visited Hawaii. In 1800 Turnbull noted a chief of Hawaii pouring over some charts of the Pacific and imploring the captain to point out his island: ‘This was done and he expressed great pleasure that even their little island had not been omitted.’¹⁹

In fact, Parsonson’s example of the letter presented to Vancouver in 1792 shows how within a decade of Cook’s arrival Hawaiian chiefs had learned to use European literacy to boost their own trading advantage. Hawaiians learned that “to whom it may concern” letters of recommendation written by a European had persuasive value when shown to another European, and that the more recommendations a chief could present, the better his chances of securing trade.²⁰ The Spaniard

¹⁷ Parsonson, “Literate Revolution,” 43-4.

¹⁸ Parsonson, “Literate Revolution,” 44. Parsonson cited Aaron Buzacott, a Congregational missionary who served on Rarotonga from 1828-1857. Buzacott’s reports were published in 1866.

¹⁹ Parsonson, “Literate Revolution,” 44-5. The chief who studied the map was from Kaua‘i and described by Turnbull as a close relative of the ruling chief, Kaumuali‘i.

²⁰ John Bartlett, “A Narrative of Events in the Life of John Bartlett of Boston, Massachusetts, in the Years 1790-1793, during Voyages to Canton, the Northwest Coast of North America, and Elsewhere,” *Marine Research Society, Publication Number 7* (Portland, Maine: Southworth Press, 1925), 313. In this case, unbeknownst to the Hawaiians presenting it, the letter written by Captain Ingraham of the brig *Hope* out of Boston warned other captains that the natives at Kaua‘i were treacherous and deceitful.

Manuel Quimper reported that during his 1791 visit he was presented with many such letters from different Hawaiian chiefs.²¹ Quimper wrote several letters for chiefs, and Vancouver also wrote letters of recommendation for Kamehameha and other chiefs during his 1793 visit.²² British supercargo John Turnbull recorded that Kamehameha had made it a rule to obtain the letters,²³ which explains why Vancouver had been presented with several such certificates. Settlement of the Nootka controversy between Britain and Spain was a principal objective of Vancouver's voyage; so it was an unexpected bit of irony that one of the testimonials presented to Vancouver was written in March 1791 by Quimper in Spanish with an English translation while aboard the British-registry ship *Princess Royal* which Spanish forces had seized from British trader James Colnett at Nootka.²⁴

Tahiti's Pōmare I (regent: 1791-1803) also used European literacy to boost his trading advantage when he caused correspondence to be written to the governor of New South Wales in 1800 about their proposed pork trade.²⁵ The letter must have been written in English because no standardized written form of Tahitian existed until 1805.²⁶ What is noteworthy about their correspondence is that a Polynesian king who was not literate himself engaged in written

²¹ William Harvey Minson, "The Hawaiian Journal of Manuel Quimper," (master's thesis, Univ. of Hawai'i (1952), 39-43. The earliest date recorded by Quimper was a letter written in 1789.

²² Minson, "Quimper Journal," 39-43; George Vancouver to Commanders of Vessels, 09 March 1793, Series 402-2-2, Chronological File, FO&EX, HSA.

²³ John Turnbull, *A Voyage Round the World in the Years 1800-1804* (Philadelphia: B. and T. Kite, 1810), 161. He visited from December 17, 1802 to January 21, 1803. Turnbull recorded that by 1802 Kamehameha had discontinued this rule because he thought his character had been well established among Europeans.

²⁴ George Vancouver, *A Voyage of Discovery to the North Pacific Ocean, and Round the World*, Vol. 1 (London: Robinson and Edwards, 1798), 1:157. Parsonson was mistaken: it was Ke'eaumoku (whose name Vancouver spelled Kahowmotoo) who presented the certificates to Vancouver, not Kamehameha. Vancouver and Kamehameha did not meet during his 1792 visit. Quimper seems to have prepared this letter in both languages, perhaps assisted by the Englishman John Kendrick who sailed with him. See Minson, "Quimper Journal."

²⁵ Parsonson, "Literate Revolution," 45. Pōmare I installed his son, Pōmare II, as ruler in 1791, but Pōmare I continued to rule as regent until his death in 1803. Pōmare became a dynastic name adopted by male and female rulers alike. All carrying the dynastic name were men, except Pōmare IV.

²⁶ William E. H. Tagupa, "The Tahitian Language: A Historical and Vernacular Controversy," *Pacific Studies* 2, no. 2 (1979):144.

negotiations in another language with a foreign power for commercial gain several years before Tahitians acquired literacy.

Pōmare's scribe likely was a missionary who was fluent in both Tahitian and English.²⁷ The use of bilingual foreigners to assist with commercial and political correspondence was replicated at other Polynesian kingdoms, including Hawai'i. Kamehameha's trusted English advisors Isaac Davis and John Young, for example, were present during Captain George Vancouver's visits in 1793-94 and acted as Kamehameha's agents aboard ship to regulate trade and keep order. Vancouver inferred that Young acted as Kamehameha's interpreter as he "was usually at Kamehameha's side" in the king's visits to Vancouver's ships.²⁸ Although not recorded, it is probable that Young read and interpreted the 1794 letter that Vancouver wrote documenting Britain's protection of Kamehameha I's kingdom.

LMS missionaries completed their work on the first printed Polynesian orthography *Te Abei no Taheiti (The Tahitian Alphabet)* by 1807 but it was not published in London until 1810. In order to shorten production times, LMS missionaries at Moorea installed the first printing press to operate in the South Pacific in 1817, and missionary staff soon printed nearly three thousand copies of the forty-seven-page *Te Abei no Taheiti*.²⁹ Many more Tahitian imprints followed, principally religious or grammatical in nature.³⁰

Word of this new writing technology quickly spread through informal networks beyond Tahiti to other island groups carried by the voyaging Polynesians that David A. Chappell

²⁷ Parsonson, "Literate Revolution," 45, fn. 48.

²⁸ Bern Anderson, *The Life and Voyages of Captain George Vancouver, Surveyor of the Sea* (Seattle: Univ. of Washington Press, 1960), 138.

²⁹ Tagupa, "The Tahitian Language," 144.

³⁰ John Davies, *The History of the Tahitian Mission, 1799-1830, With Supplementary Papers from the Correspondence of the Missionaries*, ed. C. W. Newbury (London: Cambridge Univ. Press, 1961), xvii-xix.

describes in *Double Ghosts*.³¹ Vanessa Smith also studied the impact of literacy on cultural change in the Pacific, and like Parsonson she discovered that Polynesians viewed literacy as an end in itself rather than simply as the medium for conversion.³² Parsonson reported that people in Tonga, New Zealand, Rarotonga and Samoa sought out any foreigner who might be able to teach them to understand letters.³³ Thus by the time missionaries established stations at different island groups in Polynesia, they generally found a willing populace already acquainted with written documents used by foreigners and impatient to supplement their oral communications by learning to read and write themselves. Three decades before the missionaries arrived at Hawai‘i, for example, Hawaiians understood the economic value of “to whom it may concern” certification letters. Hawaiians also delivered letters between ships’ officers, while Vancouver’s 1794 cession letter demonstrated to them the political worth that literacy could deliver.³⁴

Church Missionary Society (CMS) members created the first one-hundred page Māori grammar in 1820.³⁵ Thereafter LMS and CMS mission schools in New Zealand taught literacy to Māori students along with religion, but C. J. Parr and J. M. R. Owens both published research showing that it was the Māori themselves who exhibited a universal enthusiasm for literacy and spread out to teach each other.³⁶ Teacher and Māori political activist Ranginui Walker added insight to their acceptance of the new writing system: “The Maori readily learned the symboling system of the written word since it was easily seen as an extension of their own symboling

³¹ David A. Chappell, *Double Ghosts* (Armonk, NY: M. E. Sharpe, 1997).

³² Vanessa Smith, *Literary Culture and the Pacific: Nineteenth-Century Textual Encounters* (New York: Cambridge Univ. Press, 2005), 71.

³³ Parsonson, “Literate Revolution,” 49. Parsonson did not elaborate on the advent of literacy at Samoa and Tonga.

³⁴ Minson, “Quimper Journal,” 49-51.

³⁵ Entitled *A Grammar and Vocabulary of the Language of New Zealand* by Thomas Kendall and Samuel Lee. See Parr, “Missionary Library,” 429-30.

³⁶ C. J. Parr, “Maori Literacy,” *The Journal of the Polynesian Society* 72, no. 3 (1963):211; J. M. R. Owens, “Christianity and the Maoris to 1840,” *New Zealand Journal of History* 2, no. 1 (April 1968):35; see also Parsonson, “Literate Revolution,” 48-9, citing Samuel Marsden’s letters and journal, and O. Hadfield’s letters to the CMS.

system in the art of carving.”³⁷ The Māori quickly achieved a high literacy rate and became prolific letter writers.

In 1817, London physician and author Dr. John Martin edited and published an oral account about Tonga told to him by William Mariner, who had lived among Tongans as a captive from 1806 to 1810.³⁸ Martin’s editing of Mariner’s account included the first printed vocabulary of Tongan words and enriched linguistic understandings about the language, but not until Wesleyan Methodist Missionary Society (WMMS) missionaries arrived in 1826 did actual orthographic work begin.³⁹ Martin Daly reports that a considerable number of Tongans had learned to write by 1829 even with just manuscripts as guides. A printing press arrived in 1831, and the mission printed and distributed 17,000 schoolbooks and religious texts in the Tongan language in just nine months.⁴⁰

Like Pōmare I had done at Tahiti, Kamehameha had Europeans prepare written communications that he used for his own political and commercial purposes. Vancouver’s 1793 letter of recommendation and his 1794 cession letter are well documented.⁴¹ Letters written for Kamehameha to George III on March 3 and August 6, 1810 elicited a response from the Earl of Liverpool on April 30, 1812 that drew Kamehameha further into a political relationship with the British monarch’s government.⁴² The identity of Kamehameha’s scribe for his letters to George

³⁷ Walker, *Ka Whawhai Tonu Matou*, 85.

³⁸ John Martin, *An Account of the Natives of the Tonga Islands, in the South Pacific Ocean With an Original Grammar and Vocabulary of Their Language, Compiled and Arranged from the Extensive Communications of Mr. William Mariner, Several Years Resident in Those Islands*, 2 vols., 4th ed. (Reprint: 1817; Tonga: Vava’u Press).

³⁹ Albert J. Schütz, “Reading between the Lines: A Closer Look at the First Hawaiian Primer (1822),” *Palapala* 1 (2017):7. Schütz adds understanding to the linguistic process of creating Polynesian orthographies with his analysis of the different overlays added by early attempts to create working grammars and vocabularies. In this instance, Schütz cited Martin’s work on Mariner’s account.

⁴⁰ Daly, “Missionary Printing in Tonga,” 368-9.

⁴¹ See Series 402-2-2 and 402-2-3, Chronological File, FO&EX, HSA.

⁴² Earl of Liverpool to Kamehameha, 30 April 1812, Series 402-2-7, Chronological File FO&EX, HSA.

III is not recorded, but it could have been the Spaniard Don Francisco de Paula Marin whom biographer Ross H. Gast placed at Hawai‘i about 1793. Gast recorded that Marin knew several languages and served Kamehameha as interpreter, business counselor, and keeper of accounts.⁴³ The extensive accounting records that Marin made of the goods Kamehameha received in 1812 from Captain Winship in exchange for sandalwood sold in China documented both the complexity of the king’s commercial relationships and his interest in acquiring western goods.⁴⁴ Further proof of Kamehameha’s commercial entanglements is evident from the receipt dated March 6, 1811 that John Young signed on Kamehameha’s behalf for the settlement of a claim for damages caused by William H. Davis and others.⁴⁵ It is immaterial that Kamehameha’s communications were written by others in a language other than his own; like Pōmare I’s correspondence with the governor of New South Wales about the pork trade, what matters is that Kamehameha recognized how to use written communications to his kingdom’s political advantage and his own commercial gain.

After he succeeded his father as Kamehameha II in 1819, Liholiho established his own political relationship with a foreign leader by sending correspondence to the Emperor of Russia written in French by his secretary Jean Baptiste Rives.⁴⁶ In a letter dated March 25, 1820—just days before the arrival of the first company of ABCFM missionaries—Liholiho informed the

⁴³ Gast entertained more than one date, and Marin may have continued to travel until 1809. Ross H. Gast, *Don Francisco de Paula Marin, A Biography* (Honolulu: The Univ. Press of Hawai‘i for the HHS, 1973), 3-9, 14.

⁴⁴ “Account by Don Francisco Marin of the returns brought by Captain Winship for the King’s (Kamehameha) sandalwood shipped to China in 1811,” Series 402-2-7, Chronological File, FO&EX, HSA.

⁴⁵ “Photostat copy of receipt signed by John Young, for Tamaahuahu, for \$3000, for claims against ship Lelia Byrd,” Series 402-2-7, Chronological File, FO&EX, HSA.

⁴⁶ Pierre, or Peter Dobell was an Irish adventurer who took charge of the letter and delivered it to the Russian Court. See Pierre Dobel, *Sept Annees En Chine, Nouvelles Observations sur Cet Empire, traduit du Russe Par Le Prince Galitzin* (Paris: Librairie D’Amyt, 1842), 334-5; V. M. Golovnin, *Around the World on the Kamchatka, 1817-1819*, trans. Ella Lury Wiswell (Honolulu: The HHS and the Univ. Press of Hawai‘i, 1979), xxxix, at fn 23 printed the English translation of the letter. The mission contingent made landfall on March 30, 1820, see Bingham, *Residence*, 69.

emperor of his ascension and called the emperor to account for the attempts in 1816 by the Russian-American colonizing company to establish settlements at O‘ahu and Kaua‘i.⁴⁷ A native of Bordeaux, Rives was fluent in French, English and Hawaiian and had entered Liholiho’s service on his arrival at Hawai‘i in 1810.⁴⁸ The letter demonstrates that, like his father before him, Liholiho relied on a scribe to write in a language he did not know so that he could work directly with another world ruler who could influence events within his kingdom.⁴⁹ Several chiefs learned to speak and read English prior to the arrival of the missionaries in 1820, and many other Hawaiians also learned to read and write in English while traveling abroad.⁵⁰

ABCFM missionaries begin work

Chappell investigates the experiences of Pacific Islanders who shipped out on western vessels from all points in Oceania, and Kuykendall noted that as early as 1787, Hawaiians had importuned ships’ crews to take them along on voyages to foreign lands.⁵¹ Eighteenth and nineteenth-century accounts are replete with examples of traveling Hawaiians. British fur trader John Meares, for example, was one of the first to record in 1787 the intense desire of numerous

⁴⁷ Richard A. Pierce, ed., “Document 63: ‘Journal Kept by Dr. Schaeffer,’” *Russia’s Hawaiian Adventure, 1815-1817* (ON: The Limestone Press, 1976), 200-1.

⁴⁸ John Papa ‘Ī‘Ī, *Fragments of Hawaiian History*, ed. Dorothy B. Barrère, trans. Mary Kawena Pukui, rev. ed. (Bishop Museum Press, Honolulu, Hawaii, 1959), 86-7. ‘Ī‘Ī’s historical notes were translated and edited from the original articles that had been serialized in *Ka Nupepa Kuokoa* from June 2, 1866 to August 18, 1866, and again from December 5, 1868 to May 28, 1870. Marie Alohalani Brown catalogued ‘Ī‘Ī’s newspaper contributions in her biography entitled *Facing the Spears of Change: The Life and Legacy of John Papa ‘Ī‘Ī* (Honolulu: Univ. of Hawai‘i Press, 2016).

⁴⁹ Liholiho had a rudimentary understanding of English and could copy simple words, but he was not literate in English or French. See ‘Ī‘Ī, *Fragments*, 128.

⁵⁰ Kamakau, *Ke Kumu Aupuni: Ka Mo‘olelo Hawai‘i no Kamehameha Ka Na‘i Aupuni a me Kāna Aupuni i Ho‘okumu Ai* (Honolulu: ‘Ahahui ‘Ōlelo Hawai‘i, 1996), 242; Jarves, *History*, 3d. ed., 111, where Jarves reported that the chief Kuakini known as John Adams spoke in English to the newly arrived missionaries in April 1820.

⁵¹ Chappell, *Double Ghosts*; Kuykendall, *Hawaiian Kingdom*, 1:22.

Hawaiians “who pressed forward with inexpressible eagerness to accompany us to Britannee.”⁵² William Mariner recalled that he met several Sandwich Islanders at Tonga during his captivity there from 1806 to 1810.⁵³ John Papa ‘Ī‘ī recorded that in 1811, more than a hundred Hawaiians volunteered to work at American fur trapping settlements in the Pacific Northwest.⁵⁴ Members of the ABCFM knew of ten Hawaiians just from the island of Hawai‘i who were living in the northeastern United States in 1816,⁵⁵ and in 1820 two Hawaiians ended up destitute in London.⁵⁶ Thus it was not unusual that four Hawaiian sailors who would become important to the ABCFM missionary effort—William Kanui, Henry ‘Ōpūkaha‘ia, Thomas Hopu, and John Honolii—left their homes on American ships and found themselves together in the New England environs in 1816. Instead, what distinguishes the experiences of these Hawaiian sailors is what happened to them at Cornwall, Connecticut after they arrived and were joined by George Humehume, the son of Kaumuali‘i, the king of Kaua‘i.⁵⁷

John Demos recounted that when potential sponsors learned that the Hawaiians were eager for an education, a philanthropist in 1816 suggested to the society’s corresponding secretary Jeremiah Evarts that the youths needed to be brought together at a permanent residence

⁵² John Meares, *Voyages Made in the Years 1788 and 1789 From China to the Northwest Coast of America, with an Introductory Narrative of a Voyage Performed in 1786, From Bengal, in the Ship “Nootka,”* 2 vols. (Reprint: London: Legographic Press, 1791), 5.

⁵³ Martin, *An Account of the Natives of the Tonga Islands*, xxvi.

⁵⁴ ‘Ī‘ī, *Fragments*, 87.

⁵⁵ Miscellaneous—On Educating Heathen Youth,” *Panoplist and Missionary Magazine* 12, no. 7 (1816):193.

⁵⁶ “Native Hawaiians in London 1820,” *55th Annual Report of the HHS* (1946):13-7. Although rife with inaccuracies about life in the Sandwich Islands, the article evidenced that Hawaiians traveled the several seas.

⁵⁷ *A Narrative of Five Youth from The Sandwich Islands, Now Receiving An Education In This Country* (New York: J. Seymour, 1816). ABCFM staff published this tract to stimulate interest in and donations to their planned “school for heathen youth.” Douglas Warne, *Humehume of Kaua‘i: A Boy’s Journey to America, an Ali‘i’s Return Home* (Honolulu: Kamehameha Publishing, 2008), 46. Unbeknownst to Humehume, Kaumuali‘i had acknowledged himself as a subordinate king to Kamehameha I in 1810. See ‘Ī‘ī, *Fragments*, 81-3; Anna Sawyer, “George Prince Kaumualii,” *55th Annual Report of the HHS*, 7-8.

with a permanent instructor.⁵⁸ And so the ABCFM formed a ‘school for heathens’ called the Foreign Mission School at Cornwall in 1817 to discover if four of the youths—Henry ‘Ōpūkaha‘ia (Obookiah), Thomas Hopu (Hopoo), John Honolii (Honoree), and William Kanui (Tennooe)—could be educated, converted, civilized, and sent back home to convert and civilize others.⁵⁹ (The society intended to educate Humehume and return him to his father.)⁶⁰

‘Ōpūkaha‘ia worked diligently to create the first Hawaiian language grammar and dictionary, but he died of typhus in Cornwall in 1818.⁶¹ Members of the small band of missionaries who formed the ABCFM’s first contingent to Hawai‘i in 1819 cited the memory of ‘Ōpūkaha‘ia as having stimulated them to volunteer to serve.⁶²

Aboard the brig *Thaddeus* under the command of Captain Blanchard when it sailed from Boston harbor on October 23, 1819 bound for the Sandwich Islands was the first ABCFM missionary company of seven men, their wives, five children, and the remaining four Hawaiian youths.⁶³ After a rigorous six-month sea voyage, the *Thaddeus* made landfall at the Kohala coast of the island of Hawai‘i on March 30, 1820. To their surprise, the mission contingent found that

⁵⁸ John Demos, *The Heathen School, A Story of Hope and Betrayal in the Age of the Early Republic* (New York: Alfred A. Knopf, 2014), 31-3.

⁵⁹ “Miscellaneous—On Educating Heathen Youth,” *Panoplist*, 193-5. While ABCFM staff used the spellings of names shown in the parentheses, I use Hawaiian orthography and diacritical marks.

⁶⁰ Warne, *Humehume*, 45-6.

⁶¹ Edwin Welles Dwight, *Memoirs of Henry Obookiah, A Native of Owhyhee, and a member of The Foreign Mission School; who died at Cornwall, Conn. Feb. 17, 1818, Aged 26 years* (Philadelphia: American Sunday School Union, 1830), 99-100, 110. This is one of several reprints of Dwight’s 1818 edition. The Hawaiian language version of Dwight’s manuscript, entitled “Ka Moololo o Heneri,” was serialized in *Ka Nupepa Kuokoa* from September 9, 1865 to March 24, 1866 and incorporated Hawaiian mo‘olelo conventions, such as details about his genealogy. On October 26, 1867, *Ka Nupepa Kuokoa* offered 2,000 copies of the Hawaiian language version for sale.

⁶² Bingham, *Residence*, 59. Bingham’s *Residence* publication was compiled from multiple sources, including his own letters and notes, after he left the Hawai‘i.

⁶³ Hawaiian Mission Children’s Society, *Portraits of American Protestant Missionaries to Hawaii* (Honolulu: The Hawaiian Gazette Co., 1901), 2-8; Susan N. Bell, “Owhyhee’s Prodigal,” *HJH* 10 (1976):26.

the Hawaiian rulers had overthrown their traditional religion, and they soon received permission from Liholiho to remain on a trial basis.⁶⁴

The ABCFM's 1819 instructions from its Prudential Committee to the first company of Sandwich Islands missionaries exhorted them "to make [the Hawaiians] acquainted with letters; to give them the Bible with skill to read it."⁶⁵ The Rev. Hiram Bingham described this commitment in his published narrative: "we commenced printing the language in order to give them letters, libraries, and the living oracles in their own tongue, that the nation might read and understand the wonderful works of God."⁶⁶ When Bingham and the rest of the mission contingent concentrated first on teaching English language literacy, however, they quickly ran into the same difficulties experienced by LMS teachers in Tahiti and the Leeward Islands: Polynesians could not pronounce many English letters and sounds, and they were unfamiliar with English spelling rules.⁶⁷ Commenting in 1823 on the Hawaiians' struggles to enunciate some of the English letters, Ka'ahumanu told the Rev. Charles S. Stewart that they made "crooked work of it."⁶⁸ Liholiho encouraged the missionaries to learn his language so that they could print prayers and books in Hawaiian for his people to read, and so the Sandwich Islands Mission (SIM) members soon turned to devising a Hawaiian orthography.⁶⁹ Several months later, however, the missionaries had made little progress in constructing a Hawaiian alphabet.

⁶⁴ Rufus Anderson, *The Hawaiian Islands: Their Progress and Condition Under Missionary Labors* (Boston: Gould and Lincoln, 1865), 49.

⁶⁵ American Board of Commissioners for Foreign Missions, *Instructions of the Prudential Committee of the American Board of Commissioners for Foreign Missions to the Sandwich Islands Mission* (Lahainaluna: Mission Press, 1838), 27. See also *Missionary Herald* 23, no. 8 (1827):240.

⁶⁶ Bingham, *Residence*, 156.

⁶⁷ Davies, *History of the Tahitian Mission*, 78, 108, Bingham, *Residence*, 102, 112. Double consonants and sibilant sounds gave the most pronunciation difficulty.

⁶⁸ C. S. Stewart, *Journal of a Residence in the Sandwich Islands*, 3rd ed. (Reprint: 1830. Honolulu: Univ. of Hawai'i Press, 1970), 179. Stewart and his wife arrived in 1823 with the second company of missionaries sent by the ABCFM.

⁶⁹ Lucy G. Thurston, "Article XLI: The King's Visit," *Life and Times of Lucy G. Thurston Pioneer Missionary to the Sandwich Islands* (Ann Arbor, MI: S. C. Andrews Bookseller & Publisher, 1882), 60; Bingham, *Residence*, 106.

Unexpected help arrived on January 1, 1822 when two copies of Thomas Kendall and Samuel Lee's *A Grammar and Vocabulary of the Language of New Zealand* arrived in the mission's New Year's Day packet of letters. After studying the Māori grammar and vocabulary lessons, the missionaries developed a feeling of confidence with the linguistic decisions they already had made and were ready to move ahead and print a native speller using seven consonants and five vowels. At last, in 1822, Hawaiians discovered the power of literacy in their own language.⁷⁰ Bingham invited the chiefs and foreigners to watch on January 7 as Ke'eaumoku (a brother of Ka'ahumanu and a son of the chief who had presented Kamehameha's certificates to Vancouver in 1792) pulled the lever on the mission press to roll off the first page of the speller.⁷¹

Missionary printer Elisha Loomis distributed more than 2,000 spelling books in the first year alone.⁷² The development of the Hawaiian alphabet, the ability to disseminate copies through printing, and the ready acceptance of the alphabet by the chiefs was a triumph for the mission because they believed that now they could teach Hawaiians to absorb literacy and piety simultaneously.⁷³ SIM members anticipated that literate and converted groups of Hawaiians could fan out around the islands and expand proselytizing efforts beyond the reach of the mission's few stations, just as the missionaries had hoped the graduates of the Foreign Mission School would do; and just as Newbury reported that Tahitian volunteers did when delivering the LMS missionizing message to outlying islands.⁷⁴ Mission teachers quickly pressed the spelling

⁷⁰ "Woahoo Journal," *Missionary Herald* 19, no. 2 (1823):42. Although they chose five vowels and seven consonants for the Hawaiian language itself, they added another layer of several additional consonants for use in expressing foreign and Scriptural names. See Bingham, *Residence*, 155. Alphabetic spelling was changed to its present form in 1826.

⁷¹ Bingham, *Residence*, 156.

⁷² Elisha Loomis, Journal, 23 September 1822, Journal Collection, HMHA.

⁷³ O'Connell, "Literacy and Colonization," 1: 499.

⁷⁴ Newbury, *Tahiti Nui*, 70.

book into service at their two schools: one at O‘ahu with forty students, and another at Kaua‘i with twenty-five students.⁷⁵

Learning to read and write

“*Ua loa‘a ia‘u!*” (I got it!) exclaimed the chiefess Ka‘ahumanu as she enunciated the sounds shown on the Hawaiian speller held up by the Rev. Bingham. Ka‘ahumanu was the eldest child in her generation of the wealthy and influential Kekaulike family linked to Maui chiefs, a widow of Kamehameha I, and the most powerful of Liholiho’s chiefs.⁷⁶ Bingham later remembered that Ka‘ahumanu was so pleased with this new reading skill that she immediately laid down her playing cards and ordered forty spellers for her household attendants.⁷⁷ Ke‘eaumoku—who had pulled the lever to print the first page of the speller—became the first chief to establish a school for the instruction of his people.⁷⁸

Liholiho also demanded copies of the speller for his household. The king told printer Loomis that he wanted to have his people taught as soon as possible, and he, his wives Kīna‘u and Kekau‘ōnohi, and the chief Kalanimoku began private tutoring from the Revs. Bingham and Asa Thurston.⁷⁹ Poised at the brink of acquiring literacy in his own language, Liholiho also told printer Loomis that “he fully believes the islands will become like Otaheete.”⁸⁰

Liholiho would have learned about Tahitians’ literacy from travelers between the two island groups. Even before 1820 Hawaiians had traveled to Tahiti and returned home able to read

⁷⁵ “Joint Letter of the Missionaries,” 01 February 1822, *Missionary Herald* 19, no. 1 (1823):11.

⁷⁶ Kamakau, *Ke Aupuni Mō‘ī*, 79-81. Kamakau noted that Ka‘ahumanu held familial ties to more chiefs than Kamehameha I, and her ability to call on them for support enhanced her power and influence; ‘Ī‘ī, *Fragments*, 50-1, detailed when Ka‘ahumanu had attempted to overthrow Kamehameha and install Liholiho as the ruler.

⁷⁷ Bingham, *Residence*, 164-5.

⁷⁸ Stewart, *Journal*, 276n.

⁷⁹ James Kahuhu to John Adams Kuakini, 12 March 1822, Series 402-2-11, Chronological File, FO&EX, HSA.

⁸⁰ Loomis, *Journal*, 23 January 1822. The Tahitian alphabet had been printed in 1810.

and write and to speak English.⁸¹ And Tahitians traveled to Hawai‘i—at least three literate Tahitians lived in Hawaiian chiefs’ households at the time Liholiho spoke with Loomis.⁸² One of the three named Toketa lived in the household of the Hawai‘i island district chief Kaluaikonahale “John Adams” Kuakini and assisted Kuakini in drafting a letter to Bingham using the new Hawaiian alphabet.⁸³

In mid-1822, LMS missionary William Ellis and a group of nine Tahitians led by a chief named Auna arrived unexpectedly from Tahiti aboard *H.M.S. Mermaid* for a stay of several months. While there, Ellis used his knowledge of the Tahitian language to help sort out the pronunciation and structure of the Hawaiian language, which quickly resolved many of the linguistic difficulties that had stymied the Americans and enabled them to acquire greater speaking fluency.⁸⁴ Meanwhile Auna set about teaching Liholiho’s principal wife Kamāmalu to read and write, and he also ran a school for children within the royal compound.⁸⁵ When Ellis returned to the Society Islands in August 1822, he carried with him letters written in Hawaiian by Liholiho’s own hand to two chiefs at Huahine island, Mahina and Teuheiti, relating the news that Hawaiians had become literate.⁸⁶ This informal exchange of knowledge and information between Tahitians and Hawaiians continued when three of the Tahitians who had accompanied Ellis in 1822 returned with him in February 1823. Ka‘au‘amoku, Kau‘ākāne and Kau‘āwahine

⁸¹ S. M. Kamakau, *Ke Kumu Aupuni*, 242. Kamakau does not name the Hawaiians.

⁸² “Journal of the Mission,” 03 February 1822, *Missionary Herald* 19, no. 6 (1823):182-3. The Journal article names only “Toleta” [aka Toketa]; there is an extant journal written by another Tahitian present at the same time named Kahikona, but there is no record of who the third literate Tahitian might have been.

⁸³ “Journal of the Mission,” 03, 08 February 1822, *Missionary Herald* 19, no. 6 (1823):183. Toketa and Kuakini were visiting Honolulu at the time.

⁸⁴ Bingham, *Residence*, 167; William Ellis, *Polynesian Researches—Hawaii* (Reprint: 1842: Tokyo: Charles E. Tuttle & Co., 1969), 49-54.

⁸⁵ H. E. Maude, “The Raiatean Chief Auna and the Conversion of Hawaii,” *The Journal of Pacific History* 8 (1973):189.

⁸⁶ Bingham, *Residence*, 172, Mahina letter; Rihoriho letter to Teuheiti, 18 February 1823, Series 402-2-12, Chronological File, FO&EX, HSA.

lived with Liholiho’s high-ranking chiefly mother Keōpūolani at Maui where they preached to the members of her household, and all three of them instructed Keōpūolani in letters and music.⁸⁷

A second company of ABCFM missionaries dispatched from Boston arrived in April 1823. In May the mission reported that twenty-four chiefs, “principal personages in the kingdom, besides the king,” were engaged in learning.⁸⁸ Stewart depicted the chiefs as engrossed in their books and slates while they studied palapala and pule, writing and praying, and he reported that Kamāmalu had formed the habit of writing almost daily notes to different missionaries and chiefs.⁸⁹ Kamāmalu also engaged in an important governance task with her new-found skills. When Stewart visited the royal residence in April 1823, he documented that Kamāmalu was busily keeping written records of the people filing by her to pay their taxes.⁹⁰

Liholiho could read and write well in his own language by November 1823 when he sailed to England.⁹¹ Liholiho appointed Kauikeaouli as his heir should he not return, and he left Ka‘ahumanu and Kalanimoku in charge of the kingdom and as regents for the care of his younger brother. Ka‘ahumanu had served as Liholiho’s kuhina nui, or chief minister, since his investiture in 1819, and she also continued that role during his absence. At his departure, “ua kauoha mai oia e ao kona kanaka i ka palapala a hiki i kona wa e hoi mai ai” (he ordered his people to learn to read and write until the time of his return),⁹² and the account in *Ka Mooolelo Hawaii* records that the chiefs and their people complied.⁹³ Stewart recorded in his journal in

⁸⁷ Kamakau, *Ke Aupuni Mō‘ī*, 10-1.

⁸⁸ “Journal of the Mission,” 04 May 1823, *Missionary Herald* 20, no. 7 (1824):209.

⁸⁹ Stewart, *Journal*, 111, 139. Stewart made the standard missionary linkage between literacy and religion.

⁹⁰ Stewart, *Journal*, 101. This is the first record of the chiefs using literacy to keep government records.

⁹¹ Betsey Stockton, entry dated 04 May 1823, “Journal November 20, 1822 – July 4, 1823” (Chicago: Univ. of Chicago Press, 2006).

⁹² “No Ka Noho Ana O Na Misionari,” *Ka Mooolelo Hawaii* (Reprint: 1838. Honolulu: HHS, 2005), 99. Dr. Lyon assisted with the translation.

⁹³ “No Ka Noho Ana O Na Misionari,” *Ka Mooolelo*, 99.

February 1824 that the chiefs had begun asking to have all the people in their immediate households receive books and instruction. Initially the chiefs were reluctant to permit their rural people to be instructed, however, preferring instead to first evaluate the efficacy of this new tool. But before ending a visit to Maui during the summer of 1824, Ka‘ahumanu issued an olelo waha (spoken command) through heralds that “when schools are established, all the people must learn the palapala.”⁹⁴

John Kalei Laimana concluded that Ka‘ahumanu’s spoken command evidenced chiefly commitment to ruling chief Liholiho’s order despite his absence,⁹⁵ and *Ka Mooolelo Hawaii* recorded a further upsurge of interest by the chiefs in teaching literacy to people in the rural areas: “ia manawa, hoouna na ’lii i na kumu pi-a-pa e hele ma na kuaaina e ao i na makaainana i ka palapala” (at that time, the chiefs dispatched teachers of the alphabet to go to the rural people to teach reading and writing).⁹⁶ By late 1824, the districts of Honolulu and Waikīkī each had forty schools, called native, or common schools, taught by Hawaiians who had spent time in America or who exhibited a higher level of learning.⁹⁷ Seeking to supplement the SIM’s scarce resources, Kalanimoku and Ka‘ahumanu turned to the chiefs at the Society Islands to solicit the same kind of assistance that Auna and other visiting Tahitians had provided: by letter in March 1825, they asked the Tahitian chiefs to send books and two or three good teachers, “like Auna.”⁹⁸

⁹⁴ *Missionary Herald* 22, no. 8 (1826):240. See also Stewart, *Journal*, 321.

⁹⁵ John Kalei Laimana, “The Phenomenal Rise to Literacy in Hawai‘i: Hawaiian Society in the Early Nineteenth Century” (master’s thesis, Univ. of Hawai‘i, 2011), 43-4.

⁹⁶ “No Ka Noho Ana O Na Misionari,” *Ka Mooolelo*, 101. Dr. Lyon assisted with this translation. *Kua āina* can refer either to a rural place or a rural people. The context of the sentence makes it clear that in this case the noun refers to people. Kamakau placed this upsurge in rural learning shortly after the conclusion of Prince George Humehume’s August 1824 rebellion at Kaua‘i, see Kamakau, *Ke Aupuni Mō‘ī*, 22.

⁹⁷ Lorrin Andrews, “Essay on the Best practicable Method of Conducting Native Schools at the Sandwich Islands,” Appendix III, *Report of the American Board of Commissioners for Foreign Missions read at the Twenty-Fifth Annual Meeting* (Boston: Crocker and Brewster, 1834), 156; Kamakau, *Ke Aupuni Mō‘ī*, 22.

⁹⁸ “Sandwich Islands Journal,” 26 March 1825, *Missionary Herald* 22, no. 4 (1826):110.

Kauikeaouli's royal command

Liholiho's death in London on July 14, 1824, the return of his remains to Honolulu on May 6, 1825 aboard *H. M. S. Blonde*, and the ascension of his younger brother Kauikeaouli as Hawai'i's ruler is a well-known story.⁹⁹ Less well-known is what twelve-year-old Kauikeaouli said to the crowd that had gathered at a place called Honuakaha in Honolulu on June 6, 1825 to hear members of the council of chiefs present him as their new King Kamehameha III.¹⁰⁰ Two things are striking about this speech: first, the young king enunciated a bold vision for his kingdom, and second, no westerner recorded it. An historical record of Kauikeaouli's speech exists because S. M. Kamakau wrote an account of it that was printed on February 22, 1868 in the Hawaiian language newspaper *Ka Nupepa Kuokoa* as part of his biography of the king.¹⁰¹

Henry M. Whitney (the son of missionaries Samuel and Mercy Whitney) began publication of *Ka Nupepa Kuokoa* in 1861 during the reign of Kauikeaouli's successor, Kamehameha IV. Esther Mookini characterized *Ka Nupepa Kuokoa* as "the first independent Hawaiian newspaper" even though it enjoyed mission support, and curator Joan Hori described the newspaper's stance as European-American with a long history of printing information about Hawaiian tradition and culture.¹⁰² Born on O'ahu in 1815 and educated at Lahainaluna Seminary, Kamakau enjoyed a lengthy career in education and government service. Although controversy

⁹⁹ Queen Kamāmalu accompanied Liholiho to England and preceded him in death. Both of their remains were transported back aboard the *H. M. S. Blonde*. See J. Susan Corley, "The British Press Greet the King of the Sandwich Islands: Kamehameha II in London, 1824," *HJH* 42 (2008); Captain the Right No. Lord Byron, Commander, ed. Mrs. Mary Graham, *Voyage of H. M. S. Blonde to the Sandwich Islands, in the years 1824-1825 Part I and II* (London: John Murray, Albemarle-Street, 1826), 1:69, 2:110, 2:151-2.

¹⁰⁰ Honuakaha is near present-day Kawaiaha'o Cemetery and not far from Honolulu's port. See Mary Kawena Pukui and Samuel H. Elbert, *Place Names of Hawai'i* (Honolulu: Univ. of Hawai'i Press, 1966), 5.

¹⁰¹ Kamakau, *Ke Aupuni Mō'ī*, 2.

¹⁰² Esther Mookini, *The Hawaiian Newspapers* (Honolulu: Topgallant, 1974), vi; Joan Hori, "Background and Historical Significance of Ka Nupepa Kuokoa," Special Collections, Hamilton Library (Honolulu: Univ. of Hawai'i at Mānoa, 2001), 1.

surrounded much of his published information about cultural history and the traditional chiefs, he was eulogized as a prolific historian with a remarkable and acute memory.¹⁰³ Kamakau constructed many of his biographical essays from oral accounts, and Nogelmeier concluded that Kamakau's work as a paid columnist for two successive newspapers bolstered his authority as a historian.¹⁰⁴

Kamakau's personal relationship with Kauikeaouli and their shared love of historical data no doubt informed Kamakau's 1868 account about the king's 1825 speech.¹⁰⁵ During the days before his investiture, Kauikeaouli would have heard the tales told by the returning members of Liholiho's suite of the western societies that they had visited in London, Rio de Janeiro, and Valparaiso, and so it is not remarkable that Kauikeaouli chose to reinforce his elder brother's command for people to learn to read and write. What is remarkable is that Kauikeaouli elevated his expectations of his peoples' personal acquisition of literacy into a vision for the very nature of the kingdom itself:

A laila, kū maila ka Mō'i Kauikeaouli . . . 'Auhea 'oukou e nā ali'i, e nā kahu, e ka hū, e ka maka'āinana; aloha 'oukou. E ho'olohe mai 'oukou; 'o ko'u aupuni, ke hā'awi nei au i ke akua. 'O ke ali'i pono, 'o ko'u ali'i ia, 'o nā keiki a nā maka'āinana i mālama i ka pono, 'o ko'u kānaka ia 'O ke ali'i hewa a me ke kanaka hewa, 'a'ohe no'u ia kanaka[.] 'O ko'u aupuni, he aupuni a'o palapala ko'u. 'Auhea 'oukou e nā ali'i a me nā maka'āinana, e a'o 'oukou i ka palapala.'¹⁰⁶

(Then the King rose [to speak] . . . Pay heed, chiefs, regents, and commoners; Greetings. Hear me: my kingdom, I give to God. My chiefs who behave for the good of the community, they are my chiefs, the children of the maka'āinana who care for the community's good, they are my people. Chiefs and people who act in

¹⁰³ As characterized by W. R. Castle in the *P. C. Advertiser*, 09 September 1876; see also Thrum, "Brief Sketch of Kamakau," 51-2.

¹⁰⁴ Nogelmeier, *Mai Pa'a i Ka Leo*, 117.

¹⁰⁵ Thrum, "Brief Sketch of Kamakau," 41-2. Both served as officers of the first Hawaiian Historical Society founded in 1841.

¹⁰⁶ Kamakau, *Ke Aupuni Mō'i*, 2.

ways harmful to the community are not my people. My rule will be characterized by literacy. Pay heed chiefs and maka‘āinana, learn to read and write.)¹⁰⁷

The only place that a record of this speech appears in English is in the edited collection of Kamakau’s newspaper articles printed in 1961 under the title *Ruling Chiefs of Hawaii*. The rendering of the speech, however, suffered from the translation and extraction processes identified by Nogelmeier which the editors used to compile *Ruling Chiefs*.¹⁰⁸

He arose and said “Where are you, chiefs, guardians, commoners *hu* and *maka‘āinana*! I greet you. Hear what I say! My kingdom I give to God. The righteous chief shall be my chief, the children of the commoners who do right shall be my people, my kingdom shall be one of letters.”¹⁰⁹

Key components of the speech are missing. Omitted was the traditional Hawaiian construction of paired opposites—pono and hewa (good and bad)—to signal Kauikeaouli’s expectations about their behavior and his commitment to uphold the law.¹¹⁰ Also omitted was the king’s verbal command directing his people to learn literacy. Without the command, Kauikeaouli’s characterization of the nature of his rule lacks force. As Nogelmeier observed about similar situations, the translation and editing created a different sort of speech than the original.¹¹¹

Kamakau’s Hawaiian-language biography continued with anecdotes about the importance that Hawaiians placed on Kauikeaouli’s pronouncement: “E mālama i ka leo o ke ali‘i, o hā‘ule wale i ka weuwēu” (Heed the chief’s voice; do not ignore his commands) teaches a Hawaiian

¹⁰⁷ Dr. Lyon assisted with this translation. In English, the distinctions between the words *hū* and *maka‘āinana* are subtle, but both refer to people without rank, and so the word *commoner* that is frequently used in eighteenth and nineteenth British English can apply to both groups. In my text I will use the Hawaiian word “*maka‘āinana*” rather than “*commoner*.”

¹⁰⁸ Nogelmeier, *Mai Pa‘a i Ka Leo*, 124.

¹⁰⁹ Kamakau, *Ruling Chiefs*, 258. Note that the literal translation of “*auhea ‘oukou*” is “where are you,” but the phrase is an idiom which is better translated as “pay heed.”

¹¹⁰ For an explanation of the uniquely Hawaiian duality of *pono/hewa*, see Jeffrey (Kapali) Lyon, “*Davidā Malo, Nathaniel Emerson, and the ‘Sins’ of Hawaiians: An Analysis of Emerson’s Hawaiian Antiquities as a Guide to Malo’s Mo‘olelo Hawai‘i*,” *Hūlili: Multidisciplinary Research on Hawaiian Well-Being* 7 (2011).

¹¹¹ Nogelmeier, *Mai Pa‘a i Ka Leo*, 124.

proverb, and that is precisely how the chiefs and maka‘āinana reacted.¹¹² A passage from *Ka Mooolelo Hawaii* reported that “ia manawa, hoouna na ’lii i na kumu pi-a-pa e hele mai na kuaaina e ao i na makaainana i ka palapala” (at that time, the chiefs sent teachers of the alphabet to the rural areas to teach reading and writing).¹¹³ Kamakau punctuated the practical application of the proverbial advice when he detailed the tremendous outpouring of enthusiasm by the King’s subjects as the order went down through the ranks to fulfill his command: “‘O ka pane kā ka mō‘ī. ‘He aupuni palapala ko‘u.’ O ka hāpai me ke kōkua kā nā ali‘i. . . . Ua hāpai ka lāhui holo‘oko‘a i kēia ‘oihana me ke alaka‘i ‘ole ‘ia e nā kumu misionari; ho‘okahi kumu, ‘o ka ‘ōlelo pane a ka mō‘ī.’” (It is the King who proclaimed. ‘Mine is a rule of literacy.’ It is the chiefs who undertake and support the task. All of the people undertook this task to support him without being led by the missionary teachers; there was only one reason for this, and that was the pronouncement of the king).¹¹⁴

Only from a reading of Kamakau’s Hawaiian language account can the historian grasp the political importance of Kauikeaouli’s speech. For the king’s bold claim that his rule would be characterized by reading and writing was in fact an endorsement of new learning, a vision for the future, and an important policy initiative all rolled into one which turned the acquisition of literacy into a state directive. Kamakau affirmed the powerful force of this command: “He ‘ōlelo

¹¹² Mary Kawena Pukui, ed. and trans., “No. 345,” *‘Ōlelo No‘eau: Hawaiian Proverbs & Poetical Sayings* (Honolulu: Bishop Museum Press, 1983), 42. According to Pukui, the proverb’s literal meaning is “Take care of the chief’s voice, lest it drop among the grass.”

¹¹³ “No Ka Noho Ana O Na Misionari,” *Ka Mooolelo*, 101. The account does not mention Kauikeaouli or his command; however, the chiefs’ action is placed immediately after Boki’s return from England. That timing coincides with Kauikeaouli’s ascension and subsequent command. Dr. Lyon assisted with the translation.

¹¹⁴ Kamakau, *Ke Aupuni Mō‘ī*, 318-9. Dr. Lyon assisted with this translation. Kamakau’s use of the word “pane” provokes discussion. Did Kamakau mean that this was how the King responded to being introduced as their new ruler? Or is pane used in the sense of announcing an order that is carried down through the ranks? In any event, the words “answer,” “speak,” or “spoke” fail to convey the significance of the act of transmitting a spoken command down through the ranks.

waha wale nō kēia i kūkala ‘ia ma Honuakaha; ua lilo na‘e i ‘ōlelo mana i ‘oi a‘e ma mua o nā ‘ōlelo kānāwai o kēia wā.” (It was only a spoken command that he proclaimed at Honuakaha; nevertheless it became an order that carried power and authority well beyond the power of the law in this time.)¹¹⁵ The phrase that cultural historian, teacher and writer Zepherin “Kepelino” Kahō‘ali‘i Keauokalani used in the mid-nineteenth century, “Hawaii imi loa” (Hawaii of the profound knowledge),¹¹⁶ perfectly captured the sense of Kauikeaouli’s challenge to his people to seek out and be changed by knowledge acquired through literacy.¹¹⁷ Over time, the acquisition of literacy invigorated public discussions and created a resilient polity able to absorb profound changes to their traditions and culture. It was a well-calculated exercise of leadership by a young king which fell precisely in line with Hawaiian cultural beliefs about the pono, or beneficial, behaviors that they expected their ruling chief to exhibit.

An explosion of learning

Common schools soon sprung up in all areas, even those geographically distant from the mission stations. By 1826, four hundred literate native teachers instructed at schools established on chiefs’ lands. Laimana cited the consternation of the missionaries when they realized that perhaps another hundred less-skilled natives also taught. This rapid growth of common schools threatened to outstrip the ability of the mission press to supply spelling books, causing Laimana

¹¹⁵ Kamakau, *Ke Aupuni Mō‘ī*, 316.

¹¹⁶ Kepelino is the Hawaiian pronunciation of “Zepherin.” Pukui and Elbert, *Hawaiian Dictionary*, 93. *Imi loa* is defined figuratively as one with great knowledge. Pukui and Elbert cite Kepelino’s phrase “Ahu kupanaha iā Hawai‘i ‘imi loa” and translate it as “a heap of marvelous things in Hawai‘i of the profound knowledge.” Kepelino was born about 1830, converted to Roman Catholicism, and wrote extensively on Hawaiian culture and history. See *Kepelino’s Traditions of Hawai‘i*, trans. Martha Warren Beckwith (Reprint: 1932, Honolulu: Bishop Museum Press, 2007).

¹¹⁷ Noelani Arista, “Foreword” in *Kepelino’s Traditions of Hawai‘i*, ed. Martha Warren Beckwith (Reprint: 1932, Honolulu: Bishop Museum Press, 2007), xii.

to conclude that “the engine that was now driving the literacy campaign was the Hawaiians themselves.”¹¹⁸

ABCFM reports in the *Missionary Herald* indicated that other of their sister missions had also used native teachers as instructors at native schools—at Bombay, for example, the ABCFM mission had successfully used native schools presided over by Brahmins since 1815.¹¹⁹ On a similar but smaller scale, reports circulated from LMS missionary John Davies in 1816 about a chief in an outlying district on Eimeo (Moorea) who used the Tahitian speller and catechisms to teach his people himself.¹²⁰ On the North Island of New Zealand, Māori themselves took over instruction from CMS staff at the village level.¹²¹ These other missions claimed that literacy had increased at all locations that had used native teachers, and the SIM contingent counted on achieving the same results at Hawai‘i.

Early reports validated this approach. “A vast number of people have become able to read,” Loomis wrote the Board at the close of 1825, and he reported that a great demand continued to exist for printed texts, even though thousands of printed copies of religious tracts and Hawaiian hymns already had been distributed.¹²² By 1828, in the Lahaina district of Maui alone, 174 common schools operated, with an enrollment of 11,881 students.¹²³ Kamakau provided his own graphic picture of the enthusiasm with which everyone attended schools, and he estimated that attendance at some schools numbered as high as 1,000.¹²⁴

¹¹⁸ Laimana, “Rise to Literacy,” 53-4.

¹¹⁹ “Native Schools at Bombay,” *The Panoplist and Missionary Herald* (December 1818):559-60.

¹²⁰ Davies, *History of the Tahiti Mission*, 200.

¹²¹ Parr, “Maori Literacy 1843-1867,” 211-12.

¹²² Elisha Loomis to the Corresponding Secretary, December 26, 1825, *Missionary Herald* 22, no. 10 (1826):310-1.

¹²³ Bingham, *Residence*, 328.

¹²⁴ Kamakau, *Ke Aupuni Mō‘ī*, 316.

Even though the mission staff struggled to equip so many new Hawaiian teachers with books and instructional advice, most of the Hawaiian teachers had only the speller as a teaching aid, and many students lacked their own books.¹²⁵ But a shortage of books did not daunt the enthusiasm of Hawaiian pupils. At the close of 1831, schools staffed by Hawaiian teachers numbered 1,103 throughout the islands and had an enrollment of 52,882 out of an estimated population of 185,000.¹²⁶ All ranks and classes participated to help each other learn: “e a‘o nā ali‘i i nā maka‘āinana, e a‘o nā maka‘āinana i nā ali‘i, e a‘o nā ali‘i i nā ali‘i, e a‘o nā ‘aialo i nā ‘aialo, e a‘o nā konohiki i nā konohiki, e a‘o nā maka‘āinana i nā maka‘āinana” (the chiefs should teach the maka‘āinana, the maka‘āinana should teach the chiefs, the chiefs should teach each other, those at court should teach each other, the land managers should teach each other, the maka‘āinana should teach each other).¹²⁷

Ka‘ahumanu continued in her roles as kuhina nui and regent to the young king, and she led the chiefs in urging the people to follow his command and become literate. After Ka‘ahumanu died in mid-1832, however, the enthusiasm that drove school attendance leveled off. By the end of 1832, attendance had dropped at schools taught by the missionaries, and fewer people attended mission church services. The missionaries scrambled to explain to the Boston-based Board what had caused the change, blaming in part the relaxation of “the reins of moral duty” by the nineteen-year-old king, Kāiūkeaouli.¹²⁸ But members of the SIM contingent placed the greatest share of responsibility on what they deemed were the inadequate qualifications of the Hawaiian teachers and appointed the Rev. Lorrin Andrews (a former Kentucky school teacher

¹²⁵ Andrews, “Essay,” 163.

¹²⁶ SIM Report, *Report of the American Board of Commissioners for Foreign Missions read at the Twenty-Third Annual Meeting* (Boston: Crocker and Brewster, 1832), 76-7.

¹²⁷ Kamakau, *Ke Aupuni Mō‘ī*, 316. Dr. Lyon assisted with this translation.

¹²⁸ SIM Report, *Report of the American Board of Commissioners for Foreign Missions read at the Twenty-Fifth Annual Meeting* (Boston: Crocker and Brewster, 1834), 86-9.

and an 1828 arrival in the third company sent by the ABCFM who had been posted to the Lahaina station) to study the school system and make recommendations for change.¹²⁹ Bingham had been present at the inception of the common schools, however, and he explained that “imperfect as they were, not being fully understood by all,” schools under Hawaiian teachers had been indispensable to the education of the populace.¹³⁰

From his later vantage point, Andrews saw only deficiencies, not successes. His written report severely criticized the character, qualifications and teaching methods of the Hawaiian teachers. Like his colleagues, Andrews acknowledged that the missionaries bore the responsibility to train them, and he incorporated those training responsibilities into his June 1832 recommendations: common schools should remain in operation taught by Hawaiians, select station schools taught by missionaries should serve as models for Hawaiian teachers, and a new high school at Lahainaluna should be established to train Hawaiians to be teachers.¹³¹

Throughout the 1830s, the SIM members worked to place the school system on a better basis.¹³²

Lahainaluna Seminary opened in the autumn of 1831 with Andrews as its principal and sole instructor.¹³³ Twenty-five adult Hawaiian men who already had some teaching experience enrolled for the first year, and enrollment grew to sixty-seven students in the second year.¹³⁴

Andrews emphasized that the Lahainaluna curriculum would be structured to give the Hawaiian students the means to acquire knowledge and the ability to employ knowledge to some practical

¹²⁹ Peter Morse, “Lorrin Andrews, Pioneer of Many Talents” (Honolulu: Honolulu Academy of Arts, 1970), 1; SIM Report, *Report for the Twenty-Third Annual Meeting*, 77-9. The Sandwich Islands mission reports repeated this theme in their reports for 1832, 1833, and 1834.

¹³⁰ Bingham, *Residence*, 457.

¹³¹ Andrews, “Essay,” 156-71.

¹³² Mary Atherton Richards, *The Hawaiian Chiefs’ Children’s School 1839-1850: A Record Compiled from the Diaries and Letters of Amos Starr Cooke and Juliette Montague Cooke*, rev. ed. (Tokyo, Japan: Charles E. Tuttle Company, 1970), xiv.

¹³³ Kuykendall, *Hawaiian History*, 1:111.

¹³⁴ Bradley, *American Frontier*, 341.

purpose, in his words, “to teach them to think, and to think to some end [emphasis in the original].”¹³⁵ The curriculum focused on the subjects which the students would teach: reading, geography, arithmetic and writing.¹³⁶ The SIM’s educational imprints reflected Andrews’ desire to focus on teaching analytical processes and practical skills rather than rote learning. Printers worked diligently to furnish the books needed to support the curricula at all instructional levels and turned out 600,000 copies of 14 Hawaiian language imprints by 1832—for a total of 24,065,800 pages.¹³⁷ Like the imprints authored by Davies at Tahiti, many were exclusively religious in nature.¹³⁸ The SIM report for 1831, however, also listed several secular works in print or in progress:¹³⁹

First Elementary Book
Second Elementary Book
Third Elementary Book
Spelling Book
First Book for Children
Arithmetic
Tract on Geography
Grammar of the Hawaiian language
A Hawaiian vocabulary
A Tract of Civil History
A work on Book-keeping
Book of Hymns¹⁴⁰

By the following year, the mission press had also printed:

Fowle’s Child’s Arithmetic

¹³⁵ Andrews, “Essay,” 162.

¹³⁶ Bradley, *American Frontier*, 340.

¹³⁷ Report, Sandwich Islands Mission, *Report of the American Board of Commissioners for Foreign Missions read at the Twenty-Fourth Annual Meeting* (Boston: Crocker and Brewster, 1833), 79, 82-3. Several New England societies and patrons bore the printing costs, for example, the American Bible Society and the American Tract Society. See SIM Report, *Report Twenty-Third Annual Meeting*, 79.

¹³⁸ Davies, *History of the Tahitian Mission*, xvii-xix.

¹³⁹ David Forbes gives a comprehensive listing of Hawaiian imprints from the Mission press beginning with the first speller in 1822. Forbes describes the physical aspects of each imprint, provides a summary of the contents, and he also records the archival location(s) of each imprint. See David W. Forbes, *Hawaiian National Bibliography*, Vols. 1, 2 (Honolulu: Univ. of Hawai‘i Press, 1999).

¹⁴⁰ SIM Report, *Report Twenty-Third Annual Meeting*, 78-9.

Colburn's Intellectual Arithmetic
Geographical Questions
Gamut and Music, engraved (a book on musical theory encompassing the full range of pitches)¹⁴¹

with plans to add:

Revision of the Geography
Preparation of a set of Maps to be engraved
Translation of Holbrook's First Lessons in Geometry
Translation of Colburn's Sequel to Mental Arithmetic
Small treatise on Book-keeping
Music book, Grammar, Vocabulary¹⁴²

Determined to bring about Kamehameha's bold vision of a rule characterized by literacy, the chiefs embraced the 1831 formation of the Lahainaluna school because they recognized that the curriculum could develop an educated group of Hawaiian scholars on whom the king and the chiefs could rely for secular advice to the exclusion of haole (foreign) advisors: “‘A‘ole he paulele o nā ali‘i i ke akamai o nā haole i ia wā. Ua makemake lākou i ka na‘auao o ko lākou lāhui kanaka iho, no laila ho‘i, ua ho‘oikaika loa ka po‘e e ‘imi ana i ka na‘auao i ia wā, a ua loa‘a o ko lākou kōkua.” (The chiefs did not have total confidence in the wisdom of the foreigners at that time. They wanted their own people to be educated, and so for that reason, at that time the people exerted themselves to acquire learning, and help was given to them.)¹⁴³ The chiefs chose pupils from the ranks of their konohiki land agents for the honor of studying at Lahainaluna.¹⁴⁴ An educated middle class emerged to form the beginnings of a new civil polity. Many of the graduates became leading men in the government and in the churches: among them

¹⁴¹ SIM Report, *Report, Twenty-Fifth Annual Meeting*, 90-1.

¹⁴² SIM Report, *Report, Twenty-Fifth Annual Meeting*, 91.

¹⁴³ Kamakau, *Ke Aupuni Mō‘ī*, 73. Dr. Lyon assisted with this translation.

¹⁴⁴ Kamakau, *Ke Aupuni Mō‘ī*, 73.

were several whose deeds are prominently recorded in nineteenth-century histories: Davida Malo, Samuel M. Kamakau, Timoteo Ha‘alilio, Boaz Māhune, and Joseph Kāpena.¹⁴⁵

As enrollment increased and the faculty expanded, the educational objectives for Lahainaluna students broadened to encompass primarily a literary and professional education that would embrace both literature and science in their training to be school teachers and religious teachers.¹⁴⁶ Missionary David B. Lyman founded the Hilo Boarding School for boys in 1836 to serve as a feeder school for the Lahainaluna high school.¹⁴⁷ Prospective Lahainaluna students needed to pass entrance exams in reading, writing, mental arithmetic, and geography, and the curriculum expanded to include arithmetic, geometry, trigonometry, composition, sacred geography, navigation, surveying, astronomy, chemistry, natural and moral philosophy, secular and church history, and Greek.¹⁴⁸ Also in 1836, advanced students under the leadership of Sheldon Dibble interviewed knowledgeable elders and used their oral accounts to develop historical essays.¹⁴⁹ The first two essays were printed in the Hawaiian language newspaper *Ke Kumu Hawaii* on July 20, 1836.¹⁵⁰

The Hawaiian community saw the positive educational results from the curriculum at Lahainaluna and came to regard it as like a university, where scholars could complete educations in school-teaching, law practice, civil service, or the ministry.¹⁵¹ Seeing an opportunity to expand their educational programs to further develop the kingdom’s resources, the SIM contingent

¹⁴⁵ James M. Alexander, *Mission Life in Hawaii: Memoir of Rev. William P. Alexander* (Oakland: Pacific Press Publishing Co., 1888), 101-2.

¹⁴⁶ Bradley, *American Frontier*, 343.

¹⁴⁷ Ralph C. Canevali, “Hilo Boarding School: Hawaii’s Experiment in Vocational Education,” *HJH* 11 (1977):77-96.

¹⁴⁸ Bradley, *American Frontier*, 344.

¹⁴⁹ M. Puakea Nogelmeier, “Introduction,” *Ka Mooolelo Hawaii* (Reprint: 1838, Honolulu: HHS, 2005), xvii.

¹⁵⁰ All thirty-two essays were published in 1838 under the title *Ka Mooolelo Hawaii*.

¹⁵¹ James M. Alexander, *Mission Life in Hawaii*, 101-2; Kamakau, *Ke Aupuni Mō‘ī*, 73.

obtained the consent of the rulers in July 1836 to send to ABCFM headquarters for people with a variety of skills in the productive arts. The SIM letter noted that the kingdom required improvements in civil polity and that the study of the science of political economy would also be beneficial. On August 21, 1836 William Richards met with the chiefs to impress on them the need for internal improvements. Two days later, Kauikeaouli and fourteen chiefs proposed that a SIM emissary find a teacher in the U. S. to instruct them “in what pertains to the land, according [sic] to the practice of enlightened countries.”¹⁵²

Less than two months later—even before William Richards left as the SIM emissary tasked by the SIM members, the king, and the chiefs to find a tutor—assaults on the kingdom’s civil policies by representatives of American, French and British maritime powers highlighted the urgency of Kauikeaouli’s request.¹⁵³

Written framework adopted for governance structure

When Kauikeaouli, U. S. Commodore Edmund P. Kennedy, and British Admiral Lord Edward Russell engaged in contentious negotiations in late 1836 over the king’s sovereign authority to determine the rights and privileges of foreign residents, the editor of the only English language newspaper *Sandwich Islands Gazette* covered the meetings.¹⁵⁴ An anonymous letter printed in its October 8, 1836 edition the day before Kennedy’s ship *U.S.S. Peacock* sailed echoed the missionaries’ opinion about the kingdom’s need for polity improvements: the kingdom needed written taxes fixed in law, the newspaper writer opined, and urged “someone” to translate a

¹⁵² Bingham, *Residence*, 490-6; Thomas A. Woods, ed., *Kōkua Aku, Kōkua Mai: Chiefs, Missionaries, and Five Transformations of the Hawaiian Kingdom* (Honolulu: Hawaiian Mission Children’s Society, 2018), 154.

¹⁵³ Chamberlain, *Journal*, 07 November 1836, HMHA; Woods, ed., *Kōkua Aku, Kōkua Mai*, 157.

¹⁵⁴ The newspaper began publication in July 1836 and published with an anti-missionary, pro-U.S. bias.

compendium on political economy into Hawaiian. The necessity of framing his arguments with Kennedy in terms of internationally-recognized personal rights had, as Jarves observed, already bettered Kauikeaouli's understanding of the law of nations, and no doubt also improved the king's ability to counter Russell's arguments the following month.¹⁵⁵

Lauren Benton theorizes that indigenous polities actively make change and reorder institutions in response to globalizing pressures and internal political dynamics.¹⁵⁶ Merry espouses the viewpoint that change was forced on the ruling chiefs by the pressures of warfare, maritime violence, and international economics.¹⁵⁷ Beamer acknowledges that both viewpoints were in play when he emphasizes that the king and chiefs understood from events that they needed to legitimize their rule on the world stage by adapting the political ideas introduced by foreigners—but Beamer emphasizes that the rulers drove the change process themselves.¹⁵⁸

Studies of the political prehistory of Hawai'i conducted by Patrick V. Kirch and Robert J. Hommon validate that early Hawaiian rulers played active leadership roles in polity reorganizations and delegated power through formal bureaucracies.¹⁵⁹ When 'Umi-a-līloa deposed Hākau and took control of Hawai'i island in the fifteenth century, for example, he divided the people into classes, divided land holdings into organizational units, and governed through an hierarchical system of heiau (temples).¹⁶⁰ Mā'ilikūhāhi, another fifteenth-century ruler at O'ahu, replaced kinship rights to land with rights tied to chiefly relationships.¹⁶¹ More recently, Kauikeaouli's father Kamehameha I had united individual island chiefdoms under his

¹⁵⁵ Jarves, *History*, 3d. ed., 154.

¹⁵⁶ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge Univ. Press, 2002), 6.

¹⁵⁷ Merry, *Colonizing Hawai'i*, 45-6.

¹⁵⁸ Beamer, *No Mākou Ka Mana*, 117.

¹⁵⁹ Kirch, *A Shark Going Inland is My Chief*, 138-9; Hommon, *Ancient Hawaiian State*, 243, 257.

¹⁶⁰ Kirch, *How Chiefs Became Kings*, 102.

¹⁶¹ Kirch, *A Shark Going Inland is My Chief*, 139.

sole political and bureaucratic rule beginning in 1795, and his brother Liholiho had continued to administer the kingdom's affairs through that centralized, multitiered bureaucracy despite ending the restrictions of the traditional kapu system.

Hawai'i's early development of its political organization at the time Cook arrived mirrored political development at island groups elsewhere in Polynesia. Howe documents that Tonga had a long tradition of a centralized polity, and its leaders soon adopted the techniques and ideas of Europeans to reorganize its internal polity structures and administration. Gonschor documents George Tupou I's use of the Wesleyan missionaries as Tongan political agents, while Howe concludes that Pōmare II at Tahiti used both the acquisition of literacy and conversion to Christianity as political tools to effect unification.¹⁶² In 1839, Kūikeyaouli ruled with the same political and economic governance structures that his father and elder brother had used. Like Tupou and Pōmare, however, Kūikeyaouli turned to the Christian missionaries to provide him with knowledge about alternative political systems so that he could reorganize the Hawaiian polity into a westernized nation state.

Richards returned from Boston in March 1838, however, without having retained a teacher to instruct the chiefs in western political institutions and political economy. Missionary Lorrin Andrews had been proposed as a teacher during Richards' absence, but he had refused. Not to be denied, Kūikeyaouli and the chiefs requested that the mission assign the role to Richards. Richards agreed, and he took up his duties at Lahaina as teacher, interpreter, and translator on July 3.¹⁶³

¹⁶² Gonschor, "A Power in the World," 107; Howe, *Where the Waves Fall*, 125, 143-4.

¹⁶³ Woods, ed., *Kōkua Aku, Kōkua Mai*, 158-9; B. Judd, ed., "Richards' Report," 66; see also, Kamakau, *Ke Aupuni Mō 'ī*, 129.

Richards outlined his teaching goals and the mode of instruction he intended to use in his letter of resignation to ABCFM headquarters in Boston: he would use as his principal text the Rev. Francis Wayland's series of lectures on political economy first published in 1837 as *The Elements of Political Economy*.¹⁶⁴ Wayland was a Baptist preacher, educator and economist who argued that free markets and limited government should reflect a Christian perspective. Wayland's text encompassed wide-ranging discussions of the interrelationships between production, exchange, distribution, and consumption and the government's role in aligning Christian principles with institutions and legal codes to enhance its citizens' ability to create and accumulate wealth.¹⁶⁵

The king invited Davida Malo, Boaz Māhune and Joseph Kāpena, all of whom had studied at Lahainaluna seminary, to join the discussions.¹⁶⁶ Richards found the king and chiefs to be willing and engaged students who “manifested a becoming wish to reform the government in those particulars where it is inconsistent with true Political Economy.”¹⁶⁷ Richards translated large portions of Wayland's work for his dialectic lectures, added materials from political economists Say and Newman, and enriched the discussions with illustrations drawn from Hawaiian custom and practices: “I endeavored to make the lectures as familiar as possible, by repeating them, and drawing the chiefs into free conversation on the subject of the Lecture. They uniformly manifested a becoming interest in the school thus conducted, and took an active part in the discussion of the various topics introduced in the Lectures.”¹⁶⁸

¹⁶⁴ Woods, ed., *Kōkua aku, Kōkua Mai*, 166; B. Judd, ed., “Richards' Report,” 66. Kamakau recorded that Richards supplemented Wayland's text with selections from political economy experts in France, Great Britain and the United States. Kamakau, *Ke Aupuni Mō'ī*, 128.

¹⁶⁵ Laurence M. Vance, Director of the Francis Wayland Institute, Foreword to the online edition of *The Elements of Political Economy* (1837) by Francis Wayland.

¹⁶⁶ Osorio, *Dismembering Lahui*, 24.

¹⁶⁷ B. Judd, ed., “Richards' Report,” 67.

¹⁶⁸ Woods, ed., *Kōkua Aku, Kōkua Mai*, 168; B. Judd, ed., “Richards' Report,” 66.

When his chiefly students identified differences between their own governance and western political economy principles, they asked Richards “Pehea la e pono ai?” (How will it be bettered?) At the request of the chiefs, Richards’ lectures were compiled into a book entitled *No Ke Kalaiaina*.¹⁶⁹

Kauikeaouli assigned Boaz Māhune to draft laws which conformed to the political economy principles they had learned from Richards’ lectures.¹⁷⁰ Māhune concentrated on writing the laws on taxation, and others, including Davida Malo, John Papa ‘Ī‘ī, Timothy Keaweīwi, and Daniel ‘Ī‘ī, also produced first drafts of several laws.¹⁷¹ The description of their deliberations confirms Beamer’s observation that the king and the chiefs drove the process: Kauikeaouli did not sign the final result until after the participants had discussed Māhune’s drafts for several days and agreed on the final version.¹⁷² Entitled *He kumu kanawai, a me ke kanawai hooponopono waiwai, no ko Hawaii nei pae aina* (the “1839 Declaration of Rights”) and dated June 7, 1839, this first comprehensive written civil code was based on principles of equal rights and protection regardless of rank, and the code specified property rights, water irrigation distribution rights, and rules for inheritance by descent.¹⁷³

Western scholars soon compared the 1839 Declaration of Rights to the American Bill of Rights (Bradley, Hopkins) or the English Magna Charta (Bradley, Kuykendall, Alexander).¹⁷⁴

¹⁶⁹ B. Judd, ed., “Richards’ Report,” 66-7. Judd translated the sentence in a footnote. Kame‘eleihiwa used this sentence as her book’s subtitle and translated it as “How shall we live in Harmony?” So impressed were the chiefs with Richards’ lectures, they had them printed at their own expense.

¹⁷⁰ B. Judd, ed., “Richards’ Report,” 67-8; Bradley, *American Frontier*, incorrectly identifies Malo as the drafter of the code, 320.

¹⁷¹ “Preface,” *Translation of the Constitution and Laws of the Hawaiian Islands, Established in the Reign of Kamehameha III* (Lahainaluna, 1842), 4.

¹⁷² “Abstract of the Laws,” *Missionary Herald* 36, no. 3 (1840):101-4.

¹⁷³ B. Judd, ed., “Richards’ Report,” 68, 68-fn 5; *Missionary Herald* 36, no. 3 (1840):101-4.

¹⁷⁴ Bradley, *American Frontier*, 319-20; Manley Hopkins, *Hawaii: The Past, Present, and Future of the Island Kingdom, An Historical Account of the Sandwich Islands, Polynesia* (London: Longmans, Green, and Col, 1866), 260; Kuykendall, *Hawaiian Kingdom*, 1:160; W. D. Alexander, *A Brief History of the Hawaiian People* (New York: American Book Company, 1891), 229.

Benton, however, argued that other cultures treated European legal traditions as “a useful collection” from which they might draw to craft their own legal systems, and Merry concluded that the 1839 and 1840 set of laws actually incorporated “significant amounts of Hawaiian customary law and practice.”¹⁷⁵ In fact, as Beamer points out, the document’s property law terms were inconsistent with western property law because they incorporated the Hawaiian belief that all land was owned jointly by the king, the chiefs and the *maka ‘āinana*.¹⁷⁶ However, because the legal format of the 1839 Declaration of Rights duplicated the political and institutional framework used by western nations, it created what Robert H. Jackson called a positive expression of sovereignty, whose terms—such as those governing property rights—carried political force both domestically and internationally.¹⁷⁷

Meanwhile, Boaz Māhune acting for the king and Joseph Kāpena acting for the *kuhina nui* (Kīna‘u, until her death in April 1839, and then Kekāuluohi) began work on a constitutional document under the direction of Richards. When the final version of the 1840 Constitution was arrived at through the same deliberative process, Kāuīkeaouli assured himself that the chiefs approved its content before he also agreed, and the governance framework changed to that of a constitutional monarchy as of October 8, 1840.¹⁷⁸ Kāmakau later celebrated the fact that Kāuīkeaouli had achieved such major governmental change without bloodshed.¹⁷⁹

Indeed, the format of the constitution gave every appearance of creating a radically different governance structure from the traditional model: there were provisions for an independent judiciary, a bicameral legislature, and some of the checks and balances found in

¹⁷⁵ Benton, *Law and Colonial Cultures*, 261; Merry, *Colonizing Hawai‘i*, 79.

¹⁷⁶ Beamer, *No Mākou Ka Mana*, 142.

¹⁷⁷ Jackson, *Quasi-states*, 29.

¹⁷⁸ The 1840 Constitution, *Ka Ho‘oilina*, 34-59.

¹⁷⁹ Kāmakau, *Ke Aupuni Mō‘ī*, 198.

western constitutions. As with the 1839 Declaration of Rights, however, it would be a mistake to conclude that the Constitution of 1840 simply mimicked western governance. In fact, an examination of the content demonstrates aspects of what James Tully terms ‘elements of traditional institutions and customs from an ancient constitution’ that were intermingled with modern elements to impose a new form of political association.¹⁸⁰ Gonschor agrees, and he concludes that the Hawaiian state had undergone a hybridization process through selective appropriation of western elements, creating a constitutional state that was a unique, hybrid governance system.¹⁸¹ The continuation of traditional institutions and customs included the following: the king, kuhina nui, and governors retained the same titles and division of responsibilities, and the upper legislative chamber called the “Na‘lii malalo o ke Alii nui, House of Nobles,” replicated the traditional chiefly council. While the lower chamber “Ka Poe i Kohoia, Representative Body,” was an innovation, it confirmed the importance of the social compact that existed between the chiefs and the maka‘āinana.¹⁸²

Kuykendall pointed out that the significance of the constitution lay in the fact that it put in writing a statement of the plan of government and a definition of the powers and duties of the various officials.¹⁸³ Applying Benton’s analytical frame, it was the king and the chiefs’ recognition of the dangers threatened by the confluence of global trade ambitions in the Pacific region that propelled them to create a constitution.¹⁸⁴ Benton’s analysis harmonizes with Beamer’s conclusion that the rulers had acted affirmatively to create a governance apparatus that

¹⁸⁰ James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge Univ. Press, 1995), 60.

¹⁸¹ Gonschor, “A Power in the World,” 144-5.

¹⁸² The 1840 Constitution, *Ka Ho‘oilina*, 34-59.

¹⁸³ Kuykendall, *Hawaiian Kingdom*, 1:168.

¹⁸⁴ Benton, *Law and Order*, 24.

Beamer and Gonschor describe as a ‘strong hybrid’ framework.¹⁸⁵ Under Jackson’s analysis, the importance of a written constitution was twofold: first, it created an image of capable and responsible rule; and, second, the constitution demonstrated that the kingdom could collaborate with other governments in treaties and commercial enterprises.¹⁸⁶ Tracey Banivanua Mar adds another dimension with her conclusion that chiefly rulers in the Pacific adopted written constitutions and other modernizing reforms as a way to insist that imperial powers respect their sovereign rights and privileges.¹⁸⁷ Thus while the constitution was important domestically, its greater immediate importance lay in the fact that it could demonstrate the level of political sophistication necessary to convince western maritime powers to admit the kingdom into the worldwide community of sovereign nation-states.

Further institutional change followed during Kauikeaouli’s reign, including the adoption of two organic acts to organize the executive ministry and departments (1845 and 1846) and another to organize the judiciary (1847), the Act to Quiet Land Titles (1845) which led to the māhele (the division of interests in all of the kingdom’s lands), an act to reorganize the legislature’s composition (1850), and a revision of the 1840 Constitution (1852).

Literacy secured sovereign recognition

When news arrived in December 1840 that the British Parliament had declined to acknowledge its decades-old commitment to intervene in defense of Hawai‘i should France or another imperial power seize political control,¹⁸⁸ most white residents in Hawai‘i did not believe that the kingdom

¹⁸⁵ Beamer, *No Mākou Ka Mana*, 122-3, 153; Gonschor, “A Power in the World,” 144-5

¹⁸⁶ Jackson, *Quasi-states*, 29.

¹⁸⁷ Tracey Banivanua Mar, *Decolonisation and the Pacific: Indigenous Globalisation and the Ends of Empire* (New York: Cambridge Univ. Press, 2016), 62-71.

¹⁸⁸ House of Commons Debate, 27 March 1840, *Hansard 1803-2005*, Vol. 53, cc. 171-2; “Extract from the *New York Mercury*,” *Polynesian*, 05 December 1840, and “Editorial,” *Polynesian*, 26 December 1840. See also “Account

could remain independent for much longer.¹⁸⁹ Kamehameha sent an embassy to London, Paris and Washington, D.C. to argue his case, and he charged his diplomats William Richards, Timoteo Ha'alilio and Britisher Sir George Simpson that their "grand, ultimate object. . . is to secure the acknowledgment, by those governments, of the independence of this nation."¹⁹⁰ The diplomats carried with them a variety of papers and documents that depicted Hawai'i as a well-organized, literate nation with western-style educational and governance structures sufficient to regulate its domestic and foreign affairs.¹⁹¹ Richards and Simpson argued that the printed documents showed that literacy extended into every aspect of Hawaiian society and governance, and Richards offered to produce copies of Hawaiian language religious and educational texts, all fifty-one sections of the nation's legal code, and an English-language copy of the 1840 Constitution.¹⁹² Despite Hawai'i's well-organized and orderly state, they warned, the security of its subjects and foreigners was vulnerable to foreign aggression so long as Hawaii's independence was unacknowledged by the large imperial powers.¹⁹³

The final hurdle in London was overcome in July 1843 after Mr. Addington of the Foreign Office met with J. F. B. Marshall, another of Kamehameha's emissaries. Addington told Marshall that the Foreign Office had received a statement alleging that Kamehameha had entrusted an American with a signed, blank document giving the holder the power and ability to

of Captain George Vancouver," 02 March 1794, relating the circumstances of Kamehameha's cession of the islands to the British crown, Series 402-2-3, Chronological File, FO&EX, HSA. Although Britain did not ratify the cession, George IV assured Kamehameha II's suite on September 11, 1824 that Britain would "watch over" Hawai'i, see Kekūānā'ō'a testimony as told to William Richards, March 1840, Series 402-2-13, Chronological File, FO&EX, HSA.

¹⁸⁹ "Editorial," *Polynesian*, 26 December 1840.

¹⁹⁰ "Instructions from Kamehameha III to Richards and Simpson, 08 April 1842," Exhibit, *Ladd Arbitration*, 41.

¹⁹¹ Richards, "Examination of Mr. Richards," *Ladd Arbitration*, 76.

¹⁹² Kamakau, *Ke Aupuni Mō'ī*, 165; Geo. Simpson and Wm. Richards to the Rt. Honorable the Earl of Aberdeen, 06 March 1843, Series 402-8-200, Chronological File, FO&EX, HSA.

¹⁹³ G. Simpson and Richards to Aberdeen, 06 March 1843, Series 402-8-200, Chronological File, FO&EX, HSA.

deed away all of the government's lands.¹⁹⁴ Marshall arranged for a meeting between Addington and the American, Peter A. Brinsmade, a principal of the Honolulu firm Ladd & Co. who was then in Europe negotiating with the Belgian king for a joint-stock contract creating a colonization enterprise at Kaua'i.¹⁹⁵ Brinsmade read to Addington from the document in question and explained the progress of his Belgian negotiations. Marshall reported that Addington was struck by the "manifest malignity" of the allegation he had received and persuaded by the "lucid manner" in which Marshall had laid out the true circumstances. When Addington related what he had learned to Lord Aberdeen, he warned that "they could not risk their reputation by doing other than justice to a small nation which could not resist them."¹⁹⁶

Thus, it was a showing of documents that evidenced the king's comprehensive understanding of commerce, economics, and industry; his political ability to rule ably and responsibly; and his ability to engage his nation with the global affairs of other nations. On November 28, 1843, the monarchs of Great Britain and France agreed by joint declaration to "consider the Sandwich Islands as an independent State."¹⁹⁷ On July 6, 1844, President John Tyler assured the "full recognition on the part of the United States of the independence of the Hawaiian Government."¹⁹⁸

Enlightenment period scholars and philosophers placed great value on learning, and the medium of print acquired "immense ideological importance" in the Atlantic world as an enabler

¹⁹⁴ Although not recorded, the false statement no doubt came from either Richard Charlton or Alexander Simpson.

¹⁹⁵ W. D. Alexander, *A Brief History*, 240-1.

¹⁹⁶ To His Majesty from T. Ha'alilio, W. Richards, and J. F. B. Marshall, 18 August 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA; see also "To His Majesty from T. Ha'alilio, W. Richards, and J. F. B. Marshall, August 18, 1843," Appendix, *Ladd Arbitration*, 118-20.

¹⁹⁷ Kuykendall, *Hawaiian Kingdom*, 1:203.

¹⁹⁸ "J. C. Calhoun to Ha'alilio and William Richards, July 06, 1844," *Polynesian*, 29 March 1845.

of public discourse.¹⁹⁹ When the Protestant revivalist movement known as the Second Great Awakening peaked during the 1840s, Atlantic world intellectuals reemphasized Enlightenment principles of rationality and the diffusion of knowledge. David S. Shields alleges that by 1840 the international community judged a nation's learning environment by the emphasis it placed on the use of print medium and exercise of rationality.²⁰⁰ Jackson pointed out that the showing of the political ability to declare, implement and enforce public policy both domestically and internationally was the distinctive feature of a 'developed' state.²⁰¹ Jackson and Shields' findings support Anderson's argument that the use of print media and education helped build European national identities, and together they give insight as to why Hawai'i's print media proficiency, its constitutional framework, and its diplomats' rational argumentation proved a compelling argument for achieving recognition from the international community as an independent nation state.²⁰²

Tonga also developed into an externally-recognizable nation state and adopted a constitutional form of government in 1875, but Gonschor concludes that by the 1840s the hybrid government that Kauikeaouli had adopted had made it the most modern state in the Pacific region. Sai points out that the Hawaiian kingdom was the first Polynesian and non-European nation to be recognized by the western powers as an independent and sovereign state.²⁰³

This was the only time that the ruler of a small Pacific Islands kingdom sent his own diplomats into the seats of power at the very heart of the Atlantic world and secured his

¹⁹⁹ Robert A. Gross, "An Extensive Republic," *A History of the Book in America*, Vol. 2, eds. Robert A. Gross and Mary Kelley (Chapel Hill: Univ. of North Carolina, 2010), 2:9.

²⁰⁰ David S. Shields, "The Learned World," Chapter 5, Section II, *A History of the Book in America*, Vol. 2, eds. Robert A. Gross and Mary Kelley (Chapel Hill: Univ. of North Carolina, 2010), 2:265.

²⁰¹ Jackson, *Quasi-state*, 29.

²⁰² Anderson, *Imagined Communities*, 78.

²⁰³ Howe, *Where the Waves Fall*, 193; Gonschor, "A Power in the World," 145; Sai, "The American Occupation of the Hawaiian Kingdom," 72.

kingdom's political future on his own terms.²⁰⁴ It was a courageous statecraft decision and a diplomatic triumph that gave Hawai'i a different political trajectory than that of Tahiti, the Society Islands, the Marquesas, and New Zealand, all of which were swept up and colonized by Atlantic maritime powers during their Pacific island-grabs in the mid-nineteenth century.²⁰⁵ Kamehameha II accomplished that feat because early in his reign he had recognized the secular value of literacy and promoted a strategy which delivered the knowledge and information needed to make the political changes that secured the kingdom's sovereign independence.

²⁰⁴ When Kamehameha II traveled to Britain in 1823-4, it was to obtain a renewal of the 1794 commitment that Vancouver made to Kamehameha I, not to seek new terms from the British king.

²⁰⁵ France took political control of the Marquesas, Tahiti and Society Islands by 1843, and Britain took control of New Zealand in 1840.

CHAPTER 3

CHANGING HAWAI‘I IN THE 1840s

Political and social change dominated the course of events at Hawai‘i in the 1840s. Merry cites the global processes of modernization, capitalist expansion, and imperialism as the drivers of those changes, and she concludes that western foreigners at Hawai‘i were the actors who implemented change to further the ‘civilizing’ process.¹ Beamer, on the other hand, argues that it was the Hawaiian rulers themselves who recognized the need for changes and who acted to selectively ‘hybridize’ traditional governance structures with western-style innovations.² Jarves added another dimension—perhaps even more convincing because he was a contemporary witness—with his observation that governance changes during the 1840s were designed to ‘protect’ Hawaiians from an onslaught of westerners and western influences.³

Kauikeaouli was a popular king who enjoyed the support of his people. Although Kamakau criticized some of the king’s policies, he believed that Kauikeaouli had no equal on earth for his gentle character and remembered that he loved all of his people, high and low alike.⁴ Native Hawaiians dominated in Kauikeaouli’s political institutions throughout the 1840s, and the king ensured that chiefly debate informed changes in political direction and directed administrative adaptations to meet emerging social needs. Indeed, my review of pertinent records confirms Beamer’s argument that it was the king and his chiefs who modernized governance while maintaining a Hawaiian identity, and my study of Kauikeaouli’s executive decisions reveals his overriding concern for the safety and economic security of Hawaiians. The following

¹ Merry, *Colonizing Hawai‘i*, 6.

² Beamer, *No Mākou Ka Mana*, 3-4.

³ Jarves, *History*, 3d. ed., 237.

⁴ Kamakau, *Ke Aupuni Mō‘ī*, 14.

review of these political modifications and the adaptations made in response to social changes sets the context for the reading of subsequent chapters.

Hybrid governance

Keanu Sai concludes that the 1840 constitution should be viewed not as a limitation of abusive powers, but rather as an instrument enabling the king to share powers with all of his subjects by divesting himself of some of his powers and attributes as an absolute ruler. The constitution did not provide for the separation of powers, however, requiring the later enactment of the 1845-1847 organic acts to establish ministries administering government functions separate from the crown.⁵ A study of the 1840 Constitution and the organic acts confirms the conclusions reached by Sai and Beamer that Kāiākeaouli and the chiefs fully intended to create a hybrid governance system, and the text of the constitution itself explicitly affirms what Jarves suggested—that the framers designed it to protect the rights and privileges of all Hawaiians, both chiefs and *maka‘āinana*, under the authority of the rule of law.⁶ Chapter 2 “Literacy as Strategy” contains an analysis of this purposeful combination of traditional and modern elements. The following discussion complements that analysis.

The 1840 constitution gave the king the power of appointment of some “chief of rank” to fill the traditional role of *kuhina nui*, who would continue the office and duties that had originated with Kā‘ahumanu during Liholiho’s reign (1819-1824). Kā‘ahumanu claimed that Kamehameha I had commanded her to assume that role, and the constitutional provision describing the position celebrated that historic link: “A o kela pono a Kamehameha I, i imi ai i

⁵ Sai, “The American Occupation,” 67-8.

⁶ “Hoomalu na Kanaka a pau,” “Protection for the People Declared,” The 1840 Constitution, *Ka Ho‘oilina*, 36-7.

kuhina, e hoomauiā kela pono ma Hawaii nei That important feature of the government, originated by Kamehameha I, shall be perpetuated in these Hawaiian Islands.”⁷

Sai argues, however, that the role of kuhina nui as it existed in the time of Kamehameha I was not that of a premier as that term is understood in western governance, but rather was that of a chief agent who acted at the will of the crown on matters of national governance. The 1840 Constitutional language confirms his conclusion, Sai continues, because the codified kuhina nui role did not include the exercise of direction over ministers of government functions who act separately from the crown. Sai concludes that it was not until the 1845 “Act to Organize the Executive Ministry of the Hawaiian Islands” (“1845 Act”) formed the Cabinet Council and placed the kuhina nui at the head of executive ministries that the kuhina nui role assumed the attributes of a premier, or prime minister.⁸ At that point, argues Sai, the provisions of the 1845 Act codified a dual-executive role, where the kuhina nui under the king’s authority conducted the routine business of the administration, while the king led the government. Marshall Sahlins and other scholars argue otherwise, claiming that a co-ruler diarchy had been formed in 1819 when Ka‘ahumanu declared herself to be the kuhina nui.⁹ What is clear from the constitution’s language, however, is that after its adoption in 1840 neither the king nor the kuhina nui had unrestricted power when operating independently, and neither could act without the knowledge of the other.¹⁰

Following Ka‘ahumanu’s death in 1832, a chiefly council began a selection tradition by confirming the highest-ranking female from Ka‘ahumanu’s lineage as her successor. Kīna‘u,

⁷ No ke Kuhina Nui o ke Aupuni,” “Respecting the Premier of the Kingdom,” The 1840 Constitution, *Ka Ho‘oilina*, 44-5. English and Hawaiian texts are from *Ka Ho‘oilina*.

⁸ Sai, “The American Occupation,” 68-9.

⁹ Marshall Sahlins and Patrick V. Kirch, *Anahulu: The Anthropology of History in the Kingdom of Hawaii*: Vol. 1, *Historical Ethnography* (Chicago: Univ. of Chicago Press, 1992), 1:118-9.

¹⁰ “No ke Kuhina Nui o ke Aupuni,” *Ka Ho‘oilina*, 42-5.

Ka‘ahumanu’s eldest surviving royal Kamehameha niece, served as Kuhina Nui Ka‘ahumanu II until her death in 1839.¹¹ The king followed that tradition when he selected Kekāuluohi, another high-ranking niece of Ka‘ahumanu, as Kuhina Nui Ka‘ahumanu III.¹² Kekāuluohi died in 1845, and the only remaining high-ranking female from Ka‘ahumanu’s lineage was the daughter of Kīna‘u, seven-year-old Victoria Kamāmalu. Kauikeaouli then selected his close companion, Keoni Ana, to serve as kuhina nui. Keoni Ana held the position throughout the remainder of Kauikeaouli’s reign, after which it passed to Victoria Kamāmalu as Kuhina Nui Ka‘ahumanu IV.

Sahlins’ study of Kamehameha I’s appointments shows that Kamehameha had placed Ka‘ahumanu and members of her extended Kekaulike family into key political and economic offices as a way of preventing Kamehameha’s own close kin from becoming powerful rivals. Doing so was also a way for Kamehameha to give Ka‘ahumanu and her family members a stake in his continued governance.¹³ Thus the chiefly council’s selection of Kīna‘u can be seen to have continued that policy to place an affine of Ka‘ahumanu’s into the role to extend the political importance of that family and guarantee its continued support, but it also denied Kauikeaouli the ability to select his own candidate from a different chiefly family. When Kekāuluohi died, Kauikeaouli seized his opportunity and placed his own close ally who was a Kamehameha affine into the position.¹⁴ With his ally Keoni Ana as the dual executive after 1845, Kauikeaouli was assured of cabinet and privy council support as he pursued his policy objectives.

¹¹ Chamberlain, *Journal*, 05 July 1832, HMHA. Ka‘ahumanu was childless. Not until November 1833, however, did Kauikeaouli acknowledge Kīna‘u as kuhina nui. See Kamakau, *Ke Aupuni Mō‘ī*, 120.

¹² The parameters of the selection process are described in “Historical Sketches. The Kuhina Nui or Premiership,” *Friend*, 01 February 1855. Kekāuluohi was the daughter of Kamehameha I’s half-brother, Kalaimamahū and Ka‘ahumanu’s sister, Kaheiheimālie.

¹³ Sahlins, *Historical Metaphors*, 53-8.

¹⁴ See Keoni Ana’s profile for his Kamehameha family tie.

Beamer notes that the 1845 Act was important because it also created a hybridized ministerial structure. A cabinet of western-style executive ministries was established for public instruction, finance, law, interior, and foreign relations that would be responsive to the governance needs brought by the processes of modernization, an influx of foreigners, and commercial expansion. All of the executive officials were to be appointed by the king and serve at his pleasure.¹⁵ A review of the duties and responsibilities of each ministerial department demonstrates the breadth and range of expertise required. Cabinet and council meeting minutes show that business was conducted in both Hawaiian and English.

Cabinet meeting minutes were kept in English—the language of its four white executive ministers but not the Hawaiian kuhina nui—and foreign affairs minister Robert C. Wyllie frequently served as scribe. Meetings were generally short and held nearly every week; the king usually did not attend. Agenda items included discussions of treaties and the preparation of correspondence with consular agents in advance of discussions within the privy council. Cabinet ministers were also privy council members and served ex officio in the House of Nobles.

The first members of the cabinet council as shown on Appendix C were:

- The kuhina nui, who also functioned as Minister of the Interior:
Keoni Ana Young, sometimes identified as Keoniana, Keoni Ana, or John Young II.¹⁶ He was the son of John Young, the English advisor to Kamehameha I who had been present at the Olowalu Massacre. He descended

¹⁵ John Ricord, “First Act of Kamehameha III,” *Statute Laws of His Majesty Kamehameha III, King of the Hawaiian Islands*, Vol. 1 (Honolulu: Charles E. Hitchcock, 1846), 1:2-14. Official Hawaiian texts are found in the same volume with the same page numbers under the title *Kanawai i kauia e Ka Moi, E Kamehameha III., Ke Alii o ko Hawaii Pae Aina* (Honolulu: Missionary Press, 1846).

¹⁶ He is called simply Keoni Ana in contemporary newspapers and documents, and I will do the same. See for example, “Funeral of His Late Majesty, Kamehameha III,” *Polynesian*, 13 January 1855.

from the Kamehameha family through his mother, and his brother James Kānehoa Young had traveled to England in 1823 as a member of Liholiho's suite. Keoni Ana was appointed governor of Maui (1840), kuhina nui (1845), and minister of the interior (1846).¹⁷ He held the kuhina nui and ministerial positions throughout the remainder of Kauikeaouli's reign.

- Minister of Finance:

Gerrit P. Judd, an American from New York state was a medical doctor who arrived in Hawai'i in 1828 as a member of the third company of ABCFM missionaries. Judd was released from mission service and was appointed Recorder and Translator (1842), President of the first Treasury Board (1842), and Minister of Foreign Affairs (1843-1845). He became Minister of the Interior in 1845 but moved to Minister of Finance after Keoni Ana's appointment. Judd quickly became fluent in Hawaiian and frequently acted as the chiefs' translator in privy council meetings.¹⁸ Judd became a naturalized Hawaiian citizen.

- Department of Law:

John Ricord, a New York attorney, had also practiced law in Florida, Michigan, and Washington, D.C. before arriving in Honolulu in 1844 only days before he was hired as Attorney General to oversee all of the kingdom's legal affairs. He immediately began service in the cabinet and privy council

¹⁷ Kamakau, *Ke Aupuni Mō'ī*, 214-5; Kuykendall, *Hawaiian Kingdom*, 1:262-3; Klieger, *Moku'ula*, 53.

¹⁸ Gerrit P. Judd, IV, *Dr. Judd: Hawai'i's Friend* (Honolulu: Univ. of Hawai'i Press, 1960), 12-38; Hawai'i State Archives card file. The card file was created by archival staff and serves as a quick reference for the positions held by individuals during the monarchial period.

and crafted many executive and legal system reforms. The office of attorney general as the head of the department of law was suspended on May 4, 1847 however, in anticipation of Ricord's imminent resignation and was not filled again during Kamehameha III's reign. Ricord's oath of allegiance was rescinded by the king when he left in 1847.¹⁹

- Foreign Affairs Minister:

Robert C. Wyllie was a Scottish businessman who arrived in Honolulu in 1844 as the honorary secretary to British Consul General William Miller.

Wyllie served as temporary consul during Miller's absences in the South Pacific, and in 1845 he accepted the position of foreign affairs minister.

Wyllie's broad business experience, wide circle of international contacts, and familiarity with European governance aptly suited him for the position. He became a naturalized citizen. Wyllie was an ardent royalist and a firm defender of the king's monarchical prerogatives. Although fluent in several European languages, Wyllie never learned Hawaiian. He is credited with collecting and archiving the kingdom's documents and records.²⁰

- Minister of Education:

The Rev. William Richards was an American from Massachusetts who had arrived in Hawai'i in 1823 as a member of the second company of missionaries sent by the ABCFM. He was released from mission service in

¹⁹ Charles E. Hitchcock was appointed Attorney General in 1862; *Sandwich Islands News*, 16 June 1847; "A Short Biographical Sketch of John Ricord," *Sandwich Islands News*, 31 August 1848.

²⁰ Pauline King Joerger, *A Political Biography of David Lawrence Gregg, American Diplomat and Hawaiian Official* (New York: Arno Press, 1982), 99-100; Kuykendall, *Hawaiian Kingdom*, 1:249.

1838 to serve the king and chiefs as an instructor in political economy. In 1842, Richards embarked with Timoteo Ha'alilio on the diplomatic mission to America and Europe that secured international recognition of the kingdom's independence. Richards served as Minister of Education from 1845 to 1846. He died in 1847. Richards was fluent in Hawaiian and became a naturalized citizen.²¹

The Privy Council was an advisory body that had functioned in traditional governance as a secret council composed of high-ranking chiefs selected by the king. The 1845 Act codified this traditional advisory body as a privy council composed of the five executive ministers, the four governors over the islands, and chiefs appointed by the king. The kuhina nui presided, and the king usually attended.

Business was conducted in both English and Hawaiian. Recorders wrote meeting minutes in both languages that were arranged chronologically in bound ledger books. Judd served as the first official translator and recorder. Meeting minutes demonstrate that bilingual white members (initially Richards and/or Judd) translated discussions between Hawaiian and English for other privy council members.²²

The king and chiefs commonly debated policy questions among themselves, in Hawaiian, before proposing council resolutions. All executive actions by the cabinet ministers required the prior approval of the king in council and the attestation of the kuhina nui. Meeting minutes show that diplomatic communications to foreign agents underwent scrutiny by the king and the chiefs prior to finalization by the minister of foreign affairs. Even though the privy council met

²¹ Minutes, 08 May 1845, Series 222, General Records, 1845 Journals & Minutes for Series 221, vol. 2-1, House of Nobles, Legislature, HSA for the record of Richards' naturalization; HMCS, *Portraits*, 17.

²² Minutes, 13 August 1845, Series 421, vol. 1, Privy Council, HSA, where Richards acted as translator.

frequently, business was not always conducted with the full complement of members, and memberships changed over time. My footnotes show which members attended key meetings.

In addition to the kuhina nui and the other cabinet ministers, attendees at the first privy council meeting on July 29, 1845 as shown on Appendix D were:

- John Papa ʻĪʻĪ, listed as Ioane ʻĪʻĪ, who had been a childhood kahu (attendant) to Liholiho. ʻĪʻĪ traced his lineage from the Luluka branch of the Luahine line who were hereditary attendants to the Hawaiʻi island chiefs. ʻĪʻĪ was appointed to the following positions: king’s aliʻi council (1829), the House of Nobles (1840), superintendent of Oʻahu schools (1841), member of the Treasury Board (1842), privy council (1845), quiet title land commissioner (1845), and superior court judge (1847). He was also a biographer and memorialist and published newspaper articles about significant events that had happened in the kingdom during his lifetime.²³
- Charles Kanaʻina was a descendant of chiefs from Hawaiʻi island. He married Miriam ʻAuhea Kekāuluohi (Kuhina Nui Kaʻahumanu III), a former wife of Liholiho, and their son William Charles Lunalilo succeeded Kamehameha V as king. Kanaʻina was appointed to the House of Nobles (1840) and privy council (1845), and served as an Associate Supreme Court Judge (1844).²⁴
- Aaron Kealiʻiahonui, or Keliʻiahonui, was the son of Kaumualiʻi, the former king of Kauaʻi. He married Kekauʻōnohi. He was appointed to the

²³ M. A. Brown, *Facing the Spears of Change*, xv-xviii, 3, 38.

²⁴ “Records of Lawyers & Judges, Nineteenth Century, Hawaiʻi,” Supreme Court Records at Honolulu; “Calendar,” *Polynesian*, 20 July 1844.

House of Nobles (1840), the privy council (1845), and briefly served as the Chamberlain of the Royal Household (1845).²⁵

- Kekau‘ōnohi was a granddaughter of Kamehameha I and had been one of Liholiho’s wives. She was a descendant through her mother Wahinepio of the Kekaulike line of Maui island chiefs. She was appointed to the House of Nobles (1840), as governor of Kaua‘i (1842), and to the privy council (1845).²⁶
- Mataio Kekūanā‘a was a descendant of Maui and O‘ahu warrior chiefs and had traveled to England with Liholiho in 1823. He married Kīna‘u (Kuhina Nui Ka‘ahumanu II), a former wife of Liholiho. Their children included Alexander Liholiho (Kamehameha IV), Lot Kamehameha (Kamehameha V), and Victoria Kamāmalu (Kuhina Nui Ka‘ahumanu IV). Kekūanā‘a served as the governor of O‘ahu from 1834 to 1868.²⁷ He was appointed to the House of Nobles (1840) and the privy council (1845).
- William P. Leleiōhoku was the hānai son of Kuakini, who was the governor of Hawai‘i island until 1844 and a member of the Kekaulike family of chiefs. Leleiōhoku was appointed to the House of Nobles (1840), the governorship of Hawai‘i island (1844), and the privy council (1845). He left the privy council in 1846 and died in 1848.²⁸

²⁵ Hawai‘i State Archives card file.

²⁶ Stewart, *Journal*, 124-6; Kamakau, *Ke Aupuni Mō‘ī*, 131, 214-5. Kamakau identified her father as Kamehameha I’s son Kaho‘ānokūkīna‘u.

²⁷ Kamakau, *Ke Aupuni Mō‘ī*, 132-4; ‘Ī‘ī, *Fragments*, 177.

²⁸ Hawai‘i State Archives card file.

- Abner Pākī was a member of the Kamehameha and Kīwala‘ō line of high-ranking chiefs of Maui island and Hawai‘i island lineage. Pākī and his wife Konia were the parents of Bernice Pauahi Bishop and the hānai parents of Lydia Kamaka‘eha, later Queen Lili‘uokalani. Pākī was appointed to the House of Nobles (1840) and served as an Associate Supreme Court Judge (1842-1844), as a privy council member (1845), and as Chamberlain of the Royal Household (1847-1848). Pākī was remembered as a man of strong character, “where he took a stand, he was absolutely immovable.”²⁹

Kamehameha I had placed his own high-ranking chiefly supporters as governors over the island kingdoms that he conquered for them to administer affairs as his personal representatives.³⁰ The 1840 Constitution codified that practice by requiring that four governors responsible to the dual executive would preside over political and administrative affairs in the following arrangement: one at Hawai‘i island, one at Maui and its adjacent islands, one at O‘ahu, and one at Kaua‘i and its adjacent islands. Constitutional provisions spelled out the governors’ duties and prerogatives. Vacancies would be filled by the king from nominations submitted by a chiefly council.³¹

A description of the range of duties performed by the governor of O‘ahu at the beginning of the decade demonstrates the breadth of political influence that the governors exercised. Governor Kekūanā‘o was in charge of all government business within his jurisdiction not set aside by law to other officials. He sat as the O‘ahu circuit court judge in cases involving

²⁹ Hawai‘i State Archives card file; “Obituary,” “Calendar,” *Polynesian*, 20 July 1844; *Polynesian*, 16 June 1855.

³⁰ Kuykendall, *Hawaiian Kingdom*, 1:11.

³¹ “Na Kiaaina,” “Governors,” 1840 Constitution, *Ka Ho‘oilina*, 44-7.

foreigners and Hawaiians, appointed judges to the several O‘ahu district courts, supervised tax collection, controlled the town’s waterfront fort, prison system and police force, controlled the operations of the markets and public works, and allowed or disallowed marriages and divorces.³² While several of those duties were reassigned to other government officials as the king’s administrative departments reorganized in the 1840s, the focus of commercial activity at O‘ahu guaranteed that the governorship remained a key position.

The House of Nobles (“Na‘lii malalo o ke Alii nui”) initially was composed only of sixteen high-ranking chiefs and replicated the traditional chiefly council. The terms of the constitution named the first members and charged them with enacting laws for the common good and conducting such other business as the king might assign. (See Appendix A for a listing of its members in 1840.) Although designed as a western-style legislative body, the creation of the elective Representative Body (“Ka Poe i Kohoia”) recognized the traditional bonds between the chiefs and the maka‘āinana, and the constitution provided that no law could be passed without their approval. The Constitution specified that members be elected from Hawai‘i, Maui, O‘ahu, and Kaua‘i but left open the total membership number.³³ (See Appendix B for a listing of its members in 1845.) The two legislative bodies were to convene separately during their annual meetings, record the business conducted by each body, and present acts approved by both bodies to the king for his approval. Both legislative bodies are discussed in Chapter 2 “Literacy as Strategy.”

³² Gavan Daws, *Honolulu: The First Century, the Story of the Town to 1876* (Honolulu: Mutual Pub., 2006), 109.

³³ 1840 Constitution, *Ka Ho‘oilina*, 27, 31.

Whites become Hawaiian citizens

Kauikeaouli decided to employ white foreigners as executive ministers in a deliberate move to provide a local administrative interface that was compatible with international agents and institutions. This hiring decision and the controversies that surrounded it are discussed at length in Chapter 4 “Western-Educated Ministers Defend Sovereign Rights.” The need for a naturalization policy arose as a number of foreign residents entered government service.

John Ricord was a foreigner who was unknown to the chiefs, and his appointment in March 1844 as the kingdom’s first Attorney General challenged the wisdom of permitting non-citizens to work for the government. Prior to his appointment, only foreigners desiring to marry Hawaiian women were required to declare an oath of allegiance.³⁴ After Ricord’s appointment, however, swearing allegiance to the government became the policy for all non-Hawaiian officials. Jarves explained that the policy was intended to avoid charges against American and British citizens that they used their government positions to forward the fortunes of their own nations.³⁵ Taking a different view, Kuykendall suggested that the policy was intended to fuse native and foreign ideas, and native and foreign personnel into one body politic.³⁶

Other foreigners who did not work for the government also sought to be naturalized, and a contentious public debate erupted in Honolulu newspapers over the merits of naturalization.³⁷ In 1845, thousands of Hawaiians petitioned the legislature objecting to the practice. What had begun as a petitioning campaign to have the king’s white ministers dismissed also included a prayer that the naturalization practice be discontinued: “aole o makou makemake e hooiki na

³⁴ Kuykendall, *Hawaiian Kingdom*, 1:230, 238-9. By law enacted November 12, 1840. Although Kuykendall quoted Armstrong as reporting in September 1844 that several naturalized foreigners worked for the government as harbor masters, pilots, etc.

³⁵ Jarves, *History*, 3d. ed., 190-1.

³⁶ Kuykendall, *Hawaiian Kingdom*, 1:238-9.

³⁷ Kuykendall, *Hawaiian Kingdom*, 1:240.

haole i kanaka Hawaii” ; “we do not wish foreigners to take the oath of allegiance and become Hawaiian citizens.”³⁸ Osorio pointed out that use of the traditional act of petitioning sent a deliberate signal intended to reinforce the maka‘āinana petitioners’ relationship with the chiefs and to bind them together as a people unified against the incursions of foreigners.³⁹

What happened instead, however, was that members of the legislature debated the several petitions in June 1845, then affirmed the government’s naturalization policy and assigned John Papa ‘Ī‘ī and Keoni Ana to draft a legislative response.⁴⁰ Their July 8 reply to the petitioners first addressed the political wisdom of the naturalization policy for officials with a strong statement that non-Hawaiian government officials should be required to swear to be faithful to the king so that they owed no allegiance to another sovereign in another land. But it was their reply concerning the voluntary naturalization of other foreigners that demonstrated the delicate balance that needed to be struck between political realities and national policy. The reply first pointed out that there was no practical way to prevent foreigners from coming ashore or from getting into difficulties and then reminded the petitioners that it was foreigners’ difficulties that had subjected the kingdom to punishment from the gunboat assaults of LaPlace in 1839 and Paulet in 1843. And the reply asserted that the only way to prevent that from happening again was to naturalize foreigners, because then “if they transgress, here are laws to punish them, and there is no other nation which will interfere in behalf of wicked foreigners, when we punish them.”⁴¹ Implicit in that explanation is the legislators’ recognition that a key benefit for the kingdom of

³⁸ “Na Palapala Hoopii o na Makaainana,” *Ka Elele*, 15 July 1845 for the prayer in Hawaiian and “A Petition to Your Gracious Majesty Kamehameha III and to all your Chiefs in Council Assembled,” *Friend*, 01 August 1845 for the prayer in English. There is a discussion of the petitions in Chapter 4.

³⁹ Osorio, *Dismembering Lāhui*, 36.

⁴⁰ Minutes, 26 June 1845, Series 221 vol. 2, Journal of the Legislative Council 1845-1847, Legislature, HSA.

⁴¹ “Na Manao o ka Ahaolelo No Na Mea i Hoopiia,” *Ka Elele*, 15 July 1845 for the Hawaiian text; “Reply of the Council Assembled to the Petition,” *Friend*, 01 August 1845 for the English translation “taken from the Elele”. Dated July 3, the reply was corrected and approved as of July 8, 1845.

the naturalization process would be that naturalized foreigners could no longer seek the protections of the extraterritorial judicial terms imposed by the British and French treaties.

Kauikeaouli and his chiefs held public meetings on Maui in January 1846 to address the petitioners' several concerns.⁴² Public debate subsided, and oaths of allegiance for government employees became required by law on October 29, 1845. Provisions permitting the voluntary naturalization of foreigners after a one-year residency period became effective on April 27, 1846.⁴³ Any alien temporarily resident in the kingdom could instead petition for a letter of denization which would grant all the rights and privileges of a Hawaiian subject without requiring the surrender of citizenship. Persons granted letters of denization could serve as government officials.⁴⁴ Jarves reported that between March 8, 1844 and December 10, 1846, 493 men, women and children were naturalized. Of them, about one-half were Americans, one-fourth were British, and among the remainder were French, German, Tahitian, Portuguese, and Chinese subjects.⁴⁵

But a letter to the *Ka Elele* editor from several Hawaiians at Lahaina introduced a greater level of complexity into the naturalization debate than the ability to punish wrongdoers without fear of foreign reprisals or application of extraterritorial terms. Although the letter predated the legislative reply, it did not become public until the July 15 *Ka Elele* edition in which the legislators' reply was printed, and it was then republished by the *Friend* in its August 1 issue. The authors reasoned that the maka'āinana were unable to compete with cash-rich foreigners for the purchase of land or other goods because the chiefs compensated them for their services with

⁴² See Chapter 4 for a discussion of the meetings.

⁴³ Ricord, "First Act of Kamehameha III," *Statute Laws of Kamehameha III*, 1:11; Ricord, "1846 Act to Organize the Executive Departments," *Statute Laws of Kamehameha III*, 1:75.

⁴⁴ Ricord, "First Act of Kamehameha III," *Statute Laws of Kamehameha III*, 1:75-80. Judge William Lee chose denization.

⁴⁵ Jarves, *History*, 3d. ed., 239.

goods and property that could not be converted to cash. Because maka‘āinana were shackled by these old practices, they cautioned, the naturalization of foreigners would only accelerate the transfer of all the wealth of the kingdom into foreign hands.⁴⁶

By 1845, however, there was another reason for concern because the Hawaiian population was declining, while the foreign population was increasing.

Population changes

Long isolation with few infectious diseases rendered Hawaiians vulnerable to the diseases carried by foreigners. Between Captain James Cook’s arrival at Kaua‘i in 1778 and his return to the island of Hawai‘i early in 1779, several infectious diseases spread by his crews had wreaked havoc on the population. Epidemics of syphilis, gonorrhea, tuberculosis and influenza tore through Hawaiian communities, even traveling to remote population areas on islands that Cook had not visited. While David E. Stannard estimates that the total population at Hawaii approximated 800,000 in 1778, other scholars estimate numbers closer to 250,000.⁴⁷ Stannard also projects that at least 400,000 people had died by 1800.⁴⁸

A second onslaught of disease occurred in 1804, when a diarrhea infection that may have been typhoid or cholera swept through the islands in what A W. Crosby calls the worst epidemic in the history of the islands. The Hawaiians named the disease “ōku‘u,” and reports suggest that the epidemic scuttled Kamehameha’s plans to invade Kaua‘i because it killed two-thirds of

⁴⁶ Letter to the Editor dated June 12, 1845, “No ka Hoohiki Ana o Na Haole,” *Ka Elele*, 15 July 1845 for the Hawaiian, and “Concerning Foreigners Taking the Oath of Allegiance,” *Friend*, 01 August 1845 for the English translation. Allodium of all land still was held by the king; no doubt they refer to the purchase of land leases.

⁴⁷ David E. Stannard, *Before the Horror: The Population of Hawai‘i on the Eve of Western Contact* (Honolulu: Social Science Research Institute: Univ. of Hawai‘i, 1989), 79-80, 105, 114.

⁴⁸ David E. Stannard, “Disease and Infertility: A New Look at the Demographic Collapse of Native Populations in the Wake of Western Contact,” *Journal of American Studies*, Vol. 24, no. 3 (Dec. 1990):329-30.

Kamehameha's fighting force.⁴⁹ While another major epidemic did not occur until 1848, syphilis, gonorrhea and tuberculosis continued to infect communities and reduce the population.

In 1839, Davida Malo became the first public voice to address the population decline. In his essay in the periodical *Hawaiian Spectator* entitled "On the Decrease of Population in the Hawaiian Islands," Malo suggested that the decline resulted from several factors, but chiefly from licentiousness with foreigners, sloth, and widespread disobedience to the will of God.⁵⁰ While factors that Malo identified played a part, the larger question concerns the inability of the Hawaiians to repopulate with births even during decades without major epidemics. Stannard points out that venereal diseases and tuberculosis have a powerful infertility result that lasts for years, and population censuses in the 1830s and 1840s confirm that the death rate was consistently higher than the birth rate.⁵¹ Crosby also cites infertility stemming from venereal diseases as a cause of the decline, but he adds that a sense of disorientation and community collapse among Hawaiians stemming from the arrival of foreigners in large numbers was also an important a factor.⁵²

As shipping arrivals increased, so too did the threat of foreign diseases. Fears that one of the ships would bring smallpox from the American west coast prompted enactment of the first quarantine laws in 1839.⁵³ Richard A. Greer reported that after a scare in 1842 that a ship arriving from Tahiti had brought smallpox, another quarantine law took effect making knowingly

⁴⁹ A. W. Crosby, "Hawaiian Depopulation as a Model for the Amerindian Experience," in *Epidemics and Ideas: Essays on the Historical Perception of Pestilence*, ed. by Terrance Ranger and Paul Slack (Cambridge: Cambridge Univ. Press, 1992), 190; Stannard, "Disease and Infertility," 330; Sahlins and Kirch, *Anahulu*, 1:43-4. Sahlins notes that an absence of contemporary documentation of the epidemic suggests reports of its severity have been exaggerated.

⁵⁰ Davida Malo, "On the Decrease of Population in the Hawaiian Islands," trans. L. Andrews, *Hawaiian Spectator*, Vol. 2, no. 2 (April 1839):121-30.

⁵¹ Stannard, "Disease and Infertility," 332-8.

⁵² Crosby, "Hawaiian Depopulation," 183-192.

⁵³ Laws and Regulations, "Quarantine Laws, 1839," Series 418, Folios 5-6 and 5-8, Early Laws, HSA.

bringing a contagious disease ashore an act of murder punishable by hanging.⁵⁴ In 1843, Governor Kekūanā‘o posted sanitary ordinances in Hawaiian and English ordering all residents to keep the streets clear of nuisances such as hogs and tied-up horses, to sweep in front of their premises, and for all men to help when there was a building fire.⁵⁵

Recurring fears of contagion caused the strengthening of the quarantine laws in 1845 and 1846. Then in 1848-1849, three epidemics struck at once. Reports suggest that measles, whooping cough, and influenza caused about 10,000 deaths out of an estimated population of 100,000. Kuykendall described the impact of the three epidemics as “like a gigantic scythe, [cutting] great swaths through the native population.”⁵⁶ Venereal diseases and tuberculosis also continued to claim victims, and by 1850 the Hawaiian population had dropped to about 84,000. In 1853 a smallpox epidemic tore through the Honolulu community, causing approximately 2,500 deaths and further reducing the Hawaiian population to about 73,000. Although Hawaiians still comprised ninety-five percent of the total population, their death rate had soared in comparison to their birth rate.⁵⁷

A foreign population of sailors and vagabonds had settled in the islands within a decade of Cook’s arrival.⁵⁸ Vancouver noted that by 1794 Hawaiians already had begun making distinctions between the British, Americans, Spanish and French.⁵⁹ By the time that trader John Boit arrived at Kealahou Bay in October 1795 aboard the Boston-registry ship *Union*, a community of foreign craftsmen had begun to form. Boit expected to encounter hostile natives;

⁵⁴ Richard A. Greer, “Oahu’s Ordeal: The Smallpox Epidemic of 1853, Part 1,” *Hawai‘i Historical Review* 1, no. 12 (July 1965):222.

⁵⁵ Laws and Regulations, Village Laws, 25 August 1843, Series 418, Folio 9-1, Early Laws, HSA.

⁵⁶ Kuykendall, *Hawaiian Kingdom*, 1:386.

⁵⁷ Stannard, “Disease and Infertility,” 330-8; Crosby, “Hawaiian Depopulation,” 190.

⁵⁸ Kuykendall, *Hawaiian Kingdom*, 1:26.

⁵⁹ Sahlins, *Historical Metaphors*, 53.

instead, he found two white carpenters and a white blacksmith at work building a ship for the king.⁶⁰ During sailmaker Archibald Campbell's residency in 1809-1810, Kamehameha and the chiefs employed roughly sixty foreigners from different nations who practiced a variety of western trades such as carpentry, masonry, blacksmithing, and bricklaying that were required to maintain the chiefs' own businesses.⁶¹

A Russian naval officer who visited in 1816 counted about 150 foreigners living in the islands. A cosmopolitan merchant community had formed in Honolulu composed of Chinese, Germans, a Flathead Indian from the northwest coast of America, Russians, Britishers, Americans, Spaniards, a Negro, French, Italians, a Kodiak islander.⁶² Russian and English language newspapers could be found in port at Honolulu in 1816 of "not too ancient a date."⁶³ Four American mercantile trading houses set up Pacific headquarters in Honolulu in 1822, and more Americans arrived to hold ships at the ready to service mercantile bases along the northwestern coast of North America.⁶⁴

By the 1830s, the word "foreigner" referred not only to transients and merchants, but also to residents from several different countries and several different language groups. Spanish-Mexican cowboys called paniolo were hired by 1830 to herd and slaughter wild cattle, then tan the cattle hides for export and sale in Lima, Peru. In 1835, an American businessman named

⁶⁰ John Boit, ed. Edmund Hayes, *Log of the Union: John Boit's remarkable voyage to the Northwest Coast and around the world, 1794-1796* (Portland: Oregon Historical Society, 1981), 77.

⁶¹ Archibald Campbell, *A Voyage Round the World, from 1806 to 1812, in which Japan, Kamchatka, the Aleutian Islands, and the Sandwich Islands Were Visited*, 3rd American ed. (Reprint: 1822: Honolulu: Univ. of Hawai'i Press, 1967), 118-9.

⁶² Golovnin, *Kamchatka*, 191; Victor S. K. Houston, trans., "Chamisso in Hawaii," *HHS 48th Annual Report* (1939):76.

⁶³ Houston, "Chamisso," 76.

⁶⁴ The Boston firms of Bryant & Sturgis and Marshall & Wildes, the New York firm of John Jacob Astor and Sons, and the Bristol, Rhode Island firm of DeWolfs. Samuel Eliot Morison, "Boston Traders in the Hawaiian Islands, 1789-1823: The Custom House Records in Massachusetts as a Source of History," *Proceedings: October 1920—June 1921 of the Massachusetts Historical Society* 54 (1922):23.

William French brought in a number of Chinese to run a sugar mill, and several sugar plantations in Kohala and Hilo on Hawai‘i island were managed by Chinese. In 1849, Captain H. Hackfeld opened a store in Honolulu that he stocked with goods he brought with him from Hamburg, Germany. Other German merchants followed Hackfeld, and soon a substantial German community had formed.⁶⁵ Census figures show that by 1850 there were 1,572 foreign residents.⁶⁶ Growth of a part-Hawaiian community of 983 people was first recorded in the 1853 census.⁶⁷

Both Kamehameha I and Liholiho had forcibly expelled undesirable and unruly foreigners, and in 1822 Liholiho posted the first printed regulations specifying confinement or expulsion of foreigners for breaches of the peace.⁶⁸ Arista notes another turning point in Hawaiian law, when in 1827 the same written laws extended personal jurisdiction over foreigners and Hawaiians alike. While proper behavior in the traditional society had been maintained over Hawaiians by the social control of kinship networks, now unruly behavior by foreigners had prompted the need for a new mode of control for everyone.⁶⁹ By 1842, a compendium of printed statute laws promulgated by the legislature were applicable to both Hawaiians and foreigners. The statute laws prohibited a variety of unruly and disorderly behaviors, ranging from vagrancy to horse racing and drunkenness, as well as specifying laws respecting partnerships and debtors.⁷⁰

Before 1840, social and political divisions in the European-American community fell along missionary and mercantile factions, but after 1840 they divided along international

⁶⁵ Kuykendall, *Hawaiian Kingdom*, 1: 175, 304, 316-8.

⁶⁶ Kuykendall, *Hawaiian Kingdom*, 1: 336 at fn 4.

⁶⁷ Kuykendall, *Hawaiian Kingdom*, 1:387.

⁶⁸ Golovnin, *Kamchatka*, 196; Kuykendall, *Hawaiian Kingdom*, 1:72-3; John Rives' March 8, 1822 Port Regulations. Broadside Collection 1820-1840. HMHA.

⁶⁹ Arista, *The Kingdom and the Republic*, 218-26.

⁷⁰ "Table of Contents," *Translation of the Constitution and Laws*, 6-8.

rivalries between the Americans and the British. Commercial disputes between them widened the gap further.⁷¹ Pauline King Joerger reported that by the 1850s the American business community controlled much of the wealth and commerce of the kingdom, followed closely in importance by the British community. While there were about 124 Chinese residents, only twelve were prosperous businessmen, while the remainder were contract agricultural workers on rural farms. The German community composed of immigrants from Belgium, Holland and the German states held important business control but little political influence, and there were small communities of French and Portuguese.⁷²

Commerce and urban growth

By 1800, Americans dominated in the northwest fur trade, and Boston traders routinely ported at Hawai‘i to refresh and refit. After 1812, Hawaiians discovered that fur traders would exchange western goods for sandalwood from Hawaiian forests, and soon a brisk trade developed. Harvesting controls imposed by Kamehameha were lifted after his death in 1819, and chiefs diverted labor from food production to sandalwood cutting.⁷³ Soon so much sandalwood freight left the islands that Boston trading houses had to station ships and agents at Honolulu to coordinate cargoes.⁷⁴ By 1829, unrestrained harvesting exhausted the forests and collapsed the trade.⁷⁵

However, whaling ships had begun to arrive in large numbers to winter at island harbors, and servicing the fleet’s maintenance and provisioning needs filled the economic gap left by the

⁷¹ Bradley, *American Frontier*, 397-402.

⁷² King Joerger, *Political Biography*, 103-4.

⁷³ Sahlins and Kirch, *Anahulu*, 1:38, 42, 57-9.

⁷⁴ Kuykendall, *Hawaiian Kingdom*, 1:82-9.

⁷⁵ Sahlins and Kirch, *Anahulu*, 1:81.

collapse of the sandalwood trade.⁷⁶ Honolulu also became a mercantile distributing point. Cargoes brought from the U.S., China and Europe were broken up so that some of the goods could be sold locally, while the rest were transshipped to California, the Pacific northwest, and other points in the Pacific.⁷⁷ The British Hudson's Bay Company, which controlled most of the fur-trading business in the Pacific northwest, located an agent at Honolulu in 1835 to establish trade with western businesses for commodities it needed to develop the resources of the Columbia River region. Hudson's Bay Company also brought in cargoes from England and opened a mercantile store to sell goods in the local market, and other British merchants followed.⁷⁸

Gavan Daws drew a picture of Honolulu in 1840 as a thriving urbanized town, with twenty retail stores, two hotels, two taverns, seven bowling alleys, three vegetable markets, and twelve boarding houses for seamen. A multiplicity of tradesmen provided services. According to Daws, there were four blacksmiths' shops, fourteen ships' carpenters, sailmakers, caulkers, and printers. Most firms were one-person businesses, but several larger Honolulu firms had branches at Lahaina, the second-largest port in the kingdom.⁷⁹ A modern police force was established by 1840 statutes authorizing the governors to appoint officers and constables "for the protection of the people and villages."⁸⁰ In 1845, the government hired a German engineer to survey the streets and draw a map of Honolulu.⁸¹

⁷⁶ Kuykendall, *Hawaiian Kingdom*, 1:94-5, 304; Sahlins and Kirch, *Anahulu*, 1:101.

⁷⁷ Kuykendall, *Hawaiian Kingdom*, 1:92-3.

⁷⁸ Kuykendall, *Hawaiian Kingdom*, 1:299-302.

⁷⁹ Daws, *Honolulu, the First Century*, 121.

⁸⁰ Robert C. Schmitt, "Some Firsts in Island Businesses and Government," *HJH* 14 (1980):98. The law was passed by the House of Nobles on November 10, 1840 and went into effect on January 1, 1841. See Chapter 5, "Of Police Officers and Constables," *Translation of the Constitution and Laws*, 56-8.

⁸¹ Schmitt, "Some Firsts," 99.

Harbor fees and land rents were no longer sufficient to fund either the salaries of government workers or other functions, such as schools, customs collection, or upkeep on roads, bridges, wharves and landings which were demanded by urban growth. A treasury board was formed in 1842 to manage the kingdom's finances, and Judd as its president began the first regular and systematic accounting procedures. Judd developed additional revenue streams by licensing commercial activities such as grogshops, retail operations, and even bowling alleys. An 1846 list of liquor license sales at Lahaina recorded twelve sales in one month ranging in price from \$150 to \$165, and the purchasers' identities reveal the community's demographics: "Ahsing, Pukikī [Portuguese] A. Manuel, and 10 haole."⁸² The sale of certificates of Hawaiian registry for brigs also brought in funds, as did bonds for hotel and auctioneering operations. An interisland coasting service owned and run by Hawaiians went into business between the islands on a demand basis, and the government profited from the sale of coasting licenses.⁸³

When Wyllie arrived in 1844, he noted that the foreign population was "very considerable" and their rate of consumption of goods exceeded consumption by Hawaiians. American and British general merchants and storekeepers outfitted community and commercial needs, and their mercantile trade complemented the business brought by the whaling fleet.⁸⁴ The 1840s were boom years for whalers' visits. Wyllie reported that whalers refitting at Hawaiian ports spent an average of \$800 to \$1500 annually on foodstuffs and store articles. Merchants' prosperity became dependent on this whalers' "floating market." Crews on British and American ships of war preferred the port of Honolulu to any other Pacific port except Valparaiso, and their

⁸² July 2, 1846 list of liquor sales, Box 142, Miscellaneous, Interior Department, HSA.

⁸³ R. S. Kuykendall, *The Hawaiian Kingdom, Volume 2 1854-1874 Twenty Critical Years* (Honolulu: Univ. of Hawai'i Press, 1953), 2:3-4.

⁸⁴ Sahlins and Kirch, *Anahulu*, 1:102.

ships visited frequently. Ships' provisioners found that food was cheap and abundant, and the prospect of trade carried to French settlements at the Marquesas and Society Islands created new markets for island produce.⁸⁵ A variety of commercial agricultural ventures including coffee, sugar, salt, cattle, kukui oil and fresh vegetables served island markets, the whaling industry, and export markets.⁸⁶

Three newspapers published at Honolulu in 1844. The *Polynesian* and the *Friend* reported on local and international news for English-speaking readers, while *Ka Nonanona* (renamed *Ka Elele Hawaii* in 1845) printed news for Hawaiian-language readers. By 1844, one report of the missionaries' statistics showed that nearly half of the population had learned to read, and approximately 20,000 students attended schools run by ABCFM and Roman Catholic missionaries.⁸⁷ All three newspapers offered public forums for readers to exchange their ideas and opinions.

Because the *Polynesian* was purchased by the government in 1844 and operated as its official press organ, it also published "by authority" news about court proceedings, texts of legislative acts and diplomatic treaties, and diplomatic correspondence. In response to an 1845 request from William Richards, editor Jarves reduced the price of the *Polynesian* and enlarged it to a paper of more general scope and utility for the resident foreign community. In his final report shortly before he resigned as Director of the Government Press in 1847, however, Jarves opined that "with our limited population a newspaper cannot be well conducted, except at an

⁸⁵ R. C. Wyllie, Sections 9, 11 and 12 in "Notes," *Friend*, 01 July 1844. An earlier article giving shipping statistics was published in the May 1844 issue. The notes were printed before Wyllie assumed the position of Foreign Affairs Minister.

⁸⁶ Carol A. MacLennan, "Foundations of Sugar's Power: Early Maui Plantations, 1840-1860," *HJH* 29 (1995):35; Jarves, *History*, 3d.ed., 202.

⁸⁷ S. N. Castle, "Missionary Statistics at the Sandwich Islands," *Friend*, 01 May 1844; Wyllie, "Abstract of Native Schools" in "Notes," *Friend*, 18 December 1844, Extra; Wyllie, "42. Rev. Abbe Maigret's School" in "Notes," *Friend*, 01 August 1844.

annual loss.”⁸⁸ Jarves’ final financial report validated his opinion: total receipts for newspaper sales from May 1, 1844 to April 1, 1847 were \$2,658.97, while receipts for job work done on the press during the same period was five times greater, at \$12,791.01. Chapter 6 “Tactical Use of Print Media” discusses the non-monetary value brought by the *Polynesian* because of its ability to focus local and international attention on the king’s sovereign rights and privileges. The same ships which carried foreign newspapers to Hawai‘i also carried away copies of the *Polynesian* and spread official news about the kingdom at every port they entered.

Continuing the bilingual approach to governance, the 1845 Act mandated that all of the kingdom’s laws be published in Hawaiian and English, and courts were ordered to use the English language in all cases involving foreigners. English was chosen as the approved language for the conduct of relations involving foreigners because it was the only foreign language through which the stipulations of diplomatic treaties were understood in the Hawaiian courts. Furthermore, American and British commercial interests predominated in Hawai‘i’s marketplace, making English the language most useful to foreign residents in business matters. According to Wyllie, Kauikeaouli “speaks [English] sufficiently to carry on an ordinary conversation in that language” as does the kuhina nui. The governors of Maui, O‘ahu and Hawai‘i understand English and speak it “a little.”⁸⁹ However, the king and his chiefs continued to deliberate, issue orders, and negotiate treaty terms in Hawaiian.

Hawaiian chiefs participated in commerce by leasing lands to foreign businesses, and other Hawaiians participated in the economy as investors in mercantile, whaling, or shipping

⁸⁸ James J. Jarves to John Young [aka Keoni Ana], 01 April 1847, Box 142, Miscellaneous, Interior Department, HSA. Jarves submitted his resignation as Director of the Government Press on September 25, 1847 but continued to serve as editor until the last issue in January 1848. See Keoni Ana Young to J. J. Jarves, 25 September 1847, Box 142, Miscellaneous, Interior Department, HSA.

⁸⁹ R. C. Wyllie to W. Dillon, October 1848, Series 410, Box 3, vol. 13, part 1, Letters, Consular Correspondence, HSA.

ventures. Some Hawaiians were merchants or shopkeepers in Honolulu; others were wage earners in shops or on the docks, and many were farmers who produced the goods that foreign merchants exported.⁹⁰ As King Joerger pointed out, however, it was the foreign population that fueled the economic expansion of the kingdom. Merchant houses, ship chandleries, retail stores, saloons and hotels, and small service companies provided the primary economic activity of the business community and produced the major portion of the wealth of the kingdom. The economic health of those merchants in turn was dependent on the continued arrivals of large numbers of whalers.⁹¹

Meanwhile, Honolulu was urbanizing at the expense of the rest of the island. The town's population in 1850 approximated 14,500, which was 3,500 more than resided in rural O'ahu. The overall Hawaiian population may have been declining, but it was also redistributing in favor of urban Honolulu.⁹²

Honolulu was changing its appearance, and Hawaiians also adopted a western look. In 1843, Malo in his capacity as General School Agent for the islands of Maui and Lāna'i requested government money to buy western-style clothes for Maui teachers, and he provided a list of what they wanted: pleated skirts, collarets, white cloth for shirts, cloth suitable for trousers, and silk handkerchiefs.⁹³ Three years later, Kekūanā'ō'a solicited money from Judd to buy clothing for the 33 men at the Punchbowl forts. Before we supplied them with *mamaki*, kapa, Kekūanā'ō'a lamented, but now they want clothing—pants, shirts, jackets, hats, shoes, and all the regular equipment for a soldier.⁹⁴

⁹⁰ King Joerger, *Political Biography*, 104.

⁹¹ King Joerger, *Political Biography*, 107.

⁹² Sahlins and Kirch, *Anahulu*, 1:106-7

⁹³ Davida Malo to G. P. Judd, 25 December 1843, Box 2-1, Budget & Finance, HSA.

⁹⁴ M Kekūanā'ō'a to G. P. Judd, 28 April 1846, Box 142, Miscellaneous, Interior Department, HSA.

Land tenure restrictions impede agricultural growth

Retaining Hawaiian control of the kingdom's lands was a key political concern for Kāiūkeāouli that began in the 1830s when foreigners first began to assert ownership rights. There was no concept of private ownership, however, in the land tenure system that had supported the Hawaiian population over many generations. Unlike tribal ownership of land in New Zealand, or the village and communal system of land in Samoa, in Hawai'i it was the highest-ranking chief, the king, who owned the allodium, while the chief in whose hands he placed the land held it in trust.⁹⁵ Like Hawaiian chiefs, foreigners who occupied land did so only at the pleasure of the king. Because of this, when Ladd & Co. formed the first foreign-owned sugar company in 1835 and its principals needed a tract of land and a mill site on Kaua'i,⁹⁶ Kāiūkeāouli cautioned Governor Kaikio'ewa not to sell land, but to lease it: "alaila no lawe mai, mai haawi lilo loa oe i ka aina" (and at that time take it back, don't give land away without restrictions).⁹⁷

Sugar cane had been grown on small lots in Hawai'i for many centuries. According to Robert C. Schmitt, the first commercial enterprise was begun in 1825 in upper Mānoa valley where seven acres were placed into cultivation.⁹⁸ An 1840 survey cited by Kuykendall showed that several missionaries and chiefs started small sugar mills on O'ahu, Kaua'i and Maui and ground the cane that nearby farmers raised.⁹⁹ In 1840, Kāiūkeāouli owned a sugar mill at

⁹⁵ Melody Kapilialoha MacKenzie, ed., *Native Hawaiian Rights Handbook* (Honolulu: Native Legal Corporation, 1991), 3-54; W. D. Alexander, "A Brief History of Land Titles in the Hawaiian Kingdom," Interior Department, Appendix 1, to Surveyor General's Report (Honolulu: P. C. Advertiser, 1882), 3, 7; Lorrin A. Thurston, ed., "Principles Adopted by the Board of Commissioners to Quiet Land Titles, in their Adjudication of Claims Presented to Them," *The Fundamental Law of Hawaii/Edited and Indexed by Lorrin A. Thurston. Instead of One General Index, Each Law, Constitution and Document is Indexed Separately* (Honolulu: Hawaiian Gazette, 1904), 141.

⁹⁶ Arthur C. Alexander, *Koloa Plantation, 1835-1935: A History of the Oldest Hawaiian Sugar Plantation* (Lihue: Kauai Historical Society, 1985), 2-4.

⁹⁷ King Kāiūkeāouli to Kaikio'ewa at Waimea, Kaua'i, 24 October 1834, M-59, Letters, Hawaiian Chiefs, HSA. Dr. Lyon assisted with this translation. Although the letter does not mention the Ladd & Co. transaction, its timing and subject matter identify it as instructions concerning that land lease.

⁹⁸ Schmitt, "Some Firsts," 85.

⁹⁹ Kuykendall, *Hawaiian Kingdom*, 1:180.

Wailuku, Maui which ground cane raised by individual farmers, and in 1841, the king also leased lands in upcountry Maui to a foreigner on which to grow cane and manufacture sugar.¹⁰⁰ Carol A. MacLennan's studies of sugar production on Maui showed that most commercial ventures in the 1840s were undertaken by Hawaiians, but that they generally failed because they were run as traditional Hawaiian agricultural endeavors without the economic controls normally found in foreign commercial enterprises.¹⁰¹

Ladd & Co.'s fifty-year lease for a tract of land and mill site at Koloa made it the first permanent plantation of any size.¹⁰² Twenty-five acres of sugar cane were planted at Koloa in the first year, and the plantation also ground cane grown on small tracts by neighboring farmers.¹⁰³ The initial capital outlay was heavy, however, and early returns were small.

In 1843, Ladd & Co. and the Hawaiian government contracted to promote a "Belgian Company of Colonization" on Kaua'i lands, and Peter A. Brinsmade (a principal of Ladd & Co.) traveled to Belgium to enlist that country's participation in the scheme. While in Europe, Brinsmade assisted the king's diplomats with their efforts to secure recognition from Britain and France of the kingdom's independent status. The Belgian colonization scheme failed, however, at the same time that Koloa's sugar operations were winding down.¹⁰⁴

The Hawaiian government had loaned large sums of money to Ladd & Co. as part of the Belgian colonization agreement, and by 1844, Koloa Plantation owed the government \$8,478.80 for cash advances which it could not repay. Judd, as president of the Treasury Board, authorized

¹⁰⁰ "Agreement by the King and persons who plant by the acre at Wailuku," 23 September 1840, Box 141, Miscellaneous, Interior Department, HSA; MacLennan, "Foundations of Sugar's Power," 40.

¹⁰¹ MacLennan, "Foundations of Sugar's Power," 36, 40, 43.

¹⁰² Schmitt, "Some Firsts," 85.

¹⁰³ Kuykendall, *Hawaiian Kingdom*, 1:182.

¹⁰⁴ A. C. Alexander, *Koloa*, 38-42. Alexander provided a good discussion of the failed Belgian Colonization scheme and its legal ramifications.

a sheriff's sale of the plantation and its improvements.¹⁰⁵ Ladd & Co.'s debt to the government was arbitrated in 1846, and subsequent claims and counterclaims involving local business investors generated considerable ill will between the government and the foreign community for some time afterwards.¹⁰⁶ Brinsmade and William N. Hooper, another of Ladd & Co.'s principals, became fierce critics of the king and his white ministers.

But by 1845, Great Britain's support for Charlton's claim to fee simple ownership of a valuable Honolulu waterfront lot threatened the king's ability to retain his allodial interest over leased lands. Charlton had occupied the land since his 1825 arrival, and he alleged that Kalanimoku had deeded the land to him, but none of the privy council members believed that Kalanimoku ever held the power to transfer land ownership, and they launched their own investigation.¹⁰⁷ Between September 18 and October 8, 1845, privy council members heard testimony from fifteen witnesses who were a mix of foreigners, government officials, and Hawaiian chiefs, then issued a printed report of their findings disputing the deed's validity.¹⁰⁸ Two months later, in December 1845, they began a political process that would forestall similar claims with the passage of the Law Creating the Board of Commissioners To Quiet Land Titles. Two more formal investigations into Charlton's deed followed—one held by Admiral Seymour in 1846, and one held by the king in March 1847 at which Malo testified under oath that Kalanimoku lacked the chiefly power to grant a deed.¹⁰⁹ Pamphlets of the proceedings were sold to publicize the government's case.

¹⁰⁵ A. C. Alexander, *Koloa*, 38-42; W. D. Alexander, *History of the Hawaiian People*, 262-3.

¹⁰⁶ A. C. Alexander, *Koloa*, 38-42.

¹⁰⁷ Minutes, 13, 16 August 1845, Series 421, vol. 1, Privy Council, HSA. Attendees were the king, the kuhina nui, Pākī, Leleiōhoku, Kekūanāo'a, Keli'iahonui, Kana'ina, Ricord, Wyllie, Judd, and Richards.

¹⁰⁸ Minutes, 16 August 1845, 18 September to 08 October 1845, Series 421, vol. 1, Privy Council, HSA. The pamphlet went on sale in 1845 for \$1.00.

¹⁰⁹ "List of Pamphlets," *Polynesian*, 25 September 1847.

Despite Charlton's challenge, in 1847 the traditional land tenure system still vested Hawaiians with full control over land, labor and water resources, and sugar plantations run by foreigners were still in the minority. MacLellan concluded that sugar plantations gave Hawaiian chiefs the means to participate in Pacific basin commercial networks, just as the sandalwood trade had enabled them to do.¹¹⁰ Chapter 7 "Treaties and Secret Orders" examines the government's efforts to increase domestic exports by negotiating favorable import duty rates on sugar and other products marketed abroad.

Kauikeaouli's opening speech at the 1847 legislative session linked together the need to provide clear land titles, the need to develop export products, and the need to raise capital to fund native farmers. Keoni Ana had reported to legislators at the beginning of the prior session that about 3,000 young men had left the land and were believed to be either sailing the oceans or living at widely scattered oceanic and American locations.¹¹¹ Some of his people were suffering because a lack of cultivation had caused a scarcity of food, the king told the legislators, and "it pains me." Harkening back to the concerns voiced by the Lahaina letter-writers in 1845, Kauikeaouli told the legislators that without capital, his native subjects could not "buy cattle, fence in the land and cultivate it properly." Land reform would ensure that his subjects could possess secure title for tillable lands on which they could grow export products, thus "enabling them to live in abundance and comfort, and to bring up their children free from the vices that prevail in the seaports." As for capital, the king asked the legislators to find ways to induce foreigners to furnish it.¹¹²

¹¹⁰ MacLennan, "Foundations of Sugar's Power," 42.

¹¹¹ "Report of the Minister of the Interior delivered on August 1," *Polynesian*, 08 August 1846.

¹¹² "The King's Speech (Translation)," *Polynesian*, 01 May 1847.

Pauline King Joerger and Jon M. Van Dyke argued that Great Britain’s defense of Charlton’s land claim (see Chapter 5) was the principal driving force behind Kamehameha III’s push for land reform. While it is clear that concern for the kingdom’s territorial integrity was uppermost in the king’s mind, Kamehameha III’s May 1847 speech evidences that his desire to protect native Hawaiians’ ability to sustain themselves on the land also factored into his decision. Beamer endorses that conclusion. Kamehameha III explains that protecting society as a whole was a proper chiefly duty, and she concludes that the king and the chiefs relied on the advice of their foreign advisors and “accepted the opinion that [the Māhele] would truly benefit the *maka‘āinana*.”¹¹³

Great Britain advised the Hawaiian government in August 1847 that it had rendered a final decision in favor of Charlton, and the chiefs surrendered the contested land parcel. An anonymous letter-writer from Koloa, Kaua‘i viewed the 1847 political events as forecasting that legal titles would be settled “in a couple of years.” Writing under the pseudonym “Apis” in the September 4, 1847 edition of the *Polynesian*, the letter-writer also applauded the fact that the government had recently leased lands to foreigners for “about a dozen” new sugar and coffee plantations.¹¹⁴

Labor scarcities further threaten agriculture

Labor for Koloa Plantation had been difficult to secure from local chiefs almost immediately, and in July 1841 a labor strike further compromised the plantation’s profitability. Koloa paid its workers 12.5 cents a day in scrip redeemable only at the company store for goods sold at inflated

¹¹³ Beamer, *No Mākou Ka Mana*, 151; Kamehameha III, *Native Land*, 206-7.

¹¹⁴ Letter to the editor by Apis, *Polynesian*, 04 September 1847. Apis was an Egyptian deity in the form of a bull that was worshipped at Memphis.

prices, but its Hawaiian workers demanded double that amount paid in cash. The workers did not prevail, however, and they simply responded by finding employment elsewhere.¹¹⁵ In fact, many young Hawaiians abandoned agricultural work during the 1840s for the sense of adventure and better pay offered by signing on to whalers and merchant ships.

A spike upwards in whaling ships' arrivals at the islands after 1840 led to an increased need to recruit young Hawaiians to augment crews depleted during lengthy voyages.¹¹⁶ A statute enacted in 1841 for the protection of Hawaiian youths required ships' captains first to receive the consent of the island's governor before signing on a recruit, and then to post a \$200 bond guaranteeing to return the Hawaiian seaman home within two years from the date of the bond and the shipping articles.¹¹⁷ One ship's captain was forced to give up a Maui boy in 1844 when he tried to take the boy away without first receiving the father's permission. By that time, shipping articles for whaling voyages commonly included a \$20 pay advance and guaranteed wages ranging from \$5 to \$16 per month, which were sometimes paid as a share of the oil profits. Promotions to positions like harpooner would also increase a seaman's pay. British regulations and market demand in the South Pacific further improved the treatment of Oceanian seamen.¹¹⁸

In 1846, Keoni Ana decried the fact that one-fifth of the youth of Hawaii were "wandering on the ocean or in foreign lands" and that "there is no port in this ocean untrodden by Hawaiians." Many Hawaiians in foreign ports want to come home, Keoni Ana reported, but lack the means to obtain passage on a vessel. At the same time, however, Keoni Ana expressed

¹¹⁵ Edward D. Beechert, *Working in Hawaii: A Labor History* (Honolulu: Univ. of Hawaii Press, 1985), 23, 34.

¹¹⁶ Kuykendall, *Hawaiian Kingdom*, 1:306.

¹¹⁷ Chapter XXVII, Statute Regulations Respecting Ships, Vessels, and Harbors, Section 20, *Translation of the Constitution and Laws*, 127-8.

¹¹⁸ Chappell, *Double Ghosts*, 39, 58, 159.

the government's reluctance to prevent whalers' from signing on young Hawaiians because of the large contribution made by whalers to the kingdom's foreign commerce and revenue income.¹¹⁹

Hawaiians were also recruited by businesses like Hudson's Bay Company to work in the fur trade in the Pacific Northwest, and as lumberjacks and sawmill operators. Fur companies depended on hiring Hawaiian boat handlers on three-year contracts for \$10 a month plus food and clothing. Sir George Simpson of Hudson's Bay Company provided anecdotal evidence that the fur company took hundreds of Hawaiian men to the Northwest yearly, and Simpson estimated that of the roughly one thousand males who left the islands annually, "a considerable portion of them don't return, either dying or settling elsewhere."¹²⁰ Chappell presented statistical evidence in *Double Ghosts* that suggested a high percentage of Hawaiian seamen did in fact die from disease or accidents before completing their voyages. Out of a sample size of 43 Hawaiians who shipped out, about a third returned (35%), a third died overseas (32%), and a third were not heard from again (32%). These statistical findings demonstrated the risks encountered on ocean voyages and confirmed Simpson's statement that a high percentage of Hawaiian youths never returned.¹²¹

Estimates published by Wyllie in 1844 (who at that time was the deputy British consul) corroborated Simpson's outflow numbers.¹²² Once word went out that the king had granted permission to ships' captains or businesses to recruit, as many as 500 men might assemble.¹²³ In his 1847 report to the legislators, Interior Minister Keoni Ana noted that there were several

¹¹⁹ "Report of the Minister of the Interior delivered on August 1," *Polynesian*, 08 August 1846.

¹²⁰ Chappell, *Double Ghosts*, 39, 162.

¹²¹ Chappell, *Double Ghosts*, 160-1.

¹²² Wyllie, "59. Native Seamen," in "Notes," *Friend*, 04 September 1844; Chappell, *Double Ghosts*, 56, 58, 103.

¹²³ Chappell, *Double Ghosts*, 39.

alarming reports of husbands who had enlisted on board ships without their wives' knowledge and left them destitute. Keoni Ana called for new legislation to remedy the problem, and Hawaiian legislators responded by passing a statute that required ships' recruits to post a bond as support for their wives and families in addition to the bonds posted by ships' captains guaranteeing their return.¹²⁴ Hawaiians leaving for California during the 1848 gold rush also had to post bonds before they could leave. Additional government measures were taken in 1850 to stem the outflow, including a law prohibiting Hawaiian youths from emigrating except for specified reasons.¹²⁵

By 1845 the out-migration of Hawaiian youths between the ages of 15 and 30 had so severely depleted the potential labor pool for agricultural work that it hindered the ability of foreign planters to sustain their businesses. But not only out-migration caused labor shortages: Osorio reported that rapid depopulation also had severely depleted the labor pool needed by Hawaiian farmers to sustain their own extensive cultivation of the upland areas, and food shortages resulted.¹²⁶

Edward D. Beechert described the several proposals that some planters made to solve the shortage problem, ranging from compulsory day labor for all Hawaiians between the years 14 to 30, to fixing wages and output for each worker through a task system, or to an *uku-pau* system where the worker could quit for the day when his assigned task had been completed.¹²⁷ Other prospective employers proposed solving the shortage by developing what Eric Wolf in *Europe and the People Without History* termed a modern "labor diaspora," in this case an inbound

¹²⁴ "Report of the Minister of the Interior," *Polynesian*, 29 May 1847; Chappell, *Double Ghosts*, 163.

¹²⁵ Kuykendall, *Hawaiian Kingdom*, 1:328-9.

¹²⁶ Osorio, *Dismembering Lāhui*, 47.

¹²⁷ Beechert, *Working in Hawaii*, 24.

diaspora, where job seekers from other areas of the world would migrate to fill the local labor pool.¹²⁸

Ideas on how to develop such a labor pool to staff large-scale agricultural ventures were debated in the press. An editorial in the September 4, 1847 issue of the *Polynesian* urged the importation of laborers from China. Editorials in the *Polynesian* on October 9 and October 16 extolled agriculture's material advantages for the Hawaiian economy and laid out specific measures to promote large-scale development. Both of the October editorials recommended staffing plantations with workers from northern Europe. While he stopped short of endorsing the importation of a labor pool, Keoni Ana pointed out in his 1846 report that the size of the foreign population "by no means" was equal to the number of Hawaiians who had gone abroad.¹²⁹

Prompted by the public debate, on October 23, 1847 the privy council took up consideration of a resolution recommending the importation of German laborers.¹³⁰ Members of the privy council already had expressed a reluctance the previous April to giving "any appearance of inviting foreigners to come into the islands or to take lands," and the October 23 meeting minutes indicate that the Hawaiian chiefs continued to be concerned: "some of the chiefs remarked that there might be a danger in opening a door for too many foreigners to come into the islands."¹³¹ Pākī enlarged on the chiefs' concerns in a written statement: "aole pono ia kakou e palapala aku e holo mai na lakou no e holo mai ko lakou manao iho, mai hooholo kakou o nui loa a pilikia na kanaka maoli. . . it will not be proper for us to write them to come, they can

¹²⁸ Eric Wolf, *Europe and the People Without History* (Berkeley: Univ. of Calif. Press, 2010).

¹²⁹ "Report of the Interior Minister delivered on August 1, 1846," *Polynesian*, 08 August 1846. At that time, the foreign population was estimated to number about a thousand.

¹³⁰ Editorial, *Polynesian*, 04 September 1847.

¹³¹ Minutes, 19 April 1847, Series 421, vol. 2, Privy Council, HSA. Attendees were the king, the kuhina nui, Wyllic, Judd, Richards, Ricord, Kekūanāo'a, Kānehoa, Pākī, Kana'ina, 'Ī'ī, and Keohokālole; Minutes, 23 October 1847, Series 421, vol. 4, Privy Council, HSA. Attendees were the king, the kuhina nui, Kana'ina, Kapeau, Judd, Lee, Pākī, 'Ī'ī, and Wyllic. The proposed resolution was defeated.

come on their own volition, we should not consent or there will be too many and the native Hawaiians will be in trouble.”¹³²

The Hawaiian chiefs recognized that an organized and sustained influx of foreigners could easily overwhelm the Hawaiian population, already reduced by disease and the voluntary diaspora of its young men. Resolution of labor staffing needs for agricultural enterprises lay in the future, however.¹³³ Meanwhile, the effects of the global processes Merry had identified might yet overwhelm the kingdom. Kamehameha and the chiefs had put into place the hybridized governance framework that Beamer described, and they had implemented policies designed to absorb the influx of foreigners into the Hawaiian body politic. As Kamehameha and the chiefs searched for an alternative economic crop and considered the final division of land interests, foremost in their minds was the need identified by Jarves to protect the safety and security of individual Hawaiians and Hawaiian territorial sovereignty from further foreign onslaughts.

¹³² A. Pākī, “Kumu Manao,” 28 October 1847, M-80, folder 1-4, Jonah Kuhio Kalanianaʻole Collection, Manuscript Collection, HSA. The archival translation is unattributed and appears to have been made in 1847.

¹³³ Kuykendall, *Hawaiian Kingdom*, 1:328-9. Government measures were later taken to stem the outflow, including an 1850 law prohibiting Hawaiian youths from emigrating except for specified reasons.

CHAPTER 4

WESTERN-EDUCATED MINISTERS DEFEND SOVEREIGN RIGHTS

In June 1839, Kauikeaouli, kuhina nui Kekāuluohi, and the chiefs Hoapilikāne, Hoapiliwahine, Keohokālole, and Mataio Kekūanā‘a petitioned the SIM contingent to assign Amos Starr and Juliette Montague Cooke to educate the chiefs’ children who would be the kingdom’s future leaders.¹ Mr. Cooke was a Connecticut native and Mrs. Cooke was from Massachusetts. They had married shortly before departing from Boston harbor in December 1836 as members of the eighth contingent sent by the ABCFM and had arrived in April 1837.

Ke Kula Keiki Ali‘i, the Chiefs’ Children’s School, was formally established in 1840. It was funded by the kingdom to educate the royal children exclusively, and Mr. and Mrs. Cooke remained as the school’s instructors until its closure in 1850. Beamer described the school as a hybrid institution—neither traditionally Hawaiian nor controlled by SIM members—but one which disrupted traditional relationships by separating the children from their parents and their attendants. The Cookes provided a formal Euro-American education designed to internationalize the students, and they instructed in English so that the future rulers could acquire the linguistic ability necessary to interact with foreigners.² Although the students studied geometry, grammar, algebra, moral science, bookkeeping, trigonometry, and the natural sciences, Linda K. Menton pointed out that they were taught almost nothing about western government, economic or legal systems, or diplomacy. Menton decried that lack in her study of the school’s operation, because she concluded that it left the royal heirs “ill-prepared to deal with the limiting effects of constitutional restraints, the complexities of capitalism, the critical issue of land tenure, or the

¹ M. A. Richards, *The Hawaiian Chiefs’ Children’s School*, 25-6.

² Beamer, *No Mākou Ka Mana*, 156-61.

economic and political demands of the outside world.”³ Beamer, however, celebrated what he viewed as the foresight of Kauikeaouli and the chiefs for having the children educated in the protocols, knowledge systems, and languages of other countries so that they would be prepared to rule in a new world.⁴

In the 1840s, however, the young chiefs had not yet left school. Nevertheless, complex statecraft issues arose involving the state’s exercise of its functional powers. And even though Lahainaluna Seminary had graduated an educated group of Hawaiian scholars like Davida Malo and Boaz Māhune on whom the king and the chiefs relied for secular advice, members of the chiefly ranks serving in the House of Nobles and privy council lacked familiarity with the technical complexities of western statecraft necessary to make strong diplomatic and legal defenses of the kingdom’s positions. Facing the prospect of loss of functional control in key areas, Kauikeaouli hired western-educated whites to serve as ministers and engage with agents of western powers in the defense of the kingdom’s rights and privileges. This chapter explores Kauikeaouli’s rationale for that decision, his response to the hostility it generated, and his own evaluation of the effectiveness of the governance actions that flowed from the directive. Although the king’s decision engendered harsh criticism from white residents, consular agents and Hawaiians, the employment of western-educated white ministers laid the foundation for the kingdom’s control of international political interactions.⁵

³ Linda K. Menton, “A Christian and ‘Civilized’ Education: The Hawaiian Chiefs’ Children’s School, 1839-50,” *History of Education Quarterly* 32, no. 2 (Summer 1992): 228-9, 242.

⁴ Beamer, *No Mākou Ka Mana*, 161.

⁵ I refer to these ministers as “white” rather than using the commonly-accepted Hawaiian word “haole.” The official texts that appear extensively in this chapter translate the word “haole” as “white,” “whitemen,” or “foreigner.” Because the white ministers took oaths of allegiance, the translation “foreigner” is not a good fit. Also, it is unlikely that Miller or Brown would have used the Hawaiian word in their own speech. For those reasons, I find it more appropriate to use the word “white” throughout.

Treaties of unequal alliance

British Consul General William Miller carried two documents for the king to execute when he arrived in Hawai‘i in February 1844: the first resolved claims stemming from Paulet’s seizure, and the second presented a commercial treaty, entitled a convention, to replace any earlier commercial treaties between the two states.⁶ The terms of the first document had been agreed to in London by Kauikeaouli’s ambassadors, Ha‘alilio and Richards, and the king promptly executed it. The terms of the second, Kauikeaouli learned, had been fixed in London by British diplomats and were not negotiable. In fact, the convention that Miller presented mirrored the extraterritorial terms of the Convention between France and Hawai‘i of 1839 that had been forced on Kauikeaouli by LaPlace: Article III created jury composition protections for British citizens tried in Hawaiian courts, and Article VI required Hawai‘i to accept all goods of every kind imported from British dominions (including liquors and beers, which the king had attempted to curtail) with a ceiling of five percent on the kingdom’s income from British import duties.⁷ Kauikeaouli found that his authority over the functions of the courts, imports, and a major revenue source were now doubly curtailed by treaties with Britain and France that jurist Henry Wheaton had described in 1836 as treaties of unequal alliance.⁸ Left with no choice, on February 12 Kauikeaouli executed his acceptance of what became known as the 1844 Treaty of Lahaina.⁹

⁶ Specifically, the 1836 Agreement negotiated by Lord Russell granted to British citizens certain property and ownership rights, but only so long as the king agreed. See Kuykendall, *Hawaiian Kingdom*, 1:148, 1:204. Thomas’ treaty resolved claims arising from Paulet’s seizure.

⁷ “Convention between Great Britain and the Sandwich Islands,” *Friend*, 20 February 1844, Extra, where the identical terms were at Articles 4 and 6. Extraterritorial judicial restrictions are discussed in Chapter 5 “Legal and Land Reforms,” and extraterritorial economic restrictions are discussed in Chapter 7 “Treaties and Secret Orders.”

⁸ Henry Wheaton, *Elements of International Law: with a Sketch of the History of the Science* (Philadelphia: Carey, Lea & Blanchard, 1836), 51.

⁹ “Convention,” *Friend*, February 20, 1844, Extra; Robert Crichton Wyllie, *Table of Consular Grievances, 1843-1846* (Hawai‘i: 1848), 2.

Great Britain had mirrored the terms in LaPlace's 1839 Convention by design. France had out-maneuvered Great Britain at the Society Islands two years earlier, and (despite French protestations to the contrary) France appeared intent on retaining control over both Tahiti and the Leeward Islands.¹⁰ Great Britain needed the neutral ports at Hawai'i so that its naval and merchant ships could refit on voyages between the northwest coast of America and the South Pacific, Australia, and New Zealand.¹¹ Copying the terms that the French had secured demonstrated to the French both Britain's willingness to coexist with them at an independent Hawai'i as well as Britain's determination to prevent France from securing any superior commercial or political advantage at those ports.¹² Thus the 1844 Treaty of Lahaina served Great Britain's broader political and trade purposes, and it turned out to be the price that Britain demanded of the king for handing back the political sovereignty usurped by Paulet. Consequently, Kauikeaouli found that his ability to exercise authority over economic and juridical policies was more limited by the Treaty of Lahaina than it had been when Ha'alilio and Richards set out on their mission two years earlier.¹³

Consul General Miller was an Englishman who had distinguished himself in several South American revolutionary battles against the Spaniards before turning to a career in diplomacy at the Hawaiian Islands.¹⁴ Honolulu in 1844 had the air of a "rising City," Miller

¹⁰ J. R. Baldwin, "England and the French Seizure of the Society Islands," *The Journal of Modern History* 10, no. 2 (1938):215, 217; "Queen Pomare IV to Louis Philippe, King of the French, September 25, 1844," trans. Geo. Platt (Honolulu: Hon. L. Hope, n.d.).

¹¹ Jean I. Brookes, *International Rivalry in the Pacific Islands, 1800-1875* (Berkeley: Univ. of Calif. Press, 1941), 155.

¹² Brookes, *International Rivalry*, 151; Edward Everett, U. S. Minister to Great Britain to Daniel Webster, U. S. Secretary of State, 28 March 1843 and Everett to A. P. Upshur, U. S. Secretary of State, 15 August 1843, U. S. Congress, *Senate Journal*, "Papers and Documents relating to the Hawaiian Islands, comprised in Senate executive documents nos. 45, 57, 76, 77," 52nd Cong., 2d session.

¹³ Refer to Chapters 5 and 7 for a discussion of his strategy to remove those limitations.

¹⁴ Frederic Boase, *Modern English Biography, containing many thousand concise memoirs of person who have died between the years 1851-1900 with an index of the most interesting matter*, Vol. 2 I-Q (Reprint: 1897, New York:

wrote, with well laid out unpaved streets that were dry and clean. Thirty or forty houses of stone were occupied by foreigners and chiefs. The Protestant mission's stone church held from three to four thousand people. Two English commercial houses operated, while the rest of the commercial trade was in the hands of Americans. Despite the Americans' dominant merchandising position, however, Miller noted that most goods consumed were of British manufacture.¹⁵ Miller commented favorably on the "propriety and decency" of the ceremony at Lahaina presided over by the king when Miller delivered his Letter of Credentials: there were assembled six or seven principal chiefs, the premier, and two lady chiefs who "from their manner & dresses would not have disgraced a Drawing Room in Europe."¹⁶

At that time, international commercial networks linked private business enterprises at harbors and ports throughout the Pacific region, and Honolulu Harbor had become the principal gathering place at which commercial and naval shipping from Great Britain, France, and the United States mingled to refresh and refit. Government officials Keoni Ana and John Papa ʻĪʻĪ described Hawaiʻi's geographic attractiveness to foreign ships in the legislature's defense of the need for white expertise: "He aina keia ua kupono ma ke alanui o na moku holo ma ka moana Pakifika nei."; "This is a land which lies where ships in the Pacific Ocean often come."¹⁷ One hundred sixty-eight whaling and merchant vessels arrived at Honolulu harbor during the year

Barnes & Noble, 1965), 883-4. Miller also had been appointed Consul for the Society and Friendly Islands and other islands in the Pacific Ocean. See "The Arrival of General Miller," *Friend*, 15 February 1844.

¹⁵ Wm. Miller to H. U. Addington, 27 February 1844, "Appendix A: Hawaii in 1844," *Report of the Historical Commission of the Territory of Hawaii for the Two Years Ending December 31, 1928*, Publications of the Historical Commission of the Territory of Hawaii, Vol. 1, no. 5 (Honolulu: Honolulu Star-Bulletin, Ltd, 1929), 13-5.

¹⁶ Miller to Addington, February 27, 1844, "Appendix A," *Report*, 14.

¹⁷ John "Keoni Ana" Young, Ioane "John" ʻĪʻĪ, "Na Manao O Ka Ahaolelo No Na Mea i Hoopiia," *Ka Elele*, 05 July 1845. My punctuation. They wrote in response to the several petitions that had been filed protesting in part the employment of white ministers. The English translation is from "Reply of the Council Assembled to the Petition," *Friend*, 01 August 1845, and the editor noted that the full answer to the petitions was translated for their use from the article in *Ka Elele*. See Chapter 3, "Changing Hawaiʻi in the 1840s" for a description of the several roles that Young and ʻĪʻĪ filled.

1843; one hundred nine of them were American-registry, seven were British-registry, and fourteen were French-registry.¹⁸ As Miller would discover, merchants brought their international rivalries ashore with them, and turned Honolulu into what Foreign Relations Minister Robert C. Wyllie called a “hot-bed of faction, envy, misrepresentation and all uncharitableness.”¹⁹ Rights and privileges granted to one of them were immediately demanded by the other two “[so] great is the jealousy here of the agents of different foreign Nations, each complaining of injustice to his own Countrymen and of a denial of privileges granted to the Subjects of other Nations.”²⁰ Indeed, just as soon as the newly-arrived U. S. Commissioner George Brown of Massachusetts learned that Hawai‘i had executed a treaty with Great Britain, animosities boiled over and threatened to cripple the ability of Kamehameha’s government to function.

Brown had arrived in Honolulu in October 1843 charged with the responsibility to “frustrate” attempts by any other foreign power to obtain exclusive commercial or political influence in the islands.²¹ His first impression of Kamehameha during a November interview was positive: “I was much pleased with his Majesty, who appears to be an intelligent and very kind hearted man, with every intention to do right.”²² Brown’s initial impression of Gerrit P. Judd also had been favorable, and he recommended that Judd be appointed to a new position of Minister of

¹⁸ R. C. Wyllie, “Comparative Table for Twenty Years, of the Yearly Arrivals of Whaling and Merchant Vessels at the Port of Honolulu, S.I.,” *Friend*, 01 May 1844.

¹⁹ R. C. Wyllie to Commodore John D. Sloat, 28 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

²⁰ R. C. Wyllie to Archibald Barclay, 14 March 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

²¹ After a journey that included a lengthy stopover at Tahiti awaiting a ship to carry him to Hawai‘i. See Colin Newbury, “Commissioner George Brown at Tahiti, 1843,” *HJH* 20 (1986): 83; see also Kenneth E. Shewmaker, “Forging the ‘Great Chain’: Daniel Webster and the Origins of American Foreign Policy Toward East Asia and the Pacific, 1841-1852,” *Proceedings of the American Philosophical Society* 129, no. 3 (1985):232.

²² Ralph S. Kuykendall, “Correspondence of United States Diplomatic Representative in Hawaii with the Secretary of State,” *Hawaiian Diplomatic Correspondence in the Bureau of Indexes and Archives of the Department of State, Washington, D.C.* Publications of the Historical Commission of the Territory of Hawaii, Vol. 1, no. 3. (Honolulu: Honolulu Star-Bulletin, Ltd., 1926), 11-2.

Foreign Affairs. Judd, trained as a medical doctor, had been raised in New York state and had arrived in Hawai‘i in 1828 as a member of the third company sent by the ABCFM.²³ Judd had resigned from his mission position in 1842 when he replaced the departing Richards in the position of Government Interpreter and Recorder for the Kingdom of Hawai‘i.²⁴ In one of his first diplomatic reports, Brown wrote that Judd was the best man that the king could have selected for the position: “speaking the language fluently and writing it with ease, gentlemanly and mild in his deportment but firm in his actions, and having had the confidence of the King & Chiefs—over whom he has great influence—for a long time.”²⁵

But when he learned of the 1844 Treaty of Lahaina three months later, Brown reacted furiously, alleging that ‘common courtesy’ dictated that the U. S. Commissioner should have seen a draft of what was proposed by Great Britain before the king had signed it.²⁶ Brown focused his ire on the jury composition and selection rules in Article III which gave the British consul the authority to select jurors from among foreign residents. A consul’s standard duties included aiding and protecting citizens from the country which credentialed him, and Brown promptly lodged a formal protest with the Hawaiian government demanding that the same jury selection and composition terms enjoyed by British defendants also apply to American defendants.²⁷

²³ Jane L. Silverman, “Imposition of a Western Judicial System in the Hawaiian Monarchy,” *HJH* 16 (1982):54.

²⁴ HSA card file records. The position was established by the legislature as of May 12, 1842. Judd was appointed as President of the new Treasury Board on the same date.

²⁵ Kuykendall, *Correspondence of U. S. Diplomatic Representative*, 11-2; Jarves, *History*, 3d. ed., 190.

²⁶ George Brown, 14 February 1844, Series 410, Box 1, Book 1, Consular, Consular Correspondence, HSA. Brown did not believe that the LaPlace treaty was binding on the Hawaiian government because it had been forced on them, and so he made no attempt to demand the same privileges based on that treaty. See George Brown to his wife, 17 October 1844, MS Brown, Correspondence 1843-1846, HHS.

²⁷ Wylie, *Table*, 4. The implication is that a jury of one’s own countrymen would be more likely to acquit.

Despite U. S. recognition of Hawai‘i’s independence, no commercial treaty existed between the two nations, however, and Brown’s credentials did not include the authority to negotiate.²⁸ Furthermore, on February 17 (just five days after execution of the Treaty of Lahaina) the Hawaiian government had formally requested of the British government that its ministers confer with French ministers to reconsider the terms of Article III.²⁹ The Earl of Aberdeen advised Miller in July 1844 that the British government would discuss modifications with French officials which “may be mutually satisfactory to all parties.”³⁰ Accordingly, it made little sense for the Hawaiian government to expand application of the article while it still hoped that Britain and France could be persuaded to withdraw it.

Brown’s protest over the applicability to American citizens of Article III of the 1844 Treaty of Lahaina languished until August 1844, when an American named John Wiley went on trial for rape of a Hawaiian woman.³¹ The court selected Wiley’s jury in accordance with Hawaiian law: one-half of the jury was selected from among other resident Americans, and the other half from among Hawaiians.³² Brown protested vigorously, but Judd, writing for the government, relied on the kingdom’s sovereign powers to enact jury selection statutes and the absence of any treaty terms with the Americans modifying those statutes.³³

²⁸ The commercial Hawai‘i-United States Jones Treaty of 1826 was not in effect as it had not been ratified by the U.S. Senate.

²⁹ Wyllie, *Table*, 2, 4.

³⁰ Official Journal of the Hawaiian Government, “Earl of Aberdeen to W. Miller, 01 July 1844,” *Polynesian*, 02 November 1844.

³¹ Wyllie, *Table*, 5-6. Complaint preferred by George Brown, 27, 30, 31 August and 04, 05, 16, 18 September 1844.

³² Laws and Regulations, 11 August 1843, Series 418, Folio 8-3, Early Laws, HSA; “Review of Correspondence between H.H.M.’s Secretary of State and the U. S. Commissioner in the case of John Wiley,” *Friend*, 14 November 1844 Extra. Hawaiian law mirrored the terms imposed by Admiral Thomas, but the 1844 Treaty of Lahaina required that all jurors be foreign residents. See “Agreement between Rear-Admiral Thomas and the King of the Sandwich Islands, 31 July 1843,” *British and Foreign State Papers, 1842-1843*, Vol. 31 (London: James Ridgway and Sons, 1858), 1032-4 and “Convention between Great Britain and the Sandwich Islands,” *Friend*, 20 February 1844.

³³ G. P. Judd to G. Brown, 14 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA; *Correspondence between H.H.M. Secretary of State and the U.S. Commissioner, in the Case of John Wiley, an American Citizen* (Honolulu: Government Press, 1844), 4-5; Correspondence between U. S. officials at Hawai‘i and

On March 14, 1844, British Consul General Miller refiled former trade consul Richard Charlton's claim for redress and damages stemming from his alleged ownership of a parcel of land at Honolulu. Other British claimants had also raised charges of unfair treatment in the 1842 resolutions of their disputes by Hawaiian courts, but Charlton's claim had been the lead charge in the demands levied by Paulet in 1843.³⁴ While in London negotiating for recognition for the kingdom, Richards and Ha'alilio authorized the Earl of Aberdeen to resolve Charlton's claim (along with the other disputed case decisions), and Aberdeen referred Charlton's lawsuit back to the Hawaiian courts to decide evidentiary claims.³⁵ One disinterested observer—the U. S. Ambassador to the Court of St. James—reported to his superiors that Charlton's claims seemed to him “such as are too apt to be set up by the strong against the weak.”³⁶ When Charlton produced for the Hawaiian court what he claimed was a valid deed, even most of Honolulu's American residents believed it had been dishonestly drawn up, and Kamehameha III did not intend to grant Charlton's demands based on what he and the chiefs believed was a falsification of the facts in evidence.³⁷

government ministers continued throughout 1844 and 1845 and eventually amounted to more than two hundred printed pages. Attorney General John Ricord appeared to have crafted many of Judd's responses.

³⁴ Alexander Simpson, *The Sandwich Islands: Progress of Events Since Their Discovery by Captain Cook; Their Occupation by Lord George Paulet; Their Value and Importance* (London: Smith, Elder and Co., 1843), 79-80; Lord Aberdeen to T. Ha'alilio and W. Richards, 12 September 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA which set the stage for the retrial to examine Charlton's land claim. The king had refused Paulet's demand to reverse the other disputed court decisions.

³⁵ Aberdeen to Ha'alilio and Richards, 12 September 1843, Series 404, Box 61, vol. 2. The diplomats accepted Aberdeen's dispositions. The other lawsuits were the Skinner-Dominis claim and the F. J. Greenway bankruptcy. See Kuykendall, *Hawaiian Kingdom*, 1:209 for a full discussion of the role of Hawaiian courts, animosity between British and American merchants, and why Ha'alilio and Richards purposefully involved Aberdeen in the disposition of these Hawaiian court cases.

³⁶ Edward Everett, U. S. Ambassador to Great Britain to Abel Patrick Upshur, ad interim U.S. Secretary of State, 15 August and 28 September 1843, U. S. Congress, *Papers and documents relating to the Hawaiian Islands*, S Ex 77, No. 50 and 56.

³⁷ Laura Fish Judd, *Honolulu: Sketches of Life Social, Political, and Religious, in the Hawaiian Islands from 1828 to 1861* (New York: Anson D. F. Randolph & Company, 1880), 144.

Brown's jury composition demands and the Charlton case progressed through the Hawaiian courts at the same time, and they both posed complex questions about statute law, international law, and legal procedure. At stake in the Wiley and Charlton disputes was the king's ability to exercise jurisdiction in civil and criminal matters over all persons, property and events within his sovereign territory. The significance of the disputes reaches far beyond their individual facts or outcomes, however, because it was these disputes which led Kamehameha III to reach a policy decision to employ whites with western skills in key ministerial positions.

Rationale for the hiring policy

It quickly became apparent that the Hawaiian government needed persons in its employ who understood the interaction of kingdom law with treaty and international law and could make a strong legal defense for the kingdom's position. Judd himself recognized his own inability to continue to manage the complex legal disputes raised by Brown without assistance.³⁸ By chance, a New Jersey native and member of the New York State Bar named John Ricord arrived in Honolulu in late February. Ricord was the first western-trained lawyer in Hawai'i, and within two weeks' time, Judd had arranged Ricord's appointment as the kingdom's first Attorney General.³⁹ Ricord took the lead in the Charlton case; it turned out to be a long and contentious legal battle involving disputes with Charlton and the British government over evidentiary proofs and appropriate legal forums.⁴⁰ Although Charlton eventually prevailed, the acrimony with

³⁸ G. P. Judd to T. Ha'alilio, W. Richards, and G. Simpson, 04 May 1844, Series 410, Box 1, Book 1, Letters, Consular Correspondence, HSA.

³⁹ Silverman, "Western Judicial System," 6-58; Judd announcement, 11 March 1844, Series 410, Box 1, Book 1, Letters, Consular Correspondence, HSA.

⁴⁰ G. P. Judd to William Miller, 02 April 1844, Series 410, Box 1, Book 1, Letters, Consular Correspondence, HSA; T. Ha'alilio and W. Richards to Kamehameha III, 30 September 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA. The British government remained involved based on Aberdeen's referral back to the Hawaiian courts for an evidentiary decision.

which the case played out poisoned Miller's relationship with the Hawaiian government for several years.⁴¹

Hawaiian rulers routinely delegated political power over polity-wide tasks through several layers of chiefs serving as line officers.⁴² This practice of delegating authority began at least as early as 1720: the ruler issued orders to line officers who carried the orders down to others through established channels.⁴³ Beginning with Kamehameha I, Hawaiian kings often took the counsel of white advisors. Kamehameha I's long relationships with Britishers John Young and Isaac Davis are well-reported, and Kamehameha I, Liholiho and Kauikeaouli all employed whites in positions requiring western technical expertise, such as harbor master, or as ships' captains. Ka'ahumanu routinely counseled with several of the missionaries, most notably the Rev. Hiram Bingham. Despite that, not until the appointments of Richards and Judd had whites assumed control over governmental functions and taken orders from the ruling chief to transmit down the line—but both men first had risen to a level of trust over several years' service as SIM members. Osorio noted, however, that Ricord's appointment disconcerted the maka'āinana because it marked a signal departure from prior practice: Ricord was unknown to the chiefs and took control over a governmental function based solely on his claims of professional and educational skills.⁴⁴

While the immediate legal need had been filled by Ricord, none of the king's chiefs or ministers possessed the diplomatic skills required to manage the kingdom's relations with western governments.⁴⁵ On March 26, 1845, the king commissioned a Britisher, Robert Crichton

⁴¹ Wyllie, *Table*, 47-54.

⁴² Hommon, *Ancient Hawaiian State*, 134.

⁴³ Hommon, *Ancient Hawaiian State*, 251.

⁴⁴ Osorio, *Dismembering Lāhui*, 36.

⁴⁵ G. P. Judd to G. Simpson, 03 July 1844, Series 410, Box 1, Book 2, Letters, Consular Correspondence, HSA.

Wyllie, as Minister of Foreign Relations, whose role would be the same as those of foreign ministers serving in the governments of Great Britain, the United States, France and Belgium, and Judd moved to the position of Minister of the Interior.⁴⁶ Wyllie, a Scot with extensive worldwide business interests, had arrived in Hawai‘i in 1844 as Miller’s secretary, and he had served as interim British consul during Miller’s absences to perform his consular duties in the South Pacific. Wyllie’s international contacts that he had developed through successful international business ventures gave him a broad understanding of the intricacies of government-to-government relationships.

Executive communications reveal Kauikeaouli’s thinking on his hiring policy formulation. After Brown’s communications with Judd and Ricord became more and more intemperate during the summer of 1844, Kauikeaouli reached out to U. S. President John Tyler (1841-1845) in a September 20, 1844 letter. The king acknowledged to Tyler his need for Hawaiian juridical changes and his need to hire educated foreigners to work under his direction and provide the ministerial expertise needed to implement the changes: “E kii ia na haole naauao e kokua mai ma keia hana, o ka poe ua hoohiki mai mamuli o’u, a e hooikaika lakou mamuli o’u e hooko like i ua mau kanawai la me ka paewaewa ole, e like me na oihana a me na manao o na aina naauao. . . . To fulfill these the auxiliary aid of intelligent foreigners will be called in who having sworn allegiance to me will exert themselves under my direction to execute those laws equally and impartially pursuant to the principles and doctrines of civilized nations.”⁴⁷ In a February 1845 letter to Pōmare IV, Kauikeaouli extolled the strategic value that he believed the

⁴⁶ March 1845 Proclamation and Commission, Letterbook 1, April 1845 – Nov. 1846, Interior Department, HSA.

⁴⁷ Kamehameha III to President of the United States, 20 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA. Official texts. This English translation accompanied the autograph letter which was written in Hawaiian. The king also requested that Tyler replace Brown as his diplomatic agent.

employment of whites had added to the defense of his sovereignty: “Eia wau ke noho nei me ke kokua ia mai e na haole pono a ke manao nei au malaila e onipaa ai ko’u aupuni [ina] ua hoopilikia hou ia mai au e [ko na] aina e. . . . I am now assisted by good whitemen and think that by this means my Government will stand firm in case of being brought into difficulty again by foreigners.”⁴⁸ Lastly, in March 1845 the king made an unambiguous acknowledgement of his government’s need for white expertise in a proclamation to the chiefs and “all the people subject to my government”: the king announced that he had appointed Wyllie in order to “carefully and scrupulously conduct my relations with Foreign Nations, and to discharge the duties which by the International Code I am obliged to perform towards them having in view the Constitution and Laws of my Government.”⁴⁹ In an 1846 letter to the kingdom’s representative at the Court of St. James, Wyllie put the policy decision bluntly: “If the British government think that purely native rulers are capable of handling [cases like Wiley and Charlton], the King is of a very different opinion. He considers that to the preservation of His independence. . . it is essential that he should have the assistance of some Foreigners, sworn to serve Him faithfully.”⁵⁰

This became a key tactic in Kamehameha III’s strategy to negate international interference: hire western-educated whites as his point men to engage hostile consular agents and communicate his government’s positions to the maritime powers on the new, complex issues that flowed out of international recognition of sovereignty and treaty agreements. Privy council

⁴⁸ Kamehameha III to Pomare IV, 04 February 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, 1846, HSA. Official texts with added punctuation and minor clarifications. An English translation accompanied the autograph letter in Hawaiian.

⁴⁹ March 1845 Proclamation and Commission, Letterbook 1, April 1845 – Nov. 1846, Interior Department, HSA.

⁵⁰ R. C. Wyllie to Archibald Barclay, 16 November 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA. By that date there was a statutory requirement that foreigners who served the king must take an oath of allegiance to the Hawaiian kingdom. See Chapter 3 for the origins of the policy.

records show that Kauikeaouli valued the advice of his white ministers, but both the white ministers and the Hawaiian chiefs understood that the king retained decision-making authority.

Kauikeaouli appointed other whites to key positions following implementation of the provisions of the 1845 Act. On April 13, 1846, William Richards (having returned from his overseas mission) joined Judd, Ricord and Wyllie as Minister of Public Instruction in the executive Cabinet council headed by kuhina nui Keoni Ana.⁵¹ The privy council—now formally constituted by statute—in June 1846 appointed the Rev. Lorrin Andrews (who had resigned his position with the mission) as a superior court judge at O‘ahu to handle foreigners’ causes of action, and in November 1846 also appointed William L. Lee, a member of the bar in the State of New York, to the bench.⁵² Although the judiciary reform act of 1847 did result in the appointment of John Papa ‘Ī‘ī to join Lee and Andrews on the bench, the O‘ahu courts by that time had acquired a predominantly white character: two out of the three justices, the clerk, and the two police justices were whites.⁵³

Most of the members of the privy council were Hawaiians—either the appointed governors of the island districts, or chiefs from distinguished, high-ranking families. Of the Hawaiian chiefs, Keoni Ana, Abner Pākī, John Papa ‘Ī‘ī, Mataio Kekūanā‘o‘a and Aaron Keali‘iahonui attended nearly every privy council meeting, and governors of the outlying islands attended when in Honolulu. Other Hawaiian chiefs attended less regularly. Privy council meeting minutes show that the actions to appoint whites and/or endorse their official acts were taken with

⁵¹ Minutes, 13 April 1846, Series 421, vol. 1, Privy Council, HSA. Attendees at the meeting were the king, kuhina nui, Leleiōhoku, Kana‘ina, Judd, Kā‘eo, Richards, Wyllie, Kekūanā‘o‘a, Ricord, Pākī, and ‘Ī‘ī. Kekāuluohi died June 7, 1845 and the king appointed Keoni Ana to replace her.

⁵² Minutes, 24 June 1846, Series 421 vol. 1, 30 November and 02 December 1846, Series 421, vol. 2, Privy Council, HSA. Attendees at the June meeting were the king, kuhina nui, Pākī, Kana‘ina, Kā‘eo, Keali‘iahonui, Judd, Ricord, Wyllie, and Richards. Attendees at the November meeting were the king, kuhina nui, Pākī, Judd, Kā‘eo, Ricord, Kana‘ina, Kekūanā‘o‘a, Wyllie, Richards, Keali‘iahonui, and ‘Ī‘ī.

⁵³ “Appointments under the Act to Organize the Judiciary,” *Polynesian*, 15 January 1848.

the full support of its Hawaiian members. Privy council members also held seats in the House of Nobles. In 1845, the House of Nobles had twenty-three members, and only two (Judd and Richards, both ex officio members) were whites.⁵⁴ All seven members of the lower chamber were elected by the maka‘āinana and were Hawaiian.⁵⁵ Representation began to change in 1846 in the House of Nobles, however, with the formation of the Cabinet under the leadership of the kuhina nui and the ex officio memberships of its four white cabinet ministers.

Kauikeaouli, however, did not overlook the importance of having Hawaiian chiefs maintain close involvement in policy development and administration. He carefully paired Hawaiian chiefs with white ministers for several key tasks:⁵⁶ Timoteo Ha‘alilio, John Papa ‘Ī‘Ī and Judd served together in 1842 on the first Treasury Board;⁵⁷ Ha‘alilio traveled with Richards during their 1842-1844 diplomatic mission to America and Europe;⁵⁸ privy council member ‘Ī‘Ī paired with Wyllie to negotiate a treaty in 1846 with U. S. Consul Ten Eyck;⁵⁹ and Alexander Liholiho Kamehameha and Lot Kamehameha accompanied Judd to Europe and America in 1849 to negotiate treaties with the Americans and the French.⁶⁰ Whether white or Hawaiian, however, it was the king’s directives that the ministers, chiefs, and line officers executed. Biographer M. A. Brown emphasized that ‘Ī‘Ī made it clear to foreigners on several occasions that he and the white ministers worked under the king’s direction and “always” informed the king of their actions.⁶¹

⁵⁴ Minutes, 02 April 1845, Series 221, vol. 1, Journal of the Legislative Council, 1841-1845, Legislature, HSA.

⁵⁵ Minutes, 20 May 1845, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA.

⁵⁶ M. A. Brown makes this point in her biography about John Papa ‘Ī‘Ī, *Facing the Spears of Change*, 84.

⁵⁷ M. A. Brown, *Facing the Spears of Change*, 84.

⁵⁸ Kamehameha III to Richards and Simpson, 08 April 1842, Series 402-7-171, Chronological File, FO&EX, HSA.

⁵⁹ Minutes, 24 September 1846, Series 421, vol. 2, Privy Council, HSA. Attendees at the meeting authorizing the two of them to negotiate were the king, Judd, Pākī, ‘Ī‘i, Keali‘iahonui, James Kānehoa Young, Kana‘ina, Kā‘eo, and Kekūānāo‘a.

⁶⁰ G. P. Judd to R. C. Wyllie, 22 October 1849, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA.

⁶¹ M. A. Brown, *Facing the Spears of Change*, 100.

Harsh criticism of the policy

The “fierce paper war” that had erupted between Brown and Ricord over the jury composition dispute and the Wiley case continued throughout 1844, and Brown refused to permit visiting American naval officers to pay normal courtesies to members of the Hawaiian government.⁶² In a September 1844 diplomatic report, Brown evidenced his change of heart about the character of the king and Judd and expressed his personal hostility towards Ricord: “the King is completely under the guidance of Judd, and Judd completely under the thumb of Ricord. Everybody is disgusted. . . [Judd] has little experience and Ricord who is a designing if not unprincipaled [sic] man has got him entirely under his control.”⁶³ The government responded to Brown’s intemperate tone by printing correspondence between the parties in a pamphlet and in the *Polynesian*, the government-owned newspaper.⁶⁴ The issue divided the American community: another newspaper, the *Friend*, edited by Samuel Damon, an American Congregational minister, ran a lengthy article in support of Brown.⁶⁵

It was inevitable that the employment of whites in ministerial positions would give a character to the government that it had not previously possessed.⁶⁶ When Paulet seized control in 1843, the main charge brought against the king’s government was that chiefs were “quite unfit to perform any of the functions of government.”⁶⁷ But by 1845, Brown bemoaned the fact that white ministers had filled that gap in western qualifications and “it is not a nation just emerging

⁶² L. F. Judd, *Honolulu*, 143-4.

⁶³ Kuykendall, *Correspondence of U. S. Diplomatic Representative*, 12.

⁶⁴ *Correspondence in the Case of John Wiley, an American Citizen* (1844); “Literary Review: *Correspondence between H. H. M.’s Secretary of State and the U. S. Commissioner in the Case of John Wiley, an American citizen*. Printed by order of Government. Government Press: Honolulu, 1844,” *Polynesian*, 02 November 1844.

⁶⁵ “Review,” *Friend*, 14 November 1844.

⁶⁶ As noticed by Jarves, *History*, 3d. ed., 191.

⁶⁷ Jarves, *History*, 3d. ed., 191.

from a state of barbarism that we have to deal with now.”⁶⁸ Consequent to implementing the king’s policy, opined Jarves in his 1847 *History*, “it was perfectly natural” that opposition should arise to the white group serving in the government.⁶⁹

Brown’s charges and counter-charges continued into 1845 as the Wiley case moved through the courts. Brown and U. S. Consular Agent William Hooper became more and more personally offensive towards the king, his ministers and court officials.⁷⁰ Brown and some of the mission families socialized together often, and they openly discussed Brown’s animosity towards Judd and Ricord. Brown continued to hurl epithets and took every public opportunity to voice his determination to have Judd dismissed.⁷¹

In March 1845, Brown petitioned the king to dismiss Judd for his alleged mistreatment of American merchants. Although Brown insisted on meeting with the king personally to press his charges, Kauikeaouli adamantly refused, replying through Judd that judgments of the fitness, character, or official acts of those whom he appointed to be his ministers were his alone.⁷² The king’s strong reply did not deter Brown, and the king subsequently found it politically expedient to appoint Keoni Ana, John Papa ‘Ī‘Ī, and John Ricord to investigate Brown’s charges. After an

⁶⁸ G. Brown to R. C. Wyllie, 18 July 1845, *Correspondence between H.M.’s Minister of Foreign Relations and the U. S. Commissioner, in the Case of John Wiley, an American Citizen, Imprisoned at the instance of Viscount William e la Perrotiere, M.D., a French Subject* (Honolulu: Government Press, 1845), 113. This letter in typescript runs from p. 78 to p. 114.

⁶⁹ Jarves, *History*, 3d. ed., 191.

⁷⁰ G. Brown to G. P. Judd, 18 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA; Wyllie, “American Cases,” *Table*, 3-44.

⁷¹ Mary Atherton Richards, *Amos Starr and Juliette Montague Cooke, Their Autobiographies Gleaned from Their Journals and Letters* (Honolulu, Hawai‘i: The Daughters of Hawai‘i, 1941), 298.

⁷² G. Brown to G. P. Judd, 07 March 1845, Series 410, Box 2, Book 2, US Officials in Hawaii, Consular Correspondence, HSA; G. P. Judd to G. Brown, 08 March 1845, Series 410, Box 2, Book 2, Letters, Consular Correspondence, US Officials in Hawaii, HSA.

examination of several interested parties, the committee recommended on March 26 that the king disregard Brown's complaint.⁷³

The following month, on May 20, Kamehameha III formally opened the 1845 legislative session. In his speech, he noticed the appointments of the three whites as Cabinet ministers (Judd as interior minister, Wyllie as foreign office minister, and Ricord as attorney general), and he announced that he intended to overhaul traditional law and apply it equally to all Hawaiians and whites subject to his jurisdiction.⁷⁴ A broad segment of the community attended the opening ceremonies and heard the king's speech, and the *Polynesian* printed the text in English in its May 24 edition. During his own remarks the following day, Judd announced a review of all land titles and the land tenure system.⁷⁵ What happened next came as a surprise to the king, the privy council, and members of the legislature.

Word arrived in Honolulu on June 10 or 11 that many Hawaiians on Maui "were in a state of excitement" and that they intended to petition the king to dismiss the white officers.⁷⁶ Petitions signed by hundreds of Hawaiians began to arrive at Honolulu in mid-June from Kailua, Hawai'i island and Lahaina, Maui. More than 1,600 people from Lahaina and Wailuku signed the April petition from Maui.⁷⁷ A similarly-worded petition from Lāna'i also dated April 1845 was signed by 301 people and typified the objections that all the petitions made: "Hoole i na luna

⁷³ Report from Keoni Ana Young, Ioane (John Papa) 'Ī'i, and John Ricord to Kamehameha III dated 26 March 1845, cited in "Nā Leka O Ka Wā Noho Ali'i A Kamehameha III" (Hilo: Hale Kuamo'o, Univ. of Hawai'i, 1994), 3-10; and R. C. Wyllie to G. Brown, 03, 05 April 1845, Series 410, Box 2, Book 4, Foreign Officials, Consular Correspondence, HSA.

⁷⁴ King's Opening Speech, 20 May 1845, Series 222, folder 1-15, General Records, Bills and Laws, Legislature, HSA; see also, "The Royal Speech, At the Opening of the Legislative Chambers, on Thursday, May 20th," *Polynesian*, 24 May 1845.

⁷⁵ Kuykendall, *Hawaiian Kingdom*, 1:278. Chapter 5 "Legal and Land Reform" discusses the strategic reforms that the king implemented. Here the emphasis is on the reactions to white ministers that the proposals elicited.

⁷⁶ G. Brown to Wyllie, 18 July 1845, *Correspondence in the Case of John Wiley* (1845), 110.

⁷⁷ "Na Palapala Hoopii o na Makaainana," *Ka Elele*, 15 July 1845.

haole i kohoia i luna no ke Aupuni Hawaii ” (Refuse the foreigners appointed as ministers for the Hawaiian government), and “Aole o makou makemake e hoohiki na haole i kanaka Hawaii” (We do not want foreigners to be sworn in as citizens for Hawaii), and “Aole o makou makemake e kuai hou aku oe i kekahi apana aina o kou aupuni i na haole” (We do not want you to sell any more land of your government to foreigners).⁷⁸ Reports arrived at Honolulu that people at Lahaina had held political meetings and prayed that “the nation may be delivered from the influence of foreigners” who wanted to take their lands and their birthright as Hawaiians.⁷⁹

But the nature of governance tasks had changed, and increasingly the administrative roles required skills that whites possessed but chiefs did not. As the demand for western expertise rose, reliance on traditional relationships and chiefly ranks became less determinative of eligibility for who would serve the king. Formerly, the ruling chief and the maka‘āinana had relied on the intermediate-ranking chiefs between them to maintain their own respective positions and roles.⁸⁰ Over time, movement of the administrative service role from the intermediate chiefs to whites disrupted the relationships that had bound the maka‘āinana to the chiefs for centuries.⁸¹ In 1845, Hawaiians erupted with anger towards the foreigners: “e lohe kakou i ka lakou olelo kuamuamu i mua o ko kakou mau papalina. . . Na wai la [e] ae i hoalii aku

⁷⁸ Petition from Lāna‘i, April 1845, Box 141, Miscellaneous, Interior Department, HSA. Archival translation by E. H. Hart.

⁷⁹ Chamberlain, Journal, 12 June 1845, HMHA. See Chapter 3 for a discussion of oaths of allegiance and Chapter 5 for a discussion of land reform.

⁸⁰ Kanalu G. Terry Young, *Rethinking the Native Hawaiian Past* (New York: Routledge, 2012), 15, 29; see also Arista, “Part 2, Malo,” 2:123.

⁸¹ Young, *Native Hawaiian Past*, 112. Young provided a thoughtful analysis of the dilemma in which kaukau ali‘i (lower-ranking chiefs) found themselves. They were used to performing hana lawelawe (service roles), and Young’s analysis has enriched my understanding of the erosion of traditional trust networks.

i alii ae maluna o makou o ka poe keokeo?” (we hear them revile us to our faces. . . Who indeed would acknowledge the white skinned people over ourselves as ali‘i?).⁸²

Hawaiians traditionally petitioned their chiefs orally over matters that concerned them; with the advent of literacy, petitions now arrived in writing addressed to the king or the kuhina nui praying that the king would discharge the white ministers. Kauikeaouli immediately deputed Attorney General John Ricord and privy council members John Papa ‘Īī and Aaron Keali‘iahonui to sail to Maui aboard the *Hooikaika* to investigate what became known as the “Lahaina agitation.”⁸³ The king’s formal order written in Hawaiian and English instructed the deputation to investigate the actions of foreign residents at Lahaina who may have acted in concert with “kekahi Luna Aupuni o ke Aupuni e launa mai ana paha, me ka manao e hoohuli i ko‘u aupuni ma ke ano o ka hooponopono ana i ka aina. . . .an accredited Diplomatic Agent of a foreign friendly Power having in view some political change in our domestic policy.”⁸⁴ The three-man commission interviewed and obtained written statements from several persons at Lahaina about the petitioners’ demand that the foreign ministers be released from government service, but returned to O‘ahu on June 16 having learned only that “the memorializing of the King by the natives was a rightful exercise of privilege granted by the constitution.”⁸⁵ Who had instigated the petition-writing campaign remained uncertain.

Meanwhile, the members of the legislature debated the petitions from Lahaina, Wailuku, Lāna‘i and Kailua-Kona on June 26 and agreed to reject the petitioners’ pleas to dismiss the

⁸² Petition from the people of Kona, Hawai‘i to Kamehameha III and the Legislature, Kailua, 25 June 1845, Series 222, folder 2-3, General Records, Petitions 1845, Legislature, HSA. Archival translation.

⁸³ “Order by Kamehameha III,” 12 June 1845, Series 402-13-316, Chronological File, FO&EX, HSA; L. F. Judd, *Honolulu*, 145.

⁸⁴ “Order,” 12 June 1845, Series 402-13-316, Chronological File, FO&EX, HSA. Official texts. The domestic policy referred to is the employment of white ministers.

⁸⁵ See statements from Lorrin Andrews, Henry S. Swinton, Kenui, and Kaohie, for example, at Series 402-13-316, Chronological File, FO&EX, HSA; Chamberlain, *Journal*, 16 June 1845, HMHA.

white ministers. Legislators also affirmed the king's decision to require whites who entered government service to swear an oath of allegiance to his kingdom. Next, the legislature appointed John Papa ʻĪʻĪ and Keoni Ana to draft a legislative response intended to explain to the satisfaction of the petitioners what the governance need was for both measures.⁸⁶ Their July 8 reply specifically addressed the king's rationale for the policy:

Ina lakou e hoopauia, auhea la ke kanaka makaukau i ka hana pu me ka aina e?
Aole no e loa i keia wa, mahope paha kupono ka poe alii hou ke hiki aku i ka wa
kanaka makua, a me ko lakou makaukau.

;

If these shall be dismissed, where is there a man who is qualified to transact business with foreigners? There is no one to be found at the present time; hereafter perhaps the young chiefs will be qualified, when they have grown up to manhood, and shall have completed their education.⁸⁷

Agitation against whites in government service persisted, however. When a Lahaina legislator read the reply to his constituents, some of the people stood afterwards and said “we thought that that letter would inform us that the foreign ministers had been dismissed, and would not be ministers again. . . [later others] said that the natives would not give up writing, only when the foreigners ceased being ministers. . . then worries of the heart and fear of the natives would end, and they will petition again.”⁸⁸ And from Molokaʻi in July 1845 came another petition signed by 1,344 people who warned that white ministers posed a threat to the kingdom's independence: “No ke kuokoa ana o kou aupuni e ka Moi III aole o makou makemake e noho luna na haole ou i hoonoho ai maluna o ke Aupuni Hawaii” (For the independence of your nation, King [Kamehameha] III we do not want the haoles you have appointed over the Hawaiian

⁸⁶ Minutes, 26 June 1845, Series 221, vol. 2, Journal of the Legislative Council 1845-1847, Legislature, HSA.

⁸⁷ “Na Manao o ka Aholelo no na Mea i Hoopiia,” *Ka Elele*, 15 July 1845 for the Hawaiian text; “Reply,” *Friend*, 01 August 1845 for the English translation “taken from the Elele”; “Petition,” *Polynesian*, 09 August 1845. Dated July 3, the reply was corrected and approved as of July 8, 1845.

⁸⁸ Timoteo Keaweiki in response to the letter from John Papa ʻĪʻĪ and John “Keoni Ana” Young, 18 July 1845, Box 141, Miscellaneous, Interior Department, HSA.

government to serve as officials).⁸⁹ Hawaiians and whites debated the issue in letters to newspapers, and the government-owned newspaper *Polynesian* printed its own assessment of the issue.⁹⁰

Hostility among resident foreigners also continued to fester. On August 9, Miller announced to the king and Privy Council that the Earl of Aberdeen had obligated him to deal only with “Native Rulers. . .na 'Lii maoli” and not with foreigners who served as ministers.⁹¹ The king in council stated emphatically “aole e pono e hookaawale ma waena o na Luna, na Luna maoli a me na Luna haole, ua pau pu lakou i ka hana ma lalo ona a no laila he poe luna lakou nona. . . [he] could permit no distinction to be made between His Officers who were natives and those who were Foreigners, that both acted by His Authority, and consequently were His Authorities.”⁹² But Miller persisted, and during Admiral Seymour’s next visit in October 1845, Miller persuaded Seymour to join him in his objections to dealing with white ministers.⁹³

Suspicious of a conspiracy

Still suspicious that a diplomatic agent of a friendly power had instigated the petitions, the chiefs continued to investigate and confirmed that the petitions “were originally suggested by white

⁸⁹ Petition, Moloka‘i, July 1845, Series 222, box 2-3, General Records, Petitions 1845, Legislature, HSA. Archival translation.

⁹⁰ “No Na Hoohiki Ana O Na Haole,” *Ka Elele*, 15 July 1845; *Polynesian*, 26 July 1845; Editorial, *Polynesian*, 28 July 1845; G. P. Judd’s reply, “No Ka Hoohiki Ana O Na Haole,” *Ka Elele*, 29 July 1845; “No Na Haole,” *Ka Elele*, 12 August 1845. See also the exchange between S. M. Kamakau and Kamehameha III in *Ka Elele*, 12 August 1845.

⁹¹ Minutes, 09 August 1845, Series 421, vol. 1, Privy Council, HSA. Attendees were the king, kuhina nui, Kekau‘ōnohi, Pākī, Leleiōhoku, Kekūanāo‘a, Kana‘ina, Keali‘iahonui, Ricord, Richards, Judd, and Wyllie. Judd acted as the secretary. Emphasis in the original.

⁹² Minutes, 13 August 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, kuhina nui, Pākī, Leleiōhoku, Kekūanāo‘a, Keali‘iahonui, Ricord, Richards, Judd, and Wyllie. Judd acted as the Secretary.

⁹³ Minutes, 07 October 1845, Series 421 vol. 1, Privy Council, HSA; Attendees were the king, Seymour, Miller, Armstrong, Judd and Wyllie; Wyllie, *Table*, 83.

men opposed to the government.”⁹⁴ Judd immediately launched his own effort to discover the culprits.⁹⁵ Meanwhile, the king in council reiterated his belief that the petitions originated with white men, as he had stated in his formal Order constituting ‘Ī‘ī, Ricord, and Keali‘iahonui as his investigative committee: “No ka hoopii o na kanaka maoli, olelo ke Lii, o na haole ke kumu o keia hoopii aole loa e hiki kela manao i na kanaka maoli The King said that the Petitions of the Natives, originated with Foreigners – that the idea never entered the minds of the Natives.”⁹⁶

But which “white men”?

‘Ī‘ī suspected Brown and the American commercial agent William Hooper.⁹⁷ Wyllie discovered that Brown and Miller privately had colluded on a plan to overthrow the government which included coercing a U. S. naval squadron to force the king to dismiss all foreigners in his service. To prepare for this, Brown would arouse “the excitement of native jealousy” and petition for the removal of foreigners.⁹⁸ Missionary wife Juliet Montague Cooke suggested that it was Brown’s frequent public outbursts against Judd and Ricord that had aroused Hawaiians to petition for their removal.⁹⁹ Brown, in fact, had left for Maui and Hawai‘i island on April 26— not long after his own petition to the king for Judd’s removal had been dismissed—and did not return until May 15. Brown knew that the three-man investigative commission had asked

⁹⁴ R. C. Wyllie to Admiral G. Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. Wyllie’s letter recapped subjects discussed at Seymour’s audience with the king in privy council on October 7, 1845 and Seymour’s final letter sent as he departed the port of Honolulu. The Rev. Richard Armstrong from Kawaiāha‘o Church translated for Seymour and Consul General Miller. Attendees on October 9 to discuss Seymour’s address were privy council members the king, the kuhina nui, Pākī, Kekūānāo‘a, ‘Ī‘ī, Judd, Richards, Ricord, and Wyllie. Armstrong later became the Minister for Education.

⁹⁵ G. P. Judd to J. B. de Fiennes, 16 June 1845, Letterbook 1, April 1845 – Nov. 1846, Interior Department, HSA.

⁹⁶ Order by the King, 12 June 1845, Series 402-13-316, Chronological File, FO&EX, HSA; Minutes, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, kuhina nui, Pākī, Kekūānāo‘a, ‘Ī‘ī, Judd, Richards, Ricord, and Wyllie.

⁹⁷ Minutes, 09 October 1845, Series 421, vol. 1, Privy Council, HSA.

⁹⁸ “Private Letter,” R. C. Wyllie to A. Bishop, 13 August 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

⁹⁹ Richards, *Amos Starr*, 298.

Hawaiians on Maui who had induced them to petition—didn't Baldwin or Brown stir you up to this? "No one," Brown claimed they replied, "we got them up ourselves." Although Brown admitted to having met with missionary Dr. Dwight Baldwin while on Maui, he vehemently denied participating in any political discussions with Hawaiians.¹⁰⁰

Baldwin, the SIM physician assigned to the Lahaina district, also denied having engaged in any political activities, either while preaching or in private conversation.¹⁰¹ Despite his protestations, however, Baldwin's correspondence with missionaries Levi Chamberlain, E. O. Hall, and William Richards during the months of May and June 1845 evidence his strong opinions on several political topics.¹⁰² Baldwin, by his own report, hosted a day of fasting and prayer at which attendees had criticized the king's advisors to such an extent that Baldwin thought that the advisors would soon be rejected.¹⁰³ Letters demonstrate that he and Davida Malo—known to be opposed to many of the king's policies—enjoyed a close relationship and exchanged opinions about the Lahaina petition.¹⁰⁴ Former missionary Lorrin Andrews stated that he had witnessed church members flocking to Baldwin's meeting to pray that the kingdom be delivered from "the white faces."¹⁰⁵ Baldwin, however, deflected suspicion away from himself to implicate recent native visitors from O'ahu who had "stirred the natives" at Lahaina to petition to bring about "no haole rulers."¹⁰⁶

¹⁰⁰ G. Brown to Wyllie, 18 July 1845, *Correspondence in the Case of John Wiley* (1845), 111.

¹⁰¹ Dwight Baldwin to Levi Chamberlain, 14 June 1845, "Baldwin, Dwight Letters 1845-1845 To Levi Chamberlain, E. O. Hall, S. N. Castle," HMHA.

¹⁰² See, for example, his letters to Levi Chamberlain, 28 May and 11 June 1845, "Baldwin letters to Chamberlain," and his letter to William Richards, 23 June 1845, "Baldwin, Dwight Letters 1845-1845 To William Richards," HMHA.

¹⁰³ Dwight Baldwin to Levi Chamberlain, 11 June 1845, "Baldwin To Levi Chamberlain," HMHA.

¹⁰⁴ David Malo to Dwight Baldwin, 25 June 1845, "Letters to D. Baldwin," Baldwin Collection, File 35, Missionary Letters 1816-1900, HMHA.

¹⁰⁵ Statement of Lorrin Andrews, June 1845, Series 402-13-316, Chronological File, FO&EX, HSA.

¹⁰⁶ Dwight Baldwin to William Richards, 09 June 1845, "Baldwin Letters to Richards," HMHA. Emphasis in the original.

Governor of Hawai‘i island Leleiōhoku turned suspicion towards Davida Malo when he reported in a legislative meeting in mid-July that Thomas Hopu told him that petitioners in the Kona district had been encouraged to petition by Malo.¹⁰⁷ Malo also served as the minister of public instruction for Maui.¹⁰⁸ Judd added in the same legislative meeting that Malo had admitted to it, and that Judd had urged him to return to Maui and work to restore trust in the government.¹⁰⁹ Judd probably was the “Cabinet minister” that Judd’s wife, Laura Fish Judd claimed to have heard identify Malo as the originator, and Mrs. Judd opined that Malo acted out of disappointment from failing to receive a government appointment.¹¹⁰ In an obvious reference to Brown and Malo, editor Jarves in the *Polynesian* linked “aliens not disguising their bitter enmity to their former countrymen...with a disaffected native” as the authors of the petitions.¹¹¹ It is noteworthy that the petitions arose only in areas in which Malo had influence—Maui, Moloka‘i, Lāna‘i, and the Kona district of Hawai‘i island—and that no petitions arrived from any district on O‘ahu or Kaua‘i.

There is a lack of direct evidence that Brown and/or Baldwin conspired with Malo to produce the petitions, or that Malo acted on his own. There is evidence, however, to infer that it was the outspoken opinions of all three men that had incited the petitioners to action: petitioners from the Kona district implicated Malo to Leleiōhoku; Baldwin had voiced strong opinions within his Lahaina church community about political issues and exchanged similar opinions with Malo; and Brown’s accusations against Judd and Ricord were widely-reported.

¹⁰⁷ Minutes, 14 July 1845, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA.

¹⁰⁸ Minutes, 11 May 1841, Series 221, vol. 1, Journal of the Legislative Council, 1841-1845, Legislature, HSA.

¹⁰⁹ Minutes, 14 July 1845, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA. Judd may have been influenced by the knowledge that William Richards, Dwight Baldwin, and Davida Malo had exchanged opinions in late June about ways to grant the wish of the petitioners without having to remove the white ministers from office. See Malo to Baldwin, 25 June 1845, Letters to D. Baldwin, HMHA.

¹¹⁰ L. F. Judd, *Honolulu*, 145.

¹¹¹ “Official Journal of the Hawaiian Government,” *Polynesian*, 28 July 1845.

The king continued to believe that there was sufficient reason to support the inference that it was Brown who had instigated the campaign. In October 1845, he asserted to American Commodore Sloat that Brown had incited the Hawaiians to petition for the removal of white ministers,¹¹² and that same month the king declared to British Admiral Seymour that “white men” had agitated the Hawaiians to petition for the removal of foreigners from the government.¹¹³

Kauikeaouli personally responds

In late July, after the texts of the petitions became public knowledge and the legislative reply had been disseminated through meetings and print media, Kamakau offered Kauikeaouli a platform to address the people of Maui about his policies. A prominent Maui resident and member of the Lahainaluna intelligentsia—but not yet the author of historical accounts—Kamakau used the medium of a private letter to query Kauikeaouli about his reasons for not employing hereditary chiefs in the ministerial positions occupied by the whites. Kamakau’s July 22 letter was a balanced appraisal of the controversy: he graphically described the hopes and fears of many of the Maui maka‘āinana about the future of the kingdom and their place within it, but he juxtaposed their fears against the need of the king to staff his ministries with western-educated

¹¹² R. C. Wyllie to Adm. J. D. Sloat, 04 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. Wyllie’s letter recaps the subjects discussed at Sloat’s personal audience with the king on September 30, including the belief that Brown’s criticisms had incited the petitioners. Attending the audience as interpreters were Levi Chamberlain and Richard Armstrong from the SIM staff. Wyllie’s letter was read and approved by the privy council before sending; Minutes, 06 October 1845, Series 421, vol. 1, Privy Council, HSA. Attendees were the king, kuhina nui, Judd, Pākī, Keli‘iahonui, Kana‘ina, ‘Ī‘ī, Kā‘eo, and Kekūānāo‘a.

¹¹³ Wyllie to Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA; Minutes, 04, 07 October 1845, Series 421, vol. 1, Privy Council, HSA. Although authored by Wyllie, the letter was written at the behest of the king and approved by him. Attendees at the October 04 meeting were the king, kuhina nui, Wyllie, Judd, Richards, Kana‘ina, C. G. Hopkins.

people who understood western governance and treaty obligations. Kamakau ended his letter by throwing his support behind the king: “aole pono ke hoole ia na Luna haole ke loa ole na kanaka naauao” (it is not necessary to reject foreign ministers when there are no educated Hawaiians available).¹¹⁴ Kamakau also sent along a second private letter in which he attested to the love and respect held by the people of Maui for their king.¹¹⁵

Kamakau’s approach changed the tone of the discourse away from strident demands to a respectful request for dialogue. Kauikeaouli responded in kind, also by private letter, explaining that the ‘new circumstances’ of treaty obligations and a constitutional framework required him to adopt a different approach, and he reaffirmed his respect for his Hawaiian subjects: “a e hoololi ae i kekahi mau pono kahiko ma ke ano hou e pono i na aoao e ae i kui mai a’u aole au i hoonoho i keia mau Luna haole me ka hoowahawaha i na kanaka kahiko o ka aina” (and agree to alter some traditional rights and customs because of new ways of doing things which have been enacted in my reign. . . I did not appoint these white ministers with the intent to show contempt for the original inhabitants of the land).¹¹⁶ Kauikeaouli also pointedly directed his Maui subjects away from Malo by requesting them to send their greetings to him through Kamakau as he is “ka mea pono ke hai mai i ko oukou aloha ia’u” (the proper person through whom to send me your greetings).¹¹⁷

Although there was a wide gap in their ages in 1845 (Kamakau was thirty years old, while Malo was fifty-two), Malo and Kamakau both had studied at Lahainaluna School during the same years and belonged to the new circle of literate Hawaiians who through their western

¹¹⁴ S. M. Kamakau to Kamehameha III, July 22, 1845 in *Ka Elele*, 12 August 1845. Dr. Lyon assisted with the translation.

¹¹⁵ Kamakau to Kamehameha III, July 22, 1845 in *Ka Elele*, 12 August 1845.

¹¹⁶ Kamehameha III to S. M. Kamakau, August n.d., 1845 in *Ka Elele*, 12 August 1845. Dr. Lyon assisted with this translation.

¹¹⁷ Kamehameha III to Kamakau, August n.d. 1845 in *Ka Elele*, 12 August 1845. My own translation.

education had acquired a broad understanding of the outside world. Both of them were outspoken in their criticisms of the traditional chiefly society, but at the same time they both believed that the Hawaiian people were at risk from the effects of encroaching westernization. Malo stridently opposed the social changes even while he supported constitutional government and worked for the westernization of the political system. Kamakau expressed a similar ambivalence: while he respected the king, Kamakau questioned the wisdom of many of the new policies. Osorio points out that the opinions that Malo and Kamakou expressed reflected the political complexities of the Hawaiian community, and that they found different ways to convey the peoples' concerns to the chiefs.¹¹⁸

Ka Elele printed these private letters in its August 12, 1845 edition with the permission of the authors. On September 6, 1845 the *Polynesian* printed an English translation of the king's reply to Kamakau, declaring that Kauikeaouli's explanation had demonstrated "the necessity of employing naturalized officers in certain departments [e.g., interior ministry, foreign office, and as attorney general] of his government," and that his private letter "may be supposed to express his true views."¹¹⁹ Kamakau agreed. He later wrote that Kauikeaouli's letter had shown his great love and affection for his people, and the king's desire to place Hawaiians in the government offices that they could fill.¹²⁰ Unbeknownst to the public at the time, all of the king's white ministers had signed a document on June 20, 1845, committing that they would surrender their ministry commissions to the king whenever he should choose to appoint natives to fill their

¹¹⁸ Osorio, *Dismembering Lāhui*, 3-8, 14-8.

¹¹⁹ Kamehameha III to S. M. Kamakau, August n.d., *Polynesian*, 06 September 1845.

¹²⁰ Kamakau, *Ke Aupuni Mō'ī*, 247.

places. The king's white ministers further pledged that it was their duty to endeavor to render native Hawaiians fit for filling such situations as soon as possible.¹²¹

Convinced that Brown had incited the petitioners, the king and privy council acted to contain the threat that Brown posed to the kingdom's safety and security. Brown had claimed to speak for all American residents in his July 18, 1845 letter to Wyllie: "the AMERICANS *were never more united than now, not a single individual American, lay or clerical, male or female* on the Hawaiian Islands approves of the conduct of those who have had the management of this Government for months past," and he had repeated his personal attacks on Ricord and Judd in the most offensive terms.¹²² Debate in the privy council over his letter concluded with the resolution that "he ano hoohihia iwaena o ke Aupuni o ka Moi a me Aupuni o Amerika Huipuia e hoino a e hoowahawaha mai ai hoi i ke Aupuni o ka Moi, a me ka hana ana o kona kanawai, e hoohaunaele, a e hooulu i ka mokuahana, aole hoi e malu ke Aupuni ke hoomanawanui hou aku . . . the conduct pursued by Mr. Brown is calculated to embroil His Majesty's Government with the Government of the United States, to throw odium and contempt upon His Majesty's Government and the administration of the laws, to create discord, to promote sedition, and can no longer be tolerated with safety to the Kingdom."¹²³ Wheaton's popular 1836 diplomatic compendium advised that consuls who had behaved improperly might be sent back to their own country "at the discretion of the government which they have offended."¹²⁴ That is precisely what Kauikeaouli ordered: he and members of the privy council ceased all communications with

¹²¹ R. C. Wyllie to W. Dillon, 12 April 1848, Series 410, Box 3, vol.13, part 1, Foreign Officials in Hawaii, Consular Correspondence, HSA. Wyllie wrote in explanation of Hawaiian constitutional rules.

¹²² G. Brown to Wyllie, 18 July 1845, *Correspondence in the Case of John Wiley (1845)*, 102. Emphasis in the original.

¹²³ Minutes, 29 July 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. The 1845 Act formalized organization of the privy council but was not formally authorized until October 1845. Nevertheless, meeting minutes began to be kept on July 29, 1845.

¹²⁴ Wheaton, *Elements of International Law*, 181.

Brown, and the king demanded that the U. S. recall Brown.¹²⁵ The *Polynesian* printed Wyllie's notice to that effect in its August 2, 1845 edition. When U. S. Commodore Sloat returned to Honolulu in late September 1845, his courteous behavior towards the king and his ministers allayed any fears they had entertained that Brown would have emulated Charlton and succeeded in inciting U. S. naval forces to overthrow Kamehameha III's government.¹²⁶

Brown's very public dismissal prompted the writing of one last petition. By what they termed a "memorial" addressed to U. S. President James K. Polk (1845-1849) and dated August 27, 1845, a small group of dissident American residents at Honolulu decried Brown's dismissal and urged Polk to defend their legal and commercial interests against the actions of "unprincipled men" who had persuaded the "simple *native rulers*" to implement a complicated new legal code and require that Americans swear an oath of allegiance to conduct business and maintain property rights.¹²⁷ The memorialists kept their petition secret from the king and from other Americans at Honolulu who did not share their views. Polk's government, however, "saw the true position of affairs at a glance" and simply disregarded their memorial.¹²⁸ Polk also wrote to the king that he trusted Kamehameha III would "bury in oblivion all the unhappy differences" occasioned by Brown.¹²⁹

¹²⁵ Minutes, 29 July 1845, Series 421, vol. 1, Privy Council, HSA. Attendees at the July 29, 1845 meeting were the king, the kuhina nui, Judd, Wyllie, Ricord, Kana'ina, Keali'iahonui, Lelei'ohoku, Kekūanā'oa, Kekau'ōnohi, Pākī, and 'Ī'ī. Judd served as translator and recorder.

¹²⁶ R. C. Wyllie to P. J. Gulick, 26 September 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

¹²⁷ Jarves, *History*, 3d. ed., 195-6. Emphasis in the original. Laws enacted in 1846 did not exclude domiciled aliens from certain businesses, but gave preference to natives or naturalized subjects. See Art. IV, Section III, An Act to Organize the Executive Departments, *Statute Laws of Kamehameha III*, 1:37.

¹²⁸ Jarves, *History*, 3d. ed., 196.

¹²⁹ Foreign Minister's Report, *Polynesian*, 22 August 1846, in which Wyllie cited Polk's letter dated September 10, 1845.

Kauikeaouli continued his outreach to his subjects while touring Maui the following year. A crowd of several thousand Hawaiians gathered at Wailuku, Maui on January 12, 1846 to hear the king, kuhina nui Keoni Ana, and privy council member Abner Pākī speak about the need for white ministers. O‘ahu Governor Kekūanāo‘a had been assigned to hear cases between foreigners, but he was criticized by them for his lack of legal training and lack of English-language fluency. Judd and Ricord often sat with Kekūanāo‘a on the bench to advise him on proper case conduct.¹³⁰ The king put the matter frankly: “Your hereditary chiefs have been in trouble, and therefore we have chosen some to aid them. They are the ministers of white skin, whom you see. They know more than we, and I have chosen them for the sake of their knowledge.” Speaking with equal frankness, Keoni Ana admitted that neither he nor Pākī could do the work of the white ministers. Keoni Ana held out hope, however, that the young chiefs would be qualified when they had finished their education, “but now we must have these white men.” Wiley’s counsel had just petitioned for a new trial, and treaty negotiations with the British and French were upcoming the following month. The king warned of the danger that would result should the petitioners insist that the white ministers be dismissed: “We have heard of your petitions. Should we consent to them, trouble would immediately follow—instantly—before night. I ask of you therefore to put an end to your wish to promote that petition.”¹³¹ Pākī spoke last, encouraging the crowd to pay careful attention to what had been said.¹³²

Kauikeaouli, Keoni Ana and Pākī repeated their message to another crowd of a thousand at Mokulau, Kaupo District on January 18, and to a crowd at Hana on January 19. Reports of the king’s Maui tour stressed that “great loyalty and the utmost respect was manifested throughout

¹³⁰ Kuykendall, *Hawaiian Kingdom*, 1:243.

¹³¹ “Visit,” *Polynesian*, 14 February 1846; See also L. F. Judd, *Honolulu*, 147.

¹³² “Visit,” *Polynesian*, 14 February 1846; See also L. F. Judd, *Honolulu*, 147-8.

the journey by the entire population, especially by those who had been instrumental in getting up the petitions of last spring.”¹³³ One of the chief agitators even came forward after a meeting to ask Judd’s pardon for the attempt he had made to injure him, confessing that he was misled.¹³⁴

It was common practice in the Pacific that European and American naval forces assisted local consuls in enforcing the personal and business interests of their country’s citizens. In his zeal to refuse to deal with the king’s white ministers, Miller convinced British Admiral Seymour during his October 1845 port visit that Judd had threatened British subjects Joe Booth and Andrew Auld that they would lose rights to the land they occupied if they did not take the kingdom’s oath of allegiance.¹³⁵ Wyllie reported that Seymour glared at Judd as he berated Kauikeaouli in a privy council meeting, declaring that “it never could be the intention of the British Government that the King should transfer the authority of the Government, either principally or entirely, to foreigners. . . [and] that the petitions by the King’s native subjects, which were against foreigners, well deserved the King’s serious consideration.”¹³⁶

At the same time, Seymour refused to conduct any sort of an investigation into Miller’s claims about Judd’s alleged threats or engage in any discussion with the privy council. Wyllie politely rebuked the admiral on behalf of the king for his unquestioning acceptance of the allegations made by Booth and Auld: “if the declaration of individuals themselves, without any other evidence or crossquestioning, are to be assumed, and reported on as acts of grievance, [the king] despairs of being able, ever to do justice either to his own subjects or to foreigners.”¹³⁷

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Wyllie to Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA; Minutes, 07, 09 October 1845, Series 421, vol. 1, Privy Council, HSA; Wyllie, *Table*, 84.

¹³⁶ Wyllie, *Table*, 84.

¹³⁷ Wyllie to Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. Wyllie authored diplomatic letters at the behest of the king in council.

Seymour's threat to forcibly redress Booth's and Auld's grievances on his next visit without even holding an inquiry heightened the king's anxiety because of the uncomfortable similarity the admiral's threat bore to Paulet's actions in 1843.¹³⁸ "No keia mea hoouna au ia Haalilio laua o Richards e pau keia hihia It was for the purpose of preventing this, that I sent Ha'alilio and Richards to England," Kauikeaouli told the council members.¹³⁹ The situation is dangerous, Kauikeaouli continued, because "o ke ano o keia olelo, oia ka lawe i ke Aupuni, a olelo mai ke Lii oiaio no ia me ka lohe ole hoi i ka oiaio e maopopo ai ka pono. . . . the meaning of the whole address made by the Admiral [Seymour] is to take possession of the kingdom. . . it is so even without the semblance of enquiry into Justice."¹⁴⁰ The king was convinced that Miller wanted "to exercise the power himself and wants. . . the King to go and play chequers and billiards with him." Asked by other council members if he did not feel himself a prisoner, "the King said he understood the object of wishing to reduce him to the same level."¹⁴¹

No doubt Joe Booth's involvement evoked memories of Booth as the messenger between the king's party and Paulet as well as memories of the 1843 offers of protectorate status made by the American and French consuls, for the privy council meeting minutes record that the king concluded caustically: "e aho ka hoomalu ana mai o ka Aina e, no ka mea ina me neia ka hana ua lilo oia ma lalo o na Kanikele, a ma lalo o na white e like me Joe Booth. . . . a foreign

¹³⁸ R. C. Wyllie to Commander J. D. Sloat, 13 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA; Wyllie, "Application Preferred by Rear Admiral Sir George F. Seymour," *Table*, 83-9.

¹³⁹ Minutes, 07, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Members of the privy council present at the October 07 meeting are not listed; other attendees were G. P. Seymour, Consul General W. Miller, and the Rev. R. Armstrong, who acted as Seymour's interpreter. Attendees on October 09 were the king, kuhina nui, Pākī, Kekūanāo'a, 'Ī'ī, Judd, Richards, Ricord, and Wyllie.

¹⁴⁰ Minutes, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, kuhina nui, Pākī, Kekūanāo'a, 'Ī'ī, Judd, Richards, Ricord, and Wyllie.

¹⁴¹ Minutes, 07, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. See prior footnotes for list of attendees. Privy Council text. Billiards had been a popular game in Honolulu for several years. See Kuykendall, *Hawaiian Kingdom*, 1:131 where he cited Bingham.

protectorate would be far preferable, for under the system now threatened, he would not only be under the Foreign Consuls, but under such men as Joe Booth.”¹⁴² In his letter to Seymour recapping the king’s concerns, Wyllie advised the admiral that the impediment to governance posed by Miller’s refusal to deal with Judd and other white ministers through the kingdom’s established judicial system had become such a vital matter that His Majesty is considering sending a special envoy to Britain—“despite the penury of the treasury.”¹⁴³

In summary

Kauikeaouli would have understood why a contemporary Tunisian diplomat Khayr al-Din al-Tunisi cautioned his countrymen in 1839 about the risks of refusing to modernize along western lines: as “the torrent of European civilization [overflows] the world,” al-Din al-Tunisi warned, “kingdoms. . . are in danger from this current unless they imitate [its secular aspects]. This can save them from drowning.”¹⁴⁴ The current that threatened to drown the Hawaiians in the 1840s came from British, French and American traders and merchants, all of them vying for supremacy at the islands to enhance their own commercial interests. What saved the Hawaiian kingdom from drowning was the knowledge about western governance functions that Gerrit P. Judd, John Ricord, and Robert C. Wyllie brought to deliberations with the king and his chiefs. When challenged again by Admiral Seymour nearly a year later in August 1846, Kauikeaouli succinctly described what had caused him to implement the hiring policy: “were it not for the foreigners

¹⁴² Minutes, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Judd served as the notetaker and translator; Report of G. P. Judd, alluding to the Provisional Cession, 27 February 1843, Series 402-8-195, Chronological File, FO&EX, HSA.

¹⁴³ Wyllie to Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

¹⁴⁴ Khayr al-Din al-Tunisi. *The Surest Path: The Political Treatise of a Nineteenth-Century Muslim Statesman: A Translation of the Introduction to The Surest Path to Knowledge Concerning the Condition of Countries*, trans. Leon Carl Brown. (Cambridge: Harvard Univ. Press, 1967), 136.

living under his jurisdiction he would require no Foreign Officers. . . foreigners with great cunning and perseverance often sought to involve him in difficulty and that by experience he found that he could not get along, but by appointing foreigners to cope with them.”¹⁴⁵

It cannot be overlooked, however, that whether Brown or Baldwin instigated Malo or others to author the petitions has less historical importance than the fact that the petitioners recognized that the appointment of white ministers signaled further change in their relationships with their chiefs. Osorio traced the beginning of that change to the enactment of the 1839 Declaration of Rights. When everyone became equal under the law, Osorio explained, chiefly responsibility for the maintenance of the land and the people passed from the gods and the chiefs, and the rule of law created a new layer of authority between the chiefs and the *maka‘āinana*. Echoing the conclusion of the king’s fact-finding deputation, Osorio noted that the 1840 Constitution had given the *maka‘āinana* a voice, and they used it in their 1845 petitions to criticize the chiefs for not recognizing the threat that the foreigners posed to them all.¹⁴⁶ But therein lay the governance dilemma that Kāiūkeaouli faced: although the employment of white ministers provided him with the level of western expertise he needed to effectively rebut the present threat of assaults on his sovereign powers by consular agents and naval officers—at the same time, their employment further weakened the relationship bonds between Hawaiians that had enabled chiefly governance for generations.

Meanwhile, intense European and American rivalries continued to play out daily in Honolulu. Government plans fell into place for legal reforms, and the king pressed for a

¹⁴⁵ Minutes, 24 August 1846, Series 421, vol. 2, Privy Council, HSA. Attendees were the king, *kuhina nui*, Keali‘iahonui, Kana‘ina Kā‘eo, ‘Ī‘ī, Judd, Pākī, Govr Pitt [Leleiōhoku], James Young [Kānehoa] Richards, and Wyllie. Official text labeled “His Majesty’s Verbal Report.” There is no Hawaiian copy. Seymour had replaced Thomas as Great Britain’s commander in the Pacific.

¹⁴⁶ Osorio, *Dismembering Lāhui*, 13, 25, 29.

negotiated solution to the onerous extraterritorial terms in the French and British treaties. Succeeding chapters analyze how Kauikeaouli developed both initiatives as strategic opportunities.

CHAPTER 5

LEGAL AND LAND REFORMS

As western merchants and traders flocked to profit from the business opportunities offered in Hawaii's marketplace, they brought with them expectations that they would enjoy the same legal protections and privileges they enjoyed in their home countries. Merchants and traders secretly bought and sold properties in defiance of the kingdom's posted land-ownership laws. Business failures and trade deals gone awry sent merchants into Hawaiian courts to seek satisfaction. But in 1840 there were no rules of court, few written laws, and a lack of infrastructure to adjudicate cases. While the courts struggled under the burgeoning case load of claims and bankruptcies, Kamehameha III, the chiefs and members of the legislature worked to redefine the laws and improve the administration of justice.

British Captain Paulet brought Kamehameha III's reform efforts to an abrupt halt in 1843 when he used gunboat threats to take over the kingdom. Sovereignty was restored, but not before Paulet had seized control of the courts and insisted that a prime land parcel be turned over to former British consul Richard Charlton. In the aftermath, Great Britain imposed the same extraterritorial judicial restrictions on the kingdom that the French captain LaPlace had imposed four years earlier, and British Admiral Thomas cautioned that future injustices to British citizens would provoke future gunboat actions.

For Kamehameha III, the Paulet episode was a watershed event. He had experienced the loss of functional judicial powers and the loss of a physical piece of his territory. Determined to restore control over both, in 1845 he initiated simultaneous multi-year processes to effect legal reforms that would meet western standards and land reforms that would protect the interests of

all Hawaiians. Kamehameha I involved the legislators in both major policy initiatives, and the work was accomplished by the white cabinet ministers who possessed the western-trained legal skills necessary to deliver the political results the king sought. By 1848, he held firm functional control over a reformed judicial system, and Kamehameha I's allodial ownership of the kingdom's lands had been transformed into fee simple ownership.

Turning points

Merchants flooded into Honolulu in the late 1830s because of Hawai'i's strategic Pacific location. They built wharves along the docks at the waterfront for ships to unload cargoes, and the area became the center of foreigners' commercial activity. Traders erected stone buildings to store and sell merchandise on lots they leased from the chiefs, and ownership of the wharves and buildings changed hands as business fortunes declined or improved.¹ Over time, however, traders began to assert ownership rights to the underlying land.

Kamehameha I and Liholiho had refused to permit foreigners to own land, and Kamehameha I reaffirmed that policy when he refused the 1836 demands of the British gunboat commander Russell to grant property rights to foreigners.² Kamehameha I and the chiefs later learned, however, that foreigners nevertheless were secretly selling land lots to each other. Consequently, in January 1838, Hawaiian authorities issued an ordinance putting foreigners on notice that the lots belonged to the government and they had no ownership rights.³ Several months later, however, so many foreigners continued to claim possession of building lots and

¹ Richard A. Greer, "Along the Old Honolulu Waterfront," *HJH* 32 (1998):25-66.

² Golovnin, *Kamchatka*, 196; Kuykendall, *Hawaiian Kingdom*, 1:72-3; See the discussion in Chapter 1. See also Thurston, ed., "Law Creating the Board of Commissioners To Quiet Land Titles," *Fundamental Law*, 140-1.

³ Laws and Regulations, 08 January 1838, Series 418, Folio 5-1, Early Laws, HSA.

plantation sites that Kauikeaouli made the government's position even more clear in an August 1838 ordinance: any occupation by foreigners of real estate was temporary, the king declared, and had been made "ma ka haawi lokomaikai e like me ka haawi ana i na kanaka maoli" (by generously providing it in the same way he would do with native Hawaiians). It is the chiefs who own the real estate, the law emphasized: "no na lii o Hawaii nei no ia, e like me na waiwai i paa i na kanaka maoli" (it belongs to the chiefs of Hawaii, just like the property held by the native Hawaiians). Kauikeaouli also admonished the chiefs: "Aole i ae ia ka lilo ana o ka waiwai paa i kekahi haole ma Hawaii nei" (The transfer of ownership of real property to any foreigner in Hawaii is not permitted).⁴

As political and social pressures occasioned by the influx of foreigners continued to mount, more laws were enacted throughout 1838 and 1839 defining foreigners' tax obligations, customs duties, port regulations, and grogshop operations.⁵ Working collaboratively, Kauikeaouli and the chiefs implemented the 1839 Declaration of Rights, a comprehensive civil code, on June 7, 1839.⁶ The twenty-four page code arranged laws into thirteen sections regulating, for example, the poll tax and the amount of labor which the king and landholders were permitted to require of their tenants.⁷ The code also drew an historical connection between the new laws regulating behavior and Kamehameha I's law granting safe passage to travelers (Kānāwai Mamalahoa), and the 1840 constitution furthered that connection by establishing the idea of social responsibility for the population.⁸

⁴ Laws and Regulations, He Mau Kanawai no na Haole, 17 August 1838, Series 418, Folio 5-2, Early Laws, HSA. Dr. Lyon assisted with these translations.

⁵ Series 418, Folios 1-9, Early Laws, HSA.

⁶ See the discussion in Chapter 2.

⁷ "Abstract of the Laws," *Missionary Herald* 36, no. 3 (1840):101-4.

⁸ Gonschor, "A *Power* in the World," 161-3.

French Captain Cyrille de LaPlace arrived at Honolulu just one month after enactment of the 1839 Declaration of Rights, and at the point of a gun imposed the first extraterritorial restrictions on Hawaiian jurisprudence. After reports reached Paris that Hawaiian authorities had expelled Catholic priests and imprisoned Catholic converts, Louis Phillippe, the King of the French, had ordered LaPlace to “lay down rigid terms regarding the treatment of French subjects, and Catholics in particular.”⁹ In response, LaPlace first forced Kamehameha III to reverse his 1837 ordinance outlawing the practice of the Roman Catholic religion. Next, LaPlace forced Kamehameha III to sign a treaty in which the king pledged that French citizens could prosecute claims against Hawaiians and that only foreign jurors personally selected by the French consul could sit in judgment against any French subject tried for a crime in a Hawaiian court.¹⁰

Although juries had been in use since 1823 in capital cases, they were not regulated by law and not routinely used in court cases.¹¹ But according to anecdotal evidence from Alexander Simpson, a Hudson’s Bay Company employee who made frequent visits to Hawai‘i beginning in 1839, Hawaiian authorities thereafter made it a practice to name twelve resident or visiting foreigners to sit on juries to deliver verdicts for all disputes between foreigners. Numerous juridical problems resulted, Simpson related, because there were no rules of court or applicable laws to guide them; consequently, jurors could only act as arbitrators “with nothing but their own judgments and consciences to guide them.”¹² While enactment of the October 1840 Constitution taken together with the 1839 Declaration of Rights guaranteed due process of law in accordance

⁹ Emmett Cahill, *The Dark Decade: 1829-1839, Anti-Catholic Persecutions in Hawai‘i* (Honolulu: Mutual Publishing, 2004), 58-9, 81.

¹⁰ Cahill, *Dark Decade*, 81-4; Articles II and IV, Convention between France and Hawai‘i, 1839, *Treaties and Conventions Concluded Between the Hawaiian Kingdom and Other Powers Since 1825* (Honolulu: Pacific Commercial Advertiser Print, 1875), 5-6. Chapter 6 discusses the trade regulations imposed by the treaty at Article VI.

¹¹ Walter F. Frear, “The Evolution of the Hawaiian Judiciary,” *Papers of the HHS* 7 (Honolulu, 1894), 9.

¹² A. Simpson, *The Sandwich Islands*, 47.

with a civil code and distributed judicial powers among district and circuit courts and a supreme court, neither enactment corrected the judicial deficiencies identified by Simpson, and Simpson argued that these deficiencies could only be remedied by the imposition of extraterritorial judicial terms.¹³

The administration of justice was hindered by factors other than insufficiencies of Hawaiian statutes or processes, however. While Jarves reported that foreigners' juries delivered satisfactory verdicts in mercantile cases where no national jealousies were involved, Simpson contended that "bitter animosity" between British and American merchants adversely impacted proceedings.¹⁴ In the *Skinner v. Dominis* (1841) case, for example, Simpson related that Skinner (an Englishman) and Dominis (an American) could not agree on juror selections; eventually Skinner prevailed in an arbitration proceeding, but he was dissatisfied by the size of his award. In the *Greenway v. French* case (1842), the bankruptcy of Greenway (an Englishman) entangled his partner French (an American) and their multinational, multi-million-dollar operations. When the Hawaiian government supported Steven Reynolds' (an American) demands for payment of his claims from Greenway, British claimants complained because that diverted assets away from payments to them.¹⁵ Blaming the monarchy for favoring American interests became the standard response of Britishers who failed to prevail in court. As Kuykendall pointed out in his lengthy discussion of these and other contentious cases of the period, they became a platform for British resident-merchants and British consul Charlton to claim that justice could not be obtained for British litigants in a Hawaiian court.¹⁶

¹³ See the discussion of the enactments in Chapter 2.

¹⁴ A. Simpson, *Sandwich Islands*, 48.

¹⁵ A. Simpson, *Sandwich Islands*, 49, 53-4.

¹⁶ Kuykendall, *Hawaiian Kingdom*, 1:208-9.

In February 1842, the North American Governor-in-Chief of the Hudson's Bay Company Sir George Simpson (a distant cousin of Alexander Simpson) arrived on a visit to the company's Honolulu offices to scout out the kingdom's affairs for his company and the British Foreign Office. While his cousin lobbied for annexation of the islands, Sir George quickly developed a different opinion. He recognized that international business fortunes at the islands relied on the kingdom remaining independent, and that the lawsuits and contentiousness generated by foreigners' trade rivalry threatened the government's stability. Sir George volunteered to support the diplomatic mission of Richards and Ha'alilio to Washington, D.C., London and Paris to seek acknowledgement of the kingdom's independent sovereign status.¹⁷ Before Sir George, Richards and Ha'alilio departed, Kauhikaouli and the legislature enacted additional legal reforms and strengthened the justice process with the first general law relating to the judiciary. Juries were made a statutory part of the trial process, and the nine-page Act of May 10, 1842 also described the courts, the nature of the suits to be heard by each court, and how to begin a lawsuit and make an appeal.¹⁸

Richards and Ha'alilio left Honolulu in July 1842. Charlton sailed for London himself in September 1842, taking with him thirty-five specious complaints that he had solicited from British residents which alleged that they had received unfair court judgments because Americans occupied most of the jury places.¹⁹ Along the way, Charlton stopped at Mazatlán, Mexico and briefed British Rear-Admiral Richard Thomas on the several injustices he claimed British litigants had suffered in the Hawaiian courts.²⁰ Charlton had his own interests in mind: he was

¹⁷ Richard MacAllan, "Sir George Simpson and the Mission for Hawaiian Independence 1840-1843," *HJH* 20 (1986):67, 72-4.

¹⁸ "Chapter 47: A Law for the Regulation of Courts," *Translation of the Constitution and Laws*, 170-80.

¹⁹ MacAllan, "Sir George Simpson," 71-2.

²⁰ G. P. Judd to Gentlemen, 27 February 1843, Series 402-8-195, Chronological File, FO&EX, HSA.

being pursued by several creditors, and Hawaiian authorities disputed the claim he had made in April 1840 to a large parcel of land called Pūlaholaho lying between present-day Merchant Street and the waterfront.²¹ Based on Charlton's account, Thomas promptly dispatched British Captain George Paulet aboard *H.M.S. Carysfort* to investigate and redress British grievances at Hawai'i.

In so doing, Thomas set into motion a train of events that led to Kamehameha's formulation of his legal and land reform strategies.

Paulet, the laws, and Kamehameha

Paulet arrived at Honolulu harbor on February 10, 1843 with a list of six demands which he had framed from representations made to him at Mazatlán by Charlton.²² Paulet coerced Kamehameha into ratifying Charlton's purported deed for the land at Pūlaholaho by threatening to attack Honolulu with his ship's complement of 240 officers and men and 26 guns.²³ Another of Charlton's demands sought relief from an adverse judgement rendered in a suit brought against him by George Pelly, an agent of the Hudson's Bay Company, stemming from an 1832 debt incurred by Charlton to a third party at Valparaiso.²⁴

At interrogations lasting several hours each over a three-day time span, Paulet and Alexander Simpson (whom Charlton named as acting British consul before sailing but whom Kamehameha refused to recognize) took turns browbeating the king mercilessly about the

²¹ Greer, "Along the Old Honolulu Waterfront," 44.

²² There is a significant body of historiography about what became known as "the Paulet episode." See, for example, Kuykendall, "Chapter 13, The Paulet Episode," *Hawaiian Kingdom*, 1:206-26; HSA files contain several folders of correspondence, reports, and memoranda received and sent by Hawaiian officials. Much of the material is in Hawaiian. See Chapter 4 for details about Charlton's grievances.

²³ Judd to Gentlemen, 27 February 1843, Series 402-8-195, Chronological File, FO&EX, HSA. Judd's report to Richards and Ha'alilio is widely quoted.

²⁴ Jarves, *History*, 3d. ed., 175. *Pelly v. Charlton* was tried before a foreign jury in a Honolulu court. Charlton owed the debt to Sewel & Patrickson of Valparaiso. See Judd to Gentlemen, 27 February 1843, Series 402-8-195, Chronological File, FO&EX, HSA.

outcomes of court proceedings involving British claimants. When Kauikeaouli professed that he did not know the facts about a specific case, his interrogators accused him of incompetence. After the first day's meeting, they sequestered Kauikeaouli during the interrogations from all of his advisors except Judd, who acted as interpreter. Using abusive language, Paulet and Simpson demanded the king reverse legal proceedings against Charlton, his representatives, and other British litigants.²⁵ Paulet angrily rebuffed attempts by Judd to offer explanations on the king's behalf, telling Judd he "must only act as Interpreter." Monies and property had been disbursed among British, French and American claimants, however, and Judd estimated that the total liability exposure of the cash-strapped government from direct costs and damages would exceed \$117,000.²⁶

In a lengthy letter to Ha'alilio and Richards, Judd explained the dilemma that Kauikeaouli faced:

the act of reversing past decisions without trial, would be considered by the French and Americans as illegal, and they would claim indemnity, e.g., Dudoit [the French consul] has possession of the old store of Wm. French [an American merchant]. . . Mr. Pelly would hold this Government responsible for the debt of Mr. Charlton to Sewel & Patrickson of Valparaiso. . . Two other Frenchmen have cases in Court, and some Americans, will be losers by the illegal proceedings of the King, if he consents to the demands of Mr. Simpson. . . Mr. Simpson [also] insisted that the Dominis case [Dominis was an American who had prevailed in his suit] should be retried. No plea [would be admitted] that it had been done, that the parties had settled by arbitration and passed receipts.²⁷

After an hours-long session with Paulet and Simpson on February 23, Kauikeaouli declared himself "a dead man," and expressed to Judd his conviction that

²⁵ George Paulet to Mataio Kekūānāo'a, 11 February 1843, Series 402-8-192, Chronological File, FO&EX, HSA; Judd to Gentlemen, 27 February 1843, Series 402-8-195. Judd's lengthy report to Richards and Ha'alilio spared no details about Paulet's and A. Simpson's humiliation and harassment of the king.

²⁶ Judd to Gentlemen, 27 February 1843, Series 402-8-195.

²⁷ Ibid.

his ruin was determined...The object was to rob him of his money, and destroy his laws. Money he had not and could not raise it. He could not overturn the decisions of the Courts, without destroying the credit of the Government, and exposing it to attack on all sides. He would sooner give up all, 'Let them take the Islands.'²⁸

The following morning, Kauikeaouli relinquished control over the disputed cases to British authorities in London. The king also agreed to cede political control of the kingdom to Great Britain under protest that matters would be resolved by his diplomats who were then in Europe.²⁹

Although there is general agreement that Charlton was a scoundrel (Kuykendall,³⁰ Jarves,³¹ M. A. Brown,³² and MacAllen³³), historians and scholars examine the Paulet episode from different viewpoints. Jarves, as a witness to the ensuing lengthy dispute over Charlton's land claim, perceived that "the weakness of the king in consenting to a ratification of such a fraud upon his territory [the document presented as Charlton's deed] is lamentable."³⁴ While Kuykendall pointed out that Kauikeaouli could not legally reverse court decisions, he concluded that the king acted out of international considerations rather than legal constraints: "To have yielded would have involved the Hawaiian government in difficulties with other nations."³⁵ Klieger identified the harm that could accrue to the king's personal ability to govern when he concluded that Kauikeaouli "could not agree to the award of land to Charlton and other British without incurring the wrath of everyone else...And he could not reverse court cases without severally undermining his own authority."³⁶

²⁸ Ibid.

²⁹ Kamehameha III and Kekāuluohi to George Paulet, 18 February 1843, Series 402-8-192, Chronological File, FO&EX, HSA; Deed of Cession, 25 February 1843, Series 402-8-192, Chronological File, FO&EX, HSA.

³⁰ Kuykendall, *Hawaiian Kingdom*, 1:211-3.

³¹ Jarves, *History*, 3d. ed., 167.

³² M. A. Brown, *Facing the Spears of Change*, 85.

³³ MacAllan, "Sir George Simpson," 71-2.

³⁴ Jarves, *History*, 3d. ed., 179.

³⁵ Kuykendall, *Hawaiian Kingdom*, 1: 214-5.

³⁶ Klieger, *Kamehameha III*, 294-5.

Richards emphasized that very point to British diplomats Addington and Aberdeen. After receiving formal acknowledgement from Great Britain in 1843 of Hawaii's independence, Richards and Ha'alilio remained in London for several more weeks as Richards pressed the British government for a just resolution of the kingdom's claim for indemnification of the losses inflicted by Paulet's forces on government structures and the king's fleet.³⁷ In defense of the claim, Richards pointed to the interruption of the reforms to the kingdom's laws and institutions that resulted from Paulet's interference, and the harm that Kamehameha III forbore from inflicting on the kingdom by his principled refusal to change the court verdicts:

His Majesty foresaw the fatal consequence that would have resulted from compliance. He was sensible that the greatest calamity that can befall a state whether in its foreign or domestic relations is the destruction of the people's confidence in the administration of justice. . . rare indeed are the instances if any are to be found in which a sovereign has chosen to surrender his crown rather than violate the laws of his Country.³⁸

Britain expands extraterritorial legal restrictions

When Admiral Thomas learned that Paulet had taken possession of the kingdom, he immediately sailed from Valparaiso to rescind the cession and restore Kamehameha III's sovereign status.³⁹

Thomas, however, also made it clear to Kamehameha III that the kingdom's justice system did not meet western standards. Thomas pointed out, for example, that the Hawaiian court should not have assumed legal jurisdiction over the *Pelly v. Charlton* case because the attachment of Charlton's property "had been placed at the instance of an individual not residing within the

³⁷ William Richards to Henry Unwin Addington (Under Secretary for Foreign Affairs), 07 October 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA.

³⁸ Richards to Addington, 07 October 1843, Series 404, Box 61, vol. 2; William Richards to Earl Aberdeen, 28 February 1844, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA.

³⁹ "Declaration of Rear-Admiral Thomas, 31 July 1843, To King Kamehameha III, and the Principal Chiefs of the Sandwich Islands," *British and Foreign State Papers*, 1029-32.

limits of His Majesty's dominions [the lender at Valparaiso], and the suit respecting [it] was instituted in the absence both of the plaintiff and defendant."⁴⁰ And in his public remarks at the restoration ceremony, Thomas cautioned the king and his chiefs that, if there should there be future denials of justice for British subjects, then it would be the duty of the British naval commander-in-chief to obtain redress for their claims.⁴¹ Thomas mandated that disputes between British subjects and others must be decided by juries, and given previous instances of juror imbalance between Americans and British subjects, he also imposed a requirement that one-half of the jurors be British subjects approved by the consul. The admiral also enjoined Kauikeaouli to ensure that the British consul attended all formal appeals affecting the interests or property of a British citizen.⁴²

Both of Thomas' jury requirements mirrored the restrictions imposed four years earlier by LaPlace for French citizens. In non-western countries, consuls routinely performed juridical and political duties in addition to promoting trade as part of their responsibilities to assist and protect the citizens of their own countries and their property in the variety of circumstances in which their misconduct or accident placed them.⁴³ Extraterritorial agreements defined a consul's particular jurisdictional duties, and these agreements played a crucial role in commercial relations between Great Britain and France and states in East Asia, the former Spanish American colonies, and the Pacific during the first half of the nineteenth century.⁴⁴ From her studies of Brazil, for example, Benton found that treaty arrangements secured provisions which gave

⁴⁰ "Agreement," *British and Foreign State Papers*, 1032.

⁴¹ "Declaration," *British and Foreign State Papers*, 1031.

⁴² "Agreement," *British and Foreign State Papers*, 1033-4.

⁴³ D. C. M. Platt, "The Role of the British Consular Service in Overseas Trade, 1825-1914," *The Economic History Review*, New Series 15, no. 3 (1963):494-5.

⁴⁴ Andreas T. Müller, "Friedrich F. Martens on 'The Office of Consul and Consular Jurisdiction in the East,'" *The European Journal of International Law* 25, no. 3 (2014):877. Müller explained the historical background and use of consular jurisdiction.

British citizens special trading privileges, and that personal legal protections for British citizens were seen as instrumental to trade.⁴⁵ Benton explained that European powers justified demands for consular jurisdiction to guarantee impartiality in the treatment and trials of their citizens residing in non-European states.⁴⁶ The key motivating factor in imposing juridical strictures in the states Benton studied was that consular agents had demanded those terms to resolve what the agents reported to their home offices as failings of the local justice system.⁴⁷ Thomas had found that British subjects had suffered injustices from the Hawaiian legal system, and the jury requirements he imposed were designed to ensure impartial treatment not only in fact, but also in the perception of British litigants, the accused, and the consul.

Kauikeaouli responded quickly to Thomas' challenge. Less than two weeks later, Kauikeaouli met with the chiefs' council, revised the existing juror law to conform with Thomas' requirements, and distributed printed copies in Hawaiian and English.⁴⁸ Unlike Benton's conclusions about the pace of legal reforms in Spanish American states, at Hawai'i under Kauikeaouli's leadership the government moved quickly to resolve procedural irregularities and administrative injustices.⁴⁹ French and British threats of military intervention at Hawai'i over perceived injustices gave their consuls' legal pronouncements more weight, just as Benton found that similar threats did in South America.⁵⁰ Walter F. Frear linked legal reform to a deep conviction among the rulers of the need for legislation to meet the new conditions imposed by international recognition so as to validate Hawai'i's inclusion in the worldwide family of

⁴⁵ Benton, *Law and Colonial Cultures*, 233.

⁴⁶ *Ibid.*, 214.

⁴⁷ *Ibid.*, 211. Benton identified this as the motivating factor in the jurisdictions she studied.

⁴⁸ *Laws and Regulations*, 11 August 1843, Series 418, Folio 8-3, Early Laws, HSA.

⁴⁹ Benton, *Law and Colonial Cultures*, 213.

⁵⁰ *Ibid.*, 214 at fn. 7.

nations.⁵¹ However, Jane L. Silverman's finding from her study of judicial changes during Kamehameha's reign appears more on point: the rulers had learned that it had become politically necessary, Silverman concluded, to create a system "that could settle the disputes of foreigners in a manner they found acceptable [so as to defuse] foreign pressure to take over the government."⁵²

Decision points

When word reached London in June 1843 about Paulet's rogue action, British diplomat H. S. Fox writing for Foreign Affairs Secretary the Earl of Aberdeen assured his American counterpart A. P. Upshur that the seizure had been "entirely unauthorized." While advising Upshur that the British government intended to engage, "and if necessary, to compel" Kamehameha to redress whatever acts of injustice may have been committed against British subjects, Fox emphatically rejected any British intent to interfere with the laws of the native government. British naval officers, Fox declared, had been instructed to "leave the administration of justice in their hands."⁵³

The cacophony of foreigners' angry voices at Honolulu continued, however, and even increased with the arrival of the new American Commissioner George Brown in late 1843. The 1844 Treaty of Lahaina that Great Britain had forced Kamehameha to ratify as a condition of restoring his sovereignty perpetuated the extraterritorial jury requirements that Thomas had insisted on, and Brown then demanded the same for American defendants. When his demands

⁵¹ Walter F. Frear, "The Development of Hawaiian Statute Law," *Thirteenth Annual Report of the HHS* (1906):46. Frear appears to have accepted the public rationale for change delivered by Ricord in his May 21, 1845 report to the legislature rather than the practical rationale offered by Silverman. See Kuykendall, *Hawaiian Kingdom*, 1:261.

⁵² Silverman, "Imposition of a Western Judicial System," 48.

⁵³ H. S. Fox to A. P. Upshur, 25 June 1843, Series 402-9-209, Chronological File, FO&EX, HSA.

were refused, Brown railed against perceived failures of the kingdom's court administration.⁵⁴ On a practical level, no other governance issue weighed as heavily on the kingdom's ability to exercise its own sovereign authority than this, because no other issue united the passions of resident foreign merchants, consular agents, visiting naval officers, and diplomatic metropolises in Europe and America. On a political level, Kāiākeaouli had learned that he could not develop international confidence in his courts' ability to adjudicate claims and dispense equal justice unless he implemented wide-ranging reforms.

Although Thomas' stern warnings had delivered the message that judicial reform was a political necessity, it was not until an American attorney unexpectedly arrived in Honolulu in February 1844 that Kāiākeaouli had access to the western-trained legal expertise he needed to accomplish sweeping changes. Within days of his arrival, John Ricord was appointed by the king to assume control of legal affairs in the kingdom as the kingdom's first attorney general.⁵⁵ Ricord promptly took charge of O'ahu circuit court cases presided over by Governor Kekūānā'ō, and together they resolved cases involving foreigners in accordance with the principles of American and English jurisprudence.

Ricord's brash demeanor and aggressive litigating stance angered both his fellow-Americans and British Consul General Miller.⁵⁶ Brown was particularly aggravated by the fact that it was Ricord who crafted the government's responses while Brown—not a lawyer himself—had to compose his own legal arguments,⁵⁷ and the evidentiary adjudication of the validity of Charlton's land deed became an acrimonious, protracted legal battle. Brown and

⁵⁴ See discussion in Chapter 4.

⁵⁵ Judd announcement, 11 March 1844, Series 410, Box 1, Book 1, Consular, Consular Correspondence, HSA; See Chapter 4 for a discussion of the king's policy to employ white ministers.

⁵⁶ Jarves, *History*, 3d. ed., 192-3.

⁵⁷ R. C. Wyllie to George Brown, 25 July 1845, *Correspondence in the Case of John Wiley (1845)*, 116. The pamphlet contains letters exchanged between Wyllie, Brown, and Ricord during 1845.

Miller retaliated by filing numerous claims and counterclaims challenging the kingdom's political and legal positions.⁵⁸ Brown insisted that he would not cease filing charges until "the courts of this country are properly organized, and their proceedings conducted in a proper and legal manner, and when gentlemen of legal knowledge become residents on these islands."⁵⁹

No legislative action on revisions to the court system or legal code could be taken in 1844, however, as Kauikeaouli had postponed the annual legislative session until the return of diplomats Richards and Ha'alilio. But it was abundantly clear to Kauikeaouli, the chiefs, and the ministers that, if Britain's intent to leave the administration of justice in their hands was to be realized, they needed to take reform measures that would remedy the concerns that had originally led France and Great Britain to impose extraterritorial restrictions. Kauikeaouli also realized that Paulet's naked political alienation of a prime waterfront lot to Charlton had placed the kingdom's territorial sovereignty in jeopardy. As Jon M. Van Dyke and Pauline King Joerger pointed out, Kauikeaouli had learned that he and all Hawaiians could lose ownership interests in the land unless he converted the centuries-old tenure system to a western pattern of land title.⁶⁰

Kauikeaouli initiates law and land reforms

Kauikeaouli chose the pomp and ceremony of the May 20 opening of the 1845 legislative session as the backdrop for an announcement of his plans to align the kingdom's legal processes with the principles and doctrines of western nations. The legislature met at Honolulu rather than Lahaina as it had previously, and for the first time the legislature was opened by a formal speech from the

⁵⁸ Wyllie, "Table," from the tabulation of American and British grievances filed from 1843-1846.

⁵⁹ Brown to Wyllie, 02 July 1845, *Correspondence in the Case of John Wiley* (1845), 12. As Ricord was a legal professional, Brown must have referred to a need for lawyers to represent defendants like Wiley.

⁶⁰ Jon M. Van Dyke, *Who Owns the Crown Lands of Hawaii?* (Honolulu: Univ. of Hawai'i Press, 2008), 28; Pauline King Joerger, "The Great Mahele," (Honolulu: Univ. of Hawai'i, n.d.), 3.

throne.⁶¹ Kahili bearers attended the king as he was escorted to his seat on which a yellow feather cloak had been spread. The queen followed, attended by Judd, Wyllie and Ricord, and kuhina nui Kekāuluohi sat nearby. Seated to the king's right were the members of the House of Nobles, and to his left were seated the members of the House of Representatives.⁶²

After opening remarks noticing the cordial relations with western powers that recognition had brought, Kauikeaouli stipulated that it was his wish to treat the subjects of all nations with equal justice. As he declared to the American Commodore Stockton a month later, he intended that improvement in the laws and courts would “answer all the wants of the different classes of Residents within my jurisdiction.”⁶³ With that goal in mind, Kauikeaouli advised the legislators that “ua mana no maua e pono ia oukou e Kukakuka no ka hooponopono hou ana i na Ahahookolokolo, a e mahele pono paha i na hana, a e hooponopono i na Kanawai.”; “we recommend for your consideration, the better organization of the Courts of justice, the division of powers, and a careful revision of the Laws.”⁶⁴ Announcement of that policy initiative when Ricord was the only western-trained lawyer employed by the kingdom was an ambitious move. The legislators responded, however, and formally tasked Ricord “e palapala no makou i olelo hoonohonoho ... a me na kanawai a kakou; a e kakau hoi i na kanawai maoli no ka haawi ana i na hana like me kana i olelo ai. E hooku pono nae i na kanawai ma ko kakou ano, a me ko kakou

⁶¹ Frear, “Statute Law,” 46.

⁶² Session of 1845, 20 May 1845, Series 221 vol. 2, Journal of the Legislative Council 1845-1847, Legislature, HSA. Kekāuluohi died shortly afterwards, on June 7, from influenza.

⁶³ King's speech to Commodore Robert F. Stockton, 20 June 1846, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. This journal of consular correspondence contains no Hawaiian texts. There is a banner above the copy of the king's speech to Stockton which reads “Revised Translation.”

⁶⁴ Session of 1845, 20 May 1845, Series 221, vol. 2, Journal of the Legislative Council 1845-1847, Legislature, HSA for the Hawaiian text; “The Royal Speech, At the Opening of the Legislative Chambers, On Tuesday, May 20th,” *Polynesian*, 24 May 1845 for the English translation. Use of the word “maua” indicates that the king had another person in mind who joined in his decision (probably Ricord), but the text does not indicate who that other person might have been.

noho ana”; “to draw out for us a digest of the constitution and laws, and also a project of the organic acts which he recommends, accommodating them to our condition and circumstances.”⁶⁵

Kauikeaouli also announced the appointments of the white ministers Judd, Ricord, and Wyllie, and their appearance at the legislature’s opening ceremony caused quite a stir in the Hawaiian community. Petitions praying for their dismissal flowed into the legislative offices from several thousand Hawaiians.⁶⁶ The petitioners also reacted strongly to Judd’s announcement in his ministry report that the king, the kuhina nui and the chiefs intended to “improve the tenure and leasing of land as may facilitate its acquisition by the poorer classes.”⁶⁷ The reaction from Lāna‘i petitioners typified all petitioners’ objections who feared that the plan Judd had announced was in fact a subterfuge for alienating their lands: “aole o makou makemake e kuai hou aku oe i kekahi apana aina o kou aupuni i na haole” (we do not want you to sell any more land of your Government to foreigners).⁶⁸

Despite the considerable unrest occasioned by the petitions, however, Ricord moved forward with the drafting of organic acts to provide a framework for the reorganization of governmental departments staffed by senior officials and the preparation of law codes. The first act passed in October 1845 and organized the executive departments into a cabinet of five ministries replacing various functions of the executive role previously exercised by the king: interior, foreign relations, finance, public instruction, and department of law, and also formally

⁶⁵ John Ricord, “Olelo Mua a Ka Mea Nana i Kakau,” *Kanawai i kauia e ka moi, e Kamehameha III., ke alii o ko Hawaii pae aina* [hereafter *Statute Laws of Kamehameha III*], Vol. 1 (Honolulu: Missionary Press, 1846), 1:5; and at “Compiler’s Preface,” *Statute Laws of Kamehameha III*, 1:5. The Hawaiian and English texts are printed in the same volume and the sections bear the same page numbers. Although the word “constitution” does not appear in the Hawaiian text, both citations come from the official record.

⁶⁶ See Chapter 4 for an extended discussion.

⁶⁷ Report of G. P. Judd, 01 April 1845, Box 141, Miscellaneous, Interior Department, HSA. This is a draft of the report.

⁶⁸ Petition, Lāna‘i, April 1845, Box 141, Miscellaneous, Interior Department, HSA. Archival translation by E. H. Hart.

constituted the privy council.⁶⁹ Although the second organic act drafted by Ricord entitled “An Act to Organize the Executive Departments” was not passed by the legislature until April 1846, the portion entitled “Law Creating the Board of Commissioners To Quiet Land Titles” which enabled the land tenure changes referred to by Judd was passed on December 10, 1845.⁷⁰

Land ownership and tenancy patterns like Hawai‘i’s centuries-old system existed throughout Polynesia and the South Pacific. Māori tribal leaders, for example, described their practice of giving lands to Europeans with the clear understanding that when the Europeans no longer needed to use the land it would be returned to the tribe; it was given only for use and never to sell.⁷¹ Māori scholar Margaret Mutu explained that the same concept governed in the Cook Islands, Samoa, Tonga, Tahiti, Hawai‘i, Fiji, and New Caledonia. But westerners had made claims to take possession of land throughout the Pacific like the claims raised in Hawai‘i by British Captain Russell in 1836 and Charlton in 1840. Ranginui Walker traced the origins of Māori activism to British arguments that their 1840 Treaty of Waitangi had transferred land sovereignty when the Māori only intended that the treaty grant land use.⁷² When Rarotongans saw that the 1840 Treaty of Waitangi had unbeknownst to the Māori transferred ownership of their land to the British crown, they reacted by ruling that none of Rarotonga’s land could be bought or sold.⁷³ In Tahiti the insecurity of land tenure had become a contentious issue by 1842, and Tahitians were strongly opposed to alienating any land.⁷⁴ When Fiji ceded political control

⁶⁹ Thereby leaving the king, as described by Osorio in *Dismembering Lāhui* at 26, with the role of overseer of the executive functions, rather than administrator; Kuykendall, *Hawaiian Kingdom*, 1:262-3.

⁷⁰ Kuykendall, *Hawaiian Kingdom*, 1:262-3.

⁷¹ Margaret Mutu, “*Tuku Whenua* and Land Sale in New Zealand in the Nineteenth Century,” *Voyages and Beaches: Pacific Encounters, 1769-1840*, eds. Alex Calder, Jonathan Lamb, and Bridget Orr (Honolulu: Univ. of Hawai‘i Press, 1999), 318.

⁷² R. J. Walker, “The Genesis of Maori Activism,” *The Journal of the Polynesian Society* 93, no. 3 (September 1984):268.

⁷³ Mutu, “*Tuku Whenua*,” 320.

⁷⁴ Newbury, *Tahiti Nui*, 90-1.

to Great Britain in 1874 the controlling agreement fixed land ownership into three categories: land already owned by foreigners, land in use or occupation by a chief or a tribe, and all other land that might in the future be required by chiefs or tribes was vested in the British crown.⁷⁵ Like Hawai‘i, Tonga had a stratified society where the commoners were not genealogically related to the chiefs, and where land tenure was regulated by the paramount chief.⁷⁶ After observing over several years the results of land alienation in Hawai‘i and elsewhere in the Pacific, Tongan’s King George Tupou I in 1862 codified a prohibition against land sales to foreigners and even forbade land sales between Tongans.⁷⁷

Scholars and historians offer several explanations why Kauikeaouli and the chiefs considered changes to the ancient land tenure system, many of which are derived directly from the principles formulated by the Board of Commissioners to Quiet Land Titles. Pressure to change either arose from a recognition that the ancient system was incompatible with further progress in civilization (W. D. Alexander⁷⁸), or was needed to provide a secure land tenure system for large scale agricultural development (Melody K. MacKenzie⁷⁹), or was urged by the missionaries and/or alternatively provoked by aggressive naval officers (Jon J. Chinen⁸⁰). Changes in land tenure were enabled by western law and the imposition of western concepts, Trask alleged, and MacKenzie added that it was western influence that caused the change.⁸¹ Kame‘eleihiwa argued that the king’s foreign advisors on the privy council and on the land

⁷⁵ Stuart Banner, *Possessing the Pacific: Land, Settlers, and the Indigenous People from Australia to Alaska* (Cambridge: Harvard Univ. Press, 2007), 268.

⁷⁶ Gonschor, “Law as a Tool of Oppression,” 23-4.

⁷⁷ Banner, *Possessing the Pacific*, 281.

⁷⁸ W. D. Alexander, “A Brief History of Land Titles,” 9.

⁷⁹ MacKenzie, ed., *Native Hawaiian Rights Handbook*, 5.

⁸⁰ Jon J. Chinen, *The Great Mahele: Hawaii’s Land Division of 1848* (Honolulu: Univ. of Hawai‘i Press, 1958), 7.

⁸¹ Haunani-Kay Trask, “Hawaii: Colonization and De-colonization,” *Class and Culture in the South Pacific*, ed. Antony Hooper (Suva: Univ. of the South Pacific, 1987), 157; MacKenzie, *Native Hawaiian Rights*, 150.

commission convinced Kauikeaouli that a change in land tenure practices was necessary in order to ensure the kingdom's future prosperity.⁸²

It was the board commissioners, however, who identified the most persuasive driver for change. The commissioners concluded that Hawai'i's land tenancy system was incomprehensible to foreigners because the rights of different classes to occupy and/or use the land "were not very clearly defined, [even though they were] universally acknowledged [by Hawaiians]." Thus the commissioners judged that foreigners' own clear property title practices would likely prevail over Hawaiian land tenure claims in contested disputes.⁸³ Indeed, as King Joerger recognized, it was British support for Charlton's claim to the Pūlaholaho land that alerted Kauikeaouli and the chiefs to the dangers inherent in their traditional land tenure system.⁸⁴ Similarly, Van Dyke described that the loss of control of the government to Paulet largely because of a land dispute had been "clearly traumatic" for Kauikeaouli. Although Van Dyke agreed that the king's foreign advisors "eagerly promoted" the change to fee simple ownership, he also concluded that Kauikeaouli purposefully "set to work to find a method of protecting his own interests, as well as those of his people."⁸⁵

Support for that position comes from Wyllie's explanation to Miller of the reasoning behind the privy council resolutions of June 18, 1846 which began: "That it is contrary to the usages and laws of these Islands, and to the laws of nations, that any foreign nation, whatever, should pretend to adjudicate upon titles to real estate, within the King's Jurisdiction."⁸⁶ Four days later, Wyllie advised Miller that "you wholly misunderstand their feeling [about Charlton's

⁸² Kame'elehiwa, *Native Land*, 214-5.

⁸³ Thurston, ed., *Fundamental Law*, 144-6.

⁸⁴ King Joerger, "The Great Mahele," 2-3.

⁸⁵ Van Dyke, *Who Owns the Crown Lands of Hawaii?*, 28.

⁸⁶ "Copy of 28 Resolutions of the King in Council, of the 18th of June 1846," *Polynesian*, 18 September 1847.

claim]. Upon this question it is, and ever has been, intense – and no wonder because it involves a principle whereby they themselves might be dispossessed of their lands by the Agent of a foreign Nation, and all redress, in the Courts of their own Country absolutely prevented.”⁸⁷

This insight into the reasoning of the king and his chiefs explains why they took the step of converting their land tenure system to fee simple ownership. The enactment of the law to quiet all other land claim titles—known and unknown—was the first step to eliminate foreigners’ claims before converting to fee-simple title for all lands.

Establishing the framework for both reforms

An action to quiet a land title asks the court to confirm a particular person’s title to real property, thereby extinguishing all other persons’ claims to the same property. The five-person board of commissioners created by the act were charged to investigate and affirm or reject all claims of private individuals, whether natives or foreigners, to any landed property acquired before the passage of the act.⁸⁸ The board intended to receive claims only for a two-year time period, and thus the practical application of the act was to extinguish by December 9, 1847 any and all foreigners’ claims to title for land obtained before December 10, 1845 that had not already been brought forward.⁸⁹ Completion of that process would enable moving forward with a division of lands between the Hawaiians who claimed a use or occupation interest.

⁸⁷ R. C. Wyllie to G. Miller, 22 June 1846, Series 410, Box 3, Book 3, no 12 part 1, Letters, Consular Correspondence, HSA.

⁸⁸ The commissioners appointed in 1845 were William Richards, John Ricord, J. Y. Kānehoa, John ‘Ī‘Ī, and Zorobabela Ka‘auwai. Note that the composition reflected one executive minister (Richards), the attorney general as required under the Act (Ricord), a governor (Kānehoa), a privy council member (‘Ī‘Ī), and a chief (Ka‘auwai).

⁸⁹ Thurston, ed., *Fundamental Law*, 137-40.

By early February 1846 the commissioners had formulated and adopted principles to guide them in their adjudication of claims.⁹⁰ The commissioners found that the rights in the lands held by different classes had been unchanged since the reign of Kamehameha I, and that Kauikeaouli and several grades of chiefs possessed a joint ownership of the lands: “the King really owning the allodium, and the person in whose hands he placed the land, holding it in trust.”⁹¹ Chinen added to this that the 1840 Constitution reaffirmed that the land belonged to the present king through inheritance from Kamehameha I, but that “it was not his own private property. . . . it belonged to the chiefs and people in common.”⁹² The commissioners buttressed their finding of the king’s allodial right by citing British Admiral Russell’s 1836 agreement with Kauikeaouli that the kingdom’s lands were the property of the king. Having identified the different interests, it would then be the commissioners’ responsibility to ascertain the specific use or occupation rights of each interested party who had brought a claim before them.⁹³

With the land commission work underway, Ricord completed work on the second organic act in time for Kauikeaouli to announce its completion at the legislature’s 1846 opening ceremony held in a booth constructed for that purpose on the Palace grounds. A large concourse of people had gathered outside, and within the Palace grounds were gathered members of the legislature, foreign diplomats, their families, government officers, foreign residents, and members of the general public.⁹⁴ Referring to the dissension fomented by Brown and Miller in 1845 on behalf of American and British subjects, Kauikeaouli admonished those foreigners who had shown disrespect for his authority and the laws of the kingdom:

⁹⁰ Thurston, ed., “Principles Adopted by the Board of Commissioners to Quiet Land Titles in their Adjudication of Claims Presented to Them,” February 9, 1846, “Law to Quiet Land Titles,” *Fundamental Law*, 140-7.

⁹¹ Thurston, ed., “Principles,” *Fundamental Law*, 140-1.

⁹² Chinen, *The Great Mahele*, 7-8.

⁹³ Thurston, ed., “Principles,” *Fundamental Law*, 140-1.

⁹⁴ “Restoration Day, 31st July—opening of the Legislative assembly—Royal Speech,” *Polynesian*, 01 August 1846.

Ua hookoia na kanawai i keia makahiki maloko o ka pilikia nui, no ke kue ana o kekahi poe i na Ahahookolokolo, a no ko lakou koi ana i na pomaikai, a me na oluolu kupono ole ke haawi, a kupono ole i ka poe malalo o ko'u malu ke koi. Aka ke hoolana nei au i ka manao maikai o ka poe e noho la malalo o'u, a me na Luna a na aina e mai, e kinai i kela mau manao kipikipi a hoohaunaele i na kanaka o ko lakou mau aina iho.

....

The administration of the laws during the last year has been rendered difficult by opposition to the jurisdiction of my tribunals and the assertion of rights and privileges incompatible with the respect due to my authority from all who live under it. . . . It is my desire that the tribunals should be rendered equal to the prompt and just decision of all questions arising within my jurisdiction.⁹⁵

The king encouraged the legislators to study Ricord's act, "e hoolohe paha oukou i ka olelo a kanaka, a e hana hou, a e hoano e, a e hoopau e like me ka mea e pomaikai ai na kanaka malalo o'u. . . .listen to the public voice, and alter, modify or repeal [its provisions], as the interests of my faithful subjects shall require."⁹⁶ Although Keanu Sai describes the organic acts as a hybrid of English and American common law that include some aspects of civil law, he concludes that at their very core the new organic acts were Hawaiian in nature.⁹⁷

Kauikeaouli also expressed the hope that impartial application of the new code would persuade foreign agents to discourage their countrymen from asserting rights and privileges unsupported by Hawaiian law. No doubt remembering Thomas' cautionary warning about British redress for injustices to the rights of British subjects, Kauikeaouli also announced that in cases of disputes arising between foreigners, Kauikeaouli would supervise lawsuits and seek counsel abroad to prevent any other dispute from escalating into a sovereignty threat.⁹⁸

⁹⁵ King's Speech, 31 July 1846, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA. Official texts. See also *Polynesian*, 01 August 1846, for the English text.

⁹⁶ Ibid.

⁹⁷ Sai, "The American Occupation," 77-8.

⁹⁸ Ibid.

Kuykendall pointed out that the governmental reorganization and new legal codes produced by Ricord were not welcomed by most of the foreign residents, including the consuls. Kuykendall cited a private meeting between British Admiral Seymour and the king during the admiral's next visit in August 1846 (attended only by Richards, who acted as translator), at which Seymour challenged the king to explain the necessity for what he characterized as "the abundance and intricacy of the new laws." The king replied that he could manage his own subjects very easily—even his word was always enough for them, "[but while] he had only a few foreign Residents, yet they belonged to great nations, and they required as many laws and as complicated as those great nations required."⁹⁹ Population figures compiled at the time confirm that in 1846 there were only about 1,000 foreigners (about 200 of whom were Tahitians) among a Hawaiian population of between 80,000 and 100,000.¹⁰⁰ The exchange between Seymour and the king suggests that the admiral recognized that western jurisprudential codes and a well-functioning court system shifted power and authority away from the British consul because they rendered extraterritorial judicial controls unnecessary.

Judicial reforms are accomplished

With the O'ahu court calendar filled with cases between foreigners in September 1845 and Ricord occupied with drafting the organic acts, kingdom officials appointed a judicial candidate who lacked legal training, but whose character they knew well from his service with the SIM.

The Rev. Lorrin Andrews, a graduate of Princeton Theological Seminary, had arrived in 1828 as

⁹⁹ Minutes, 24 August 1846, Series 421, vol. 2, Privy Council, HSA. Attendees were the king, the kuhina nui, Keali'i ahonui, Kana'ina, Kā'eo, 'Ī'ī, Judd, Pākī, Leleiōhoku, James Young, Richards, and Wyllie. This is the same speech in which Seymour questioned the king's decision to employ white ministers. There is no Hawaiian text. See also, Kuykendall, *Hawaiian Kingdom*, 1:264.

¹⁰⁰ Jarves, *History*, 3d. ed., 238; "Report of the Interior Minister," *Polynesian*, 08 August 1846.

a member of the third company sent by the ABCFM and served as the principal at Lahainaluna Seminary, but who had left the mission in 1842 and established a Honolulu printing business.¹⁰¹ After becoming a judge, Andrews filled the need identified by Alexander Simpson by authoring an extensive first edition of Hawai‘i pleading and practice rules of court in June 1846.¹⁰²

However, there was still an urgent need for judges familiar with common law and western legal principles to adjudicate the increasing number and complexity of claims involving foreigners.¹⁰³ Harvard-trained lawyer William Little Lee arrived unexpectedly in Honolulu in October 1846 while bound for the Oregon Territory with his good friend, Charles Reed Bishop.¹⁰⁴ Bishop and Lee lingered in Honolulu while their ship underwent repairs.¹⁰⁵ In December 1846, after much discussion on the part of the Hawaiian chiefs and the king, the privy council unanimously approved the cabinet council’s recommendation that Lee be appointed as a “Judge of Original and Appellate Jurisdiction for the Island of O‘ahu” with power to act jointly or severally with Andrews on the Superior Court at an annual salary of \$2,500.¹⁰⁶ Lee accepted,

¹⁰¹ Andrews left the mission in April 1842 because he disapproved of the ABCFM receiving funds from slave-owning states.

¹⁰² “Lex Fori of the Court of Oahu, or Rules of Practice Before Hon. Lorrin Andrews,” (Honolulu: Charles. E. Hitchcock, 1846). The *Polynesian* offered copies for sale in 1847 at a price of 6 cents. See “List of Pamphlets for Sale,” *Polynesian*, 27 November 1847.

¹⁰³ Frear, “Evolution of the Hawaiian Judiciary,” 15.

¹⁰⁴ Bishop also took a job with the government to help straighten out the affairs of Ladd & Co. and later was appointed the Collector of Customs. In 1849, he became a naturalized citizen, and in 1850 he married Bernice Pauahi, the daughter of privy council member Pākī and Konia. Bishop became well-known as a highly respected Honolulu businessman, a major donor to Kamehameha Schools, and the founder of the Bishop Museum. George Hu‘eu Sanford Kanahale, *Pauahi: The Kamehameha Legacy* (Honolulu: Kamehameha Schools Press, 1986), 60-73.

¹⁰⁵ Rev. S. C. Damon, “A Tribute to the Memory of Hon. William L. Lee, Late Chief Justice of the Hawaiian Kingdom” (Honolulu: H. M. Whitney’s Press, 1857), 6. Damon’s tribute delivered the evening of Lee’s funeral is the source of the biographical information contained in all future accounts. Damon said he received the biographical information from Lee’s good friend and traveling companion, Charles R. Bishop; see also, Barbara E. Dunn, “William Little Lee and Catherine Lee, Letters from Hawai‘i 1848-1855,” *HJH* 38 (2004):60.

¹⁰⁶ Meiric K. Dutton, in “William L. Lee: His Address at the Opening of the First Term of the Superior Court Held in the New Courthouse, Honolulu, July 5, 1852; to which is added a biographical note by Meiric K. Dutton” (Honolulu: Loomis House Press & Hale Pa‘i o Lumiki, 1953), 47 pp. The pamphlet does not contain page numbers; Minutes, 30 November and 02 December 1846, Series 421, vol. 2, Privy Council, HSA. Attendees at the meeting were the king, kuhina nui, Kā‘eo, Pākī, Judd, Richards, Ricord, Kana‘ina, Kekūanā‘o‘a, Wyllie, Keali‘iahonui, and ‘Ī‘ī.

and earlier that same day, the king in council removed any legal impediment to a non-citizen serving in that capacity by issuing Lee a letter of denization, which conferred upon him all the rights and privileges of a Hawaiian subject without requiring him to surrender his American citizenship.¹⁰⁷

The Superior Court was a court of record which held four terms per year, and the *Hawaiian Reports* legal series began regular publication of its decisions beginning with Lee's first decisions in the January 1847 term.¹⁰⁸ When the legislature opened again on April 28, 1847, the king announced Lee's appointment and urged the legislators to consider changes in the laws that might be appropriate so that the law would be equally and justly applied.¹⁰⁹ Ricord abruptly departed the kingdom in August 1847, leaving the unfinished "Act to Organize the Judiciary Department" for Lee to complete. The act restructured the Superior Court as the Superior Court of Law and Equity, and it took over the supreme court function previously performed by Kauikeaouli. John Papa ʻĪʻĪ joined Andrews as an Associate Justice on the court in January 1848, and Lee assumed the duties and responsibilities of Chief Justice.¹¹⁰

Lee's influence in the development of the legal system and the creation of a body of case law was paramount as neither ʻĪʻĪ nor Andrews were legally trained. Beginning with his first decision concerning the fraudulent transfer of a lease in *Robert W. Wood vs. Benjamin Stark, Jr.* 1 Haw. 9 (1847), Lee drew on American case law from legal authorities such as William Powell Mason's series on *United States Circuit Court Reports, 1816-1830*, and he cited persuasive legal authorities and rules of law within the bodies of his decisions (such as the 1836 American

¹⁰⁷ Dutton, in a biographical note to "William L. Lee."

¹⁰⁸ *Hawaiian Reports*, Volume 1 at page 9 (1 Haw 9).

¹⁰⁹ "King's Speech," *Polynesian*, 01 May 1847 for the English, and "Olelo o ka Moi," *Ka Elele*, 01 May 1847 for the Hawaiian text.

¹¹⁰ "Appointments under the Act to Organize the Judiciary," *Polynesian*, 15 January 1848.

treatise by James Kent, *Commentaries on American Law*, an 1848 British treatise by Arnould entitled *Law of Marine Insurance*, and an 1850 British treatise by Lord Charles Abbott, *A Treatise of the Law Relative to Merchant Ships and Seamen*). Lee demonstrated solid professionalism and competent handling of all judicial aspects as he decided procedural and evidentiary cases, enforced judgments, defended the kingdom's jurisdictional reach over all admiralty and maritime cases arising within its territorial waters, and settled questions of law.¹¹¹ A review of the litigants in cases from the January 1847 term through the May 1849 term demonstrates why the kingdom needed a western-style justice system to adjudicate cases between foreigners: during that period of time, Judge Lee decided fourteen cases with thirty-five named litigants, and none were Hawaiian.¹¹²

By 1848, the king's emphasis on legal reform as a major policy initiative had been rewarded by firm administrative and legislative control of all aspects of juridical processes. A reliable framework had been established, a western legal code had been implemented, and a court system delivered justice to foreigners and Hawaiians alike. When foreigners became assured that their disputes would be settled according to rules they found acceptable, their hostility towards the courts diminished. Kamehameha III's brief references to the law and justice in his 1848 opening speech to the legislature evidenced a lessening of political concern over legal processes.¹¹³

¹¹¹ *Hawaiian Reports*, Volume 1. Lee also extended the kingdom's jurisdiction to cover torts and wrongs arising on the high seas aboard Hawaiian vessels.

¹¹² *Hawaiian Reports*, Volume 1.

¹¹³ "Opening of the Legislative Assembly," *Polynesian*, April 29, 1848 for the English text, and "Ahaolelo Hawaii," *Ka Elele*, 08 June 1848 for the Hawaiian text.

Land tenure reforms are accomplished

Meanwhile, work continued on the land reform process. The initial two-year period allowed to file actions to quiet titles ended on December 9, 1847.¹¹⁴ It then became time to begin the next phase of the process, the māhele, or division work, to separate the relative rights of the king, the chiefs and their konohiki land administrators in all of the lands in the kingdom.¹¹⁵ Because the king held the allodium right to all lands, the board determined that he should dispose of his interest by “offer[ing] it first to the superior lord . . . who originally received the land in trust from the King.”¹¹⁶ Disposal by agreement to each division would be equivalent to a quitclaim action.

Lee formulated rules to guide the process, and each rule was discussed individually and voted on by the king and the Hawaiian privy council members who were in attendance on December 14, 1847: Keoni Ana, Joshua Kā‘eo, John Papa ʻĪ‘Ī, Aaron Keali‘iahonui, Mataio Kekūanā‘a, Caesar Kapaakea, Bennett Nāmākehā, and Analea Keohokālole.¹¹⁷ The king would keep all his private property and of the remainder, one-third would be set aside for the government, one-third divided among the chiefs, and one-third divided among the tenants according to the wishes of the chiefs and the king’s approval in council.¹¹⁸ Sai points out that during the division it was understood that the king would participate in his private capacity and not as head of the government, and Sai describes the process as it unfolded.¹¹⁹ There were three divisions: first, the division between the king and the chiefs, then the creation by the king of

¹¹⁴ Although it was extended.

¹¹⁵ Note that the overall process is referred to as the Māhele, or Great Māhele, while the divisions themselves are māhele.

¹¹⁶ Thurston, ed., “Principles,” *Fundamental Law*, 140-1.

¹¹⁷ Minutes, 14 December 1847, Series 421, vol. 4, Privy Council, HSA.

¹¹⁸ Minutes, 14 December 1847, Series 421, vol. 4, Privy Council, HSA.

¹¹⁹ Sai, “The American Occupation,” 81-6.

government lands, and lastly the creation of the king's own personal lands. When the divisions were completed, the recordation book was closed and no further entries were made.¹²⁰

Kauikeaouli, the highest-ranking chiefs, and 240 konohiki land administrators joined in the work to reach agreement on dividing their interests in all lands throughout the kingdom.¹²¹ The agreement for the first division was signed on January 27, 1848, and the last was signed on March 7, 1848.¹²² At that point, all land in the kingdom was held in fee simple title.

Measles, whooping cough and influenza epidemics caused 10,000 deaths as they ravaged the kingdom in 1848 and 1849, and there were renewed fears that France would seize sovereign control of the weakened kingdom. Those fears materialized in August 1849 when French Admiral de Tromelin attacked Honolulu, and in September 1849 the king sent Judd, Alexander Liholiho Kamehameha, and Lot Kamehameha on a diplomatic mission to the American and European capitals to negotiate terms that would strengthen international commitments to respect Hawaiian sovereignty. Given those disruptions, it was not until December 20 and 21, 1849 that the king and privy council took one last action resulting from the Great Māhele divisions. Privy council members at those meetings were the king, the queen, Keoni Ana, Caesar Kapaakea, Mataio Kekūanāo'a, Joshua Kā'eo, Charles Kana'ina, Paul Kānoa, Bennett Nāmakehā, Abner Pākī, John Papa 'Ī'ī, Miriam Kekau'ōnohi, Robert Wyllie, Richard Armstrong, William Lee, and attorney Asher Bates. Together they agreed on the need to give maka'āinana occupants of lands a kuleana (homesite) grant of fee simple title to the lands they occupied.¹²³

¹²⁰ King Joerger, "The Great Mahele," 1.

¹²¹ See Kame'eleihiwa, *Native Lands*, for records of their widespread land holdings

¹²² Chinen, *The Great Mahele*, 15-6.

¹²³ Minutes, 20, 21 December 1849, Series 421, vol. 3A, Privy Council, HSA.

On August 6, 1850, the Kuleana Act formalized the privy council's commitments. Fee simple titles free of commutation fees or restrictions were granted to all native tenants who occupied and improved any portion of any government land or any other lands held by the king, a chief, or a konohiki. A portion of the government lands was set aside to be disposed of in lots from one to fifty acres in fee simple to maka'āinana not otherwise furnished with lands at a minimum price of fifty cents per acre. The act guaranteed gathering rights and access to the mountains and the sea, and at Kauikeaouli's insistence, the act also protected konohiki fishing rights.¹²⁴ The commissioners' powers were extended to adjudicate kuleana and konohiki rights.¹²⁵

The division of lands between the king, the high chiefs and their konohiki land administrators did not in itself confer title. Each claimant was required to present his claim before the land commission, receive an award, and pay a commutation fee. Many konohiki, however, had not completed the process by the time that the board dissolved on March 31, 1855. Commenting on this failure, Kame'eleihiwa explained that many of them "simply did not understand the capitalist uses of private ownership."¹²⁶ Successive legislatures granted several extensions to those konohiki whose awards were listed in the Māhele Book of 1848, and most claimants finalized title prior to the final deadline of January 1, 1895.¹²⁷

¹²⁴ MacKenzie, *Native Hawaiian Rights*, 8, 214.

¹²⁵ W. D. Alexander, "A Brief History of Land Titles," 9, 17-9.

¹²⁶ Kame'eleihiwa, *Native Land*, 11.

¹²⁷ Chinen, *The Great Mahele*, 21-4.

The aftermath

As discussed in Chapter 7, Britain's revised treaty with Hawai'i ratified as of May 1852 lifted the economic and jury duty extraterritorial restrictions that had been imposed by the 1844 and 1846 treaties between Britain and Hawai'i.¹²⁸ That left the French Treaty of 1846 as the only remaining obstacle to the king's free exercise of his sovereign powers.¹²⁹ Before that, however, the Hawaiian court reforms and a decline in French merchant shipping and population had removed the political and practical impact of those extraterritorial restrictions.¹³⁰

Silverman and Merry credited the American lawyers Ricord and Lee as the architects and driving forces behind the legal reforms but failed to notice Kauikeaouli's leadership role.¹³¹ While it is indisputable that the contributions of both lawyers were critical to realizing success, it was the king who had guided the enabling legislation that empowered them to act. It was Kauikeaouli's determination to use the professional skills of white ministers even in the face of strong objections from foreign consuls and his own subjects that had delivered the political results he needed to strengthen his functional authority over the rule of law. Kauikeaouli's 1845 and 1846 legislative speeches and his recorded conversations in 1846 to Stockton and Seymour are alone sufficient evidence of Kauikeaouli's leadership role.

Judge Lee's suggested Rule 7 for the division of the interests of the king, the chiefs, and the konohiki administrators proposed that Kauikeaouli's private lands would be recorded in a separate book from all other private, fee simple titles. That caused the king to ask, "if a foreign power should take the islands. . . would they take possession of his lands?" Lee assured him that

¹²⁸ "Treaty with Great Britain," *Treaties and Conventions*, 31-39.

¹²⁹ Chapter 6 discusses the revision negotiations at length.

¹³⁰ King Joerger, *Political Biography*, 103-4. By the early 1850s, the French population numbered 36.

¹³¹ Silverman, "Western Judicial System," 48; Merry, *Colonizing Hawai'i*, 3.

in the case of conquest, a foreign power would respect the king's right to his private property, to which the king replied, "during the French revolution, were not the King's lands confiscated?" Wyllie replied that they were, but that was by the French king's own rebellious subjects. Kauikeaouli decided, however, that his private lands should be recorded in the same book as all other fee simple titles, and that the only separate book should be that of government lands.¹³²

The Hawaii Supreme Court in an 1864 adjudication of the case *In the Matter of the Estate of His Majesty Kamehameha IV., Late Deceased*, 2 Haw. 715, 722 cited that December 1848 privy council discussion to conclude that Kauikeaouli had held an "anxious desire to free his lands from the burden of being considered public domain, and as such, subjected to the danger of confiscation in the event of his islands being seized by any foreign power."¹³³ But other evidence led the Court to rule that Kauikeaouli's one million acres of personal lands which had descended to Kamehameha IV were the property of his heir Kamehameha V and not his widow Queen Emma.

MacKenzie related the unintended result of that Supreme Court decision. In 1865, the Hawaiian legislature transformed those personal lands into inalienable Crown lands. Thereafter, the lands continued to descend to the successor to the throne. But just as Kauikeaouli had feared should his private lands be recorded separately, when Queen Lili'uokalani was deposed by rebellious subjects and the Republic of Hawai'i was founded (1894-1897), the Republic's leaders used its constitutional provisions as their justification to seize the former Hawaiian government's Crown lands without compensation.¹³⁴

¹³² Minutes, 18 December 1847, Series 421, vol. 4, Privy Council, HSA.

¹³³ Kamehameha IV had died intestate. This seems to be the genesis for Banner's conclusion in his "Chapter 4: Hawaii Preparing to be Colonized," *Possessing the Pacific*.

¹³⁴ MacKenzie, *Native Hawaiian Rights*, 11-3.

As with any major cultural and institutional change, there were differences of opinion among native Hawaiians about the Great Māhele and other of its unintended consequences. Writing in 1846 before the Great Māhele or the Kuleana Act had taken place, Davida Malo endorsed the idea of private land ownership in a letter to Richards because he believed it would encourage the virtues of hard work and love of country.¹³⁵ Writing in 1869 after the land distributions had ended, Kamakau reported that many people chose to remain on the lands of their chiefs and serve them. When the chiefs sold their lands, however, the people without a kuleana were set adrift and had nowhere to go.¹³⁶

Modern Hawaiian scholars call attention to the disastrous consequences that the transformation to fee-simple title had on the Hawaiian people. MacKenzie observes that only twenty-six percent of the adult male population received kuleana awards.¹³⁷ Trask believes that the Great Māhele and private property land tenure spelled the death knell of the *maka‘āinana* as the bulk of the land found its way into the plantation economy run by haole hands.¹³⁸ Kame‘eleihiwa expresses the outrage and sorrow that Hawaiians still feel over the loss of their communal access to the land, and their pain over the subsequent ease with which land ownership passed into foreign hands. “The *Ali‘i* thought they were sharing the Land,” Kame‘eleihiwa related, “and, by extension, sharing their control of the sovereignty of Hawai‘i, with their *maka‘āinana*, rather than ‘dividing’ the Land.”¹³⁹

¹³⁵ Van Dyke simply cited Malo’s letter in a footnote without comment, See Van Dyke, *Who Owns the Crown Lands?* 28, at fn. 95; see also, Davida Malo to William Richards, 02 June 1846, Series 402-17-386, Chronological File, FO&EX, HSA.

¹³⁶ Kamakau, *Ke Aupuni Mō‘ī*, 250.

¹³⁷ MacKenzie, *Native Hawaiian Rights*, 8.

¹³⁸ Trask, “Colonization and De-colonization,” 156.

¹³⁹ Kame‘eleihiwa, *Native Land*, 9, 15, 208-9.

Silva and Beamer, however, both suggest that recent scholarship gives grounds to rethink the results of the Māhele. Silva concludes from research done by Hawaiian scholar Keanu Sai that the king and chiefs had attempted to protect the rights and interests of the maka‘āinana by enacting and enforcing laws that permitted the maka‘āinana to file claims for land purchases at low rates even after the official deadlines had passed.¹⁴⁰ Beamer claims that the 1840 codification of their vested rights in the land together with the large amount of acreage (195,948 acres) that was purchased by maka‘āinana between 1850 and 1893 demonstrated that the Māhele process actually secured their rights, not severed their relationships with the land. The Kuleana Act and the Māhele were hybrid laws, Beamer argues, intended to move maka‘āinana back to the land so that cultivation could thrive again, and they perpetuated and codified many traditional relationships between people and property.¹⁴¹

After Thomas imposed extraterritorial legal restrictions and Britain refused on Charlton’s behalf to acknowledge Kauikeaouli’s allodial rights, changes became a matter of urgent political necessity. The tactical reforms that Kauikeaouli implemented averted both dangers: legal reforms shifted power away from consular jurisdiction because they provided a western-style forum to address foreigners’ concerns, and the distribution among Hawaiians of allodial interests alleviated the threat of land seizures under the guise of spurious title claims. Just as he had with his policy of hiring white ministers, Kauikeaouli’s tactical decisions and persistence in enacting his own agenda ensured that by the end of the decade he held sufficient sovereign control over the law to ward off similar challenges in the future.

¹⁴⁰ Silva, *Aloha Betrayed*, 42.

¹⁴¹ Beamer, *No Mākou Ka Mana*, 129, 143, 151-2.

CHAPTER 6

TACTICAL USE OF PRINT MEDIA

Kauikeaouli had been blind-sided by the effectiveness of the array of charges that Richard Charlton and Alexander Simpson had presented to British authorities alleging his inability to rule. The thirty-five written complaints from British residents about the kingdom's jury system that Charlton carried to Mazatlán had launched Paulet's investigation, and Simpson's 1843 London publication detailing even more abuses had influenced London authorities.¹ In fact, British recognition of the kingdom's independence had almost been derailed by a statement submitted to its foreign office that mischaracterized Kauikeaouli's support for the Belgian colonization project brokered by Ladd & Co.² Kauikeaouli's emissaries prevailed, however, and secured recognition from the three maritime powers.

But as 1844 progressed, British and American diplomats at Hawai'i again used legal disputes as platforms to attack the integrity and competency of the king and his white ministers. When the diplomats repeated their criticisms of the king's governance in their official diplomatic letters, the international reach of their written criticisms posed as grave a threat to Kauikeaouli's governance as did the prosecution of the disputes themselves. Recognizing the danger, Kauikeaouli made the tactical decision to purchase the *Polynesian* weekly newspaper and its printing press to publish official government news and notices to an international readership.

¹ MacAllan, "Sir George Simpson," 71-2. A. Simpson, *Sandwich Islands*, 47. Richards referred to Alexander Simpson's publication in a February 28, 1844 letter to Aberdeen, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA. See Chapter 5 for a full discussion.

² To His Majesty from T. Ha'alilio, W. Richards, and J. F. B. Marshall, 18 August 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA; see also Appendix, "To His Majesty from T. Ha'alilio, W. Richards, and J. F. B. Marshall, August 18, 1843," *Ladd Arbitration*, 118-20. See Chapter 2 for a full discussion. Although the author is unnamed in the cited document, the statement no doubt was prepared by Charlton or Alexander Simpson.

One year later partisan political attacks prompted Kamehameha III to initiate a policy to publish the documents from both sides of ongoing diplomatic disagreements because he believed that full disclosure to the world at large would focus attention on his proper exercise of his sovereign powers. As Miles Ogborn pointed out, circulation of the king's arguments in the government newspaper would be simultaneously local and mobile, available to domestic and international friends and foes alike, and pamphlets with the same arguments also could be broadly distributed through normal correspondence channels.³ With a two-pronged policy firmly in place, print media became a diplomatic tool that Kamehameha III used in tandem with other strategic measures.

The *Polynesian* rejoins the public forum

English-language newspapers had been published at Honolulu since 1836, when the *Sandwich Islands Gazette and Journal of Commerce* began weekly Saturday evening issues on July 30. Intended as a vehicle to publicize traders' interests at Hawai'i, the *Gazette* evolved into a political organ that severely criticized Kamehameha III's anti-Catholic policies. The *Gazette* enjoyed an international reach, with favorable mentions in the *London Evening Chronicle*, the *Journal de Havre*, and the *New York Evening Star*. Publication of the *Sandwich Island Mirror and Commercial Gazette* succeeded the original *Gazette* in 1839, but folded after a year.⁴

A literary and scientific English-language periodical was published quarterly from 1838 to 1839 under the title *Hawaiian Spectator* with articles about topical news events, such as James

³ Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago: Univ. of Chicago, 2007), 12, 22.

⁴ Helen P. Hoyt, "Hawaii's First English Newspaper and its Editor," *Sixty-Third Annual Report of the HHS for the Year 1954* (Honolulu, 1955), 5-18.

J. Jarves' report on LaPlace's 1839 visit.⁵ Jarves began his own commercial enterprise in June 1840 with publication of a weekly English-language newspaper named the *Polynesian* for the kingdom's foreign residents. Although Jarves had financial support from the Sandwich Islands Mission, subscription sales, and advertising, the *Polynesian* folded in 1841.

Jarves returned to Honolulu in 1844 and on May 18 resumed weekly Saturday publication of the *Polynesian* as an independent English-language newspaper. The *Polynesian* printed articles of general interest, letters to the editor, shipping news, and advertisements at an annual single-subscription cost of \$6.00.⁶ However, facing the same profitability challenges as he had during his earlier failed publishing venture, Jarves soon agreed to sell the newspaper and its press to the government. When he announced the change in ownership in the July 13 edition, Jarves underscored the diplomatic role that the newspaper would play in Kamehameha III's strategy to defend Hawaiian sovereignty: the newspaper would serve as "an authentic organ to the public, of the views and opinions of His Majesty's Government which will enable the Government transactions to go to Europe and America, and there announce the policy of His Majesty's Government, so that the world can judge for itself of its capability to conduct its relations with Foreign nations."⁷ Although the French protectorate government at Tahiti also began publication in May 1844 of an official government newspaper named *L'Océanie Française*,⁸ the *Polynesian* was the first government organ dedicated to serving the political interests of a Polynesian monarch.

⁵ Jarves, "l'Artemise Account," 352-5.

⁶ Bob Dye reported that Jarves was Judd's nephew but gave no source for this information. See Dye, "'A Memoria of What the People Were,' The Sandwich Island Institute and *Hawaiian Spectator*," *HJH* 31 (1997):64. Jarves makes no mention of their relationship in the preface to the third edition of *History*.

⁷ "To the Public," *Polynesian*, 13 July 1844.

⁸ Editorial, *Polynesian*, 15 June 1844.

As the government press, the *Polynesian* printed the kingdom's treaties, diplomatic correspondence, legislative proceedings, Supreme Court decisions, local adjudications, government appointments, official laws, notices, and miscellaneous news.⁹ Its editors presented the government's point of view in editorials on topical political questions. Weekly issues were four to eight pages in length. Like the *Gazette*, the *Polynesian* quickly developed an international reach. A November 1844 article in the *New York Tribune*, for example, copied news items from the prior June 22 edition of the *Polynesian*, including coverage of a social event U. S. Commissioner Brown had hosted.¹⁰ Judd broadened that international reach by announcing to the kingdom's newly-appointed commissioner to the European courts that the *Polynesian* had been purchased to be the government organ, and that its issues "will be sent to you regularly in future as occasions allow. Whatever appears in its columns goes forth under the sanction of Government."¹¹

In June 1845, Jarves announced that individual subscriptions to the newspaper had been "constantly and regularly increasing, particularly by subscriptions from abroad."¹² Local subscriptions also numbered more than they had before the government's purchase. And another New York newspaper, the *New York Daily Herald* demonstrated the *Polynesian's* continuing reach by publishing several news items in its July 1845 edition which it had picked up from the *Polynesian's* February 1845 edition.¹³

At that time, the *Friend* was the only other Honolulu newspaper to which English-language residents could turn for information. Edited and published by the Rev. Samuel C.

⁹ "To the Public," *Polynesian*, 13 July 1844.

¹⁰ "From the Polynesian," *New York Tribune*, 16 November 1844.

¹¹ G. P. Judd to Sir George Simpson, 01 July 1844, Series 410, Box 1, Book 2, Letters, Consular Correspondence, HSA.

¹² "Official Journal of the Hawaiian Government," *Polynesian*, 28 June 1845.

¹³ "Interesting from the Sandwich Islands," *New York Daily Herald*, 11 July 1845.

Damon for the American Seamen's Friends' Society, the *Friend* had begun monthly publication at Honolulu in January 1843 as a vehicle to promote temperance among seamen. The paper underwent several name changes before Damon settled on the *Friend* in 1845. At that point, the newspaper's format broadened to include local and international news as well as serialized articles of interest about other geographic locations in the Pacific. Occasionally Damon even reprinted official government news from the pages of the *Polynesian*.¹⁴ Damon began semi-monthly editions in 1845, and the size of each edition increased to eight pages, swelled by international coverage, shipping news, and advertising. The cost in the first year had been 25 cents for ten issues, and by October 1846 the price had increased to a single annual subscription cost of \$2.50. Damon printed on the mission press.

Issues of the *Friend* also circulated internationally. Judd, for example, had sent copies of articles in the *Friend* announcing the execution of the Treaty of Lahaina (February 20, 1844 edition) and Attorney General Ricord's appointment (March 25, 1844 edition) to the British Consul at Washington, D.C. for the consul to deliver to the President of the United States.¹⁵ Both newspapers achieved worldwide distribution through the sale of annual subscriptions, single-issue circulation to other ports by naval and merchant crew members, single-issue mailings by residents to family and friends in widespread locations, and purposeful dissemination by Hawaiian government agents to diplomatic allies abroad. Although precise figures are not available, readership for both newspapers was reported to be extensive not only in Honolulu, but also throughout the Pacific Ocean, Europe and America.¹⁶

¹⁴ "Official," *Friend*, 01 July 1846, where Damon reprinted text and public documents from the June 27 edition of the *Polynesian* about the arrival of U. S. Commissioner Anthony Ten Eyck and Brown's departure.

¹⁵ G. P. Judd to R. C. Wyllie, 23 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA.

¹⁶ "Report of the Minister of the Interior," *Polynesian*, 08 August 1846.

As the *Gazette* had done before them, both the *Polynesian* and the *Friend* gleaned international political and commercial news from newspapers brought in by ships or mail. The May 17, 1845 issue of the *Polynesian*, for example, reprinted news from Europe and the U. S. from as recently as March 1845 about Polk’s election as U. S. President, the admittance of Texas, Florida and Iowa as states of the union, and the U. S. treaty with China. The July 16, 1845 issue of the *Friend* reprinted items from the April 26 edition of the New Orleans *Picayune* about the British House of Commons debate regarding the Oregon boundary negotiations with the U.S., an assessment of the instability of French Foreign Minister Guizot’s administration, and the information that British naval officers had succeeded in lifting the French blockade of ports at Raiatea.

Hawaiian-language readers received their news from *Ka Nonanona*, a four-page semi-monthly edition which published from 1841 until 1845, then reemerged under the name *Ka Elele Hawaii* (*Ka Elele*). Unlike the Māori-language newspaper *Ko te Karere o Nui Tireni* (*The New Zealand Messenger*) which had begun in 1842 as a government organ “for the instruction of the natives,”¹⁷ *Ka Nonanona* printed articles intended to be of interest to its Hawaiian readership. Edited by missionary Richard Armstrong (known at the newspaper by his Hawaiian name “Limaikaika”) and printed on the mission press, *Ka Nonanona* delivered hard news about local events, such as Paulet’s takeover and Kauikeaouli’s speech to his subjects in the March 7, 1843 edition.¹⁸ Armstrong continued the tradition of publishing hard news in *Ka Elele* and printed in its April 8, 1846 edition, for example, side-by-side Hawaiian-language texts of the 1846 treaties

¹⁷ Jenifer Curnow, “A Brief History of the Maori-Language Newspapers,” in *Rere Atu, Taku Manu!: Discovering History, Language, and Politics in the Maori-Language Newspapers*, eds. Jenifer Curnow, Ngapare Hopa, & Jane McRae (Auckland: Auckland Univ. Press, 2002), 17-9.

¹⁸ “No ka Lilo o ke Aupuni,” *Ka Nonanona*, 07 March 1843.

with Britain and France.¹⁹ While *Ka Nonanona* had charged \$1.00 for an annual single subscription, *Ka Elele* announced a sliding-rate scale, with prices ranging from \$1.00 annually for chiefs and haoles to 25 cents for maka‘āinana maoli (native Hawaiians).²⁰ In 1846, readership for *Ka Elele* was reported to be three thousand.²¹

Publishing to the world

The *Polynesian*'s first edition on July 20 as the government's press organ carried front-page coverage in Hawaiian and English of the June 29 enactment of a Code of Etiquette patterned after the 1814 Congress of Vienna ranking system of diplomatic agents and government officials establishing their order of recognition at court.²² There was also front-page English/Hawaiian coverage of a listing of principal chiefs, privy council members, nobles, princes and chiefs, and judges on all islands. Under the new page 2 column heading "Official Journal of the Hawaiian Government" there was a notification published in Hawaiian, French, and English from French Consul Jules Dudoit announcing that France had taken political control of Futuna, Wallis islands, and Gambier islands. Justice court news and news about the comings-and-goings of the king were also featured.

Three weeks after becoming the government press, the *Polynesian* published its first article about an ongoing diplomatic dispute—a private legal opinion rendered by an American attorney which contradicted a key evidentiary position taken by the British consul in the Charlton

¹⁹ "Na ke Aupuni," *Ka Elele*, 08 April 1846.

²⁰ "Ka Elele Hawaii," *Ka Elele*, 01 April 1845.

²¹ "Report of the Minister of the Interior," *Polynesian*, 08 August 1846.

²² The Code of Etiquette also established meeting protocols. Ricord ranked U. S. Commissioner Brown ahead of Consul General Miller because Brown's credentials had been presented first and the U. S. recognized the kingdom in 1842 before Britain did in 1843. That led to an international brouhaha between Miller and Ricord, and Ricord was forced to reorder them so that Miller had precedence. See Kuykendall, *Hawaiian Kingdom*, 1:241 at fn. 62.

case in opposition to the Hawaiian government.²³ More important than the attorney's opinion, however, was the message that its publication conveyed. Public exposé violated the diplomatic niceties of timing, then-British deputy-consul Wyllie advised Judd, because "the usual course in Diplomacy, is never to publish any thing relating to a negotiation still pending."²⁴ Judd replied that the government would continue to focus attention on disputes at any stage of negotiations because it was "a question whether or not a Govt as dependent on the good opinion of the world as this might not give earlier information of its positions to the world than a Govt capable of maintaining its rights by force of arms."²⁵

Judd's reply reinforced Jarves' earlier announcement that the newspaper would play an important role in publicizing the king's sovereign rights and privileges to an international audience. While Kauikeaouli engaged in personal diplomacy and his ministers communicated through traditional channels, Jarves emerged as a forceful spokesman who used his editorial platform to join public debates and promote the king's policies. Diplomatic press coverage necessarily centered on the actions of U. S. Commissioner Brown and British Consul General Miller because of their deliberate, protracted attempts to throw the courts into confusion and discredit the king's white ministers. The nations that Brown and Miller represented were key international allies whose support was critical to Kauikeaouli's ability to sustain his sovereign

²³ Connecticut attorney Thomas S. Perkins concluded after a review of pertinent documents that Miller had exceeded his consular instructions when he attempted to dictate what evidentiary rules should apply to the examination of the purported deed. See "Opinion of T. S. Perkin in the Matter of Richard Charlton's Claim upon the Government of the Hawaiian Islands," *Polynesian*, 03 August 1844. Perkins had journeyed to Hawai'i for his health; however, it continued to decline, and he left Honolulu in July 1844. He died October 14, 1844 aboard a ship sailing from Valparaiso to Hamburg. See "Obituary," *Friend*, 15 August 1845.

²⁴ R. C. Wyllie to G. P. Judd, 03 August 1844, Series 410, Box 1, Book 2, Letters, Consular Correspondence, HSA. Miller was in the South Pacific tending to consular duties at his other stations.

²⁵ G. P. Judd to R. C. Wyllie, 06 August 1844, Series 410, Box 1, Book 2, Letters, Consular Correspondence, HSA.

prerogatives, and bringing their attempts to destabilize his administration to the attention of policymakers in London and Washington, D.C. was of paramount importance.

The first press battle was centered around the abusive attacks made by U. S. Commissioner Brown on the king's white ministers and his court battles over the selection of a jury for the trial of an American, John Wiley, charged with rape of a Hawaiian woman. Brown demanded a jury composed entirely of foreign residents selected by the consul, just as British citizens enjoyed under the terms of the 1844 Treaty of Lahaina. The court, however, selected Wiley's jury in accordance with Hawaiian law: one-half of the jury was selected from among other resident Americans, and the other half from among Hawaiians.²⁶ U. S. Consular Agent William Hooper, who was also a principal in Ladd & Co., had filed the first complaint about jury selection in August 1844 and represented Wiley throughout his first trial.²⁷

Brown and Hooper continued to argue over jury selection processes, but it was Brown's ad hominem attacks on Judd, Ricord, and native Hawaiian judges and his insistence that Americans have the same jury provisions as British citizens without a treaty commitment that led to the king's decision to request Brown's recall.²⁸ Judd arranged for the printing of Brown's correspondence together with documentary evidence disproving Brown's allegations in a 78-page pamphlet entitled *Correspondence between H.H.M. Secretary of State and the U.S. Commissioner, in the Case of John Wiley, an American Citizen*, and the resulting pamphlet accompanied Kauikeaouli's letter to U. S. President Polk in support of his complaint about

²⁶ Laws and Regulations, 11 August 1843, Series 418, Folio 8-3, Early Laws, HSA; "Review of Correspondence between H.H.M.'s Secretary of State and the U. S. Commissioner in the case of John Wiley," *The Friend*, 14 November 1844 Extra; "Convention between Great Britain and the Sandwich Islands," *Friend*, 20 February 1844.

²⁷ Wyllie, *Table*, 5-7; "By Authority," *Polynesian*, 21 September 1844; "Official Journal of the Hawaiian Government," *Polynesian*, 23 November 1844.

²⁸ Chapter 4 discusses Brown's projection of his anger onto the king's white ministers; "Official Journal of the Hawaiian Government," *Polynesian*, 05 April 1845.

Brown.²⁹ Apparently learning that Judd had also given the British and French consuls copies of the pamphlet, Brown himself demanded that Judd present the “whole facts...before my government and European courts.”³⁰

In late September, Brown created an international incident by persuading the U.S. Commander-in-Chief of Naval Forces in the Pacific Captain James Armstrong not to salute the Hawaiian flag while in port or to offer the customary courtesies at the foreign office. The affront was public knowledge at Honolulu, of course, so that when it was publicized in the *Polynesian* as an insult delivered by a high-ranking American naval officer to the sovereign head of the Hawaiian kingdom, the *Polynesian*'s coverage was aimed directly at Washington, D.C. policymakers.³¹

What began as a pamphlet about Brown's conduct that had been prepared for the king's use grew into a vehicle which publicized Brown's antagonistic rhetoric well beyond the confines of private diplomatic correspondence. A literary review of the pamphlet on the front page of the November 2 *Polynesian* rebutted Brown's arguments point-by-point.³² Within days, Jarves ensured its broad distribution by advertising in the *Polynesian* that copies of the pamphlet were for sale at a price of 50 cents.³³ When the *Friend's* editor Damon acknowledged that Jarves had succeeded in publicizing Brown's correspondence “to the world” and pushed back with his own

²⁹ The September 4 trial record already had been printed “by authority” in the *Polynesian* on September 7. See “Before the Governor of Oahu, assisted by Hon G. P. Judd and J. Ricord, Esq., H. H. M. Att’y General, at the Fort, Sept. 4, 1844,” *Polynesian*, 07 September 1844; *Correspondence in the Case of John Wiley (1844)*; Kamehameha III to President of the United States (John Tyler), 20 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA; see also the discussion in Chapter 4.

³⁰ G. P. Judd to R. C. Wyllie, 17 September 1844 and G. P. Judd to J. Dudoit, 18 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA; G. Brown to G. P. Judd, 18 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA.

³¹ “By Authority,” *Polynesian*, 28 September 1844, extra dated 02 October.

³² “Literary Review: *Correspondence between H. H. M.'s Secretary of State and the U. S. Commissioner in the Case of John Wiley, an American citizen*. Printed by order of Government. Government Press: Honolulu, 1844,” *The Polynesian*, 02 November 1844.

³³ “Important Correspondence,” *Polynesian*, 16 November 1844.

six-page review in defense of Brown's arguments, that only gave Jarves an opportunity to prolong the debate by rebutting Damon's rebuttal, followed by a subsequent article strongly endorsing the king's sovereign privileges: Brown should have simply stated the law, Jarves wrote, "and not argue[d] its propriety. . . [he] interpreted it for himself in direct opposition to His Majesty's court, the law of the kingdom. . . Every nation makes and interprets its own laws, and is not bound, provided they do not conflict with the laws and good sense of nations, to show grounds for their propriety to foreign tribunals."³⁴

Two more hard-hitting articles authored by Jarves in support of the king's selection of white ministers appeared in the *Polynesian* in January 1845.³⁵ Then in February, an editorial decried the bitterness and hostility of "some foreigners," followed by another editorial labeling them "resident alien opposers."³⁶ In March, when Brown and officers from the U. S. S. *Brandywine* refused to accept a court verdict convicting one of the *Brandywine*'s seaman of a breach of the peace, an editorial in the pages of the *Polynesian* issued a direct challenge to the U.S. government:³⁷

the effrontery of those gentlemen in their dictation to the judge, is matchless. . . it remains to be seen whether the President of the United States has among the other duties of subordinate naval officers, given them instructions to establish themselves at will and where they please in a dictatorial tribunal or to terrify foreign judges into decisions in compliance with their views. . . They may rest assured, however, that this Government will strenuously and fearlessly assert the proper jurisdiction of her Court, and that nothing short of absolute conquest will coerce them to depart from the only policy which justice and honor dictate.³⁸

³⁴ *Friend*, 14 November 1844, extra; "Official Journal of the Hawaiian Government," *Polynesian*, 23 November 1844; Editorial, *Polynesian*, 30 November 1844.

³⁵ "Official Journal of the Hawaiian Government, *Polynesian*, 04 January and 18 January 1845.

³⁶ "Official Journal of the Hawaiian Government, *Polynesian*, 08, 15 February 1845.

³⁷ Brown attempted to address the judge at the conclusion of James Gray's trial, and he encouraged the naval officers to reject the court's judgment. See *Polynesian*, 08 March 1845.

³⁸ "To His Excellency M. Kekuanaoa," *Polynesian*, 08 March 1845.

Jarves announced that the *Polynesian* would substantiate its criticism by printing the entire proceedings of the *Brandywine* seaman James Gray's trial beginning in its March 22 edition to show "the manner in which the naval officers and resident consul handled it. . . [Brown] made an acrimonious assault upon the reputations of the highest officers of H. M.'s Government. . .[and] was sustained by two naval officers from the U. S. S. Brandywine."³⁹

Brown's strident criticisms also provided an opportunity to deliver a powerful defense of the kingdom's court system. Using his position as the king's spokesman, Jarves pointed out in an April 5, 1845 article that the need for a western-style judicial system arose because of the need to "maintain order and promote justice among contentious foreigners."⁴⁰ Coming as it did shortly before the king's May 20 announcement of his policy initiative to reorganize the courts and reform the laws, Jarves' straight-forward presentation informed local and international readers about the competing community interests and set the stage for Ricord's comprehensive review.

Brown's abusive attacks continued unabated, however, and Kauikeaouli strongly suspected that Brown was involved in the 1845 flurry of petitions from Hawaiians praying for the removal of white ministers.⁴¹ While the discussion in Chapter 4 about Brown's behavior focuses on his objections to the king's policy of employing white ministers, here the focus is on the king's use of print media to expose Brown's actions both locally and internationally.

When the privy council learned in late July that Brown had written the ABCFM at Boston to enlist their help in persuading the U. S. government to take action against the king's administration, the alarmed council members concluded that Brown's actions were intended "e

³⁹ "Official Journal of the Hawaiian Government," *Polynesian*, 15 March 1845. The transcript was printed in the March 22 and 29 editions.

⁴⁰ "Official Journal of the Hawaiian Government," *Polynesian*, 05 April 1845.

⁴¹ See Chapter 4 for a full discussion.

hoohaunaele, a e hooulu i ka mokuahana, aole hoi e malu ke Aupuni ke hoomanawanui hou aku . . . to create discord – to promote sedition, and can no longer be tolerated with safety to the Kingdom,” after which they resolved to end all official correspondence with Brown and agreed to publish his latest correspondence in the next issue of the *Polynesian*.⁴² The August 2 edition carried copies of Wyllie’s letters to Brown and the local consular corps announcing the king’s decision to interdict Brown and order him from the kingdom. In a separate column in the same edition, Jarves defended the king’s action because “no nation. . . [should have to] submit to such a continued series of threats, indignities, and unjustifiable interference in its civil and political concerns, as has been experienced here from Mr. Commissioner Brown.”⁴³ Hooper lodged an official complaint about Brown’s interdiction that was printed without comment by the *Friend* on August 15, the *Polynesian* on August 16 and *Ka Elele* on August 26.⁴⁴ The *Polynesian* also offered for sale another 153-page compendium of Brown’s correspondence and documents disproving his allegations entitled *Correspondence between H.M. ’s Minister of Foreign Relations and the U.S. Commissioner, in the Case of John Wiley, an American Citizen, Imprisoned at the instance of Viscount William de la Perrotiere, M.D., a French subject*.⁴⁵

Another derogatory article about Brown had appeared in the *Polynesian* on July 26 in the form of a letter to the editor under the pseudonym “Alienus,” who the newspaper identified as “a highly respectable source, the author being an American.”⁴⁶ Referring to Alienus’ letter, Brown

⁴² Minutes, 29 July 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, the kuhina nui, Judd, Wyllie, Ricord, Kana’ina, Keahonui [aka Keali’iahonui], Leleiōhoku, Kekūānāo’a, Kekau’ōnohi, Pākī, and Ī’i.

⁴³ Editorial, *Polynesian*, 02 August 1845.

⁴⁴ “Official,” *Friend*, 15 August 1845; *Polynesian*, 16 August 1845; “He Olelo Hoolaha,” *Ka Elele*, 26 August 1845. Hooper’s complaint was dated August 2. Hooper also filed a complaint about his title, preferring to style himself “Acting U. S. Commercial Agent.” See Wyllie, *Table*, 21 October 1844.

⁴⁵ *Correspondence in the Case of John Wiley (1845)*.

⁴⁶ “Letter to the Editor,” *Polynesian*, 26 July 1845; see also, R. C. Wyllie to G. Brown, 29 July 1845, *Correspondence in the Case of John Wiley (1845)*, 137.

protested vigorously that the government newspaper had printed “grossly infamous and false charges” about him.⁴⁷ Brown had already made it clear that he well understood the international reach of the government newspaper: “the attacks on me in your communications, indeed would require no answer, were they to be made public only on these Islands; but copies of your letters, must go to the United States, where they most probably will be published.”⁴⁸ Press coverage about Brown’s conduct in fact had spread internationally, for the writer of a December 1845 article in the *New York Journal of Commerce* commented that the appointment of Brown is now “universally acknowledged to have been a great mistake.”⁴⁹

Hooper assumed Brown’s duties, and both he and Brown continued to hurl insults at the government, the courts, and the king’s ministers.⁵⁰ Brown finally departed the kingdom in June 1846 after his replacement Anthony Ten Eyck arrived.⁵¹ Shortly before he left, however, Brown made another scene in open court in May 1846 during an action for libel brought by Peter A. Brinsmade against Jarves. Kauikeaouli ordered Wyllie to write a letter of complaint to the U. S. Secretary of State about Brown’s attempts to intimidate witnesses, and Wyllie attached transcript copies from the court’s stenographic record along with issues of the *Polynesian* to illustrate Brown’s “anarchy and contempt for the King’s authority.”⁵² The *Polynesian*’s press reports were persuasive. It was later reported that U.S. Secretary of State James Buchanan expressed his

⁴⁷ G. Brown to R. C. Wyllie, 28 July 1845 and R. C. Wyllie to G. Brown, 29 Jul 1845, *Correspondence in the Case of John Wiley (1845)*, 135-7.

⁴⁸ George Brown to R. C. Wyllie, 18 July 1845, *Correspondence in the Case of John Wiley (1845)*, 80.

⁴⁹ “Americans in the Sandwich Islands,” *New York Journal of Commerce*, 18 December 1845, as reprinted in *The Polynesian*, 24 October 1846.

⁵⁰ Richard A. Greer, “A. G. Abell’s Hawaiian Interlude,” *HJH* 29 (1995): 62; R. C. Wyllie to A Ten Eyck, 06 August 1847, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

⁵¹ Minutes, 17 June 1846, Series 421, vol. 1, Privy Council, HSA. Brown never made it home. All hands and passengers were lost when his ship sank in Micronesia. See Newbury, “Commissioner George Brown,” 83.

⁵² R. C. Wyllie to U. S. Secretary of State, 11 May 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

disapproval of Brown's conduct and commented that "the sympathies of the American Government were largely enlisted in . . . His Majesty and His Government, and all its apparent difficulties."⁵³

Kauikeaouli sets the publication policy

On August 9—only about a week after publication of Brown's interdiction—Miller appeared at a privy council meeting in a state of "the most nervous excitement." Miller's agitation increased as he insisted that the king read the letters he had brought. Speaking in a "tremulous and very agitated voice," Miller levied charges against the king's white ministers and informed the king that he had been commanded "to insist" that the land which Charlton claimed should be delivered up to him even before the judicial process had concluded.⁵⁴

Miller's demand contradicted the Earl of Aberdeen's 1843 letter agreement and the Earl's verbal commitments made to Ha'alilio and Richards while they were in London.⁵⁵ Privy council members also learned that the British government had not received the king's dispatches on Charlton's claim that he had forwarded to Miller for transmission, even though Miller's dispatches had been received. Privy council members suspected that Miller was acting in concert with Brown, and the king saw Miller's demand as an attempt to manage the internal policy of his government. After Miller left, they discussed the matter at length and decided that everyone should reflect and consider again at the next meeting.⁵⁶

⁵³ "Extracts from Dispatches from Washington, on receipt of Mr. Brown's last Dispatches, in December last, accompanying the Memorial," *Polynesian*, 05 December 1846.

⁵⁴ Minutes, 09 August 1845, Series 421, vol. 1, Privy Council, HSA. Attendees were the king, the kuhina nui, Kekau'ōnohi, Pākī, Leleiōhoku, Kekūānāo'a, Kana'ina, Keli'iahonui, Ricord, Richards, Judd, and Wyllie. Emphasis in the official notes.

⁵⁵ Aberdeen to Ha'alilio and Richards, 12 September 1843, Series 404, Box 61, vol. 2, Hawaiian Officials Abroad, FO&EX, HSA.

⁵⁶ Minutes, 09 August 1845, Series 421, vol. 1, Privy Council, HSA.

Kauikeaouli and the privy council met again on August 13 at the king's summer palace in Nu'uano to finalize the text of Wyllie's reply to Miller's demands.⁵⁷ By that time, Wyllie had been told that Miller and Brown had colluded on a secret plan to overthrow the Hawaiian government. One facet of their plan involved coercing a U. S. naval squadron to force the king to dismiss all foreigners in his service. In the meantime, Brown would throw the courts into confusion and make it appear that American citizens could not obtain justice in them.⁵⁸ Miller's denunciation of the white ministers in the August 9 privy council meeting mirrored Brown's denunciations, seemingly confirming the existence of the plan.

Kauikeaouli voiced his concern to the privy council that Miller's attempt to dictate the outcome of the Charlton claim before it had been adjudicated was "i ka hoomaka ana o ka hoole hana, ke hoi hou nei i ka wa o Lord George Paulet . . . the beginning of the undoing of things, a return to what was done by Paulet." No doubt remembering Captain Armstrong's behavior during his 1844 port visit, privy council members also expressed fears that Brown "might deceive any American Naval Commander who might arrive." Obviously determined not to be blindsided again by criticisms of his governance sent in secret diplomatic reports, Kauikeaouli ended the meeting by declaring "e pono ia'u ke hoouna aku i ka'u palapala, a me na mea hoike . . . I must also send to the British Government my correspondence and evidence," and it was so ordered.⁵⁹

⁵⁷ The remains of Kaniakapupu palace can be visited by a short walk through a bamboo forest bordering Nu'uano Pali Drive.

⁵⁸ "Private letter," R. C. Wyllie to A. Bishop, 13 August 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

⁵⁹ Minutes, 13 August 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, the kuhina nui, Pākī, Leleiōhoku, Kekūanāo'a, Kana'ina, Keali'iahonui, Ricord, Richards, Judd and Wyllie. Richards translated for the king and chiefs. Here the word "palapala" referred to the king's own diplomatic correspondence and administrative correspondence.

On September 2, Kauikeaouli took the further step of securing a privy council resolution to issue a letter of instruction to Wyllie ordering Wyllie to publicly disclose the kingdom's side in diplomatic disputes so that foreign powers could not be deceived by their consuls:⁶⁰

eia ko'u manao ia oe no ko kakou pilikia i keia wa i na Aupuni e, a no ka manao hooihia wale mai o kekahi poe. E pono ke paiia na hihia a pau loa, a me na palapala oihana i pili pu i na hihia, ke ae like oukou ka poe hoa Kuhina ma ka oukou olelo malu ana.

. . . .

here is my thought about all our present troubles with foreign governments and the determination of certain persons to bring us into trouble without cause, it is my opinion that all cases which occur should be made public and all diplomatic correspondence be printed which relates to those difficulties, provided all the Ministers of the Cabinet are in consultation agreed thereto.⁶¹

Disclosing the kingdom's position to the world was a matter of great urgency, the king stressed, for the very preservation of the stability and security of the kingdom was at stake: "no ka mea, o ka nalo o ko kakou pono a me ko kakou aoao, oia auanei ka make o ke Aupuni . . . for the hiding of our cause and our defense will be likely to prove the ruin of the government."⁶²

Four days later, on September 6, the *Polynesian* began front-page publication of Miller's correspondence with Wyllie about a variety of alleged claims, including the hotly-disputed Charlton land claim.⁶³ Publication in the pages of the *Polynesian* of Miller's diplomatic correspondence with Wyllie continued throughout the rest of September, and in all of the October editions. A pamphlet collection of the letters entitled *Correspondence between H. H. M.'s Secretary of State for Foreign Affairs, and Her Britannic Majesty's Consul General, on the*

⁶⁰ It appears from the way the minutes are recorded that the letter had been prepared in advance and only awaited the passing of the resolution.

⁶¹ Minutes, 02 September 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, the kuhina nui, Judd, Richards, Ricord, Pākī, 'Ī'ī, Kekūanāo'a, and Kana'ina.

⁶² Minutes, 02 September 1845, Series 421, vol. 1, Privy Council, HSA. Official texts.

⁶³ *Polynesian*, 06 September 1845.

subject of Richard Charlton's Claim to Land (1845) was later offered for sale at a cost of 75 cents.⁶⁴

To Wyllie's relief, the U. S. Commander of the Pacific Squadron, Admiral John D. Sloat, arrived in port on September 24 for a routine visit "with no revolutionary ends" and enjoyed a courteous personal audience with Kauikeaouli.⁶⁵ When Sloat questioned Wyllie about the purchase of the government press, Wyllie responded that

it is true the Polynesian Press was bought by the Govt and that it is the Govt organ, but as is the case in London and Washington, the Editor retains a certain degree of independence, and I am not aware that he has exercised it with more than what is taken by the Govt organs in both of those Capitals. All articles appearing in the Polynesian under the heading "By Authority" are of course under the responsibility of Govt.⁶⁶

British Admiral George Seymour was less courteous in October during his routine port visit. Primed by Miller, Seymour addressed a scolding letter to Kauikeaouli and dressed down Judd in front of the king.⁶⁷ Wyllie composed a reply to Seymour for the king about the various issues that had been discussed, but the admiral sailed during the night of October 10 before Wyllie could deliver the letter. Wyllie's letter also had apprised Seymour that the king's new publication policy ensured that "the proceedings of his courts, and the acts of His Government are published, so that the whole world may judge of the rectitude of his intentions & the conduct

⁶⁴ "List of Pamphlets," *Polynesian*, 27 November 1847.

⁶⁵ R. C. Wyllie to P. J. Gulick, 26 September 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA; R. C. Wyllie to Admiral J. Sloat, 04 October 1845, Series 410, Box 2, Book 1, Letters, Consular Correspondence, HSA. Sloat also initiated conversation about Brown's interdiction and Wiley's trial, but he appears to have accepted Wyllie's explanations. See Wyllie, *Table*, 23-4.

⁶⁶ Wyllie to Sloat, 04 October 1845, Series 410, Box 2, Book 1, Letters, Consular Correspondence, HSA. Sloat also questioned Wyllie about the king's belief that Brown was implicated in the petitions submitted by several thousand Hawaiians.

⁶⁷ Minutes, 07 October 1845, Series 421, vol. 1, Privy Council, HSA. Attendees were the king, Seymour, British Consul General Miller, the Rev. Armstrong as Seymour's translator, Judd, and Wyllie. Chapter 4 relates the king's reaction to Seymour's threats that he would forcibly redress the grievances of British citizens on his return if Kauikeaouli did not resolve them first.

of his ministers.”⁶⁸ Accordingly, on October 27, 1845 an extra edition of the *Polynesian* published Seymour’s intemperate letter and Wyllie’s undelivered October 10 reply right alongside a courteous exchange of letters with the American Admiral Sloat, whose visit overlapped with that of Seymour.

Seymour’s rank as a naval admiral ensured that his actions carried the imprimatur of the British government. Not just the British in London read the *Polynesian*, of course. So too did the Americans in Washington, D.C. and the French in Paris. That meant that when the exchange of correspondence between Wyllie and Seymour became of public record in the government newspaper, it circulated in worldwide public forums and focused attention on British attempts to deny the king his right to exercise his sovereign duties and responsibilities. In a letter to Sloat of October 13, Wyllie predicted that Seymour’s conduct “[would soon] be apparent to the whole world when the Correspondence interchanged with you & with the Admiral [Seymour] is published, which it will be soon. . . . [and the danger posed by Seymour’s conduct] will not soon be forgotten by the King.” Then Wyllie added, “I will take care to send a copy to you.”⁶⁹

Wyllie thereafter routinely cited “an autograph order from the King himself dated September 1845” as his authority “to publish all official correspondence with the Agents of Foreign Nations, upon contentious matters, likely to involve this Kingdom in difficulty with their respective nations, as the only means of guarding against ex parte complaints, & of making certain in every case, the knowledge of both sides of the question.”⁷⁰ The publication policy coupled with positive coverage of the king’s policies created a two-pronged approach that

⁶⁸ R. C. Wyllie to Admiral G. F. Seymour, 10 October 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA.

⁶⁹ Wyllie to Sloat, 13 October 1845, Series 410, Box 2, Book 1, Letters, Consular Correspondence, HSA.

⁷⁰ R. C. Wyllie to W. Dillon, 13 February 1849, Series 410, Box 3, vol. 13, part 2, Foreign Officials in Hawai‘i, Consular Correspondence, HSA. Emphasis in the original.

became the standard procedure followed by the privy council. Wyllie's habit was to place his drafted replies to consular agents before the king in council for discussion and approval.⁷¹

Kauikeaouli, the chiefs, and the ministers jointly decided which diplomatic letters to publish.⁷²

Privy council members also reviewed and edited articles about the king's policies prepared for publication in the *Polynesian*.⁷³

The government press broadens its reach

The sale of pamphlets and special publications became another way to affirmatively publicize the kingdom's rights and privileges to a broader audience than the *Polynesian* commanded, and they were available beyond the short lifespan of a newspaper issue. It became standard practice to publicize diplomatic disputes and contentious court cases first in the pages of the *Polynesian*, and then to present the government's arguments along with the correspondence record in pamphlet form offered for sale in subsequent *Polynesian* issues. James Gray's trial documents, for example, were printed in pamphlet form entitled *Report of the Case of James Gray, an American citizen, Plaintiff in Appeal, v. the Hawaiian Government* (1845) and sold for 50 cents. The government's arguments refuting Seymour's October 1845 evidentiary findings about the Charlton dispute also went up for sale in two different pamphlets:⁷⁴

1. *Investigation pursued at the Palace, by command of the King and Premier, in the fall of 1845, in vindication of the course pursued by His Majesty relative to R. Charlton's alleged claim to the land Pūlaholaho, in Honolulu.* 1845. 115 pages.

⁷¹ Minutes, 21 August 1846, Series 421, vol. 2, Privy Council, HSA.

⁷² Minutes, 16 August 1845, Series 421, vol. 1, Privy Council, HSA.

⁷³ Minutes, 13 August 1845, Series 421, vol. 1, Privy Council, HSA.

⁷⁴ "List of Pamphlets," *Polynesian*, 27 November 1847.

This pamphlet presents the results of the government's own investigation into the validity of Charlton's deed. Price: \$1.00.

2. *First Supplement to the Investigation at the Palace, containing the particulars of the Inquiry before the King and Rear Admiral Sir George F. Seymour, upon the authenticity of Mr. Charlton's Deed, and the Complaints of William Miller, Esq., H. B. M.'s Consul General, touching the caveats and the case of James Ruddack.* 1846. 85 pages. Price: 75 cents. The British government later relied on the judgment Seymour reached about the authenticity of Charlton's deed, and the king's ministers printed this pamphlet to demonstrate the false premise on which that judgment rested.

Some of the pamphlet titles continued to be sold for several years. The 1845 pamphlet entitled *Correspondence between H.M.'s Minister of Foreign Relations and the U.S. Commissioner, in the Case of John Wiley, an American Citizen, Imprisoned at the instance of Viscount William de la Perrotiere, M.D., a French subject*, for example, still sold for 75 cents in 1848. The pamphlet contained the kingdom's defense of its juridical prerogatives, and those arguments continued to enrich debate during the treaty renegotiations with Britain and France over removal of extraterritorial restrictions.⁷⁵

Wyllie's *Table of Consular Grievances, 1843-1846* catalogued the number of complaints filed by American, British and French merchants, consuls and naval officers during those years over perceived legal and civil injustices suffered under Hawaiian governance. Over time, the number filed had grown to a bureaucratically unmanageable number, and "the king and his

⁷⁵ "List of Pamphlets," *Polynesian*, 16 December 1848. Chapter 7 discusses the treaty renegotiations.

chiefs are tired of being so worried by the Representatives of the Nations who are their best friends.”⁷⁶ Consequently, Wyllie proposed and the legislature resolved in February 1846 that Wyllie should compile a three-year catalog of their complaints to be printed by the government press and forwarded to their governments as evidence of their harassing tactics.⁷⁷

Wyllie regularly sent copies of Miller’s correspondence to the kingdom’s commissioner at London Archibald Barclay, and in June 1846 he explained to Barclay that the practical impact from the filing of so many grievances by the Consul General and U. S. Commissioner was “to clog the machinery of Govt, render its working laborious or impracticable and keep alive that suspicion and distrust which are subversive of all regular authority.” The diplomatic impact was of even greater import. According to Wyllie, “the feeling thus engendered in the King and all the Members of his Govt, is one of the most feverish distrust of all the Consul General communications that relate to the concerns of these Islands.”⁷⁸ Later that same month, Wyllie told Miller very plainly that “the painful conviction has forced itself on the King and his Government, that all your measures are combined with the views of exasperating the British government against the King’s administration.”⁷⁹

Special publications also included copies of the official reports of the king’s ministers as presented to the king and the legislature at opening sessions. The speeches were printed as news in the *Polynesian*, the *Friend* and *Ka Elele* at the time they were delivered, but copies of them

⁷⁶ R. C. Wyllie to Archibald Barclay, King’s Hawaiian Commissioner at London, 14 March 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA. Although French consul Dudoit, a long-time resident, filed few complaints.

⁷⁷ R. C. Wyllie to A. Barclay, 04 June 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

⁷⁸ Ibid.

⁷⁹ R. C. Wyllie to W. Miller, 22 June 1846, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

also were offered for sale by the *Polynesian* for several years afterwards.⁸⁰ In 1847 the *Polynesian* offered for sale at a price of 25 cents each copies of the official reports of the attorney general, interior minister, foreign affairs minister, and minister of public education from the years 1845, 1846 and 1847.⁸¹ The reports evidenced “to the world” the kingdom’s ability to govern itself and interact with other sovereign states. The attorney general’s reports, for example, reviewed at length the proposed reforms to the executive and judicial branches, and Wyllie annually reviewed the kingdom’s relationships with its treaty partners. The finance and interior ministers’ reports on the economic health of the kingdom were supported by commercial analyses appearing in the *Polynesian* such as the January 4, 1845 “Statistics of the Whaling Fleet for the Year 1844. Hawaiian Islands” and the January 30, 1847 “Statement of Imports, Exports, Duties, &c., at the port of Honolulu, Oahu, H. I., from January 1st to December 31st, 1846.” Wyllie also seized the diplomatic high-ground in his 1847 report when he publicized Admiral Seymour’s 1846 correspondence regarding the Charlton and Ruddack disputes by appending copies of Seymour’s letters to the *Polynesian* print edition of his report.⁸²

A three-page article written in 1846 by an unnamed author for the Boston publication *Littell’s Living Age* demonstrated the international reach of the *Polynesian* and the public relations utility of its pamphlet sales. The author’s bias was decidedly pro-American, and he sought to discover from Miller’s 1844-1845 correspondence with the Hawaiian government some hint that Great Britain intended to make an “unprovoked usurpation” of the islands to seize command of the Pacific. He obtained and studied the government pamphlets that printed reports submitted by the ministers of foreign affairs, interior and attorney general, the 1845 pamphlet of

⁸⁰ In the *Friend*, see for example, 01 May 1847 and 01 May 1848. In *Ka Elele*, see for example, 08 June 1848.

⁸¹ There is no explanation given for omission of the finance minister’s reports.

⁸² “Report of the Minister of Foreign Relations,” *Polynesian*, 05 June 1847.

Miller's correspondence entitled *Correspondence between H. H. M.'s Secretary of State for Foreign Affairs, and Her Britannic Majesty's Consul General, on the subject of Richard Charlton's Claim to Land*, and the letters of an unnamed New York correspondent of the *Union*. The author also relied on "a file" of the *Polynesian*, which he characterized as a "very respectable paper which is published at Honolulu, and is the organ of the government." Finding no evidence to support his hypothesis, however, the author satisfied himself with simply reviewing Miller and Wyllie's correspondence.⁸³

The author of another 1846 article in an American paper also had been struck with what he described as the well-printed series of public documents on "various questions of public interest" produced by the *Polynesian* press. Run under the banner "Attorney General of the Sandwich Islands," the article reported that the author was particularly impressed with the "Report on the Inferences of the Constitution" written by Ricord that Kauikeaouli read before the legislature in May 1845, opining that such an "able and enlightened document" augured well for the progress there of a civil society.⁸⁴

An opposition press begins publishing

Opposition among foreign residents to the editorial slant and reach of the *Polynesian* led a group of twenty to form the Sandwich Islands News Association in 1846 to produce their own English-language newspaper. The Association bought a press, type, and other materials from the Sandwich Islands Mission for about \$1,300, and published the first issue of the *Sandwich Islands News* on September 2 at a single-subscription cost of \$6.00 per annum.⁸⁵ The Association

⁸³ "Correspondence, The Sandwich Islands," *Littell's Living Age* 9 (April 18, 1846): 148-50.

⁸⁴ "Attorney General of the Sandwich Islands," no attribution, as reprinted by *Polynesian* on October 24, 1846.

⁸⁵ "Alexander G. Abell to G. Brown, August 25, 1846," MS Brown Correspondence 1843-1846, HHS.

presented an international editorial board: an American, the U. S. Consul A. G. Abell, a British businessman, R. C. Janion, and a Belgian lawyer, J. B. de Fiennes.⁸⁶ Janion took charge of selling subscriptions and soliciting news items, while Abell took charge of producing the issues.⁸⁷ Brinsmade, a former Ladd & Co. principal and a former U. S. consul appointed in 1844, soon took an active editorial role.⁸⁸ The editors promised fair reporting: “A mistaken idea appears to have gone forth among a certain class that it is commenced expressly for the purpose of opposition to the government, and is necessarily to be hostile to it and all its measures. Nothing can be further from the truth.”⁸⁹

Like the *Friend* and the *Polynesian*, the *News* listed ships’ arrivals at island ports and carried international news, such as British policy regarding the Oregon boundary dispute.⁹⁰ An October 7, 1846 issue signaled that there would be broad geographic distribution of its issues when it informed that British Admiral Seymour and American Commodore Biddle had purchased subscriptions. Privately, Abell confirmed that the Association’s intent was to disseminate the paper abroad widely, and to send copies of it to Atlantic newspapers “with a ‘please exchange’.”⁹¹ The newspaper soon sold more than 300 subscriptions. Together with income from job printing, the venture enjoyed financial success.⁹²

⁸⁶ de Fiennes acted as Charlton’s attorney in his contested land claim.

⁸⁷ Greer, “Abell,” 68.

⁸⁸ Greer, “Abell,” 61, 68. Abell replaced Brinsmade. Brinsmade subsequently filed a libel suit against Jarves about articles printed in the *Polynesian*. See R. C. Wyllie to U. S. Secretary of State, 11 May 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

⁸⁹ *Sandwich Islands News*, 02 September 1846.

⁹⁰ *Sandwich Islands News*, 09 September, 16 September, 30 September 1846. Other British naval officers also subscribed, see R. C. Wyllie to A. Ten Eyck, 19 October 1847, Series 410, Box 3 vol. 13, part 1, Foreign Officials in Hawai‘i, Consular Correspondence, HSA.

⁹¹ “Abell to Brown, 25 August 1846,” MS Brown Correspondence 1843-1846.

⁹² Greer, “Abell,” 70.

Private correspondence from Abell the following April, however, contradicted the public statements of impartiality: “I have to do most of the editing for the paper I send you—the ‘Sandwich Isllds. News.’ It was established by the foreign residents to prevent the government newspaper—the ‘Polynesian,’—from lying too much, & to protest themselves by giving publicity to the many unjust & arbitrary acts which have been committed by the men who control the King & his government.”⁹³ Jarves observed that by then the *News* had become “an organ of virulent abuse of the government, missionaries, and their patrons. . . . [and] by its misstatements numbers of benevolent individuals abroad were led [astray].”⁹⁴

The Americans Abell, Hooper and Brinsmade took a prominent role in placing malicious articles about the king and his white ministers in the pages of the *News*.⁹⁵ Articles satirizing Richards, Ricord, and Judd as the bumbling ministers of an imaginary South Seas kingdom appeared in a six-part series spitefully entitled “Tongataboo Letters.”⁹⁶ Judge Lorrin Andrews was characterized as “that personification of judicial imbecility.”⁹⁷ After Brinsmade authored a March 1847 article in which he suggested that the actions of Kauikeaouli’s white ministers may well give Britain cause to reevaluate its commitment to the independence of the islands, allegations surfaced that Miller (who was a member of the Association) had supplied Brinsmade with material for the article.⁹⁸ Fearing that the comments were calculated to “induce some other

⁹³ A. G. Abell to his sister, 20 April 1847, M-442, Alexander Guron Abell, U. S. Consul, Manuscript Collection, HSA.

⁹⁴ Jarves, *History*, 3d. ed., 156.

⁹⁵ R. C. Wyllie to A. Ten Eyck, 14 August 1847, Series 410, Box 3, Book 3, no. 12, part 2, Letters, Consular Correspondence, HSA.

⁹⁶ Greer, “Abell,” 69. The series began in September 1846. Tongatabu is the main island of the kingdom of Tonga and in December 1846 had figured prominently in the battle for political supremacy which ended with the consolidation of power with missionary help under King George Tupou I. See Sione Lātūkefu, “King George Tupou I of Tonga,” *Pacific Islands Portraits*, eds. J. W. Davidson and Deryck Scarr (Canberra: Australian National University, 1970), 66-7.

⁹⁷ As cited by Greer, “Abell,” 70.

⁹⁸ *Sandwich Islands News*, 24 March 1847; Greer, “Abell,” 68.

Nation to seize the islands, upon the plea that Great Britain is only waiting time and occasion to seize them,” the cabinet ministers resolved in a March 25 meeting to publish all of Miller’s correspondence to show that the opinions and views as printed in the *News* were directly opposed to the opinions and views of the British government.⁹⁹ Publication began three days later captioned with a strong statement from Wyllie that the insinuations made in the *News* about British intentions “are utterly false.”¹⁰⁰

When another of Brinsmade’s articles published in late March slandered a Hawaiian judge who had presided over the Ladd & Co. arbitration, the ministers disgustedly decided that the character of the editors was “too low to justify any notice of them,” unless they assert falsehoods about a foreign government or the king’s safety in his relations to those governments.¹⁰¹ Better to permit the *News* to continue to publish, Wyllie later explained to Ten Eyck, to prevent dissident residents from alleging that “no one under this Government could express his mind fully without injury and persecution.”¹⁰²

But the onslaught of nakedly political attacks proved too fierce to tolerate, and in April and May 1847 the *Polynesian* retaliated with full-page editorials protesting Brinsmade’s conflicts of interest and outright falsities in his coverage for the *News* of the Ladd & Co. arbitration.¹⁰³ After that, Wyllie lodged two formal complaints with U. S. Commissioner Ten Eyck during late July about the content and authorship of the *News* articles, and he asked Ten

⁹⁹ R. C. Wyllie to W. Miller, 24 March 1847, Series 410, Box 3, Book 3, no. 12, part 2, Letters, Consular Correspondence, HSA; Meeting minutes, 24 March 1847, Series 422, vol. 1, Cabinet Council, HSA; *Sandwich Islands News* 17 March 1847 (no. 29) and 24 March 1847 (no.30).

¹⁰⁰ “Official,” *Polynesian*, 27 March 1847.

¹⁰¹ Minutes, 02 April 1847, Series 422, vol.1, Cabinet Council, HSA; *Sandwich Islands News*, 31 March 1847; Minutes, 08 April 1847, Series 422, vol. 2, Cabinet Council, HSA.

¹⁰² R. C. Wyllie to A. Ten Eyck, 19 October 1847, Series 410, Box 3, vol. 13 part 1, Foreign Officials in Hawai‘i, Consular Correspondence, HSA.

¹⁰³ Editorials, *Polynesian*, 17 April, 24 April, and 01 May 1847.

Eyck to forward his complaints to the U. S. Secretary of State.¹⁰⁴ On August 4, 1847 the king ordered Wyllie to complain directly to the U. S. Secretary of State that writers for the *News* were slandering government officials.¹⁰⁵ Because editor Janion was British, Wyllie repeated his allegations in a complaint to Miller for him to forward to Lord Palmerston in London. Wyllie also informed Miller that Section 4 of the Hawaiian Statutes granted the government the power and right to suppress and punish licentious journalists.¹⁰⁶ While Wyllie advised Miller that the government preferred to handle instances of libel through the appointed commissioners and consuls, he cautioned that the government might be compelled to prosecute Abell, Hooper, Brinsmade and Janion.¹⁰⁷ By that time, Abell had left his consular position for a business venture marketing Hawaiian produce and other goods in California, and he finally departed the kingdom bound for California via Tahiti and Valparaiso in September 1848.¹⁰⁸ Hooper also departed the kingdom in 1848.

Great Britain's final decision ruling in favor of Charlton's claim was communicated by Miller to Wyllie on August 13, 1847, and the related correspondence between the two announcing the decision was printed in the *Polynesian's* September 11 and September 18 issues.¹⁰⁹ Government anger over Britain's decision was intense, and Wyllie attached a scathing letter to the September 18 article accusing Miller of numerous improprieties and pointing out that

¹⁰⁴ R. C. Wyllie to A. Ten Eyck, 23 July, 27 July 1847, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

¹⁰⁵ R. C. Wyllie to A. Ten Eyck, 04 August, 06 August 1847, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

¹⁰⁶ Wyllie's cited statute is from Article VI—Of Newspapers and Periodicals, in "An Act to Organize the Executive Departments," contained in the *Statute Laws of Kamehameha III*, 43-4.

¹⁰⁷ R. C. Wyllie to W. Miller, 13 August 1847, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

¹⁰⁸ Greer, "Abell," 70-2.

¹⁰⁹ Wyllie advised Miller on September 9 that his correspondence would be published. R. C. Wyllie to W. Miller, 09 September 1847, Series 410, Box 3, vol. 13 part 1, Foreign Officials in Hawai'i, Consular Correspondence, HSA.

British claims of the deed's authenticity rested on a false premise.¹¹⁰ Pamphlets about the two investigations into the deed's authenticity went on sale within the week, and by December 16, 1848 five different pamphlets about the dispute laying out different aspects of the government's case against Charlton's claim were made available for sale by the *Polynesian*.¹¹¹

Without explanation, the *News* abruptly ceased publishing as of August 25, 1847. When publication resumed on November 11 with a new publisher, the libelous attacks resumed also. After Judd exposed Ten Eyck as the probable author of especially slanderous articles that had been appearing about the king and his white ministers, Ten Eyck attacked Judd in an open letter printed in the *News* on December 11, 1848.¹¹² At that, Kauikeaouli ordered that all communication with him as U. S. Commissioner cease, and notice to that effect appeared in the December 16 *Polynesian*. The council also resolved to publish all of Ten Eyck's pertinent correspondence in the *Polynesian* and sell it in pamphlet form.¹¹³ Wyllie advised Ten Eyck of the king's commands and that copies of his printed correspondence also would be sent to all diplomatic agents at Honolulu and abroad.¹¹⁴

This became the standard approach followed by Kauikeaouli and his council throughout the remainder of his reign: file written diplomatic complaints which are later made public through print media, publish all pertinent correspondence in the *Polynesian*, and sell copies of

¹¹⁰ "Official Correspondence, with H. B. M.'s Consul General," *Polynesian*, 18 September 1847.

¹¹¹ "Just Published," *Polynesian*, 18 September 1847; "List of Pamphlets," *Polynesian*, 25 September 1847.

¹¹² Minutes, 11 December 1848, Series 421, vol. 3A, Privy Council, HSA; "Published by Authority," *Polynesian*, 30 December 1848, correspondence in which Wyllie charged Ten Eyck with being the author of slanderous articles.

¹¹³ "Published by Authority," *Polynesian*, 16 December 1848, announcing the interdiction; Meeting minutes, 11 December 1848, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, the queen, the kuhina nui, Wyllie, Judd, Armstrong, Lee, Pākī, Kana'ina, Kekūanāo'a, Nāmākehā, 'Ī'ī, Alapa'i, Kapaakea, and Kā'eo. Publication was in the December 30, 1848 edition.

¹¹⁴ R. C. Wyllie to A. Ten Eyck, 14 December 1848, Series 410, Box 3 vol. 13, part 1, Foreign Officials in Hawai'i, Consular Correspondence, HSA.

the correspondence in pamphlet form to ensure broad distribution both locally and internationally.

The *News* still published in January 1848 when the new French Consul William Patrick Dillon arrived bringing the 1846 French treaty for the king to ratify.¹¹⁵ As covered at length in the next chapter, Dillon soon became combative over the import duty assessed on French wines.¹¹⁶ By mid-October his hostility towards the king had become intense, and in early November several articles appeared in the *News* that the council members believed he had written.¹¹⁷ On November 9 the king and council resolved to inform Dillon that his correspondence would be published in pamphlet form and copies sent to all foreign representatives locally and abroad as well as to French Rear Admiral Ferdinand-Alphonse de Hamlin.¹¹⁸ The *Polynesian's* new editor Charles E. Hitchcock continued the same page layout style begun by Jarves when publication “by authority” of Dillon’s letters began in the January 6 edition.¹¹⁹ Dillon protested their publication in a letter printed in the *News* on January 11, 1849, but Wyllie replied that he had the king’s authority to publish so that both sides of the issue would be placed in the public forum.¹²⁰

The relationship with Dillon remained strained, and on April 23, 1849 the king ordered Wyllie to direct all of his correspondence to the French government in Paris and to request

¹¹⁵ Minutes, 23 January 1848, Series 422, vol. 2, Cabinet Council, HSA. January 23 was the date of the meeting, not his arrival.

¹¹⁶ Minutes, 28 February 1848, Series 421, vol. 3A, Privy Council, HSA. Chapter 7 discusses Dillon’s actions.

¹¹⁷ R. C. Wyllie to W. Dillon, 13 January 1849, Series 410, Box 3, vol. 13, part 2, Foreign Officials in Hawai‘i, Consular Correspondence, HSA.

¹¹⁸ Minutes, 17 October 1848, Series 421, vol. 3A, Privy Council, HSA; Minutes, 09 November 1848, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, the kuhina nui, Wyllie, Judd, Kā‘eo, Pākī, and Kekūanā‘o‘a.

¹¹⁹ The changeover in editors occurred with the January 29, 1848 issue; “Official Correspondence, with M. Dillon, the Consul of France,” *Polynesian*, 06 January 1849.

¹²⁰ R. C. Wyllie to W. Dillon, 13 February 1849, Series 410, Box 3, vol. 13, part 2, Foreign Officials in Hawai‘i, Consular Correspondence, HSA.

Dillon's recall.¹²¹ Admiral de Tromelin's subsequent sack of the town in August 1849 and Dillon's part in it are discussed at length in Chapter 7 "Treaties and Secret Orders." The *Polynesian* played a key role in disseminating news to the world at large about the French atrocity by publishing the full exchange of correspondence and the full text of Dillon's defensive pamphlet.¹²²

Meanwhile a September 1848 editorial in the *Polynesian* about the *News* noticed that its ad hominem attacks had caused its list of subscribers to fade away "so its very existence is now dependent on charity," and the *News* editor was in fear that an earlier, unflattering article in the *Polynesian* would ruin his paper's reputation abroad.¹²³ Defeated as much by its own invective as by the *Polynesian*'s exposure of its writers' falsities and misrepresentations, the *News* finally ended publication as of April 14, 1849.

Measuring success

Kauikeaouli used print media to confound his critics by focusing international attention away from their complaints on to his proper exercise of his sovereign prerogatives. "So that the world may read" became the administration's rallying cry as editor Jarves' perfected the use of the *Polynesian* as a diplomatic tool to influence public opinion abroad.¹²⁴ Newspaper reports from America and Europe support a conclusion that the paper's public exposure of Kauikeaouli's governance favorably influenced international opinion. In a December 18, 1845 editorial in the *New York Journal of Commerce* about the complaints from resident Americans in an August

¹²¹ Minutes, 23 April 1849, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, Wyllie, Judd, Armstrong, Pākī, Nāmakehā, Kana'ina, Kapaakea, 'Ī'ī, Kānoa, Kā'eo, and Lee.

¹²² Articles appeared in the following 1849 editions: September 8, 15, 22 and 29, October 6, 13, 20 and 27, and November 3, 17 and 24.

¹²³ "Sandwich Islands News," *Polynesian*, 09 September 1848.

¹²⁴ Jarves, *History*, 3d. ed., 193.

1845 Memorial addressed to the U.S. government, the editor concluded that “the Sandwich Islands Government is clearly in the right. . . . the complainants are factious men, seeking for an irresponsible liberty, which no government ought to allow.”¹²⁵ From an article in a newspaper described as a “London city paper” of August 28, 1849 came affirmation that Kauikeaouli had acted within his sovereign rights to protest French import duty provisions on wines because of his moral opposition to the importation of liquor.¹²⁶

Kauikeaouli’s print publications policy also turned the *Polynesian* into a diplomatic weapon aimed at the agents of its key international allies. Subsequently, reams of correspondence from Ten Eyck, Miller and Seymour about contentious issues were reproduced in its pages “for the world to read.” One series of correspondence between Wyllie and Miller printed in the September 11, 1847 edition ran 9-1/2 columns with 31 separate items, while the exchange with Ten Eyck printed in the December 30, 1848 edition ran 9 columns with 29 separate items.

Word about Ten Eyck’s attempts to destabilize the administration reached the American press. Apparently learning from the *Polynesian*’s December 30 issue about Judd’s seizure of Ten Eyck’s malicious manuscripts, the editor of the February 1, 1849 *Alta California* concluded that although Judd should not have taken the letters, “the Hawaiian Government is justified in making use of the information obtained . . . [it is obvious] that the foreign representatives have interfered improperly in the internal affairs of Hawaii, that they have mistaken their position, and allowed themselves to be drawn into a partisanship where they should have observed a strict

¹²⁵ As reprinted by the *Polynesian*, 24 October 1846.

¹²⁶ As reprinted by the *Polynesian*, 13 January 1849.

neutrality, and that the Hawaiian Government owed it to its position as a nation to act as it has.”¹²⁷

Brown had already been recalled for similar behavior, and in an April 12, 1849 edition, the *New Orleans Daily Crescent* suggested that Ten Eyck also should be recalled. The *Daily Crescent*'s editor cited doggerel from one of Ten Eyck's offending articles that had been printed in the *News* on November 16 and opined that “of course this Government will at once cease to recognize [Ten Eyck] as the representative of the United States. . . .Here the guilty party is receiving the odium that is so justly his due.”¹²⁸ Indeed, policymakers in Washington, D.C. did recall Ten Eyck, just as they had Brown.¹²⁹

No doubt it was the international exposure of his scolding letter to the sovereign head of the independent Hawaiian kingdom that prompted Admiral Seymour to change his adversarial tone. During a private meeting with Kauikeaouli which the king arranged during the admiral's return visit in August 1846, Seymour promised to devote a full week to personally investigate the complaints from British citizens that Miller had collected and to work directly with Kauikeaouli to resolve them.¹³⁰ Miller's own relationships with Kauikeaouli and Wyllie improved after the contentious Charlton dispute concluded, and he continued as Britain's consul general at Hawai'i until his death in 1861.¹³¹

While the role of print media in sustaining the kingdom's independence during the 1840s has largely been overlooked, it was of paramount importance to the success of Kauikeaouli's

¹²⁷ As reprinted by the *Polynesian*, 17 March 1849. In its December 30, 1848 edition, the *Polynesian* printed an account of Judd's seizure of Ten Eyck's manuscripts and also printed a portion of the offending material.

¹²⁸ The same doggerel was reprinted in the *Polynesian* on December 30, but the text of the *New Orleans Daily Crescent* suggests that the *News* was its source.

¹²⁹ Kuykendall noted that U. S. Secretary of State Buchanan in October 1848 had already evidenced his displeasure with Ten Eyck's conduct. See Kuykendall, *Hawaiian Kingdom*, 1:378.

¹³⁰ Minutes, 24 August 1846, Series 421, vol. 2, Privy Council, HSA.

¹³¹ Boase, *Modern English Biography*, 884.

overall strategy. When Jarves identified the *Polynesian* as the platform which would announce the king's views and opinions to an international audience, the government press became what Ogborn termed the "mode of influence" that extended Kāiākeaouli's political reach into Europe and America.¹³² Kāiākeaouli's tactical use of the two-pronged print media policy developed favorable international diplomatic opinion for his governance while it simultaneously exposed the partisan agendas of foreign agents. Without those political results, the king could not expect to prevail in treaty renegotiations with Great Britain and France, and without the removal of extraterritorial treaty provisions, Kāiākeaouli could not secure the kingdom's economic future or insure the stability and reliability of his courts' juridical processes.

¹³² Ogborn, *Indian Ink*, 275.

CHAPTER 7

TREATIES AND SECRET ORDERS

Kauikeaouli knew full well the political value that Great Britain, France and the United States placed on Hawai‘i’s geographically-strategic location. By 1843, Hawai‘i’s ports had become indispensable for the profitable conduct of commerce between the Pacific Northwest, the South Pacific, and Asia. In 1844, French foreign minister François Guizot remarked publicly that “the independence of the Sandwich Islands is a grave fact in ‘Oceanie,’ for there is no one who has looked at the chart that does not see that that small Archipelago, possesses great importance in the commercial relations of that part of the world.”¹ But as the volume of shipping traffic increased, so too did the need for harbor and community infrastructure and services. The kingdom’s ministers struggled to develop revenue streams to meet increased expenditure needs, but the largest revenue potential—import duties—was restricted by extraterritorial agreements imposed by France in 1839 and by Great Britain in 1844. In 1846, Great Britain and France forced new mirror-image unequal treaties on the kingdom that continued to impose those same extraterritorial terms.

When French gunboats attacked Honolulu in 1849 to force additional political accommodations, Kauikeaouli and the privy council devised a bold multi-stage diplomatic plan to restore full functional sovereignty and guarantee protection from repeated hostile attacks. The plan relied on using the negotiation of a fair and equitable treaty with the United States to draw Britain and France into a new treaty pattern without extraterritorial restrictions. Should that fail,

¹ R. C. Wyllie, “Explanatory Memorandum,” 18 February 1851, *Appendix to Mr. Wyllie’s Report to the Hawaiian Legislature, Session 1851*, Hawaiiana Collection, Univ. of Hawai‘i at Mānoa, 37, where Wyllie quoted a speech delivered by Guizot on 20 January 1844.

then the king would let it be known that he intended to use the only negotiating leverage he had—possession of sovereign control—and alienate it to a rival maritime nation. It was the ultimate threat: protect my sovereign independence or lose navigational and commercial access to my kingdom’s harbors and markets to a rival power. In 1854, when resident Americans agitated for annexation to the U.S, Kamehameha used his negotiating leverage once again and disarmed their plans by appearing to grant their demands.

Chapter 7 examines the interplay between treaty negotiations, threats to alienate sovereignty, and Kamehameha’s avoidance of additional hostile attacks through his skillful manipulation of well-known international rivalries.

Extraterritorial treaty terms depress revenues

An extraordinary increase in the numbers and values of imports to Hawai‘i occurred immediately following recognition of its independence: imports grew in gross value from \$223,383.33 in fiscal year 1843 to \$546,941.72 in fiscal year 1845.² The import duty amount which the kingdom could assess on British and French goods was limited by treaty restrictions to a ceiling of 5% ad valorem, and goods from the United States enjoyed the same rate even without a treaty commitment. As the value of imports increased so too did the duty revenue, from \$5,270.74 in 1843 to \$19,465.12 in 1845.³ Nevertheless, public debt still amounted to \$60,000, and the credit of the government was at a low ebb.⁴ Stringent fiscal measures implemented by Judd after he took over as Minister of Finance in March 1845 coupled with the fortuitous return by France of

² Jarves, *History*, 3d. ed., 202; “Report of the Finance Minister (Judd),” *Polynesian*, 08 August 1846. The fiscal year began on April 1 and ended on March 31.

³ Jarves, *History*, 3d. ed., 202. Duty monies levied on goods later re-exported were returned to the payor.

⁴ Report of G. P. Judd, 01 April 1845, Box 141, Miscellaneous, Interior Department, HSA. This is a draft of the report; There was still outstanding debt that had been incurred by the 1843-4 diplomatic embassy to London, Paris and Washington, see Jarves, 3d. ed., *History*, 203.

the \$20,000 that LaPlace had extorted in 1839 alleviated the cash flow crisis by March 1846 and worked to reduce the public debt.⁵ The kingdom's revenues in the fiscal year ending March 31, 1845 equaled \$64,045.55, but Judd predicted that increased governmental staffing needs would necessitate substantially higher annual revenues of at least \$100,000.⁶

Trade with whaling ships from several nations that refreshed and refitted in island ports was the foundation of the economy, and more than 19,000 seamen visited island ports in 1845.⁷ The foreign population of 1,000 which dominated trade in the kingdom also benefited from the community infrastructure of public services funded by the Hawaiian government from all revenue sources, such as the sale of bonded licenses for liquor establishments, import duties, poll taxes, stamps, and rents.⁸ Import duties were a major revenue contributor, and Kuykendall pointed out that the large size of the whaling fleets in 1845 and again in 1846 stimulated heavy importations of goods to service the fleet in anticipation of a continuing business boom.⁹ Relief from the British and French treaty restrictions became more pressing as increased trade necessitated an increase in staffing for positions like customs agents, harbor pilots, and police.

Relief seemed in reach when French diplomat Louis Emile Perrin arrived unexpectedly on March 21, 1846 with a revision of the 1839 LaPlace treaty.¹⁰ Miller had received the mirror-image English text styled as a revision of the 1844 Lahaina treaty, and they had been instructed to present their revised treaties separately.¹¹ But the revisions presented by Perrin on March 23

⁵ "Finance Minister," *Polynesian*, 08 August 1846.

⁶ *Ibid.*

⁷ "Report of the Foreign Minister (Wyllie)," *Polynesian*, 22 August 1846; "Finance Minister" and "Report of the Interior Minister (Keoni Ana)," *Polynesian*, 08 August 1846.

⁸ "Interior Minister," *Polynesian*, 08 August 1846; Jarves, *History*, 3d. ed., 203.

⁹ Kuykendall, *Hawaiian Kingdom*, 1:310.

¹⁰ Jules Dudoit remained the French consul, however, until replaced in 1848.

¹¹ Kuykendall, *Hawaiian Kingdom*, 1:368-70.

and Miller on March 25 proved disappointing to the king, his cabinet and the privy council.¹²

Although jury composition rules under Article III had been somewhat relaxed by permitting the consul to propose the names of native residents as jurors along with foreigners, the king and chiefs were disturbed to learn that the rules had been extended by the French to include misdemeanor trials as well as criminal trials. The only change in Article VI (imports and import duties) had been the removal of liquor and other intoxicating drinks from the 5% ceiling.¹³

Kuykendall's extensive analysis of the negotiations described the jury composition terms in Article III as the major stumbling block for the king and his advisors because of the on-going dispute with American agents over the composition of the Wiley jury.¹⁴ Privy council minutes and consular correspondence, however, suggest that the restrictions of Article VI were of greater concern. While the article continued to depress revenue potential by its low duty rate, it also continued to mandate unrestricted imports of treaty partners' goods without reciprocal provisions for the importation of Hawaiian staple products into Britain and France at the same duty levels.

Judd reported in 1845 that the government sought new commercial enterprises to sustain the economy, and marketing Hawaiian products abroad like sugar, molasses, tobacco and coffee increased in importance.¹⁵ In 1846, however, the value of Hawaiian exports of staple products only amounted to \$33,425.00,¹⁶ and sugar exports had declined to 300,000 pounds from a 1843 high of 1,145,010 pounds during the peak of operations at the Ladd & Co. plantation on Kaua'i.¹⁷ Kuykendall saw the search for duty-free markets as a factor leading to the annexation

¹² Kuykendall, *Hawaiian Kingdom*, 1:371.

¹³ Treaty between France and Hawai'i, 1846; Treaty between the Kingdom of Hawai'i and the United Kingdom of Great Britain and Ireland, March 26th, 1846. Article III was the only area where the mirror-image texts differed.

¹⁴ Kuykendall, *Hawaiian Kingdom*, 1:371. Wiley's jury had been composed according to Hawaiian law. See Chapter 4.

¹⁵ Judd report, 01 April 1845, Box 141, Miscellaneous, Interior Department, HSA; Jarves, *History*, 3d. ed., 202.

¹⁶ Jarves, *History*, 3d. ed., 202.

¹⁷ Kuykendall, *Hawaiian Kingdom*, 1:314-5.

ambitions of Americans.¹⁸ Kāiūkeāouli, however, saw the need from the standpoint of his own subjects whose labor brought the products to market. Without reciprocal agreements to stimulate exports, the king argued in privy council discussions, his subjects would be left with no income and no means to pay for the goods imported into Hawai‘i.¹⁹ Kāiūkeāouli also cautioned council members that the unchanged duty ceiling would continue to so strictly limit the kingdom’s revenues that it would force him to levy higher taxes on his citizens to fund the government.²⁰ Wyllie communicated the king’s concern to Dudoit, and asked him to inform Guizot that the ceiling on the import tax limited revenue such that it “imposes on His Majesty the necessity of continuing the Poll tax and the Labor tax on his native subjects whom he is anxious to relieve so far as the indispensable support of his government will allow.”²¹

Perrin and Miller, however, had stressed that the treaty terms were not negotiable.²² After Kāiūkeāouli and the chiefs privately discussed their options, the king ratified the treaties on March 31 and returned them with letters stating his several objections.²³ Kuykendall confirmed the importance that the king and his ministers placed on obtaining further treaty revisions, observing that it became the “fixed aim” of the government to free the king’s sovereignty completely from the extraterritorial limitations placed on it by Articles III and VI of the two treaties.²⁴

¹⁸ Kuykendall, *Hawaiian Kingdom*, 1:387.

¹⁹ Minutes, 25 March 1846, Series 421, vol 1, Privy Council Records, HSA. Attendees were the king, kuhina nui, Pākī, ‘Ī‘ī, Leleiōhoku, Kana‘ina, Richards, Kā‘eo, Judd, Ricord, and Wyllie.

²⁰ Ibid.

²¹ R. C. Wyllie to J. Dudoit, 17 July 1846, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

²² Kuykendall, *Hawaiian Kingdom*, 1:370-1

²³ Minutes, 27 March 1846, Series 421, vol. 1, Privy Council Records, HSA. Attendees were the king, the kuhina nui, Pākī, Kā‘eo, Kana‘ina, Gov. Pitt (Leleiōhoku), Kekūānāo‘a, Ricord, Wyllie, Richards, Judd, ‘Ī‘ī; Minutes, 31 March 1846, Series 421, vol. 1, Privy Council Records, HSA. Attendees were the king, the kuhina nui, Gov. Pitt (Leleiōhoku), Kekau‘ōnohi, Kekūānāo‘a, Pākī, Kana‘ina, Kā‘eo, ‘Ī‘ī, Judd, Ricord, Richards, and Wyllie.

²⁴ Kuykendall, *Hawaiian Kingdom*, 1:373.

The treaties became effective as soon as the king ratified them, however, and the revised Article VI permitted a duty at any level on wines, brandies, and other liquors so long as the duty was not so high as to prohibit importation. The legislature quickly enacted a graduated scale ranging from fifty cents a gallon to ten dollars a gallon depending on the alcoholic content of the beverage and published the new duty levels in the *Polynesian* on April 4, 1846. Miller and Dudoit both protested vigorously, with Miller claiming that British ale, porter, beer and cider were not spiritous drinks, and Dudoit claiming that the duty on French brandy was so high that it was tantamount to rendering imports prohibitive.²⁵ Both consuls also informed their governments. By July, however, Judd was able to report to the legislature that the increase in import duties on spiritous liquors had already positively affected the kingdom's revenue.²⁶

"The French outrage"

There matters stood when the new French consul William Patrick Dillon arrived in January 1848 bringing with him the French king's ratification of the March 26, 1846 treaty without Kauikeaouli's requested changes.²⁷ Although he had been instructed to behave with moderation, Dillon soon became embroiled in arguments about the duty scale on French wines and the alleged mistreatment of a Catholic priest and other French citizens. When Dillon threatened to suspend ratification of the 1846 treaty, the king through Wyllie threatened back that he would

²⁵ Kuykendall, *Hawaiian Kingdom*, 1:369-73.

²⁶ "Finance Minister," *Polynesian*, 08 August 1846. For fiscal year 1846, import values grew by 9.4%, while import duty revenue grew by 63%.

²⁷ The treaty had been ratified by the French king Louis Philippe in 1847. Louis Philippe was deposed within days of Dillon's departure and Dillon switched his allegiance to Prince-President Louis-Napoleon Bonaparte; Jean Charlot, "An 1849 Hawaiian Broadside," *HJH* 4 (1970):96-7. Charlot recorded that Dillon arrived in February. See cabinet minutes, however, that confirm a January arrival: Minutes, 23 January 1848, Series 422, vol. 2, Cabinet Council, HSA.

prefer that action as he had only signed the revised treaty under protest.²⁸ As the government had already acquiesced to British demands and reduced the duty on English malt liquors and cider to 5%, however, the privy council consented to reduce the duty to 5% on French wines of less than 18% alcohol.²⁹

Dillon and Wyllie soon quarreled violently, and Dillon's relations with other Hawaiian officials were also hostile.³⁰ Matters reached an impasse, and on April 23, 1849 the king ordered Wyllie to direct all of his correspondence to the French government in Paris and to request Dillon's recall.³¹ Dillon's angry reports to the Paris Ministry had already prompted the Ministry to invoke the specter of Guizot's 1844 warning about the importance of Hawai'i's independence to French interests. Dillon was advised to remain calm, and "on reconnait qu'il est fatal que les îles tombent sous l'influence americaine" (remember how unfortunate it would be for the islands to fall under the influence of the Americans).³² The ministry's last dispatch dated August 24, 1849 advised Dillon to adopt a posture as moderator between "l'influence americaine et les pretentions anglaises" (the influence of the Americans and the pretensions of the English).³³

That dispatch did not arrive, however, before matters had escalated in mid-August 1849 when French Rear Admiral Louis Legoarrant de Tromelin arrived aboard *La Poursuivante* to

²⁸ R. C. Wyllie to W. P. Dillon, 28 February 1848, Series 410, Box 3, vol. 13, part 1, Foreign Officials in Hawaii, Consular Correspondence, HSA; Minutes, 23 January 1848, Series 422, vol. 2, Cabinet Council, HSA.

²⁹ Appendix, "The Late Outrage at the Sandwich Islands (From the New York Journal of Commerce of January 12, 1850), reprinted in *Report of the American Board of Commissioners for Foreign Missions, Presented at the Forty-First Annual Meeting, Held in Oswego, New York, Sept. 10-13, 1850* (Boston: T. R. Marvin Press, 1850), 211-2.

³⁰ Appendix, "Late Outrage," 212.

³¹ Minutes, 23 April 1849, Series 421, vol. 3A, Privy Council Records, HSA. Attendees: the king, kuhina nui, Wyllie, Judd, Armstrong, Pākī, Nāmakehā, Kana'ina, Kapaakea, 'Ī'ī, Kānoa, Kā'eo, and Lee.

³² Réponse du Ministre des Aff. Etrang. français a Dillon, August [October?] 24, 1849, France, Ministère des Affaires Etrangères, "Transcripts from the French Archives, Documents copied from Archives du Ministère des Affaires Etrangères, correspondance politique, îles Sandwich," Vols. 5-10 (1846-1852), (Hamilton Library, Univ. of Hawai'i), 7:126. Handwritten notes copied at the direction of R. S. Kuykendall. The date is not clearly written. My own translation.

³³ Réponse du Ministre des Aff. Etrang. français a Dillon, August [October?] 24, 1849, "Transcripts from the French Archives," 7:126. My own translation.

enforce Dillon's demands.³⁴ Dillon and Tromelin presented themselves as acting under "formal instructions of the French government" in their August 22 communication containing ten grievances, including a reduction in liquor duties and the resolution of affronts to several French citizens. Tromelin warned the Hawaiian government that unless his demands were resolved within three days, he would use force to obtain satisfaction.³⁵ The Hawaiian government declined, however, and on August 25 the admiral landed troops from *La Poursuivante* and its sister-ship *Gassendi*. By his own account, Tromelin sacked the waterfront fort in Honolulu, destroyed fortifications, made off with the king's yacht, and occupied the ministerial offices.³⁶ Damages were estimated at \$98,000.³⁷

No doubt remembering that LaPlace had forced treaty terms on him in 1839 after he acquiesced in the face of similar threats, this time Kauikeaouli turned Tromelin's attack into what Jean Charlot called a "one-sided war."³⁸ The king's instructions to Governor Kekūanā'ō'a on the eve of Tromelin's assault called for passive resistance: "I na ki mai na Palani i ka Pu, mai ki pu aku mai i kue aku, ina lele mai lakou mauka nei me na pu, mai hana aku, ina lakou e hana mai, mai olelo aku a kue aku, aka, ina olelo lakou e huki ka hae ilalo mai hana pela, na lakou e huki ilalo, a iole ia e lawa mau no ia."³⁹ Charlot translated the king's order in his blow-by-blow account of events: "Make no resistance if the French fire on the town, land under arms, or take

³⁴ Charlot, "Broadside," 98.

³⁵ *Polynesian*, 08 September 1849; Charlot, "Broadside," 100.

³⁶ Rapport de l'amiral français Tromelin a le Ministre de la Marine et des Colonies, September 5, 1849, "Transcripts from the French Archives," 7:140-305.

³⁷ Appendix, "Late Outrage," 218.

³⁸ Charlot, "Broadside," 101.

³⁹ Kauikeaouli to Kekūanā'ō'a, 24 August 1849, Letterbook 5: Jan. 14, 1848- June 27, 1855, Interior Department, HSA.

possession of the Fort; but keep the flag flying ‘till the French take it down.’”⁴⁰ The king remained unyielding throughout it all.⁴¹

Kauikeaouli’s strategy of passive resistance prevented Tromelin from gaining any political advantage, and the admiral soon had on his hands a kingdom at a standstill. With government offices shuttered, ships unable to enter or leave Honolulu harbor, and no enemy in sight, Tromelin was forced to either run the government or withdraw. On September 5, Tromelin took Dillon aboard and ordered *La Poursuivante* to sail for San Francisco while the *Gassendi* sailed for Valparaiso and Europe.⁴² Kauikeaouli later explained that he acted in accordance with the firm opinion held by himself and his ministers that “he could not consent to the demands of the French,” and that his policy “had been simply to confine himself to not acceding to those demands.”⁴³

The king was well-informed about Admiral Petit Thouars’ unauthorized seizure of Tahiti in 1842 by what Colin Newbury termed “a mixture of threats and bluff” and the admiral’s return to annex the kingdom in 1843.⁴⁴ Kauikeaouli learned through personal correspondence with Pōmare of her unsuccessful effort to marshal international support to regain her kingdom. Merchant and naval ships brought news from Tahiti regularly, and the *Polynesian* and the *Friend* frequently reported on activities in the provisional protectorate established by the French. Word

⁴⁰ Charlot, “Broadside,” 100.

⁴¹ Minutes, 24-30 August 1849, Series 421, vol. 3A, Privy Council Records, HSA. Attendees varied. At every meeting were the following: the king, the queen, Armstrong, Judd, Wyllie, the kuhina nui, Pākī, Kanēhoa, Nāmakehā, Kana‘ina, Kapaakea, Kā‘eo, ‘Ī‘ī, Lee, and A. B. Bates. Attending most meetings but not all were Ke‘elikōlani, Keohokālole, Kānoa, Kā‘eo, Kekūanā‘a and Kekau‘ōnohi.

⁴² Charlot, “Broadside,” 102.

⁴³ Minutes, 04 September 1849, Series 421, vol. 3A, Privy Council Records, HSA. There is no Hawaiian text for these minutes. Attendees were the king, the queen, the kuhina nui, Wyllie, Armstrong, ‘Ī‘ī, Kānoa, Nāmakehā, Pākī, Kana‘ina, and Kekūanā‘a. Miller attended as a guest.

⁴⁴ Newbury, “Commissioner Brown,” 84-5. The French government recognized Tahiti as a French protectorate in 1843.

also must have circulated in Honolulu from Brown, who had met Pōmare when he spent several weeks at Tahiti in 1843 awaiting passage to Hawai‘i,⁴⁵ and Miller, who made regular trips there in his capacity as British Consul for Tahiti and the Society Islands. Commenting on the strong British missionary and commercial presence at Tahiti, Stephen Henningham noted that Petit Thouars’ action “almost sparked a war” between Britain and France.⁴⁶ The only armed conflict that developed, however, was a war between Tahitian patriots and French naval forces assisted by Tahitian collaborationists that lasted from 1844 to 1847. When Miller visited Pōmare in January 1845, neither Miller nor visiting British naval officers held out any hope of British intervention to restore her kingdom.⁴⁷

Hawai‘i’s relationships with foreigners in 1849 mirrored Tahiti’s situation in 1843 in several key areas. Newbury analyzed Tahitian society during the last months of Tahitian independence and found that although the government had been open to foreign settlement and trade, it had also encountered opposition when it applied Tahiti’s civil and criminal code to foreign residents and transients. According to Newbury, Tahitians’ efforts to control the liquor trade generated additional ill-will among whalers who trafficked in cheap liquor as part of an exchange system participated in by American, British and French crews.⁴⁸ And in a disturbing similarity to Tromelin’s demands of Kauikeaouli, when Tahitian patriots in 1846 appealed for assistance to Great Britain and the United States, they blamed Tahiti’s troubles with the French

⁴⁵ Newbury, “Commissioner Brown,” 83.

⁴⁶ Stephen Henningham, “France in Melanesia and Polynesia,” *Tides of History: The Pacific Islands in the Twentieth Century*, eds. K. R. Howe, Robert C. Kiste, and Brij V. Lal (Honolulu: Univ. of Hawai‘i Press, 1994), 121.

⁴⁷ Colin Newbury, “Resistance and Collaboration in French Polynesia: The Tahitian War: 1844-7,” *Journal of the Polynesian Society* 82, no. 1 (1973):12-3.

⁴⁸ Newbury, “Commissioner Brown,” 84-5.

government and traders on Tahitian liquor laws and French allegations that they had mistreated Catholics.⁴⁹

As discussed in Chapter 1, Ritchie, Starkey and Thomson examined the use of maritime violence in the nineteenth century and concluded that states deliberately sanctioned the policy to achieve trade advantage.⁵⁰ Kuykendall furthered that understanding with his conclusion that French consular and naval officers in Hawai‘i acted in accordance with official French policy, and that their deliberate use of pressure was “applied time after time [to precipitate] crisis after crisis.”⁵¹ On the other hand, other historians concluded that French naval and consular agents in the Pacific frequently acted contrary to official policy. J. R. Baldwin, for example, cited Guizot’s condemnation of Petit Thouars’ seizure of Tahiti in 1842,⁵² and Oscar Chapuis documented several similar occasions in Vietnam in the 1840s when French naval officers relied on their distance from Paris to take unauthorized gunboat actions against local authorities.⁵³ A reading of the cautionary dispatches sent to Dillon by the French ministry supports a finding that Dillon and Tromelin acted without orders. Miller’s remarks to Kauikeaouli and the council on September 4 affirm that conclusion: the French government no doubt would disavow Tromelin’s actions, Miller told the king, but “it was not an uncommon thing for officers and agents of foreign governments to commit errors of judgment and even acts of indiscretion abroad.”⁵⁴

⁴⁹ Newbury, “Resistance,” 21.

⁵⁰ Ritchie, “Government Measures,” 23-4; Starkey, *British Privateering Enterprise*, 254-9; Thomson, *Mercenaries, Pirates, and Sovereigns*, 3-5.

⁵¹ Kuykendall, *Hawaiian Kingdom*, 1:388.

⁵² Baldwin, “England and the French Seizure of the Society Islands,” 220.

⁵³ Oscar Chapuis, *The Last Emperors of Vietnam: From Tu Doc to Bao Dai* (Westport, CT: Greenwood Press, 2000), 4-5.

⁵⁴ Minutes, 04 September 1849, Series 421, vol. 3A, Privy Council Records, HSA.

A plan and secret orders

Miller's remarks must have aroused very unpleasant memories among his Hawaiian listeners of Paulet's unauthorized 1843 gunboat seizure and Britain's refusal to indemnify the kingdom for their property losses. Whether France disavowed Tromelin's actions or not, Kamehameha III did not have the forces or firepower to protect the kingdom against a naval assault should Tromelin return as Petit Thouars had done at Tahiti.⁵⁵ Instead, the king took several actions that evidence a well-thought out, multi-staged diplomatic plan. Should French naval forces again threaten the kingdom, British and American officials would be urged to safeguard their citizens' substantial commercial interests by ordering their own navies to defend Hawai'i's independence. Meanwhile, the king's ministers would negotiate a commercial treaty with the U.S. that did not impinge on his sovereign powers. Because American interests predominated in the Hawaiian marketplace, a favorable U.S. treaty could be positioned as the competitive pattern that British and French treaties should follow.⁵⁶

At a privy council meeting called the same day that Tromelin sailed, Kamehameha III and the council acted to put part of that plan into play. Judd was appointed as a Special Commissioner and minister plenipotentiary to travel to the United States where he would negotiate a new treaty, and then to France and England to submit a claim with France for reparations and to negotiate terms with both nations to "better secure the independence of the Hawaiian Islands."⁵⁷

⁵⁵ Mrs. Judd named this as a paramount concern. See Laura Fish Judd, "A Suppressed Chapter of Hawaiian History," Read by Prof. W. D. Alexander, *HHS Report* 10 (1903): 9.

⁵⁶ Minutes, 05 September 1849, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, the queen, the kuhina nui, Judd, Armstrong, 'Ī'ī, Kānehōa, Pākī, Kekūānā'ō'a, Kapaakea, and Kana'ina. Also evidenced by Judd's 01 August 1850 letter to Palmerston and Clayton.

⁵⁷ *Ibid.* Notably absent were Wyllie and Lee. Given their involvement in the development of the secret order, they no doubt were closeted together creating it. Anthony Ten Eyck had replaced Brown as the U. S. diplomatic representative in June 1846 with authority to negotiate a treaty. Ten Eyck, however, quickly joined the party opposed to the king's ministers, was censured by the U. S., and was recalled in 1849.

Kauikeaouli also executed a document entitled Kauoha Malu (Secret Instructions) drawn up by Judge Lee for Judd to carry with him that commanded and empowered Judd “to make the best bargain possible for disposal of sovereignty of the Islands.”⁵⁸ Although the privy council minutes do not mention the secret instructions, Judd’s wife Laura Fish Judd (who many years later revealed the document’s existence and the circumstances of its creation) saw the document and described it as having been “approved,” and that it bore the king’s signature and seal. Mrs. Judd believed that the orders represented Kauikeaouli’s attempt to control the ramifications of an unavoidable loss of sovereignty by transferring sovereignty to the nation of his own choosing, and M. A. Brown saw the creation of the orders as a political strategy that would be engaged in through several crises.⁵⁹ While Judd’s instructions spelled out the situations that could trigger the transfer of sovereignty, they did not specify which foreign power to approach:

Ina paha e hooiaio ole ia ko’u Kuokoa ana, ina e popilikia paha no ka hana ana a kekahi Aupuni, a e lilo ana paha ko’u Alii ana i mea ole a i mea kulanalana loa paha, a e pilikia hou (ko’u) Aina Hooilina Alii i ke Kaua kumuole, a ina paha no kekahi kumu e ae e ike ai oe he pono keia kauoha ke hanaia; Ke Kauoha, a ke Haawi aku nei au ia oe, ma ko’u aoao, e hoohalahala a e hooholo i Kuikahi me kekahi Alii, Peresidena, Aupuni, a Luna Aupuni paha, no ka hoolilo ana i ko’u Pae Aina malalo o ka hoomalu ana, a o ke Alii ana o kekahi Aina e.

....

In case our Independence be not fully recognized, be endangered by the acts of any other Government, or our Sovereignty in peril or rendered of no value, our Royal Domain being exposed to further hostile attacks without just and good reasons, or from any other cause you may find these Instructions necessary. These are to command and empower you, on your behalf to treat and negotiate with any King, President or Government or Agent thereof for the purpose of placing our Islands under foreign Protection and Rule.⁶⁰

⁵⁸ L. F. Judd, “Suppressed Chapter,” 8. Existence of the kauoha malu was first revealed in W. D. Alexander’s report on the suppressed chapter.

⁵⁹ L. F. Judd, “Suppressed Chapter,” 9; M. A. Brown, *Facing the Spears of Change*, 115.

⁶⁰ L. F. Judd, “Suppressed Chapter,” 10-2. Note this is the English translation in Mrs. Judd’s text; no doubt it was the translation that Judd took on his mission.

Issuing the order to threaten alienation of sovereignty was a negotiating strategy designed to turn the kingdom's military weakness into political strength, and its terms are reminiscent of the implied threat discussed in Chapter 1 that Kamehameha III made in 1846 to U.S. President Polk, where the king suggested that if American agents continued to obstruct his courts, he could lose sovereign control to another power, and that would mean that the U. S. could lose access to the kingdom's lucrative trade markets and geographically-important ports.⁶¹ In this case, if French or British intransigence over the removal of the burdensome extraterritorial treaty terms imperiled the kingdom's independence, then the king intended to transfer sovereignty to one of their commercial rivals. Just the revelation that the king contemplated transferring sovereignty could be used to obtain concessions, but Judd would keep the existence of his orders confidential until the need arose to use that negotiating threat. Leaving open the nation which would receive the transfer broadened Judd's ability to exert pressure on any one of the maritime powers.

The privy council also took immediate steps to publicize the kingdom's position for refusing Tromelin's demands. The *Polynesian* printed by authority the official exchange of correspondence in its September 8 issue along with the king's formal diplomatic protest and letters of support from Miller and the American consul Joel Turrill protesting the admiral's actions. The *Polynesian's* editorial described the French actions as being a case

where right has had to submit to might; and in the most perfect spirit of non-resistance to stand up in the face of the world and boldly assert its inalienable rights however disastrous the circumstances, while its public property was being destroyed, and the sovereignty of His Majesty, guaranteed by France herself, was being trampled under foot by a military force, armed as against a belligerent opponent.⁶²

⁶¹ Kamehameha III to Polk, 30 September 1846, Series 410, Box 3, Book 2, Hawaiian Officials Abroad, Consular Correspondence, HSA.

⁶² Editorial, *Polynesian*, 08 September 1849.

Furthermore, the size of the resident French population was very small. The *Polynesian* also reported the following week that in 1849, only twelve French citizens (excluding French priests) lived in the kingdom and there was only one French merchant and one French tavern keeper.⁶³

That editorial set the tone for what became known in the U.S. press as “the French outrage at the Sandwich Islands.” Newspapers from Massachusetts to California picked up the story and reported on the unprovoked French attack over “Catholic rights and brandy.”⁶⁴ The *Alta California* newspaper stated flatly “The French Admiral has been guilty of a startling outrage.”⁶⁵ On January 12, 1850, the *New York Journal of Commerce* published a lengthy point-by-point denunciation of French actions beginning with Dillon’s arrival in 1848 and ending with the September 5 departure of the *Poursuivante*. The *New York Journal* noted that the French had failed to extort a single concession from the Hawaiian government and that the Hawaiians were not “provoked into a single act of resistance, or even of discourtesy, which can be used as an apology for exacting higher terms of them.”⁶⁶ The ABCFM published an extensive account in the February 1850 issue of its widely-circulated *Missionary Herald* and reprinted the *New York Journal’s* article in another of its publications in September 1850.⁶⁷ Newspaper editors in Australia, Peru, New Zealand, England, and Chile also denounced the French aggressions and expressed support for the Hawaiian government.⁶⁸

⁶³ Daws, *Honolulu: the First Century*, 192.

⁶⁴ See for example, *Alta California*, 01 October 1849, *Easton, PA Northampton Democrat*, 13 November 1849, and the *New York Weekly Tribune*, 17 November 1849. The quotation is from the *Springfield (Mass.) Daily Post*, 13 November 1849 which had picked it up from the *Alta California* article.

⁶⁵ “Admiral de Tromelin’s Visit to the Sandwich Islands,” *Alta California*, 04 October 1849 as reprinted by *Polynesian* in “Late from California” on November 3, 1849.

⁶⁶ Appendix, “Late Outrage,” 210-8.

⁶⁷ “Proceedings of the French at Honolulu,” *Missionary Herald* 46, no. 2 (1850):61-7.

⁶⁸ Minutes, 06 May 1850, Series 421, vol. 3B, Privy Council, HSA.

In April 1849, the privy council also had authorized Jarves (who had left his position as editor of the *Polynesian* in 1847) to negotiate a U.S.—Hawai‘i commercial treaty, and Jarves was in Washington when news arrived of Tromelin’s attack.⁶⁹ Kuykendall reported that U.S. Secretary of State John M. Clayton alluded to Americans’ significant commercial interests in the kingdom when he told Jarves that the French outrage had made his government even more determined to execute a fair and equitable treaty to demonstrate the United States’ support for the king’s independence.⁷⁰ Hawaiian governmental records show that in 1849, American-flagged ships comprised the greater part of merchant traffic at Hawaiian ports with 57%, whereas the British-flagged share of merchant traffic was 40%, and French-flagged traffic trailed with only 3% of the total.⁷¹ American ships also dominated the whaling industry and relied on Hawaiian ports for their Pacific base of operations.⁷² Kenneth E. Shewmaker pointed out that the Mexican-American War of 1846-1848 and the settlement with Great Britain of the northern Oregon boundary in 1846 had delivered four deep-water ports on the Pacific coast into American territory at San Diego, San Francisco, Seattle and Portland which greatly enhanced the geopolitical significance of Hawai‘i as the U.S. moved to expand its Pacific presence into China and Japan.⁷³

Judd drafted a treaty with U.S. Commissioner Charles Eames during his stopover at San Francisco in October, and Jarves separately negotiated a treaty with Clayton in December, neither of which contained the extraterritorial restrictions found in the British and French

⁶⁹ Minutes, 23 April 1849, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, the kuhina nui, Wyllie, Judd, Armstrong, Pākī, Nāmakehā, Kana‘ina, Kapaakea, ‘Ī‘ī, Kānoa, Kā‘eo, Lee.

⁷⁰ Kuykendall, *Hawaiian Kingdom*, 1:379.

⁷¹ Wyllie Report, “Annual Reports Read May 12, 1851,” 28-9. British = 43, American = 62, and French = 3. Whalers totaled in 1849 261 = American, 1 = British, and 7 = French.

⁷² Shewmaker, “Forging the ‘Great Chain,’” 239.

⁷³ *Ibid.*, 244.

treaties. Imports and exports between the U.S. and Hawai‘i had more than doubled since Tyler announced his 1842 doctrine, so that the new treaty’s reciprocal duties both increased the government’s revenue and stimulated the production and exportation of Hawaiian products.⁷⁴ The two versions were combined, and Judd presented a copy to British Lord Palmerston upon his arrival in London.⁷⁵

Palmerston, however, did not immediately commit to treaty renegotiations and offered Judd only perfunctory help with the French. Before traveling on to Paris, a disappointed Judd advised Wyllie that the British government appeared to view Tromelin’s actions “with the most perfect indifference.”⁷⁶ Palmerston was constrained, however, by French resistance to on-going British activities in Greece, and had little political space in which to maneuver.⁷⁷

When French ministers condoned Dillon’s behavior and Tromelin’s attack, Judd feared that the French would attack again, and he arranged to publicize the king’s intent to transfer sovereignty should that occur. Archibald Barclay (the Hawaiian ambassador in London) at Judd’s request planted an unfavorable article in the February 23, 1850 edition of the *London Times* about Tromelin’s attack which contained the tag line that unless the French guaranteed against a repetition, “the attempt to maintain the independence of the islands may ultimately be abandoned by the people, and that they may prefer to pass, for the sake of security to the government of the U.S.”⁷⁸ Palmerston then validated that potentiality in a conversation with the

⁷⁴ *Ibid.*, 239.

⁷⁵ G. P. Judd to R. C. Wyllie, 22 October 1849, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA; Kuykendall, *Hawaiian Kingdom*, 1:379-81.

⁷⁶ G. P. Judd to R. C. Wyllie, 24 January 1850, Series 410, Book 3, vol. 14, Letters, Consular Correspondence, HSA.

⁷⁷ A. Barclay to G. P. Judd, 23 February 1850, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA; see “Transcripts from the French Archives,” 8:180 for a discussion of the dispute between Britain and France over British activities in Greece.

⁷⁸ *Ibid.* Barclay enclosed a copy of the article from the *Times* in a letter to Judd.

French ambassador, who reported to Paris that Palmerston favored a solution between France and Hawai‘i and “craint que Judd sollicite une intervention des États Unis; il pense que toutes les questions, sauf celle de la langue, pourraient être réglées facilement” (fears that Judd seeks an intervention of the United States; he thinks that all the issues, except [use of the French] language, could be easily resolved).⁷⁹

The French, however, were unswayed by the threat of a U.S. takeover or Palmerston’s suggestions. Negotiations stalled. After several fruitless months, Judd abruptly left Paris.⁸⁰ The French ministry dispatched Perrin to follow Judd to Honolulu and continue negotiations. While at Panama, Judd learned that Perrin awaited a warship there which would carry him to Honolulu “with full powers to settle the differences, by compelling the Hawaiian Government to yield to the claims of France.”⁸¹

Learning that, Judd executed the diplomatic plan’s defensive stratagem. He dispatched letters to London and Washington calling on Britain and the U.S. to deploy their naval forces to defend Hawai‘i’s independence. Before Judd had left Europe, Palmerston moved away from Britain’s treaty pattern with France and agreed to structure a new British treaty using the U.S. treaty as a template.⁸² From Palmerston, then, on August 1 Judd demanded British naval help to prevent “the mischief which is to be apprehended.”⁸³ Shewmaker’s research showed that several of the 75 American mercantile houses doing business at Hawai‘i had direct links with California, the newest U.S. state, and in his August 1 letter to Clayton, Judd pointedly linked Hawaiian and

⁷⁹ “Transcripts from the French Archives,” 8:180. My own translation.

⁸⁰ Notes of R. C. Wyllie re: Judd Special Mission 1850, undated, Series 404, Box 58, folder 905, Hawaiian Officials Abroad, FO&EX, HSA.

⁸¹ G. P. Judd to H. J. Temple, Lord Palmerston, 01 August 1850, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA.

⁸² Kuykendall, *Hawaiian Kingdom*, 1:381.

⁸³ Judd to Palmerston, 01 August 1850, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA.

American interests: “[Hawai‘i’s] proximity to California renders it for the interest of the U.S. that they be entirely free from foreign control.” Judd also requested that Clayton ensure “that the Commodore of the California Station may be instructed to repair thither, with a sufficient force, and discretionary powers.”⁸⁴ Perrin arrived in Honolulu in late December aboard the armed French corvette *La Sérieuse*, and Judge Lee opined to Turrill that if the government refused his demands, Perrin “will probably seize Hawaiian Vessels, blockade our port, and, for a while at least, ruin our Commerce & cripple our Agriculture.”⁸⁵ But the U.S.S. *Vandalia* arrived in February and stationed itself in port as a cautionary warning against hostile action, remaining until the corvette departed on April 29.⁸⁶

The French provoke new secret orders

Wyllie replaced Judd as the lead negotiator. When Perrin resurrected most of Dillon’s demands,⁸⁷ Wyllie put into use the threat from the confidential order that Judd had carried, warning Perrin in February 1851 that “the sovereignty of the King would not be worth having with the constant hostility of France, as in fact His independence could not be maintained without her friendship.”⁸⁸ In another letter to Perrin a week later, Wyllie made the king’s threat more explicit by citing Vattel’s *Law of Nations*: “When a nation is not capable of preserving

⁸⁴ Shewmaker, “Forging the ‘Great Chain’,” 239; G. P. Judd to J. Clayton, U. S. State Department, 01 August 1850, Series 410, Box 3, vol. 14, Letters, Consular Correspondence, HSA. California was admitted to the Union on September 9, 1850.

⁸⁵ William L. Lee to J. Turrill, 29 December 1850, “The Turrill Collection, 1845-1860,” ed. by Charles H. Hunter, *Sixty-Sixth Annual Report HHS* (1957), 35-6.

⁸⁶ Charles R. Bishop to J. Turrill, 25 February and 29 April 1851, “Turrill Collection,” 39-41.

⁸⁷ See Kuykendall, *Hawaiian Kingdom*, 397-400 for a thorough review of the parties’ negotiating stances.

⁸⁸ R. C. Wyllie to E. Perrin, 21 February 1851, Series 410, Box 3, vol. 13, part 3, Foreign Officials in Hawaii, Consular Correspondence, HSA.

itself from insult and oppression it may procure the protection of a more powerful state.”⁸⁹

Perrin, however, still refused to amend his demands, and in early March 1851 rumors circulated that the French fleet was about to make another naval assault on the kingdom.

Still committed to the tactics from the plan they had strategized in September 1849 immediately after Tromelin’s attack, on March 10 the privy council formalized the king’s threat in a second secret order to transfer sovereignty. But this time, the threatened transfer would last only until the kingdom’s independent state could be secured, and the new order placed full responsibility for its need on France’s unremitting hostility.⁹⁰ Although the receiving nation was again unnamed, a blank space was left in the original document so that it could be inserted later.

Kauikeaouli then sought to place the kingdom under British protection, asking Miller in front of the privy council: “Will the British government assist me if I will hoist your flag?” But Miller equivocated, protesting that he had spoken with Perrin and did not think the French would attack, then refusing based on the 1843 commitment between Britain and France to respect Hawaiian sovereignty.⁹¹ Next Kauikeaouli approached the new U.S. Commissioner Luther Severance who agreed to exchange a promise of U.S. naval protection against a French assault for what came to be called a provisional deed of cession.⁹² At that point, the name “Amerika

⁸⁹ R. C. Wyllie to E. Perrin, 27 February 1851, Series 410, Box 3, vol. 13, part 3, Foreign Officials in Hawaii, Consular Correspondence, HSA. The cited passage is from *Law of Nations*, Section 192, Book 1, Chapter 16.

⁹⁰ “Olelo Hoolaha ka Moi,” dated 10 March 1851, from the Minutes, 11 March 1851, Series 421, vols. 6, 6A, Privy Council, HSA; attendees at the March 11 meeting were: the king, the kuhina nui, Pākī, Kekūanāo‘a, Nāmakehā, Kapaakea, Kana‘ina, Armstrong, and Judd. Official texts. See also W. D. Alexander, “Protectorate Proclamation,” Appendix A, “An Account of the Uncompleted Treaty of Annexation between The United States of America and The Hawaiian Kingdom, Negotiated in 1854,” *Paper No. 9, HHS* (1897):15.

⁹¹ Minutes, 11 March 1851, Series 421, vol. 6A, Privy Council, HSA, where the king and kuhina nui entreat Miller to assure them of British protection.

⁹² W. D. Alexander, “Appeal to the President of the United States,” Appendix A, “An Account,” 17-9. Alexander’s textual account is accompanied by copies of pertinent letters and documents. See also, Brookes, *International Rivalries*, 191, who documented that the king turned to the U. S. after failing to receive assurances from “other powers.”

Huipuia” (United States of America) was entered into the already-prepared proclamation and it was executed by both parties:⁹³

Me ka lohe a me ka ae ana o Kuu Kuhinanui, a me ke kuka pu no hoi me kuu mau alii maoli. . . aole hoi o’u manao e loa mai ana ia’u ka pono i ko Ferani; Nolaila, ke hai aku nei au i ko’u manao a me ko’u makemake, e lilo ko’u pae aina, a me ko’u mau pono apau ma kuu ano Moi maluna iho, ma ka lae hoolahaia ’i keia olelo ia AMERIKA HUIPUIA nana e hoomalu a hiki i ka wa e hooponoponoia’i na pilikia me Ferani, a ku pono i ko’u ano ku okoa, mamuli o na kanawai maluna o na aupuni a pau, a mamuli hoi o na kuikahi me na aupuni e;

. . . .

By & with the advice and consent of our Kuhinanui and council of native chiefs. . . and despairing of Equity and justice from France; Hereby proclaim as our Royal Will and pleasure, that all our Islands, and all our rights as Sovereign over them, are from the date hereof, placed under the protection and safeguard of the UNITED STATES OF AMERIKA [sic] until some arrangement can be made to place our said relations with France upon a footing compatible with my rights, as an independent sovereign, under the laws of nations, and compatible with my treaty engagements, with other foreign nations;⁹⁴

Resolution of the impending danger could still affect the final decision, however; and the king provided that the provisions for transfer of sovereignty should be kept confidential and implemented only under the following conditions:

the emergency of any sudden danger, and not be acted upon or even mentioned, if. . . France and other maritime powers will engage to let Him alone, with power to govern and seek the protection of his people in his own way, and to protect foreign residents and their interests without persisting in exacting of him greater responsibilities than can be required of any Sovereign under the laws of nations.⁹⁵

⁹³ Although not recorded in the minutes other than the entry of Amerika Huipuia in a different hand from the rest of the document. See Minutes, 11 March 1851, Series 421, vol. 6 for the handwritten document. Although Shewmaker and Alexander both believed that the proclamation was signed on March 10 and immediately contained the name of the U.S., privy council records indicate otherwise. See Shewmaker, “Forging the ‘Great Chain’,” 241, and W. D. Alexander, “An Account,” 2.

⁹⁴ “Olelo Hoolaha ka Moi,” dated 10 March 1851, Minutes, 11 March 1851, Series 421, vols. 6, 6A, Privy Council, HSA; Official texts. See also W. D. Alexander, “Protectorate Proclamation,” Appendix A, “An Account,” 15.

⁹⁵ W. D. Alexander, “Appeal to the President of the United States by Luther Severance and R. C. Wyllie, March 31, 1851,” Appendix, “An Account,” 18-9. This joint letter outlined the king’s preferred alternatives to transfer of sovereignty.

This time the threat had its intended effect. Word of the secret provisions circulated around Honolulu. Miller alerted Perrin, and Perrin also received warnings from several other quarters “that his persistence would throw possession of the islands into the hands of the United States.”⁹⁶ Perrin then modified his demands, reached an accommodation on the assessment of liquor duties and returned to Paris in May 1851 for new instructions.⁹⁷

Meanwhile, Wyllie and Severance jointly appealed to the President of the United States on behalf of the king who acknowledged “his utter want of power to protect the citizens of the United States and their large interests in His islands” against French depredations. The two ministers reported that the king sought to enter into the union merely because of foreign aggression, and that he sought military protection only until another arrangement could be made that would protect the kingdom as an independent state. On June 21, to ensure the king’s constitutional right to do so, the legislature passed a resolution granting the king full authority to place the kingdom under the protection of “some friendly state” according to His Majesty’s best judgment.⁹⁸

News of Perrin’s demands and the secret provisions authorizing the transfer of sovereignty reached the American press. The *New York Herald*, for example, on May 19, 1851 printed a lengthy article extolling the desirability of annexation to support Americans’ expanding Pacific commercial interests. The *Daily National Intelligencer*, a Washington newspaper, published France’s demands in its May 27, 1851 edition. Alarmed by news of the events from American officials at Hawai‘i, Secretary of State Daniel Webster reconfirmed Severance’s

⁹⁶ W. D. Alexander, “An Account,” 3; Shewmaker, “Forging the ‘Great Chain’,” 241.

⁹⁷ Minutes, 24 March 1851, Series 421, vol. 6A, Privy Council, HSA; Attendees were: the king, the queen, the kuhina nui, Pākī, Kekūanā‘o, Kana‘ina, Kā‘eo, Kapaakea, Nāmakehā, ‘Ī‘ī, Wyllie, Judd, Armstrong, Hopkins, Bates, and Lee; *Polynesian*, 31 May 1851; W. D. Alexander, “Joint Declaration dated March 25, 1851 signed by Wyllie and Perrin,” Appendix, “An Account,” 16.

⁹⁸ W. D. Alexander, “Joint Resolution,” Appendix, “An Account,” 17-20.

promise of American naval support and copied the French, British and Hawaiian governments on his July 14 order conveying what Shewmaker described as the message that “the United States was prepared to use military force to protect Hawaiian sovereignty and to uphold its paramount interests in the islands.”⁹⁹ Press reports such as the one in the *Burlington Hawk-Eye* July 31, 1851 edition then published Webster’s diplomatic stance. By that time, Webster had also privately directed Severance to return the signed provisions to the Hawaiian government and ‘not to encourage’ any further expectations by the kingdom.¹⁰⁰ Severance explained that the Hawaiians “never desired annexation *per se*, but as an alternative” to French domination.¹⁰¹

While awaiting Perrin’s return and monitoring French naval activity around the Pacific, the king and his ministers learned in mid-November 1851 of an entirely different threat from a group of California freebooters—called filibusters—rumored to be intent upon collaborating with resident Americans to seize the government either to rule it themselves or to annex it to the U.S.¹⁰² The privy council spent several days debating how best to defend the kingdom, Wyllie alerted the U.S. Commissioner, and Governor Kekūanā‘o‘a armed the O‘ahu militia. Plans were drawn up to muster 5,050 men who would be deployed on all of the islands under the immediate command of the governors, and Alexander Liholiho and Lot Kamehameha were appointed Honorary Colonels of Regiments. Although some twenty-five suspicious persons arrived from

⁹⁹ Shewmaker, “Forging the ‘Great Chain,’” 242. Shewmaker’s chronological account reports that Webster also was kept abreast of events at Honolulu by news from Armstrong’s private letters to family members.

¹⁰⁰ Shewmaker, “Forging the ‘Great Chain,’” 243, by letter dated July 14, 1851. Pauline King Joerger pointed out that Webster’s private letter to Severance repudiated the suggestions for a permanent security arrangement made by Severance and Wyllie in their joint letter of March 31, 1851. The king and his ministers, however, were probably unaware of Webster’s advice to Severance. See *A Political Biography*, 67.

¹⁰¹ Shewmaker, “Forging the ‘Great Chain,’” 243, by letter dated October 14, 1851.

¹⁰² Kuykendall, *Hawaiian Kingdom*, 1:408; Pauline King, ed., “Hawaii in 1853,” *The Diaries of David Lawrence Gregg: An American Diplomat in Hawaii 1853-1858* (Honolulu: HHS, 1982), 16. King also wrote under the name King Joerger.

San Francisco under the mistaken impression that the kingdom was ripe for revolution, nothing came of their threat.¹⁰³ Nevertheless, rumors of their imminent return continued to circulate.

The 1852 legislature took advantage of its ongoing constitutional revision work to codify the June 21, 1851 resolution that granted the king the authority to take defensive actions should another sudden emergency arise:

E hiki no i ka Moi me ka ae pu o kona Ahakukina a me ka Ahakukakuka Malu i ka wa i kauia mai, a haunaele paha no ke kipi, ke hoolilo i kona Aupuni a pau, a i kekahi hapa paha, malalo o ke Kanawai koa; a e hiki no hoi ia ia ke haawi loa aku i kona Aupuni, ke maopopo, oia ka mea e pau ai ka hoinoia mai a me ka hookaumahaia mai e kekahi Aupuni e ae.

;

The King, by and with the approval of His Cabinet and Privy Council, in case of invasion or rebellion, can place the whole Kingdom, or any part of it under martial law; and he can even alienate it, if indispensable to free it from the insult and oppression of any foreign power.¹⁰⁴

Meanwhile, Britain's revised treaty of July 10, 1851 which patterned after the U.S. treaty and lifted the restrictions of Articles III and VI arrived for the king's ratification in April 1852. That left the 1846 French treaty as the only obstacle that remained to the king's sovereign right to determine the kingdom's import duty levels.¹⁰⁵ Because the commercial treaties with other nations contained "most favored nation" clauses, however, those treaty partners still could choose to invoke the French duty rate and thereby curtail a significant revenue source for the

¹⁰³ Alexander, "An Account," 4; Minutes, 03, 10, 19-20 November 1851, Series 421, vol. 6B, Privy Council, HSA; M. Kekūanāo'a to Kamehameha III, 05 December 1851, Letterbook 5: Jan. 14, 1848 – June 27, 1855, Interior Department, HSA. The king was at Lahaina at the time.

¹⁰⁴ Article 39, at *He Kumukanawai a me na Kanawai o ka Moi Kamehameha III., Ke Alii o ko Hawaii Pae Aina, I Kauia e Na Alii Ahaolelo, a me Ka Poeikohoia, iloko o ka ahaolelo o ka makahiki 1852* (Honolulu: n.p., 1852), 8, for the Hawaiian text; *Constitution and Laws of His Majesty Kamehameha III., King of the Hawaiian Islands, passed by the Nobles and Representatives at their Session, 1852* (Honolulu: n.p., 1852), 7, for the English text.

¹⁰⁵ Minutes, 22 April 1852, Series 421, vol. 6B, Privy Council, HSA. Attendees were the king, the kuhina nui, Alexander Liholiho, Lot Kamehameha, Armstrong, Wyllie, Kana'ina, Kapeau, Kā'eo, Pi'ikoi, Kāpena, Nāmakehā, Kānoa, Pākī, and 'Ī'ī.

kingdom. Military expenses incurred to defend against the filibusters were costing \$2,000 per month, and the treasury again had “not a dollar to spare.”¹⁰⁶

The terms of the secret provisions to transfer sovereignty were deemed to have lapsed by the time that Perrin returned in early January 1853. But on advice from the privy council, Wyllie was not to publicly confirm or deny its existence—particularly to Perrin—even though news of the purported cession agreement had been published in American newspapers.¹⁰⁷ Resident Charles R. Bishop reported that this time the French are “very friendly now.... probability is, in my opinion, that they are afraid of *driving* us to annexation.”¹⁰⁸ Lee opined that “I think France will let us alone, lest we ask Pierce & Cabinet for Protection.”¹⁰⁹ Shewmaker concluded similarly, that Webster’s enforcement of Tyler’s 1842 doctrine had “succeeded in producing unequivocal assurances of French respect for Hawaiian sovereignty.”¹¹⁰ In fact Perrin had been instructed to declare openly that France had no hostile intentions, and he carried instructions to negotiate a new treaty without the jury restrictions of Article III.¹¹¹ Fears resurfaced, however, when Wyllie’s contacts reported that a large French fleet had been spotted in the Pacific in June 1853, and the king appointed Wyllie as his Minister of War.¹¹²

When a smallpox epidemic ravaged the Honolulu community in the summer of 1853, the inhabitants closed the produce markets and fled the town by the hundreds. More than 6,000 cases

¹⁰⁶ Minutes, 01 March 1852, Series 421, vol. 6B, Privy Council, HSA; Minutes, 26 March 1852, Series 421, vol. 6B, Privy Council, HSA. Military costs were curtailed.

¹⁰⁷ Minutes, 10 January 1853, Series 421, vol.7, Privy Council, HSA. Attendees were the kuhina nui, Pākī, Lot Kamehameha, Alexander Liholiho, Pi’ikoi, Nāmakehā, Haalelea, Kā’eo, Kapaakea, Wyllie, Hopkins, Judd and Armstrong.

¹⁰⁸ Charles R. Bishop to J. Turrill, 14 January 1853, “Turrill Collection,” 60. Emphasis in the original.

¹⁰⁹ William L. Lee to J. Turrill, 15 January 1853, “Turrill Collection,” 63.

¹¹⁰ Shewmaker, “Forging the ‘Great Chain’,” 244.

¹¹¹ Kuykendall, *Hawaiian Kingdom*, 1:407.

¹¹² Minutes, 06 June 1853, Series 421, vol. 7, Privy Council, HSA. Attendees were the kuhina nui, Pākī, Kapeau, Kana’ina, Kānoa, Kā’eo, Wyllie, Nahaolelua, Armstrong, Haalelea, Lee, Nāmakehā, Bates, and Andrews serving as the secretary.

were reported, and there were at least 2,500 deaths.¹¹³ The board of health's facilities and services were quickly overwhelmed, and a group of dissident Americans blamed the spread of the contagion on the incompetence of the king's white ministers Judd and Armstrong.¹¹⁴ Bitter attacks were made on Judd and Armstrong at public meetings attended by members of the foreign community. Another dissident faction also emerged which supported the filibusters and agitated for annexation to the United States, but "the idea of annexation is not a pleasant one to the Chiefs," Lee wrote Turrill in July, "and they will only take such a step as a dernier [last] resort."¹¹⁵ During August, the king received petitions purportedly signed by 260 foreigners and 12,220 Hawaiians demanding the ouster of Judd and Armstrong from the cabinet, followed by a petition signed by nineteen American merchants and planters who urged annexation to the United States as the only alternative to community disorder.¹¹⁶ Miller and Perrin advised Kauikeaouli on September 1 that annexation to the U.S. would be in contravention of the kingdom's treaties, and they published a joint letter in the October issue of the *Friend* urging the king not to take that step, while Severance published his own letter in the same issue that defended a sovereign state's right to make that decision.¹¹⁷ Judd's dismissal from government service in early September helped settle the political climate, but civil unrest broke out again in

¹¹³ Crosby, "Hawaiian Depopulation," 190.

¹¹⁴ Minutes, 14 February 1853, 3, 17 August 1853, Series 421, vol. 7, Privy Council, HSA; Daws, *Honolulu, the First Century*, 200.

¹¹⁵ William L. Lee to J. Turrill, 30 July 1853, "Turrill Collection," 63.

¹¹⁶ King Joerger, *Political Biography*, 70, although King Joerger reported that the signatures demanding the ministers' ouster were "patently spurious"; King, "Hawaii in 1853," *Gregg*, 16 (although Alexander reported that the signators numbered 17, see "An Account," 5); Minutes, 3, 24 August 1853, Series 422, vol. 3, Cabinet Council, HSA. Attendees on both dates were the king, Alexander Liholiho (present at the request of the king), Keoni Ana, Armstrong, Judd and Wyllie. The petitions about Judd and Armstrong prompted a formal privy council inquiry which resulted in Judd's dismissal.

¹¹⁷ "Official Documents," *Friend*, October 1853.

November when hundreds of American seamen aggrieved by the town's police regulations threatened to riot and set fire to Honolulu.¹¹⁸

Pauline King noted that these several disruptive events combined to cause "intense pressures on so many levels of government" that resonated well beyond the actual events.¹¹⁹ The Hawaii Historical Commission in 1926 examined what were called the "disturbed political conditions" at length, and positioned them as the backdrop against which a larger movement of agitation emerged to threaten the kingdom's independence.¹²⁰ Severance already had concluded in the summer of 1853, however, that the king understood that the American dissidents would not cease agitating until annexation had been accomplished.¹²¹ Thus an examination of what happened next leads to a conclusion that Kamehameha III not only recognized the dangers that lay ahead, but that he had already strategized how to apply his 1849 diplomatic plan to meet this new threat.

Filibusters spark new negotiations

U. S. President Franklin Pierce appointed David Lawrence Gregg to replace Luther Severance as the U.S. Commissioner to the Hawaiian kingdom. A member of a conservative faction of the Democratic party in Illinois, Gregg had practiced law prior to entering politics and had served as a United States attorney, Illinois legislator, and Illinois Secretary of State.¹²² When Gregg arrived

¹¹⁸ Minutes, 01-14 November 1853, Series 421, vol. 8, Privy Council, HSA; Separate letters from R. C. Wyllie to E. Perrin and L. Severance, 01 November 1853, Series 410, Box 3, vol. 16, Letters No 116, Consular Correspondence, HSA. See M. A. Brown, *Facing the Spears of Change*, 114-5 for a synopsis of the events leading to Judd's resignation.

¹¹⁹ King, "Hawaii in 1853," *Gregg*, 16.

¹²⁰ "Appendix B: Politics in Hawaii in 1853," *Report of the Historical Commission of the Territory of Hawaii for the two years ending December 31, 1926*. Publications of the Historical Commission of the Territory of Hawaii Vol. 1, no. 4 (Honolulu: Honolulu Star-Bulletin, Ltd., 1927), 21; Kuykendall, *Hawaiian Kingdom*, 1:412-6.

¹²¹ "Severance to Marcy, 15 August 1853 in Appendix B: Politics in Hawaii in 1853," *Report 1926*, 24.

¹²² King Joerger, *Political Biography*, iii.

in Honolulu on December 19, 1853, Honolulu had a permanent population of about 12,000, about 3,000 of whom were foreign residents, mainly from the United States.¹²³ Three-quarters of the businesses were American-owned, and the chief market for island products was the Pacific coast.¹²⁴ Regular mail service routes had been established with the United States and Tahiti.¹²⁵ Prince Alexander Liholiho, the natural son of deceased Kuhina Nui Ka‘ahumanu II Kīna‘u and Governor Kekūanā‘o‘a and the hānai son of Kauikeaouli, had been named as Kauikeaouli’s successor.¹²⁶ Impressed by the social activities that he and his family found, Gregg wrote a friend that “nearly every house, from that of the King down to the poorest foreign resident, is furnished with a piano, and society seems almost music-mad.”¹²⁷ The king exhibited “shrewdness & intelligence, even on general subjects,” Gregg remarked to a friend, and the prince is “well educated & intelligent, [with] easy & graceful manners & elegant address.”¹²⁸

King explained that U.S. President Franklin Pierce’s administration (1853-1857) had ushered in an expansionist period with an aggressive foreign policy that looked favorably on the annexation of the kingdom to buttress its expanding continental territory.¹²⁹ While Gregg had been instructed by U.S. Secretary of State William Marcy before leaving Washington that many influential resident Americans suggested transferring sovereignty to the United States, Marcy also had cautioned that it was not the policy of the United States to accelerate such a change

¹²³ King, *Gregg*, 57, entry of December 1, 1853.ā

¹²⁴ W. D. Alexander, “An Account,” 7.

¹²⁵ Minutes, 07 February 1853, Series 421, vol. 7, Privy Council, HSA; Minutes, 07 November 1853, Series 421, vol. 8, Privy Council, HSA.

¹²⁶ Minutes, 02 May 1853, Series 421, vol. 7, Privy Council, HSA

¹²⁷ “David L. Gregg to Robert Irwin (Private), February 1, 1854 in Appendix A: An American Diplomat in Hawaii,” *Report of the Historical Commission of the Territory of Hawaii for the two years ending December 31, 1924*. Publications of the Historical Commission of the Territory of Hawaii, Vol. 1, no. 2 (Honolulu: Honolulu Star-Bulletin, Ltd., 1925), 20.

¹²⁸ “David L. Gregg to John Forsythe, March 20, 1854 in Appendix A: American Diplomat,” *Report 1924*, 23, and “David L. Gregg to Thos. L. Harris (Private), February 3, 1854, in Appendix A: American Diplomat,” *Report 1924*, 21-2.

¹²⁹ King, “Hawaii in 1853,” *Gregg*, 15.

unless doing so became unavoidable or should it appear likely that sovereignty would transfer to another power.¹³⁰ At the same time, Gregg understood that he should refer any practicable proposal for annexation to Washington if it were offered by the Hawaiian government.¹³¹

During a stopover in San Francisco on his way to Honolulu, Gregg met with P. A. Brinsmade, the former U.S. consul to the kingdom who had authored derogatory articles about the king and his ministers for the *Sandwich Islands News*. Brinsmade suggested that any effort to coerce Kamehameha III to alienate sovereignty would push the king into the camp of France and Great Britain. The proper course, Brinsmade advised, would be for the United States to quietly await the progress of events “and when the apple falls from its own ripeness, to pick it up.”¹³² On January 4, Judd—no longer a member of the king’s administration and apparently referring to the existence of the 1849 and 1851 secret orders—told Gregg that the king had “frequently wished to propose annexation to the U.S.” and that the chiefs “generally concurred.”¹³³ Later that same day, two members of the pro-annexationist “Committee of 13” petitioners told Gregg that they were prepared to use peaceful agitation methods to compel the king to cede his sovereignty to the U.S. or they would engineer a revolution and establish a republic.¹³⁴ From these several meetings, Gregg concluded on January 6 that “one thing appears certain, a crisis is at hand.”¹³⁵

King Joerger reported that Gregg believed that most Hawaiians favored annexation. Gregg saw it as a moment of great opportunity for the U. S. and determined on a legal,

¹³⁰ W. L. Marcy to D. L. Gregg, 04 April 1854, David L. Gregg Collection, UH.

¹³¹ King, *Gregg*, 59, entry of 04 January 1854.

¹³² King, *Gregg*, 47, entry of 17 November 1853.

¹³³ King, *Gregg*, 58, entry of 04 January 1854.

¹³⁴ King, *Gregg*, 58-9, entry of 04 January 1854. See Kuykendall, *Hawaiian Kingdom*, 1:413 for the origins of the committee.

¹³⁵ King, *Gregg*, 62, entry of 06 January 1854.

diplomatic course of action designed to accomplish annexation.¹³⁶ In a remarkable

foreshadowing of the course he intended to follow, Gregg recorded in his January 7 notes that

no great effort would be necessary to induce the government to make an offer of annexation. . . . The true policy to be pursued is to keep the fears of the chiefs and people thoroughly excited. They already apprehend domestic disturbances, and “filibustering” expeditions from California, and by the aid of inducements skillfully held out in an indirect way, an exigency could be precipitated and annexation speedily consummated.¹³⁷

Kauikeaouli, of course, already had put a plan of his own in place in 1849 that had an alienation stratagem designed to convince international naval powers to protect the kingdom’s independence in just those sorts of hostile situations. Thus, when it became evident that Gregg favored the annexationists’ plans—as Kauikeaouli surely would have learned—the king’s acceptance on January 9 of a new annexation petition from 56 American businessmen appeared designed to move the agitators’ plans along. Gregg had already privately concluded that Kauikeaouli was “a very clever sort of personage. . . far more intelligent about political affairs than might be expected,”¹³⁸ and the king’s act gives every appearance of being a ruse to bring matters to a head.¹³⁹

The tenor of Elisha H. Allen’s conversations with Gregg on January 10 and 11 suggests that Allen had been coached to further that impression. Allen, who had arrived at Hawai‘i as the U.S. Consul but then became a citizen and replaced Judd as Minister of Finance, told Gregg on January 10 (presumably speaking in confidence) that the privy council favored annexation, and he suggested that Gregg pass that information along to the Committee of 13. If it was Gregg who

¹³⁶ King Joerger, *Political Biography*, 116.

¹³⁷ King, *Gregg*, 63, entry of 07 January 1854.

¹³⁸ “David L. Gregg to R. S. Blackwell (Private), February 1, 1854 in Appendix A: American Diplomat,” *Report 1924*, 20.

¹³⁹ Minutes, 09 January 1854, Series 421, vol. 8, Privy Council, HSA. Attendees were the king, the kuhina nui, Pākī, Nāmakehā, Wyllie, Armstrong, Pi‘ikoi, and Kā‘eo. See also King, “Hawaii in 1853,” *Gregg*, 16.

gave out that information, Allen suggested, the committee members would infer that arrangements for annexation actually were in place. On January 11, however, Allen sought out Gregg again and told him a different story, reporting that the question of annexation agitated the chiefs considerably. What Allen said next was a replication of the strategy the king used during the 1851 emergency: the king and privy council understood that foreign military guarantees must be obtained to protect the kingdom against the agitators and filibusters, Allen stated, and he wanted to forewarn Gregg that the council might propose a treaty to take effect in the case of an emergency. And in an apparent bid to arouse international rivalries, Allen added that, if the U.S. would not grant protection, then the king would seek the aid of England and/or France.¹⁴⁰ Judd had his own informants within the ministerial ranks, and on February 1, Judd told Gregg that he believed it would not be long before the government would propose annexation to end the commotion in the community.¹⁴¹

Suddenly and without further provocation, Kauikeaouli did just that. On February 6, he declared that the filibuster threat “if carried out would be wholly subversive of Our Sovereignty, and would reduce Us to the most deplorable of all states, a state of anarchy” and commanded Wyllie to ascertain on what terms a treaty of annexation with the United States could be negotiated. With the stage set for a showdown confrontation between American agitators and the king’s ability to rule free from foreign endangerment, Kauikeaouli named Alexander Liholiho as his personal representative and a voting member in the cabinet deliberations.¹⁴²

Kauikeaouli’s order triggered a flurry of correspondence between Wyllie, Gregg, Kauikeaouli, cabinet council members, and members of the U.S. government. Gregg’s diaries

¹⁴⁰ King, *Gregg*, 65-7, entries of 10, 11 January 1854.

¹⁴¹ King, *Gregg*, 85, entry of 01 February 1854.

¹⁴² W. D. Alexander, “Order of the King to Mr. Wyllie February 6, 1854,” Appendix, “An Account,” 20-1.

edited by historian Pauline King comprise the most complete record of the American side of the annexation negotiations conducted between January and December 1854.¹⁴³ W. D. Alexander's account with its supporting documentation adds the perspective of Kauikeaouli and his ministers, and Kuykendall's detailed analysis blends the several points of view.

Historians differ on whether or not Kauikeaouli ever intended to execute an agreement to transfer sovereignty. W. D. Alexander, for example, concluded from the several letters and documents he examined that Kauikeaouli "strongly favored annexation."¹⁴⁴ Laura Fish Judd, a witness to the unfolding events, also believed that Kauikeaouli was committed to consummating an agreement.¹⁴⁵ King, on the other hand, suggests that these 1854 negotiations were undertaken as a maneuver to achieve the same result as had the 1851 secret treaty: "And since the secret plan for an American protectorate had proved so successful [in 1851], Kamehameha III instructed Wyllie to make preparations for the use of similar measures in anticipation of future emergencies."¹⁴⁶ The success that the 1851 order realized, of course, was that the threat evaporated when the U.S. committed to use American naval power to defend the Hawaiian kingdom from French assault without the necessity of transferring sovereignty, and the subsequent course of the 1854 negotiations leads to the conclusion that Kauikeaouli intended to provoke a similar result this time.

Negotiations began between Wyllie and Gregg on February 8.¹⁴⁷ Judge Lee's framing of the basis for negotiations served as the starting point for several protocols and included the condition that Hawai'i enter the union as a sovereign state, not a territory. It was agreed that the

¹⁴³ King, "Hawaii in 1853," *Gregg*, 7-9, 19. There are twenty-six volumes of Gregg's diaries. King's footnotes provide contextual explanations and copies of relevant documents.

¹⁴⁴ W. D. Alexander, "An Account," 7.

¹⁴⁵ L. F. Judd, "A Suppressed Chapter," 9.

¹⁴⁶ King, "Hawaii in 1853," *Gregg*, 15; King Joerger, *Political Biography*, 89.

¹⁴⁷ King, *Gregg*, 86, entry of 08 February 1854.

treaty would first be approved diplomatically by plenipotentiaries Wyllie and Gregg, then submitted for ratification according to the constitutional requirements of both nation-states. According to Alexander's account, however, by June 1 Wyllie and Gregg had met only six times. After that an interval of two months passed when very little progress was made.¹⁴⁸ Secrecy could not be maintained, and editorials endorsing the negotiations appeared in at least two U.S. newspapers over the summer.¹⁴⁹

Reports circulating in the community that a treaty was being prepared sparked alarm throughout the Hawaiian community. Alexander Liholiho and John Papa 'Ī'i held meetings at Kawaiaha'o Church from March through August at which they assured their fellow-Hawaiians that the king would not annex his kingdom without first informing them.¹⁵⁰ Petitions against annexation from Hawaiians on every island arrived at the House of Representatives in April and May, and it became widespread knowledge that the majority of the people were "consistently and vigorously opposed" to surrendering the kingdom's independence. In July members of the House of Representatives demanded that Wyllie appear to discuss the negotiations.¹⁵¹

Members of the Hawaiian negotiating team erected stumbling blocks. Kauikeaouli continued to insist that the kingdom enter the union as a state despite Gregg's explanation that the terms of the U.S. Constitution prevented it, and the \$300,000 size of the annuities to be distributed among the king and the chiefs for life was significantly larger than Gregg had anticipated. Hawaiian negotiators insisted upon the insertion of a "separate and secret article" which provided that at any time prior to U. S. ratification the king could place the kingdom under

¹⁴⁸ W. D. Alexander, "An Account," 9.

¹⁴⁹ See *New York Herald*, 03 June 1854, editorial and *New York Daily Tribune*, 20 July 1854, editorial as documented by W. D. Alexander in "An Account," 29-31.

¹⁵⁰ King Joerger, *Political Biography*, 133-4, where she cited Gregg's diary entries.

¹⁵¹ King Joerger, *Political Biography*, 97, 151.

temporary U. S. protection merely by signing the treaty himself. Pauline King concluded that the Hawaiian negotiating team purposefully introduced delays and the most favorable terms possible as a deliberate policy to forestall arriving at an agreement on terms, while at the same time preserving its ability to seek U. S. protection at will should a treaty actually be finalized.¹⁵²

Gregg concluded by mid-July that Alexander Liholiho was purposely delaying negotiations; indeed, although the prince communicated with the king and Lee sub rosa, he made himself unavailable for other consultations. Wyllie agreed to proceed without the prince, and a draft was finalized. But another delay arose when Wyllie received an August 29 note from the king in Alexander Liholiho's handwriting asking for copies "in native" of the treaty and all protocols so that the king might study them before Wyllie signed the treaty. Kauikeaouli received the copies in a cabinet council meeting on September 4, and then announced that he intended to take time to consult with his chiefs.¹⁵³ Meanwhile, Alexander Liholiho left for another island and could not be reached.

Gregg interpreted the king's August 29 note as an attempt by Alexander Liholiho to quash the whole negotiations, and his belief seems to have been what precipitated the circulation of a new rumor that several hundred filibusters were on their way to invade Honolulu.¹⁵⁴ Gregg's notes of January 7 confirm that he intended to pursue deliberate actions if necessary "to keep the fears of the chiefs and people thoroughly excited," and something about the rumor led Wyllie to suspect that Gregg may have been behind it.¹⁵⁵ Wyllie wrote Lee (who was on Maui at the time)

¹⁵² King Joerger, *Political Biography*, 128, 165-8.

¹⁵³ King, *Gregg*, 169, entry of 18 July 1854; W. D. Alexander, "An Account," 2-14; W. D. Alexander, "Wyllie to Lee, Honolulu, September 13, 1854," Appendix, "An Account," 54-56. Alexander Liholiho's opposition was widely known and of long-standing. See for example, "Elisha H. Allen to Marcy (Private) September 10, 1853, in Appendix B: Politics in Hawaii in 1853," *Report 1926*, 30.

¹⁵⁴ W. D. Alexander, "Wyllie to Lee, September 7, 1854," Appendix, "An Account," 54-6. Wyllie's account in his letter does not specify when he heard the rumor, but it would have been between September 4 and 7.

¹⁵⁵ King, *Gregg*, 63, entry of 07 January 1854.

on September 7 that “I am at a loss, whether to look upon the whole as a *ruse* to frighten the King into immediate ratification of the treaty, or as a forewarning of real danger.”¹⁵⁶ The king was not frightened, of course, and there was no invasion. Apparently sensing that the chance to reach agreement was slipping away, on September 12, Gregg complained to Wyllie that the king and his ministers were procrastinating, and he threatened to withdraw from any further negotiations.¹⁵⁷

International support materializes

In a remarkable turnabout, Perrin joined Miller on September 18 to plead with the king, begging that he not proceed with annexation and insisting that France and Great Britain had instructed them that their two governments would act together as guarantors of the kingdom’s sovereignty under their joint 1843 agreement. Miller personally assured Kamehameha III that French and British ships were on the way from San Francisco to protect him and his islands from an expected invasion, and that Kamehameha III would have the personal protection of the British flag.¹⁵⁸

As early as 1852, British and French diplomats in Washington had attempted to secure guarantees of Hawaii’s independence by entering into a three-party agreement with the U.S., but nothing had materialized. Again in 1853, after word of the August 1853 annexation petition and Miller’s meeting with king reached them, British and French diplomats met with Marcy and made another offer to enter into a tripartite agreement. Marcy, however, rejected the idea.¹⁵⁹ By August 1854, the news from Honolulu suggested that annexation was imminent, and Marcy

¹⁵⁶ W. D. Alexander, “Wyllie to Lee, September 7, 1854,” Appendix, “An Account,” 56. Emphasis in the original.

¹⁵⁷ W. D. Alexander, “David L. Gregg to R. C. Wyllie, September 12, 1854,” Appendix, “An Account,” 52-54.

¹⁵⁸ Notes of verbal address by Consul General Miller to Kamehameha III, 18 September 1854, Series 410, Box 3, vol. 16, Letters No. 116, Consular Correspondence, HSA.

¹⁵⁹ Kuykendall, *Hawaiian Kingdom*, 1:410, 418.

alleged to the British and French diplomats that the U.S. government was taking that action only because the Hawaiian government was not able to maintain its independence. British and French ministers at Washington insisted that was a false premise, and Kuykendall reported that the British ambassador lodged a strong formal protest with the U.S. State Department and argued that—although the U.S. had refused to formally join a three-party agreement committing to Hawaiian independence—in fact its policy statements over the course of several years had in effect made that pledge.¹⁶⁰

At that point in time, annexation to the U.S. presented Great Britain and France with their worst possible outcome: loss of access to a key geographic port which suddenly had become even more indispensable to their political empires. The Crimean War had broken out in October 1853, with Great Britain and France allied with Turkey against Russia. British and French warships visited Honolulu ports on their way north during the summer of 1854, and the king's ministers worked with the two consuls on the precise wording of Hawai'i's neutrality proclamation.¹⁶¹ Although most of the military action occurred on the Crimean Peninsula, naval combatants fought smaller actions in September 1854 in the North Pacific.

Unbeknownst to the diplomats in Washington, however, the Hawaiian team had increased its delaying tactics as it awaited an opportunity to draw negotiations to a favorable close.

¹⁶⁰ Kuykendall, *Hawaiian Kingdom*, 1:424-5.

¹⁶¹ Minutes, 15 May, 05 June, and 17 July 1854, Series 421, vol. 8, Privy Council, HSA.

Gregg's final inducement

Although Miller and Perrin had formalized British and French guarantees of military protection, what the kingdom faced were both internal and external threats posed by Americans. For that reason, the kingdom's independence would remain endangered without a similar guarantee from the U.S. After evaluating the import of Miller's September 18 guarantees, Kamehameha and his ministers decided on September 27 to await Alexander Liholiho's return before proceeding. Wyllie, however, did not inform Gregg of the reason for further delay until October 27.¹⁶²

Having become convinced that Kamehameha was not committed to arriving at a bargain, Gregg wrote Wyllie on November 1 that he intended to break off negotiations and withdraw U.S. warships from Honolulu harbor despite the impending danger from filibusters.¹⁶³ There is no record that Wyllie responded, but the record does show that on November 12, Gregg and the senior American naval commander in port, Captain Dornin met with Wyllie and made one last attempt to use fear to induce an agreement.¹⁶⁴ Gregg and Dornin told Wyllie a tale that filibusters already had arrived, more were on their way, and that they would soon attack. Unless Wyllie permitted several Americans to make one last attempt to persuade the king to sign, the kingdom would be plundered and the town set afire.¹⁶⁵ Wyllie refused their suggestion to involve the king and immediately sent for and received commitments of British and French naval help from Miller and Perrin.¹⁶⁶

¹⁶² R. C. Wyllie to D. L. Gregg, 27 October 1854, Series 410, Box 3, vol. 16, Letters No. 116, Consular Correspondence, HSA.

¹⁶³ W. D. Alexander, "David L. Gregg to R. C. Wyllie, November 1, 1854," Appendix, "An Account," 56-8.

¹⁶⁴ King Joerger also concluded that Gregg attempted to keep alive the idea that the kingdom was in danger in order to force execution of the treaty. See *Political Biography*, 89, 116, and 169.

¹⁶⁵ W. D. Alexander, "Account," 12-3.

¹⁶⁶ R. C. Wyllie to G. Miller and E. Perrin (separate letters), 13 November 1854, Series 410, Box 3, vol. 16, Letters No. 116, Consular Correspondence, HSA.

But in fact, no filibusters had landed, and no attack occurred. Sensing a trap, Wyllie suspended negotiations. Wyllie recognized, however, that he could use their dire warning to position Dornin and the American naval ships in port as guarantors of the kingdom's safety, and he demanded and received assurances of protection from both Dornin and Gregg.¹⁶⁷ Together with the joint guarantees he had already received from Miller and Perrin, Wyllie seized his opportunity and announced on the king's behalf that a tripartite protection agreement of the kingdom's independence existed between Great Britain, France, and the United States.¹⁶⁸

Alexander Liholiho returned to Honolulu on December 1.¹⁶⁹ On December 8, with the independence of his kingdom once again assured, the king issued the following Proclamation:¹⁷⁰

PROCLAMATION

Whereas, it has come to My knowledge from the highest official sources, that My Government has been recently threatened with overthrow by lawless violence; and,

Whereas, the Representatives at My Court, of the United States, Great Britain, and France, being cognizant of these threats, have offered Me the prompt assistance of the naval forces of their respective countries;

I HEREBY PROCLAIM My acceptance of the aid thus proffered in support of My Sovereignty. My independence is more firmly established than ever before.

KEONI ANA

KAMEHAMEHA III.

R. C. WYLLIE

PALACE, December 8, 1854.

¹⁶⁷ W. D. Alexander, "An Account," 12-3; W. D. Alexander, "R. C. Wyllie to W. L. Lee November 15, 1854," Appendix, "An Account," 60-2.

¹⁶⁸ W. D. Alexander, "Wyllie to Lee, November 26, 1854," Appendix, "An Account," 62. A conclusion that Gregg hotly denied. See W. D. Alexander, "David L. Gregg to R. C. Wyllie, January 26, 1855," Appendix, "An Account," 65-6.

¹⁶⁹ W. D. Alexander, "An Account," 14.

¹⁷⁰ W. D. Alexander, "Proclamation, December 8, 1854 by Kamehameha III," Appendix, "An Account," 66. Said to have been composed by Alexander Liholiho with Lee's assistance.

Then occurred one of those unexpected events that alter the balance of political influence. After a brief illness, Kauikeaouli died December 15, 1854. The new King Kamehameha IV, Alexander Liholiho, immediately ended negotiations with the United States.

Afterthoughts

Merze Tate, who studied British policy regarding Hawaiian sovereignty, credited Miller's September 18 plea in his audience with the king and the combined British/French diplomatic offensive in Washington as instrumental in defeating the proposed treaty.¹⁷¹ Certainly they played a significant part, but Marcy afterwards wrote Gregg that "the President would never have approved of a treaty, admitting the Islands into the Union as a State, to say nothing of other objections of minor importance."¹⁷² Marcy's admission confirms Daws' theory that Kauikeaouli's American-trained lawyer William Lee had deliberately ensured that the U.S. would have to reject the treaty in the unlikely event that it had become necessary for plenipotentiary Wyllie to actually sign it.¹⁷³ And other than Wyllie's protestations to Gregg, there is no evidence that Kauikeaouli ever ordered Alexander Liholiho to return; neither was there a constitutional requirement that the heir to the throne approve the treaty.

When Lee learned of the false reports of filibuster landings communicated by Gregg and Dornin, he opined that "it was a mistake they made in setting up that scare-crow. The King and chiefs are neither fools nor cowards."¹⁷⁴ In fact, what the record suggests is that Kauikeaouli's February 6 order to engage in negotiations was set up as a straw-man designed to defeat the

¹⁷¹ Merze Tate, "Great Britain and the Sovereignty of Hawaii," *Pacific Historical Review* 31, no. 4 (Nov. 1962): 332.

¹⁷² W. D. Alexander, "An Account," 14. Such as the mischaracterization of the Union as a confederation.

¹⁷³ Daws, *Honolulu, the First Century*, 403. Daws credited Charles H. Hunter for initiating this view of Lee's actions.

¹⁷⁴ W. D. Alexander, "Lee to Wyllie, November 16, 1854," Appendix "An Account," 60.

annexationist ambitions of resident Americans. In the end, the Proclamation evidences that the king, the prince, and their ministers turned the “exigencies” of imminent filibuster invasions designed by Gregg to ‘keep their fears’ excited into just the opposite—they became the exigencies that the Hawaiian team used to unite Great Britain, France and the United States in a common pledge to defend the kingdom’s independence.

The political disruptions of 1853-1854 prevented meeting with Perrin to negotiate a new treaty. Negotiations finally began during the reign of Kamehameha IV, and on September 8, 1858 the parties executed a revised treaty between Hawai‘i and France. Extraterritorial restrictions on jury duty composition under the prior Article III were removed, and the inequalities in import trade and duties of the prior Article VI were replaced by reciprocal trade and duty levels pegged no higher than that granted to “the most favored” foreign nation. With that, the last objective of Kamehameha’s multi-stage 1849 diplomatic plan was achieved.

Other non-western states burdened in the nineteenth century by similar extraterritorial restrictions also focused their foreign diplomacy efforts on negotiating for the removal of the restrictions. Gonschor examines the tactics that Egypt, Japan, China, Siam, Johor and Madagascar used and found evidence of similar westernizing reforms made to hybridize their traditional institutions.¹⁷⁵ Cemil Aydin describes similar efforts by Japanese leaders during the Meiji period of the 1870s and 1880s to enact reforms which modernized but at the same time harmonized with Japanese traditions.¹⁷⁶ Scholars generally credit Japan with being the first non-western country to use its reforms to successfully negotiate for the removal of all extraterritorial restrictions by 1899. Overlooked, however, is Hawai‘i’s earlier success. First burdened by

¹⁷⁵ Gonschor, “A Power in the World,” 86-8.

¹⁷⁶ Cemil Aydin, *The Politics of Anti-Westernism in Asia: Visions of World Order in Pan-Islamic and Pan-Asian Thought* (New York: Cambridge Univ. Press, 2007), 78-82.

restrictions in the treaty that the French Captain LaPlace imposed in 1839, and then burdened again by Great Britain's 1844 Treaty of Lahaina, Hawai'i successfully negotiated the removal of the last of those extraterritorial restrictions in 1858.¹⁷⁷

¹⁷⁷ Gonschor, "A *Power* in the World," 86-8.

CHAPTER 8

CONCLUSION: SOVEREIGNTY SECURED

Kauikeaouli lay mortally ill on December 15, 1854. He was forty-one years old, and in the thirtieth year of his reign. Privy council members Keoni Ana, Bennett Nāmakehā, Abner Pākī, Joshua Kā‘eo, John Papa ‘Ī‘ī, William Lee, Mataio Kekūanā‘a, Richard Armstrong, Iona Pi‘ikoi, Robert Wyllie, and Asher Bates assembled at 9 a.m. to wait together. Lorrin Andrews arrived late, after Wyllie had started to offer prayers for the king’s soul, “likely soon to be released from its Earthly Tabernacle.” The privy council remained in permanent session “to await the decree of God.” At 11.45 a.m., “it pleased the Almighty in his mercy to call His Majesty to another, and the council reverently hope, a better world.”¹

Then the members set about taking care of the necessary tasks. They made notes of the things to do, and a public proclamation of Kauikeaouli’s passing was prepared in Hawaiian and English. By 12:45 p.m., Alexander Liholiho had been publicly proclaimed the new king, Kamehameha IV.

Members Keoni Ana, Abner Pākī, John Papa ‘Ī‘ī, Iona Pi‘ikoi, Bennett Nāmakehā, Joshua Kā‘eo, Richard Armstrong, Elisha Hunt Allen, Robert Wyllie, Mataio Kekūanā‘a, William Lee, and Charles G. Hopkins assembled again with Alexander Liholiho at 11:00 a.m. on December 16 for an “Extraordinary Privy Council.” Lorrin Andrews was absent; someone had failed to inform him. Lee opened and read Kauikeaouli’s will in Hawaiian; Armstrong read it in English. Pākī and Nāmakehā had witnessed the will when it was drawn up, and they certified that the copy Lee read was genuine. Kauikeaouli had named his hānai son Alexander Liholiho as his

¹ Minutes, 15 December 1854, Series 421, vol. 8, Privy Council, HSA.

successor under Article 25 of the Constitution, and Judge Lee immediately administered the oath of office:

Ke hooihiki nei au imua o ke Akua mana loa, e malama loa au i ke Kumukanawai o keia Aupuni, a e hoopono pono no au i ke aupuni mamuli o ke Kumukanawai a me na kanawai.

. . . .

I solemnly swear, in the presence of Almighty God, to maintain the Constitution of the Kingdom whole and inviolate, and to govern in conformity with that and the laws.²

It was arranged that Kamehameha IV would formally take the oath on January 1, 1855, at 12 noon, a Monday, in the large stone church of Kawaiaha‘o. A public notice was given to the newspapers. Kamehameha IV gave orders that all government officials should continue in their positions until further notice from him.³

Kauikeaouli’s last official act had been to issue a Proclamation on December 8 announcing that Great Britain, France, and the United States had agreed to use their own naval forces to protect the kingdom from any assault on its independence.⁴

The state of the kingdom was sound.

But Kauikeaouli had waged a long, hard-fought campaign to achieve that final success. It had required guile, tenacity, and a well-crafted strategy. My dissertation focuses narrowly on specific tactics of the king’s strategy, fitting them into the political circumstances that the king faced and highlighting his own speech authorizing the tactics. The following overview presents the tactics as a cohesive strategy with three distinct phases. First, Kauikeaouli put the tools he needed into place. Then he made the reforms that would guarantee international support of his

² Minutes, 16 December 1854, Series 421, vol. 8, Privy Council, HSA. Official texts.

³ Ibid.

⁴ W. D. Alexander, “Proclamation, December 8, 1854 by Kamehameha III,” Appendix, “An Account,” 66.

sole jurisdiction over key functional areas in which foreigners had worked to usurp his authority. And finally, the king challenged each of the maritime powers to negotiate equal treaty terms or face a loss of access to the kingdom's ports and facilities.

Phase one: the tools

Kauikeaouli's first tactical move in March 1844 was to begin to fill ministerial positions with western-educated foreigners.⁵ The kingdom had just emerged from the after-effects of British Captain Paulet's unauthorized seizure the previous February. Although Admiral Thomas had restored Kauikeaouli's rule on July 31, 1843, the admiral lingered until February 1844 waiting for the new British Consul General William Miller to arrive. When he did, Miller forced the king into the unequal Treaty of Lahaina as Britain's condition for full restoration of his sovereign powers. The British treaty imposed extraterritorial provisions restricting the operation of the kingdom's courts and the king's ability to determine import levels and duties. The new U.S. Commissioner George Brown also had arrived, and he promptly demanded the same favorable terms for Americans despite the fact that the U. S. had rebuffed the kingdom's requests to negotiate a treaty.⁶

When Miller resurrected Charlton's claim for a prime Honolulu waterfront lot and Brown filed a diplomatic claim to apply the British jury composition terms to an American defendant, Kauikeaouli hired an American lawyer, John Ricord, to manage the kingdom's legal defense. Six months later in September 1844, Kauikeaouli advised U. S. President Tyler that he intended to follow that policy for other functional areas: "the auxiliary aid of intelligent foreigners will be

⁵ Although Judd had occupied a ministerial position since November 1843, it was Ricord's appointment that signaled a clear policy direction.

⁶ Kuykendall, *Hawaiian Kingdom*, 1:235-6.

called in who [have] sworn allegiance to me.”⁷ To Queen Pōmare IV of Tahiti, who in 1845 was engaged in a war with French troops and dissident Tahitians over France’s 1842 seizure of her kingdom, Kamehameha III confided how he personally was guarding against any future seizure attempt: “I am now assisted by good whitemen and think that by this means my Government will stand firm in case of being brought into difficulty again by foreigners.”⁸

Ricord’s employment on March 9 signaled the king’s decision to place western-educated whites into key positions in ministries that interfaced with western nations, and this first tactical move turned out to be the most controversial.⁹ When thousands of Hawaiians engaged in a petitioning campaign in 1845 praying for the dismissal of the foreign ministers, the king stood before his subjects to explain why he had hired them: “[The ministers of white skin] know more than we, and I have chosen them for the sake of their knowledge.”¹⁰

Opposition by Hawaiians to the white ministers subsided after 1845, but opposition from resident foreigners grew as the ministers took firm control of enforcing the king’s sovereign authority. Judd was accused of threatening American merchants, and Ricord was widely disliked for his prosecutorial success in the courtroom. In 1845, a group of resident Americans petitioned President Polk to defend them against the actions of “unprincipled men” who had persuaded the “simple *native rulers*” to implement legislation that harmed their business interests.¹¹ The following year, Miller became so irate over Ricord’s success at defending against Charlton’s claim that he physically attacked Ricord at the king’s birthday party and Keoni Ana had to step

⁷ Kamehameha III to President of the United States, 20 September 1844, Series 410, Box 1, Book 3, Letters, Consular Correspondence, HSA.

⁸ Kamehameha III to Pomare IV, 04 February 1845, Series 410, Box 2, Book 1, Local, Consular Correspondence, HSA. For a study of the 1844-1847 war, see Newbury, Colin, “Resistance,” 5-27.

⁹ Silverman, “Western Judicial System,” 57.

¹⁰ “His Majesty’s Late Visit to Maui,” *Polynesian*, 14 February 1846.

¹¹ Jarves, *History*, 3d. ed., 195-6. Emphasis in the original. The president took no action.

between them.¹² Criticism of the ministers continued, and in 1847, the editor of the *Sandwich Islands News* alleged that “the white ministers control the king and the government,” and he published malicious articles satirizing Richards, Judd, Ricord, and Andrews.¹³

Kauikeaouli, however, steadfastly refused to countenance any criticism of the people he had selected to serve him. He delivered a stinging rebuke to Brown that “of the confidence he ought to repose in his Ministers, His Majesty is the sole judge.”¹⁴ In response to a complaint from Miller, the king firmly declared that all of his officers acted “i ka hana malalo ona a no laila he poe luna lakou nona. . . . by His Authority, and consequently were His Authorities”.¹⁵ And in 1847, he ordered Wyllie to complain directly to the U. S. Secretary of State that American writers for the *Sandwich Islands News* had slandered his government officials.¹⁶ While the protests of resident foreigners continued to the end of Kauikeaouli’s reign, he never wavered in his support and his public endorsement of his ministers’ official acts.

After an outbreak of smallpox ravaged the kingdom in 1853, foreign residents accused Judd and Armstrong of responsibility for the disease’s introduction and prevalence. Petitions were got up—some in favor, some opposed. Privy council minutes record the members’ deliberations over the petitions. Although a committee appointed by the king exonerated Judd and Armstrong, the chiefs were divided in their opinions as to whether or not the two ministers should resign. Judd’s conduct during and after the investigation, however, led to his resignation

¹² Minutes, 20 and 21 March 1846, Series 422, vol. 1, Cabinet Council, HSA.

¹³ Greer, “Abell,” 69-70; A. G. Abell to his sister, 20 April 1847, M-442, Alexander Guron Abell, U. S. Consul, HSA.

¹⁴ G. P. Judd to G. Brown, 08 March 1845, Series 410, Box 2, Book 2, U.S. Officials in Hawaii, Consular Correspondence, HSA.

¹⁵ Minutes, 13 August 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, kuhina nui, Pākī, Leleiōhoku, Kekūanāo‘a, Kana‘ina, Keali‘iahonui, Ricord, Richards, Judd, and Wyllie. Judd acted as the Secretary.

¹⁶ R. C. Wyllie to A. Ten Eyck, 04 August, 06 August 1847, Series 410, Box 3, Book 3, no. 12, part 1, Letters, Consular Correspondence, HSA.

from the privy council. Issues of the *Polynesian* from July 23 to September 10 covered the developing events, and the petition and committee report were printed in the *Polynesian*'s August 20 issue.¹⁷

Several historians embraced the 1845 memorialists' complaints that the white ministers exerted an undue influence over the king's policies because it fit their own narratives that the king and his chiefs were hapless victims. Kame'elehiwa offers the harshest assessment. She characterized the advice given by Richards, Judd, Lee, and Wyllie as "treacherous," given only to promote their own self-interests.¹⁸ Echoing the complaints made in the 1840s by resident foreigners, Kame'elehiwa broadly describes Kauikeaouli and the chiefs as having "learned to doubt themselves and to be afraid of making any decisions contrary to the advice of their [white advisors]."¹⁹ But Kame'elehiwa later cites an anecdote which disproved her own point, showing where Hawaiian privy council members argued against and rejected a resolution about foreign laborers proposed by the white members.²⁰

Osorio corroborates Kame'elehiwa's findings and concludes that the king had been led astray by advice from Richards, Armstrong and Judd to make fundamentally transformative decisions about the law, land and the economy.²¹ Trask describes "aggressive Americans" who forced their way into the government and pressured the chiefs and the king to make sweeping land tenure changes so that they could enrich themselves.²²

¹⁷ Minutes, 03 August to 06 September 1853, Series 421, vol. 7, Privy Council, HSA; "By Authority: Petition, Report of Committee," *Polynesian*, 20 August 1853.

¹⁸ Kame'elehiwa, *Native Lands*, 198, 208-12.

¹⁹ Kame'elehiwa, *Native Lands*, 197.

²⁰ Kame'elehiwa, *Native Lands*, 213; Minutes, 23 October 1847, Series 421, vol. 4, Privy Council, HSA. The resolution would have encouraged northern European laborers to emigrate and staff agricultural operations.

²¹ Osorio, *Dismembering Lāhui*, 13, 36.

²² Trask, *From a Native Daughter*, 6-7.

Kuykendall did not describe the white ministers as self-interested, but neither did he recognize their employment as a deliberate, tactical move initiated by Kauikeaouli. Instead, Kuykendall inferred that it was Judd who had instituted the policy, citing a letter Judd wrote in July 1844 in which he remarked that “it will be necessary to employ a few foreigners of high character, in offices of trust and responsibility in order to sustain the relations of the Government with other Governments.”²³ For example, even though Kuykendall later cited another part of the king’s September 1844 letter to Tyler, he made no mention of Kauikeaouli’s clear reference to his authorship of the hiring policy.²⁴

My examination of political documents shows that hiring white ministers was in fact a deliberate policy, and that it was Kauikeaouli who directed the policy. Kuykendall, however, appeared to disregard evidence that the king had constructed a broad defensive strategy in favor of a narrative of the progressive inevitability of western civilization led by foreigners. Beamer notes that the ali‘i purposefully engaged foreigners so that they could gain knowledge as part of the chiefs’ larger plan to conduct politics on the international level—so long as the foreigners could be trusted—and Kauikeaouli’s steadfast support of his chosen ministers indicated his belief that they could be.²⁵ The white ministers only engaged in politically authoritative speech because Kauikeaouli empowered them to do so, and they did so in support of his policy positions. “The king my master,” is how Judd referred to Kauikeaouli in an 1844 letter to Brown that laid out the kingdom’s position on Brown’s complaints.²⁶ Rather than engaging in subversive activity to further their own agendas, the kingdom’s political records demonstrate repeatedly that Ricord,

²³ Kuykendall, *Hawaiian Kingdom*, 1:238.

²⁴ Kuykendall, *Hawaiian Kingdom*, 1:247. Kuykendall cited the letter to prove a point he made about Brown’s recall.

²⁵ Beamer, *No Mākou Ka Mana*, 131

²⁶ G. P. Judd to U. S. Commissioner G. Brown, 14 September 1844, *Correspondence in the Case of John Wiley* (1844), 3.

Judd, Wyllie, Richards and Lee battled other, unscrupulous foreigners and loyally worked to accomplish the king's objectives and safeguard the kingdom's sovereign powers. For example:

- Ricord's strident defense of the kingdom's interests in the Charlton, Wiley and Gray cases as he battled Brown, Hooper and Miller in court proceedings
- Wyllie's persistent attacks on Miller for promoting false claims in an effort to validate Charlton's purported deed
- Strong support from Lee and Judd as the king formulated his responses to Tromelin at the time of the French admiral's 1849 assault on the kingdom

More proof that Judd defended the king's interests comes from a letter he wrote in December 1846 to the ABCFM Secretary Dr. Rufus Anderson. Judd told Anderson that he and Richards promoted policies in the nation's councils that would preserve the Hawaiian race and "keep off all aliens or crush them by wholesome laws impartially administered."²⁷ While the king accepted Judd's resignation from his ministerial post in 1853 during the smallpox epidemic, it was for reasons unrelated to his official duties.

Certainly, the white council members received the most publicity as they were the government's policy leaders for the initiatives implemented by their ministries. Executive actions and policy decisions, however, could not be implemented without the approval of the king and the attestation of the kuhina nui, and the king's approval would not be given without the concurrence of the other privy council members, a majority of whom were Hawaiian. At the September 2, 1845 meeting, for example, when the king requested a resolution ordering Wyllie to implement a publications policy for consular correspondence, six out of ten members voting

²⁷ Kuykendall, *Hawaiian Kingdom*, 1:257.

for the resolution were Hawaiian chiefs.²⁸ On December 14, 1847, nine Hawaiian chiefs joined with three white ministers to approve the resolutions framed by Judd authorizing Lee and Judd to prepare recommendations to guide the process for land divisions between the king, the chiefs, and the konohiki administrators.²⁹

The second tactical move that Kamehameha III made was to buy an English-language newspaper. Sovereignty recognition from Britain, France and the United States brought new international responsibilities as well as increased scrutiny of the kingdom's internal affairs. There was already one English-language newspaper at Honolulu with an international circulation, the *Friend*, but the king wanted his own communications platform so that he could publicize favorable reports about the kingdom's political affairs. The *Polynesian* newspaper purchase included its own press and came with an experienced editor, James J. Jarves.

Editor Jarves announced Kamehameha III's acquisition on July 13, 1844 in the pages of the *Polynesian's* first issue as the government organ. Kamehameha III had purchased the press to express the views and opinions of his government, Jarves reported, "so that his transactions will go to Europe and America." The king himself later emphasized to his council how imperative it was that they use the *Polynesian's* communications network to "make known the kingdom's justification for the rights we claim," and he authorized publication in the press of all correspondence exchanged with foreign diplomats about contested issues. Alluding to the danger that Brown and Miller might succeed in destabilizing the government, the king warned that "o ka

²⁸ Minutes, 02 September 1845, Series 421, K vol. 1, Privy Council, HSA. Attendees were the king, the kuhina nui, Judd, Wyllie, Richards, Ricord, Pākī, John 'Ī'ī, M. Kekūanāo'a, and Kana'ina.

²⁹ Minutes, 14 December 1847, Series 421, vol. 4, Privy Council, HSA. Attendees were the king, the kuhina nui, Kekūanāo'a, Kā'eo, Keali'iahonui, 'Ī'ī, Nāmakehā, Lee, Kapaakea, Keohokālole, Wyllie, Judd, and Kana'ina.

nalo o ko kakou pono a me ko kakou aoao, oia auanei ka make o ke Aupuni the hiding of our cause and our defense will be likely to prove the ruin of the Government.”³⁰

Benedict Anderson theorized that the manner in which a newspaper covered events could create among its readers a sense of the existence of a modern nation state along with a favorable image of it, and Jarves’ eloquent, hard-hitting editorials in support of the government and his key reporting on topical events had just that effect.³¹ International circulation of the *Polynesian*’s reports exposed the partisanship of Kauikeaouli’s critics and created the kind of image that Anderson described as a nation with a fully-operative, modern governance structure.³² Press coverage from abroad confirmed that the *Polynesian* had succeeded in extending the reach of the king’s political influence into Europe and America. Although the editors of the *Sandwich Islands News* attempted to undercut the kingdom’s positive international image, their efforts failed and the *News* folded.

What is noteworthy about the execution of this first phase is that it evidences that Kauikeaouli understood that the success of his strategy would rest on his ability to command the same knowledge, skills and communications tools that his western critics possessed. As Beamer pointed out, Kauikeaouli had made a similar tactical decision several years earlier when he gained political advantage from drawing on Richards’ knowledge and skills about political economy. My research has demonstrated that the king’s deliberate staffing of ministerial positions with western-educated whites also gained him valuable political advantage.³³ When the *Polynesian* began publication as the government press in July 1844, the people and

³⁰ Minutes, 02 September 1845, Series 421, vol. 1, Privy Council, HSA. Official texts.

³¹ Benedict Anderson, *Imagined Communities*, 24.

³² Benedict Anderson, *Imagined Communities*, 19, 24, 33.

³³ Beamer, *No Mākou Ka Mana*, 131-2.

communications tools were in place for Kāiākeaouli to tackle reforms of the two key functional areas where foreigners had worked to usurp his authority.

Phase two: the reforms

Paulet's seizure of the kingdom over legal disputes and Thomas' subsequent criticisms of the kingdom's legal system had impressed on Kāiākeaouli how critical reform was to his ability to retain sovereignty over key governance areas. Research by Tracey Banivanua Mar shows that chiefs at Tahiti, Tonga, Fiji and New Zealand reached similar conclusions. Banivanua Mar studied what she termed an "outbreak of expressions of sovereignty" throughout the Pacific after 1840 that manifested as modernizing reforms implemented by chiefly rulers as a way to insist that imperial powers respect their sovereign rights and privileges.³⁴ Aydin describes how Japanese leaders during the Meiji period of the 1870s and 1880s also faced a similar need to modernize in order to free Japan from unequal treaties so that it could remain sovereign. Like Hawaiians, Japanese leaders hired foreign experts, and they crafted reforms that were compatible with Japanese traditions but which still met the needs of a modernized state. Aydin reports that these Japanese measures became a model for ideological change in the Ottoman state, Egypt, and India, paralleling the experience in Oceania that Banivanua Mar had described.³⁵

My research found that those were the results that Kāiākeaouli hoped to achieve when he employed white ministers. The king had cautioned Wyllie at the time of his appointment as the foreign relations minister in March 1845 that Wyllie should align the kingdom's treaty relationships and duties with "the peculiar local policy of our Government" as would from time

³⁴ Banivanua Mar, *Decolonisation and the Pacific*, 62-71.

³⁵ Aydin, *The Politics of Anti-Westernism in Asia*, 78-82.

to time be developed by the legislators, the courts, and his executive decrees.³⁶ Similarly, when a June 24, 1845 joint resolution of the legislative council authorized Ricord to recommend statutory changes to organize the courts, ensure a division of powers, and create a digest of the laws, Ricord was instructed to accommodate his recommendations to “ko kakou ano, a me ko kakou noho ana. . . . our condition and circumstances.”³⁷

Ricord had already begun work on the legal reforms by the time that British Admiral Seymour visited in October 1845. However, when the admiral threatened to forcibly redress specific grievances lodged by British subjects, Kauikeaouli cautioned the privy council that the need had become urgent: the situation was dangerous, he told them, because “o ke ano o keia olelo, oia ka lawe i ke Aupuni, a olelo mai ke Lii oiaio no ia me ka lohe ole hoi i ka oiaio e maopopo ai ka pono . . . the meaning of the whole address made by the Admiral [Seymour] is to take possession of the kingdom; it is so, even without the semblance of enquiry into Justice.”³⁸ Just as alarming was the fact that by April 1846, British Consul General Miller’s behavior had become so aggressively hostile that the cabinet ministers believed the king could not trust the consul to control his temper should they meet privately.³⁹

By the time that the 1846 legislative session opened, the first organic act had been adopted and Ricord was ready to submit his draft of the second organic act for review and

³⁶ Commission of Robert C. Wyllie as Minister of Foreign Relations, March n.d., 1845, Letter Book 1 at 6-9, Interior Department, HSA. The Commission is in English; a Proclamation in Hawaiian only notices the king’s appointment. See “Koho Ana E Na Lii,” *Polynesian*, 29 March 1845.

³⁷ “Olelo Mua a Ka Mea Nana i Kakau [Compiler’s Preface],” *Statute Laws of His Majesty Kamehameha III*, 1:5. Official Hawaiian texts are found in the same volume with the same page numbers under the title *Kanawai i kauia e Ka Moi, E Kamehameha III., Ke Alii o ko Hawaii Pae Aina*. Kauikeaouli had announced this reform initiative in his opening speech to the legislators. See “The Royal Speech, At the Opening of the Legislative Chambers, On Tuesday, May 20th,” *Polynesian*, 24 May 1845.

³⁸ Minutes, 09 October 1845, Series 421, vol. 1, Privy Council, HSA. Official texts. Attendees were the king, kuhina nui, Pākī, Kekūanāo‘a, ‘Ī‘ī, Kā‘eo, Judd, Richards, Ricord, and Wyllie.

³⁹ Minutes, 16 April 1846, Series 422, vol. 1, Cabinet Council, HSA.

amendment. The chiefs had actively participated in the enactment of earlier statutes, including the 1840 revisions, and legislators expected to “olelo pu me na lii” (discuss together with the chiefs) those changes that would benefit the kingdom.⁴⁰ Members of both houses debated the proposed changes several times during the course of three readings “section by section with patience and critical care, altering and amending them in numerous essential respects” before passing them.⁴¹ The resultant statutory changes defined the duties and responsibilities for each of the executive ministries, established a law enforcement agency under the attorney general, defined judicial practices and processes, and added new courts to handle foreigners’ disputes.⁴²

When challenged by Admiral Seymour in 1846 about the scope and complexity of the new statutes, Kauikeaouli responded that he had made legal reforms to satisfy the wants and needs of foreign residents, telling the admiral that since the foreign residents belonged to great nations, “they required as many laws and as complicated as those great nations required.”⁴³ Next Kauikeaouli demonstrated Banivanua Mar’s point that reforms were undertaken by Pacific islands’ rulers as a way to insist that imperialists respect the rulers’ sovereign rights: the king invited Seymour to umpire British complaints, and if the admiral found that no wrong had been committed which would be “cognizable as grounds of national complaint by the laws of

⁴⁰ J. Kāpena to P. Kānoa, 01 June and 14 November 1840, Box 141, Miscellaneous, Interior Department, HSA; King’s Speech, 31 July 1846, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA; Minutes, 02 April 1845, Series 221, vol. 2, Journal of the Legislative Council, 1845-1847, Legislature, HSA. My own translation.

⁴¹ “Compiler’s Preface,” *Statute Laws of His Majesty Kamehameha III*, 1:6.

⁴² Silverman, “Western Judicial System,” 57.

⁴³ Minutes, 24 August 1846, Series 421, vol. 2, Privy Council, HSA. Attendees were the king, the kuhina nui, Keali‘iahonui, Kana‘ina, Kā‘eo, ‘Ī‘ī, Judd, Pākī, Leleiōhoku, James Young, Richards, and Wyllie. This is the same speech in which Seymour questioned the king’s decision to employ white ministers. There is no Hawaiian text. See also, Kuykendall, *Hawaiian Kingdom*, 1:264.

nations,” then Kauikeaouli expected Seymour would respect his government’s appropriate exercise of its power and authority.⁴⁴

Ricord’s reform work concluded with the 1847 Act to Organize the Judiciary that created a separate judiciary department with courts of record. The new justice system established by the act included uniform judicial processes with fixed judicial practices and clearly defined law codes, all of which centered legal authority firmly in the kingdom’s hands.⁴⁵ Once judges on the new superior court began reaching verdicts according to court and evidentiary rules that foreigners found acceptable, foreign hostility diminished, and sovereignty over the law and the courts was preserved.

Hawaiians also easily accepted the new law codes and court procedures. From her studies of activity at the Honolulu District Court in 1844 and 1845, Mari J. Matsuda concludes that native Hawaiians actively used the law and the courts to settle their disputes. Hawaiians also turned to the courts to settle their disputes with foreigners. When a Catholic priest disputed the taking of his land and house lot in March 1849, for example, Hawai‘i island Governor Kapeau responded ‘take it to court—that’s the right way.’⁴⁶ Unlike the superior court, district court proceedings were conducted entirely in Hawaiian before Hawaiian judges, and most of the parties were Hawaiian.⁴⁷

Land reform was carried on simultaneously. No reform enacted during Kauikeaouli’s reign has engendered more modern-day public debate than land reform. Modern Hawaiian

⁴⁴ Minutes, 24 August 1846, Series 421 vol. 2, Privy Council, HSA. The king’s verbal report. There is no Hawaiian text.

⁴⁵ Silverman, “Western Judicial System,” 57-8. Although Ricord departed the kingdom before its completion, and Lee finalized the act.

⁴⁶ Kapeau’s dispute with the Catholic priest, March 1849, Box 143, Miscellaneous, Interior Department, HSA.

⁴⁷ Mari J. Matsuda, “Law and Culture in the District Court of Honolulu, 1844-1845: A Case Study of the Rise of Legal Consciousness” *The American Journal of Legal History* 32 (1988): 24-5, 40; 1844-1845 District Court records, Drawer 2, file 10, Index 1, Supreme Court Judiciary Records, State of Hawaii.

scholars write eloquently of their sense of enormous cultural loss and the devastating economic effects that land tenure changes had on the maka‘āinana. Anger and a sense of betrayal color their analyses. Kame‘eleihiwa, for example, cites numerous land transfer records to demonstrate that the principal beneficiaries of the land transformation were the king’s foreign advisors.⁴⁸ Silva finds that the maka‘āinana were left without the means to make a living.⁴⁹

Kauikeaouli’s own thinking about the traditional land system underwent a radical transformation. In 1835, he cautioned Governor Kaikio‘ewa not to sell land to a foreigner, but to lease it: “alaila no lawe mai, mai haawi lilo loa oe i ka aina” (and at that time take it back, don’t give land away without restrictions).⁵⁰ Ten years later, however, the king approved the enactment of the quiet title legislation that set in motion the process that would convert all land to fee simple ownership. Scholars speculate about what caused the king to change his mind. Trask describes a “weary and frightened King Kamehameha III” who yielded to his foreign advisors.⁵¹ Chinen claimed that the “vigorous actions” of foreigners and warship commanders forced the king and his chiefs to review their land policies.⁵² Kuykendall put it more delicately: the king’s attitude changed because new ideas from the outside world caused a breakdown in the purportedly “feudal” conception of land use.⁵³

It is far more likely, however, that the king’s mind was changed by the political circumstances he faced. Paulet’s gunboat threats together with Britain’s refusal to credit sworn testimony from ranking chiefs about the validity of Charlton’s deed showed the king just how

⁴⁸ Kame‘eleihiwa, *Native Lands*, 298-306.

⁴⁹ Silva, *Aloha Betrayed*, 43.

⁵⁰ King Kauikeaouli to Kaikio‘ewa at Waimea, Kaua‘i, 24 October 1834, M-59, Letters, Hawaiian Chiefs, HSA. Dr. Lyon assisted with this translation.

⁵¹ Trask, *From a Native Daughter*, 6.

⁵² Chinen, *The Great Mahele*, 7.

⁵³ Kuykendall, *Hawaiian Kingdom*, 1:284.

vulnerable to foreign challenge his land possession was under the traditional system. Chiefly anger over Britain's stance was intense, and Wyllie let Miller know why: "because it involves a principle whereby they themselves might be dispossessed of their lands by the Agent of a foreign Nation, and all redress, in the Courts of their own Country absolutely prevented."⁵⁴ Certainly there was pressure from foreigners to acquire lands for agricultural development, and French imperialists' designs in the Pacific also alarmed the king and his chiefs. There is also support to conclude that the king had initiated land reform to protect native Hawaiians' ability to sustain themselves.⁵⁵ While several factors may have influenced the king's decision, it was the strong possibility that Hawaiians would lose their land piece by piece that emerges as the principal factor which moved Kamehameha III to begin the process to change his allodial title to western-style fee simple ownership.

As Beamer points out, the king had successfully used European-American ideas about the law as a tool to retain control over the kingdom's courts and maintain the kingdom's independence.⁵⁶ Silva also notes that the creation of law codes grounded in western jurisprudence bolstered foreigners' views of Hawai'i as an independent kingdom.⁵⁷ With the administration of justice reformed and land possession changed to fee simple ownership, phase two was concluded by 1850 when the Kuleana Act went into effect.

⁵⁴ R. C. Wyllie to G. Miller, 22 June 1846, Series 410, Box 3, Book 3, no 12 part 1, Letters, Consular Correspondence, HSA.

⁵⁵ See, for example, Judd's Report of the Minister of the Interior, 01 April 1845, Box 141, Miscellaneous, Interior Department, HSA.

⁵⁶ Beamer, *No Mākou Ka Mana*, 135.

⁵⁷ Silva, *Aloha Betrayed*, 16.

Phase three: negotiate fair treaties

Accomplishing the goals of the first two phases of his strategy had been within Kamehameha's unilateral power to direct, but removing unequal terms from existing treaties depended on the willingness of the British and French treaty partners. The king began with a conventional bargaining approach: express a desire to renegotiate and come to better terms. By 1846, Kamehameha had cause to believe that approach would be successful: his white ministers could defend the kingdom's political and economic positions in western forums, favorable articles about his governance circulated internationally in the pages of the *Polynesian*, and legal and land reform initiatives had been publicized and were well underway.

International trade had increased after the 1843 recognition of Hawaii as an independent sovereign state, and with increased trade came an increased need for infrastructure. Import duty restrictions in the British and French treaties, however, limited the kingdom's ability to raise revenue. Although Judd and Wyllie had lobbied for removal of the restrictive clauses, in March 1846 French and British diplomats presented what were again mirror-image, non-negotiable treaties containing the same restrictive extraterritorial provisions.⁵⁸ By colluding with each other on treaty language, Britain and France didn't just ensure their own favorable trading terms at the economic expense of a less powerful partner—they also ensured that neither of them would gain an advantage over the other one for trade in Hawai'i's lucrative markets.

Kamehameha, however, continued with his conventional, good-faith negotiating approach by ratifying both treaties and returning them with his personal requests for specific changes. Meanwhile, the legislature moved on the only economic accommodation the new treaty had provided and raised import duty rates on intoxicating liquors. Urged on by the new French

⁵⁸ There were two minor modifications to Articles III and VI. See Chapter 5.

envoy's anger over the duty rate on wine, French Admiral de Tromelin attacked Honolulu in August 1849 but failed to gain any political concessions. The "French outrage" was well-publicized by the *Polynesian* and generated strong international support for the kingdom.

Together with his privy council, the king then devised an entirely different strategic approach that built on the kingdom's key location along global trade networks.⁵⁹

Acknowledging that Hawai'i did not have the forces or firepower to resist a naval assault, Kamehameha III set into motion a strategy to shift negotiating power to the kingdom by dividing the interests of the three maritime powers. He used three tactics:

First, urge British and American officials to safeguard their citizens' commercial interests by ordering their navies to defend Hawai'i's independence should France threaten again;

Second, negotiate a favorable treaty with the U. S. and position it with Britain and France as the new competitive pattern; and

Third, threaten to alienate sovereignty to a negotiating partner's rival; if played at the right moment a credible bluff could be used to obtain concessions from the other negotiating party.

Judd and Jarves negotiated a fair treaty with the U.S., and British diplomats amended their treaty to meet the new pattern. The French declined to do the same, however. When rumors surfaced in 1851 that another French assault was imminent, Kamehameha III let word out that he

⁵⁹ Minutes, 05 September 1849, Series 421, vol. 3A, Privy Council, HSA. Attendees were the king, the queen, the kuhina nui, Judd, Armstrong, 'Ī'i, Kanēhoa, Pākī, Kana'ina, Kekūanā'oa, and Kapaakea. Notably absent were Wyllie and Lee; L. F. Judd, "Suppressed Chapter," 8. The first step is evidenced by Judd's 01 August 1850 letters to Palmerston and Clayton as detailed in Chapter 7.

would place the kingdom under U. S. protection if France attacked, and the French envoy backed off from his demands.

Dissident resident Americans were emboldened by learning that the king had authorized entering into negotiations to place the kingdom under U.S. protection. Some dissidents sought outright annexation, while others joined with filibusters from California to topple the king's government from within. But Kamehameha III had one last bluff and one last negotiating trick to play: in February 1854 he opened negotiations with the Americans for annexation, and then sabotaged the negotiations with delays and conditions the U. S. could not accept. When rumors of an assault by the filibusters resurfaced in November 1854, Britain and France pledged to use their own naval power to protect the kingdom. U. S. naval assets in port were pressured to do the same, and Wyllie, acting for the king, issued the December 8 Proclamation announcing that a tripartite protection agreement existed.

By the time of his passing on December 15, 1854, Kamehameha III's well-crafted strategy under his personal leadership had led to the implementation of governance, political and diplomatic measures that safeguarded his administration's ability to exercise functional sovereignty and delivered to his successor a kingdom whose future territorial integrity was guaranteed by the three maritime powers.

* * * *

As the 1845 reply by the legislators to the Lahaina petitioners pointed out, there was no practical way to keep foreigners from coming ashore.⁶⁰ Instead, the key to the kingdom's survival lay in finding a way to manage their impact. Kamehameha III found that way by harnessing

⁶⁰ *Ka Elele*, 15 July 1845 for the Hawaiian text; *Friend*, 01 August 1845 for the English translation. Dated July 3, the reply was corrected and approved as of July 8, 1845.

what Banivanua Mar calls ‘imperial literacy’ and turning the kingdom’s international legal and diplomatic discourses into expressions of his sovereign rule over an independent nation state.⁶¹

During his reign Kauikeaouli survived two assaults by French naval forces and a British occupation, sent two deputations to America and Europe to press for recognition and favorable treaties, provided a written constitution and legal reforms that established the rule of law, changed land tenure from its traditional Polynesian character to western fee simple ownership, broke Britain and France’s extraterritorial hold on the kingdom’s courts and revenue income potential, fended off foreigners’ attempts to overthrow his government from within, and turned his maritime treaty partners into a coalition of allies pledged to provide naval support to defend his kingdom’s territorial security. It was an extraordinary leadership performance, one that had no parallel in any other Polynesian kingdom. My dissertation’s analysis of the tactics used by the king to accomplish his strategy contributes to a reevaluation of Kauikeaouli’s leadership and an expanded understanding of his response to the threats and opportunities presented him during his reign.

⁶¹ Banivanua Mar, *Decolonization and the Pacific*, 51-2, 64.

APPENDIX A

HOUSE OF NOBLES (Na'lii malalo o ke Alii nui)¹
Constituted under the terms of the 1840 Constitution

Kamehameha III
Ha'alilio
Hoapiliwahine
ʻĪʻĪ (John Papa ʻĪʻĪ)
Kahekili
Kana'ina
Keali'iahonui
Kekāuluohi (Kuhina Nui)
Kekau'ōnohi
Kekūanāo'a
Keohokālole
Keoniana (Young)
Konia
Kuakini
Leleiōhoku
Pākī

¹ Official titles and membership from the 1840 Constitution, *Ka Ho'oilina*, 27. By 1845 it had come to be called "Na'lii Ahaolelo," see "Olelo Mua a Ka Mea Nana i Kakau [Compiler's Preface]," *Statute Laws of Kamehameha III*, 1:5.

APPENDIX B

REPRESENTATIVE BODY (Ka Poe i Kohoia)¹ Constituted under the terms of the 1840 Constitution

No names appear until the Session of 1845²:

‘Ālapa
Kaaukai
Kapae
Auwaa
Kalawahi
Kolia
Umalele

¹ Official title from the 1840 Constitution, *Ka Ho‘oilina*, 31. By 1845, it had come to be called “Ka Poeikohoia e na Makaainana o Hawaii nei.” See “Olelo Mua a Ka Mea Nana i Kakau [Compiler’s Preface],” *Statute Laws of Kamehameha III*, 1:5.

² Robert C. Lydecker, *Roster Legislatures of Hawaii 1841-1918, Constitutions of Monarchy and Republic, Speeches of Sovereigns and President* (Honolulu: The Hawaiian Gazette Co., Ltd., 1918), 18.

APPENDIX C

THE CABINET COUNCIL (Na Kuhina)¹

Formed as of March 1846 after implementation of the 1845 Act

Members are

Kuhina Nui, Chair, functioning in his role as the Minister of Interior Affairs
Minister of Foreign Relations
Minister of Finance
Minister of Public Instruction
Attorney General (vacated after 1847)

The Cabinet met irregularly to discuss measures to place before the King in Privy Council. The first recorded meeting is dated March 3, 1846. Attending were:

Kuhina Nui	-	Keoni Ana Young
Minister of Foreign Relations	-	Robert C. Wyllie
Minister of Finance	-	Gerrit P. Judd
Minister of Public Instruction	-	William Richards (d. 07 Nov 1847)
Attorney General	-	John Ricord (resigned 17 May 1847)

¹ Official title comes from “Olelo Mua a Ka Mea Nana i Kakau [Compiler’s Preface],” *Statute Laws of Kamehameha III*, 1:5.

APPENDIX D

THE PRIVY COUNCIL (Ka Poe Kukakuka Malu)¹

Established by the 1845 Act

Attendees at the First Scheduled Meeting on July 29, 1845:²

Members:

Kuhina Nui

Executive Ministers

Honorary Members as appointed by the King

Governors of the Islands of Hawai‘i, Maui, O‘ahu and Kaua‘i

Ioane ‘Ī‘ī (John Papa ‘Ī‘ī)

Gerrit P. Judd

Charles Kana‘ina

Aaron Keali‘iahonui

M. Kekau‘ōnohi

Mataio Kekūanā‘a

Keoni Ana

William P. Leleiōhoku

Abner Pākī

John Ricord

Robert C. Wyllie

¹ The title comes from “First Act Kamehameha III,” *Statute Laws of Kamehameha III*, 1:11, in the Hawaiian text with that page number.

² Minutes, July 29, 1845, Series 421, vol. 1, Privy Council, HSA.

HAWAIIAN-LANGUAGE GLOSSARY¹

‘aha‘ōlelo	chiefs’ council
ali‘i	chief
ali‘i nui	ruling chief
‘elele	courier
‘ōlelo waha	spoken command
hānai	adopted
haole	white person
hewa	wrong, error
kauoha malu	secret instructions, secret order
kahu	a chief’s attendant
kānaka maoli	native Hawaiians
kapu	forbidden, prohibited, and a general name for the traditional system of religion
kuhina nui	chief advisor, premier
kūkini	long distance runners
kuleana	a property right, a small homestead
māhele	division
maka‘āinana	commoners, Hawaiians without rank
maka‘āinana maoli	native Hawaiian commoners
mamaki	a small native tree; also refers to the kapa made from the tree bark
palapala	literacy
pono	benefit, right
pule	prayer, worship, rite

¹ The list is alphabetized according to Hawaiian language conventions.

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