



The Lāhui Strikes Back

The Illegal Overthrow of the Hawaiian Kingdom and the Struggle for Hawai‘i’s Water Resources

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“If we are ever to have peace and annexation the first thing to do is obliterate the past.” These words were said by Samuel Damon who assisted in the 1893 Illegal Overthrow of the Hawaiian Kingdom. The Overthrow was a turning point in history, not just for Kānaka ‘Ōiwi or Hawaiians, but also the management of water in the islands. In this paper I will analyze a few key ways the illegal overthrow of the Hawaiian Kingdom enabled the sugar plantation industries to acquire and control vast amounts of Hawai‘i’s water resources. I begin this conversation by looking at the relationship water has with Kānaka ‘Ōiwi and how water was managed during the pre-arrival of Captain James Cook. I will also analyze a few of the laws that the Hawaiian Kingdom passed towards the management of water, then look at the brief history of how the sugar plantations were financed and managed in the early years towards the latter half of the 19th century. Statistics of water usage pre and post overthrow will be used, with a short history of the water ditch systems that were used to transport water to the sugar plantations. I will then end it with an analysis of the laws during the Provisional Government, Republic of Hawai‘i and Territory of Hawai‘i that dealt with water management that enabled the accumulation of power within the sugar industry by a small group of corporations.

In the Hawaiian language, the word wai means water, the word for waiwai means value, wealth or importance. Kānāwai means law or regulations. All these important words have the word wai within them, thus it would make sense for a people

who lived in the most isolated place in the world to regard water in such high importance. Water is also viewed as a kino lau² or the embodiment of a god, in this case the god Kāne³. There

1 Damon, Correspondence, November 26, 1895. Series 424, vol. 4, Council of State, Hawai‘i State Archives, Honolulu.

2 Mary Kawena Pukui and Samuel Elbert, *Hawaiian Dictionary* (Honolulu: University of Hawaii Press, 1987), 153, “Many forms taken by a supernatural body.”

3 Ibid, 128, “The leading of the four great Hawaiian gods.”



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are 400,000 gods⁴ in the Hawaiian pantheon. Every plant and animal are an embodiment of a god. So are clouds, rain, the movement of lava, the currents of ocean and air. The kānaka ‘Ōiwi⁵ or Hawaiian world view comes from the great cosmogonic genealogy known as the Kumulipo. Papa⁶ and Wākea⁷ who are both gods give birth to the Hawaiian islands, afterwards Wākea then has a child with Ho‘ohokūkālani.⁸ It was stillborn, but where it’s grave was, the first taro plant grew. They then had a second child that was named Hāloa, and he became the first human or ‘ōiwi born in these islands. This relationship between ‘ōiwi, taro and these islands show a familial connection between the oldest-youngest siblings. It also shows a kuleana or cultural obligation for ‘ōiwi to mālama the resources in these islands and in this case, water.

In traditional times the, “inalienable title to water rights in relation to land use is a conception that had no place in old Hawaiian thinking... Water, whether for irrigation, for drinking, or other domestic purposes, was something that ‘belonged’ to Kāneikawaiola... The ali‘i or chiefs in old Hawaiian thinking and practice did not exercise personal dominion, but channeled dominion. In other words, they were a trustee.”⁹ The management of water was used mostly for taro, which is the staple crop and grown in wetland and dryland areas. Wetland kalo were grown in a lo‘i¹⁰, that was fed through an ‘auwai or water course that diverted water from the mainstream that generally went from mauka to makai, which fed water to the lo‘i, that eventually returned back into the main stream. The management of the ‘auwai was done under the authority of the konohiki¹¹ in a

ahupua‘a¹², or ‘ili¹³. The konohiki or land manager of each area would subdivide the water amongst the people for food cultivation. The number of people who worked the ‘auwai or land determined the quantity of water given. When it was someone’s time in the water rotation they would go with the luna wai, a superintendent to the water head or dam to see what the condition of it was. It was his job to clear any obstructions that might harm the flow of water and fix and damages to the main ‘auwai and dam. If not, then that person would not get any rights to the water until he finishes his obligations. This concept also goes to any family or individual who doesn’t come to the ‘auwai cleanings or dam repairs.¹⁴ Water is the most precious resource in an island society and breaking the rules to regulate water can lead to heavy consequences. If someone was caught breaking a dam, that person was to, “... be slain by the shareholders of that dam, and his body put in the breach he had made, as a temporary stopgap, thus serving as a warning to others who might be inclined to act similarly.”¹⁵

We have seen the relationship that water has to ‘ōiwi and how it was managed in traditional times and now move into looking at some of the laws that were passed during the time of Hawaiian Kingdom in relation to wai.

Twenty-one years after King Kamehameha the First had united all the islands under one government the Hawaiian Kingdom in 1840 drafted its first written constitution or “Kūmū Kānāwai” that paid attention to the importance of wai. It stated the origins of the Hawaiian kingdom and the principles founded by it were, that Kamehameha I was the founder of the Kingdom, and all the resources within it, “it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property,”¹⁶ such as a trustee. As water is one of those resources, it is not owned by anyone, not even the king, but shared amongst the citizens of the Kingdom and was managed by the king for the betterment of all. As we

4 David Malo, *Hawaiian Antiquities: Mo‘olelo Hawai‘i*, (Bishop Museum Press: Honolulu, 1951), 85.

5 Jonathan Kamakawiwa‘ole Osorio, “What Kine Hawaiian Are You?,” A Mo‘olelo about Nationhood, Race, History, and the Contemporary Sovereignty Movement in Hawai‘i, *The Contemporary Pacific*, 13.2 (2001) 359–379, “Some people insist that *Hawaiian* denotes mere residence rather than ancestry, like Californian or Texan. Others insist that whether we are called Hawaiian, *Kanaka Maoli*, or ‘*Oiwi*, we are referring to the Native people of Hawai‘i.”

6 Lilikalā Kame‘eleihiwa, *Native Land and Foreign Desires: Pehea Lā E Pono Ai?*, (Honolulu: Bishop Museum Press: 1992), 23–24, “Skyfather.”

7 Ibid., “Earth Mother.”

8 Ibid., “Star mother or the one who generates stars in the sky.”

9 E.S. Craighill Handy and Elizabeth Handy with the collaboration of Mary Kawena Pukui, *Native planters in old Hawaii: their life, lore, and environment*, (Bishop Museum Press: Honolulu, 1972).

10 Mary Kawena Pukui and Samuel Elbert, *Hawaiian Dictionary* (Honolulu: University of Hawaii Press, 1987), 209, “Irrigated terrace for taro cultivation.”

11 Claire Hiwahiwa Steele, “He Ali‘i Ka ‘Āina; He Kauwā ke Kanaka (The Land is Chief; Man is its Servant): Traditional Hawaiian Resource Stewardship and the Transformation of the Konohiki.” (masters thesis, University of Hawai‘i at Mānoa), 1, “Special class of chiefs who were appointed by the Ali‘i Nui (high chiefs) to steward their lands and resources.”

12 Lorenz Gonschor and Kamanamaikalani Beamer, “Toward an Inventory of Ahupua‘a in the Hawaiian Kingdom: A survey of Nineteenth and early Twentieth-Century Cartographic and Archival Records of the Island of Hawai‘i,” *The Hawaiian Journal of History*, Vol. 48 (2014): 79, “Culturally appropriate, ecologically aligned and place specific unit with access to diverse resources.”

13 David Malo, *Hawaiian Antiquities: Mo‘olelo Hawai‘i*, 16, “An ahupua‘a was then divided up into smaller pieces such as ‘ili.” An example is the ‘ili of Pālolo, that is within the ahupua‘a of Waikīkī on O‘ahu.

14 Mrs. Emma Metcalf Nakuina, “Ancient Hawaiian Water Rights: And some of the Customs Pertaining to Them,” *The Hawaiian Annual*, (1893): 79–84.

15 Ibid., 82.

16 The 1840 Constitution of the Hawaiian Kingdom, Nā kumukānāwai, 1890–2008, Foreign and Commonwealth Office Library, 5.

can see during this time the management of water from a traditional perspective was being codified into western law by the Hawaiian Kingdom.

Hahai nō ka ua i ka ululā'au or the Rain Follows the Forest is a Hawaiian proverb that holds true today. In Hawai'i the drinking water comes from the Native Forests through rainfall. In the rainforest, the mosses, ferns and trees are water gathering engines that capture passing moist clouds and rain that likewise prevent severe erosion. Non-Native animals for years have devoured the forests and non-native weeds have choked out the native plants from capturing more water. Since the arrival of western European explorers such as George Vancouver who first introduced cattle to the islands in 1793, the introduction of feral animals such as cattle and goats have devastated the native forests. Due to the loss of rainforests, the Hawaiian Kingdom government passed the Forestry Act of 1876 to create forest reserves and other methods to combat deforestation.¹⁷ We also need to consider the effect the sugar plantations had on the forests. Lumber was needed to fuel the sugar mills to process the raw sugar cane, the construction of flumes to carry water to irrigate sugar and the building homes for the workers. In the early 1900s William L. Hall of the US Bureau of Forests described the native forests being cut down by the plantations, "As the land near the sea is all occupied [by cane], the only direction in which the plantations can extend is up the mountains, and this many of them have continually striven to do... the land has been cleared up to 1400–2500 feet... The territorial government, which leases it to the sugar companies and have given them permits to clear it."¹⁸ In 1933 professor John Westly Coulter wrote a report on the landscapes of the Hawaiian islands and estimated that 50.42% of all the land in the islands are now pasture land.¹⁹ In place of those pasture lands were lowland dry native rainforest and high upland native rainforests that have been almost cut down. Native forests are extremely important to the groundwater and surface water resources in the Hawaiian Islands.²⁰ Forester E.M. Griffin in 1902 wrote a report talking about the native rainforests in affirming, "The water which is being pumped by the plantations to mitigate their cane is very largely that which falls within the forest belt on the higher slopes and gradually sinks to the artesian level." If the loss of the native forests continues, "a consid-

erable amount of water will be lost through largely increased evaporation on the exposed soil and the rapid run off."²¹

On O'ahu today, as it was back when sugar dominated the water consumption, groundwater from the Pearl Harbor aquifer was the main source of water that was used to irrigate sugar. This groundwater under the dry 'Ewa Plain was acquired through artesian wells in the latter half of the 19th century. When water was discovered by James Campbells first artesian well in 1879, Sugar plantations then came next. The major sugar plantations were the 'Ewa Plantation on the 'Ewa plain and O'ahu Sugar Co. that was in central O'ahu. The Pearl Harbor Aquifer provided 200 million gallons of water per day.²² There was so much water in this source that Forester E. Griffin specified that, "There is a greater daily consumption of water for irrigation purposes between Honolulu and Kahuku than on any equal area in the United States. The Sugar Plantations alone pump 314 million gallons per day."²³ It was then in 1884 a law was passed, preventing the waste of Artesian wells on O'ahu.²⁴

Lastly in 1860 an act was passed to settle the controversies of the respected rights in water by selecting three commissioners per district throughout the islands. It was their job to, "hear and determine all controversies respecting rights of way and rights of water."²⁵ In the State of Hawai'i today the State Commission on Water Resource Management or water commissioners have a duty to protect and enhance the water resources of the State of Hawai'i through wise and responsible management.²⁶ The common name used is the State Water Commissioners and essentially that is what was created in 1860. Notable names were commissioners during those times such as historian, curator and government official Mrs. Emma Nakuina, government official and surveyor S.P. Kalama and Historian David Malo.²⁷ In one case dealing with a water issue in Honouliwai and Moanui, Moloka'i, the sugar plantation

17 An Act for the Protection and Preservation of Woods and Forests, Statute laws of His Majesty Kamehameha III, 1876, Pg. 39, "Whereas, It is an established fact that the destruction of forests in any country tends to diminish the supply of water."

18 William L. Hall, "The Forests of the Hawaiian Islands," *The Hawaiian Forester and Agriculturalist I* (1904): 94.

19 John W. Coulter, Land Utilization in the Hawaiian Islands, University of Hawaii Research Publication No. 8 (Honolulu: University of Hawai'i, 1933).

20 Department of Land and Natural Resources, "Freshwater: From The Mountains To Your Drinking Glass," *Wai*, February 2012, 8, Diagram of the Hawai'i Hydrological Cycle or Water Cycle.

21 E. M. Griffith, "Report of Expert Forester on Hawaiian Forests," *Hawaiian Planters' Monthly* 22 (1903): 128–139.

22 Carol Wilcox, *Sugar Water: Hawai'i's Sugar Plantation Ditches*, (UH Press: Honolulu, 1996), 107–108, "Groundwater use, combined with that of Oahu Sugar Company and Honolulu Plantation, amounted to over 200 mgd from the Pearl Harbor Aquifer to irrigate sugar on the 'Ewa Plains. The comparatively small amount of water from Waiahole supplement this, a reminder of sugar's endless thirst."

23 E. M. Griffith, "Report of Expert Forester on Hawaiian Forests," 209.

24 An Act To Prevent the Waste of Artesian Water on the Island of Oahu, Statute laws of His Majesty Kamehameha III, 1884, Pg's 96–97.

25 An Act of the Settlement of Controversies Respecting Rights of Way and Rights of Water, Statute laws of His Majesty Kamehameha III, 1860, Pg. 12.

26 HRS 174-C, State Water Code, 174C-5, "General powers and duties."

27 Index of Commissioners, Hawaii State Archives, Honolulu.

represented as Wong Leong had owned the land mauka of a community of taro famers who lived on their kuleana lands²⁸ below. They had built a dam and a ditch diversion that prevented water from flowing down to the famers lo'i's. The community represented as E. Kaulana and others took their petition to the local water commission on Moloka'i and a decision was made in favor of the petitioners, "We, the Commissioners of Private Ways and Water Rights of the island of Molokai... have rendered judgement that, Wong Leong & Co. Sugar Planters, are to open a waterway for E. Kaulana & Co., for their taro cultivation." September 2nd, 1881.²⁹ That case then was appealed to the circuit court on Maui where it was held in Lahaina. The court agreed with the water commissioners and in their judgement wrote, "The plaintiffs claim that this dam has dispossessed them of their lawful use of the water for their taro, and they also claim the right of continuous flow of water. Anciently the kuleana man or tenant was entitled to only as much water as he needed, which was allotted to him by the konohiki, to whom the rest of the water belonged." "This custom is what we endure to perpetuate as far as is possible, we therefore award to the plaintiffs the use of water of the said stream." December 7th, 1882.³⁰

We will next move into a brief history of how the sugar plantations were financed and managed in the early years through joint partnerships and then evolved into corporations, how the impact of the Honolulu agencies had towards the industry and the lesson of Claus Spreckles had on these agencies consolidating their various businesses.

In the beginning, sugar plantations started through joint partnerships.³¹ They would be 3-4 individuals who would pull their money and resources together. They soon realized that, due to the location of the islands, a constant flow of capital or cash was needed to keep a plantation viable. Sugar takes a little over a year to grow, and without steamships it took even longer to reap the profits made. Within that time anything could happen such as a burning of a sugar mill or a worker's strike. These things would need an emergency flow of cash on hand for the short term until the business then started to take care of its self. Due to that, many of the early plantations did not survive. It was the Honolulu Agencies who then started to fund these plantations through their bank contacts in the United States and Europe. These agencies then demanded certain obligations to these plantations for their money such as quarterly reports of production and methods in growing sugar. All the

agencies had three sources of income from the sugar plantations, in food, timber and tools; in which they would take interests in any cash advanced to pay off workers or buy supplies and the commissions on sugar sold in California.³² The day to day management would still belong to the manager of the sugar plantation and the lunas or field bosses in the field, but everything else would be managed by the Honolulu Agencies.³³

These agencies in Honolulu started off as the merchant stores on the wharfs. They would compete to get the business of whaling ships during the time whaling oil was the main economy in the islands. In the 1860's the whaling industry was winding down and these agencies then looked to sugar as a possible industry to invest in. Some of the earliest agencies to invest in sugar were Hackfield and Co., Castle and Cooke and C.C. Brewer who would eventually become the Big Five.³⁴ When the Treaty of Reciprocity was passed in 1876 making sugar tax free going into U.S. Markets, it was then that the sugar industry exploded, and these agencies at that point started to invest heavily. In the 1880's a billionaire in today's standards named Claus Spreckles entered the local sugar market and created this system I like to call the Vertically Integrated Sugar Industrial Complex. It is a system in which if you own everything relating to the growing and transportation of sugar, it makes business more efficient. Spreckles saw the sugar industry grow in Hawai'i and wanted to make an investment. He owned the sugar refinery in San Francisco, the Steamship company he invested in, which became the Matson Lines Steamship Company or today Matsons that transported the sugar to the U.S. Continent, Kahului Railroad Co., the buying of the controversial Crown Lands³⁵ in central Maui,³⁶ the building of the Haku Ditch³⁷ in east Maui to carry the water to irrigate his sugar cane, and all under his corporation, Hawaiian Commercial and Sugar Company or today known as HC&S. The other agencies didn't like him but saw this example and revamped it into their own during the early 1900s of the Territory of Hawai'i when

32 Ibid., 89.

33 Carol A. MacLennan, "Hawai'i Turns to Sugar: The Rise of the Plantation Centers, 1860-1880," *Hawaiian Volume of History*, Vol. 31 (1997), "By 1880, Castle & Cooke had established discipline over its plantations without owning a majority interest in most of them."

34 Carol A. MacLennan, *Sovereign Sugar: Industry and Environment in Hawai'i*, 44.

35 Lands that were given to Kamehameha III or Kamehameha III during the Mahele event of 1848, that was over 2.5 million acres before commutation to the Government. Since 1848 these lands then belonged to whomever would be reigning monarch at the time. In 1893 that would be Queen Lili'uokalani.

36 Jon M. Van Dyke, *Who Owns The Crown Lands of Hawai'i?*, (University of Hawai'i Press: Honolulu, 2008), 111, "This Scheme began in September 1880, when Spreckles paid \$10,000 for any rights that Princes Ruth had to a 'claim' in the Crown Lands."

37 "Claus Spreckels's Little Bid," *New York Times*, 28 Oct. 1883.

28 Lands in, which were awarded to maka'ainana or common people through the Land Commission from 1850-1855.

29 Interior Department of Private Ways and Rights Correspondence, Hawai'i State Archives, Honolulu.

30 Ibid.

31 Carol A. MacLennan, *Sovereign Sugar: Industry and Environment in Hawai'i*, (University of Hawai'i Press: Honolulu, 2014), 43-46.

these agencies started consolidating different plantations or business. In 1884 there were 90 sugar plantations and in 1900 there were 60.³⁸

In 1893 a small group of all-white businessmen called the Committee of Safety, with the protection of armed Marine troops, from the anchored U.S.S. Boston, with the support of the United States ambassador at the time John Stevens, Illegally Overthrew the peaceful Government of the Hawaiian Kingdom.^{39,40,41}

From this we will now investigate the statistics of water usage for growing sugar in the pre and post illegal overthrow of the Hawaiian Kingdom to show the impact on how the new government or Provisional Government had on water resource management in correlation to the sugar industry.

One pound of sugar amounts to 4,000lbs or 500 gallons of water. One ton of sugar amounts to 4,000 tons or 1 million gallons of water. One million gallons of water is equal to 100 acres of irrigated sugarcane.⁴²

Pre-Overthrow	Post-Overthrow
<u>Average acres of Sugar</u>	<u>Average acres of Sugar</u>
1882 – 39,350	1898 – 125,000
1889 – 60,787	1910 – 209,469
<u>Number of tons of Sugar Produced</u>	<u>Number of tons of Sugar Produced</u>
1867 – 8,564	1900 – 258,000
1880 – 28,200	1910 – 463,300
1890 – 105,000	1980 – 1,100,100

As seen above is a comparison of the acres of land used for sugar and the tons of sugar produced. We can see that in acres, the land size doubles from 1889 during the Hawaiian Kingdom and then doubles in 1898 post overthrow and then surpasses 200,000 acres in 1910.⁴³ In the number of tons of sugar produced three years before the 1893 overthrow, in 1890 sugar then increases by more than 110%, then doubles ten years later and then plateaus to over a million tons in 1980.⁴⁴ It is clear with a new government in place after the Illegal over-

throw, the special interests in sugar utilizing water resources grew tremendously.

By the year 1920 over 1.4 billion gallons of water per day was being used for sugarcane.⁴⁵ Today on O’ahu with almost a million people, an estimated 140–150 million gallons of water per day is used.⁴⁶

These plantations needed a major water course to continually irrigate their sugar fields, the next section will talk about the beginnings of the major ditch systems or irrigation systems in Hawai’i, their rise post overthrow through an example of the West Maui ditch system.

“Without an ample supply of water, a sugar industry would not be viable.”⁴⁷ irrigated sugar made Hawai’i unique from the rest of the world. Most of the world used rainfed techniques, while Hawai’i became mostly irrigated. To get a constant flow of water, ditches had to be built. They are usually called ditch systems, but really, they are massive irrigation systems that include not just ditches, but wooden flumes that carry water over great distances, across valleys and gulches. Vertical water pipes that allow water to travel over high areas, siphons, and tunnels that went for miles inside of the mountains that captured water as it dripped down from the surface. What was different from the United States is that it was the private industry that funded the building of these systems in Hawai’i, while in the U.S. it was publicly funded. The Hawaiian Kingdom at the time was not ready to build such ditches.⁴⁸ The first ditch for sugar was built in 1856 by William H Rice. It was a ditch that looked familiar to the traditional ‘auwai water courses that would feed the lo’i as it was dirt packed and bounded. The difference was that this watercourse did not return into the main stream. The ditch was not very efficient as there was a lot of leakage and evaporation. It didn’t even flow during dry seasons, but what it did is give the idea to people such as Samuel Alexander of Alexander and Baldwin, that one did not need to find the right environment for sugar, but can create it by taking water from the wet side of the island to the dry side of the island.⁴⁹ This is exactly what he did after the Treaty of Reciprocity in 1876 where he built the Hāmākua ditch on Maui which is known as the first concrete lined major ditch in the islands. During the Hawaiian Kingdom these ditches would need a water license or lease whenever it passed through Government Land or Crown-

38 Carol Wilcox, *Sugar Water: Hawai’i’s Sugar Plantation Ditches*, 5.
 39 Lydia Lili’u Loloku Walania Kamaka’eha, *Hawaii’s Story By Hawaii’s Queen*, (Mutual Publishing: Honolulu), 1990, 243–262.
 40 Foreign Relations of The United States, Affairs in Hawaii, 53rd Congress 3d Sesson, House of Representatives, Ex. Doc. 1 Part 1, 1894, (Government Printing Office: Washington), 1895, “Also known as the Blount Report.”
 41 “Kingdom of Hawaii—1893.01.17—Statement from Queen Liliuokalani,” *Hawaiian Mission Houses Digital Archive*, accessed May 10, 2018, “Queen Lili’uokalani’s Protest Letter against the Overthrow,” <https://hmha.missionhouses.org/items/show/883>.
 42 *Ibid.*, 1.
 43 Robert C. Schmitt, *Historical Statistics of Hawaii*, (University of Hawai’i Press: Honolulu, 1977.), 359–361.
 44 Noel Deerr, *History of Sugar*, vol. 2, 490–498., Thrums Hawaiian Annual.

45 Carol Wilcox, *Sugar Water: Hawai’i’s Sugar Plantation Ditches*, 20.
 46 Board of Water Supply Annual Report, 2015–16.
 47 Sweet water: a lecture / by Carol Wilcox; produced by Planet Kaua’i in association with Ho’omana Video Productions, Dec. 12, 1996.
 48 Corporation. Water-Spreckles, Claus. Water license (Haiku, Maui), DLNR2–21, 1878, Hawai’i State Archives, Honolulu, “The Hawaiian Government is not now ready or willing to undertake such works, and incur such expenses.”
 49 Carol Wilcox, *Sugar Water: Hawai’i’s Sugar Plantation Ditches*, 54–56.

lands since these systems would be up in the watersheds. In them the leases would usually go for 20–30 years with a clause saying it must be constructed within two years or it reverts to the land owner.⁵⁰ Politically you could say that when these leases ended, the Hawaiian government could take them and utilized them for other agricultural economic endeavors.

In the East Maui Major Ditch System before the 1893 overthrow. An estimated 16 Million Gallons Per Day (Mgd) was being pumped to central Maui to irrigate sugar crops with a 50 Mgd Capacity.⁵¹

In the Post-Overthrow period 14 new major ditch systems were implemented which increased the total to 510 Mgd to Central Maui with a capacity of 610 Mgd.⁵²

From the years 1900–1920, twenty major ditch systems were built throughout the Hawaiian Islands.⁵³ The clear majority of the major irrigation systems we have in these islands today for sugar, were built after the illegal overthrow of the Hawaiian Kingdom in 1893.

We will now investigate the laws post-overthrow involving the Provisional Government (1893–1894), Republic of Hawai'i (1894–1898) and the Territory of Hawai'i (1898–1959) towards the management of the water resources in Hawai'i, and how that empowered a small group of corporations known today as the Big 5.

One of the most impactful laws passed after the overthrow was the 1895 Land Act.⁵⁴ This act was created to have white settlers from the United States come to the islands to live on homesteads.⁵⁵ What it also did is combine the Crown Lands (801,177 acres) and Government Lands (971,463 acres) into 1,772,640 acres of Public Lands^{56,57} that could then be

sold. The effect of it towards the sugar industry is that in 1895, 142,392 tons of sugar was produced and the next year it almost doubles to 221,785 tons.⁵⁸ As Carol A MacLennan quotes in her book *Sovereign Sugar*, “The Land Act became the mechanism for achieving land security for the sugar planters.”⁵⁹ These Crown lands were some of the last productive lands left to grow sugar on and were inalienable or illegal to sale since 1865.⁶⁰ Sugar plantations were leasing lands from them as well as the government lands.⁶¹ As stated above when talking about the ditch systems almost all of them ran though one or the other up in the watersheds, and thus needed a license or lease. One would not need a lease if they themselves owned the land. In 1904 Albert Wilcox bought 984 acres of former Crown Land in Hanalei, Kaua'i under Land Patent Grant #4845.⁶² He could not of bought this land before the Land Act.

In 1907 through Act 56, water cases and issues throughout the islands now will be heard by the Supreme Court and not local water commissioners as before.⁶³ The judges were selected from Washington D.C. whose local knowledge were limited. As Jon Van Dyke said, “The views of the Hawaii Supreme Court have changed when the membership of the court has changed. Doctrines were frequently overruled within a few years after they were announced in earlier decisions. The economic, social, and political conditions of the islands have had a profound effect on the law as has been articulated by the justices. Although many opinions purport to rely on ancient Hawaiian usages, Western commentators and justices appear frequently to have recast those ancient usages to serve their modern purpose.”⁶⁴

It was during this time period in the Territory of Hawai'i that a small group of corporations were gaining power politically and economically in the islands. In 1889 four companies controlled 56% of the sugar crop in Hawai'i and by 1920 five

50 Corporation. Water-Hamakua Ditch Leases, Haiku leases (Maui), DLNR2-21, 1878, Hawai'i State Archives, Honolulu.

51 Carol Wilcox, *Sugar Water: Hawai'i's Sugar Plantation Ditches*, 64–67.

52 Ibid., & Hawaii State Department of Agriculture, Water Resource Associates Honolulu, (December 2004), “East Maui Irrigation System.”

53 Carol Wilcox, *Sugar Water: Hawai'i's Sugar Plantation Ditches*, 64–67.

54 Act 26, An Act Relating to Public Lands, Statute laws relating to the Provisional Government of Hawai'i, Pg. 49, 1895.

55 Dole, “Land Settlement in Hawaii,” a report in the Dole Collection. “In order to develop a citizenry here in Hawaii that will always be improving in those characteristics which are recognized as the highest attributes of American citizenry, it is essential that the class named Anglo-Saxon should be increased and particular it should be increased people from the mainland.”

56 Arthur Nagasawa, “The Governance of Hawaii from Annexation to 1908: Major Problems and Developments” (PhD diss., University of Denver, 1968), 82–90 & Van Dyke *Who Owns The Crown Lands of Hawai'i?*, 188–191.

57 Thrums Annual 1895 & Jon M. Van Dyke, *Who Owns The Crown Lands of Hawai'i?*

58 Thrums Annual, “Hawaii Sugar Plantation Statistics, From January 1875 to June 1889, inclusive.”

59 Carol A. MacLennan, *Sovereign Sugar: Industry and Environment in Hawai'i*, 261.

60 Donovan Preza. “The Empirical Writes Back: Re-Examining Hawaiian Dispossession Resulting from the Māhele of 1848,” (Master's Thesis, University of Hawai'i at Mānoa, 2010), 104.

61 Territory of Hawaii, *Report of the Governor*, 1901, 10–19.

62 Preza, “The Empirical Writes Back: Re-Examining Hawaiian Dispossession Resulting from the Māhele of 1848,” 159.

63 Act 56, Relating to Private Ways and Water Rights Amending Sections 2199 to 2205 Statute laws relating to the Territory of Hawaii 1907, Pg. 66, “The word ‘Commissioner’ wherever used in this chapter shall refer to the judge of the circuit court... The word ‘court’ shall refer to and mean the supreme court.”

64 Van Dyke, Jon M. *The Protection and Implementation of Native Hawaiian Water Rights*, Honolulu: Dec. 17, 1993, 176–200.

controlled 94% of the sugar crop.⁶⁵ This small group of corporations were named the Big 5.⁶⁶ In 1911 an act was passed that gave the Powers of Eminent Domain to, “Corporations for the purpose of Developing, Storing, Conveying, Distributing and Transmitting Water for Irrigation.”⁶⁷ To give the government’s power of eminent domain to a private corporation is dangerous and defeats the purpose of a check and balance system between private and public institutions.

These types of laws and support from the local government now created a consolidation of power within a handful of companies from these Honolulu agencies that supported the sugar industry. Power was more distributed in the sugar industry before the illegal overthrow and afterwards consolidated. You would think this would make any common-sense politician at least a bit concerned. Hawai‘i’s second official representative to the U.S. Congress was. His name was Jonah Kūhiō Kalaniana‘ōle. In 1911 being frustrated with Governor Walter Frears administration wrote a complaint to Washington D.C. outlining his grievances of the Governors relationship with the Big 5 and the effect of power being concentrated within a small circle. “The domination of Hawaii by sugar plantations, which are in turn directly controlled by the sugar agencies in Honolulu. Has been progressing and extending throughout the Governors administration, and this fact has been winked at, certainly not challenged by Governor Frear.” “The Vital trouble is that the people who control the industrial life of Hawaii have become so blinded by long continued prosperity and the habit of controlling everything, from their own standpoint that they, themselves do not realize how deadly that policy is to the ultimate welfare of the people in the Territory of Hawai‘i... He (Governor Walter Frear) is too strongly affiliated with the plantation interests to be able to see through them and to deal with them as an outsider.”⁶⁸

The illegal Overthrow of the Hawaiian Kingdom created an environment where water was a commodity to sell and own by private interests and not as a kuleana or a cultural obligation. It’s effects whether through water rights and laws today and the irrigations systems that the sugar plantations have left behind, are still being felt. Whether we like it or not we need to deal with them, because these systems not going away anytime soon. How we got here is just as important as where we are going, because as Uncle Calvin Hoe says, “Whoever controls the water, controls the future.”

65 Carol A. MacLennan, *Sovereign Sugar: Industry and Environment in Hawai‘i*, 82.

66 Richard B. Dole, “The Big Give held tight control over Hawaii business,” *Pacific Business News* (Honolulu, HI), Sept. 27th, 2013.

67 Act 124 Statute laws relating to the Territory of Hawaii, 1911, Pg. 182.

68 Hawaii State Archives.

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