

and having several elected officials interned to remove them from office.

*No Sword to Bury* should be of interest to scholars and students of Japanese American and Asian American history, particularly regarding race relations, and to the general reader interested in the most significant event in Hawai'i during the last century and its tremendous impact on one of the major ethnic groups in the islands.

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*Kahana: How the Land Was Lost*, by Robert H Stauffer. Honolulu: University of Hawai'i Press, 2004. ISBN 0-8248-2590-X; x + 265 pages, maps, tables, photographs, appendixes, notes, glossary, references, index. Cloth, US\$38.00.

Robert H Stauffer has been credited for uncovering “thousands of pages of old documents that a trust company clerk had saved from the trash bin, that had been given to the state archives in the late 1970s or early ‘80s by a local trust company” (Rob Perez, *Honolulu Star-Bulletin*, 16 Nov 2003). These documents were foreclosure records linked to an 1874 nonjudicial foreclosure law enacted by the Hawaiian Kingdom Legislature. Stauffer was quoted as saying, “The 1874 law created a system in which lenders could foreclose on property without any judicial oversight” (Perez 2003, A-8). He attributes the loss of native Hawaiian lands in the nineteenth century to this law rather than to the 1848 Mahele (land

division), as commonly believed by most scholars today.

I found Stauffer’s book to be riddled with opinions and incorrect information. As a former land title abstractor and a person who participated in international legal proceedings concerning the Hawaiian kingdom as an independent state, I have a working knowledge of what Stauffer covers in many parts of his book, and I found many of his assessments and explanations to be completely inaccurate. Without fully elucidating point by point—which would definitely turn out to be a lengthy article or even a book that I will need to write later—I will only identify two areas and briefly provide some counterpoints to Stauffer’s contentions.

First: The intent of the 1874 nonjudicial foreclosure law was to relieve the justices of the Supreme Court from an excessive number of equity cases, which included, among other things, foreclosures. It was not a conspiracy by the haole (nonaboriginal Hawaiian nationals) to seize control of the native lands. Stauffer gives the impression that the passage of this statute, *An Act to Provide for the Sale of Mortgaged Property Without Suit and Decree of Sale* (1874), was orchestrated by a few haole and a naive Hawaiian Legislative Assembly, which comprised a majority of aboriginal Hawaiians. Stauffer states, “For all its broad effects, the law caused little notice at the time, and its passage can best be described as an act of stealth” (93). What Stauffer fails to explain is that this particular session of the legislature had to deal with budget constraints and the consolidation of governmental offices and

functions. In his address to the assembly at the opening of the 1874 legislative session, King Kalākaua stated, “The resources of the country have been largely depleted by the extraordinary expenditure rendered necessary by the removal of the lepers to Molo-kai—their maintenance there—the burial of two Sovereigns and the election of their Successors, and other causes, all of which have been borne by the Treasury. I would suggest to you [legislators] that some less complicated and more economical system should be devised by you for carrying on the work of the Government, and that power may be given me under the law to merge two or more offices in one, where it may be found expedient so to do.”

Stauffer also is mistaken when he writes, “Few lenders had previously been willing to make loans to *kuleana* owners because lenders felt foreclosure actions before native juries would not be sustained. Only by removing the judicial safeguard of a jury trial, as the act did, was this fear removed, and lenders then decided the risk could be taken because now the *kuleana* could be easily foreclosed upon” (96). (The word *kuleana* in legal usage translates as “freehold estate either in fee-simple or a life estate.”) Foreclosures were not the subject of juries, let alone native juries, but rather Circuit Court or Supreme Court judges. Section 1231 of the 1884 *Compiled Laws of the Hawaiian Kingdom* states: “The court or judge may assess the amount due upon mortgages, whether of real or personal property, without the intervention of a jury . . . and shall order judgment or decree to be entered for

the amount awarded, and execution to be issued thereon.”

Second: Stauffer assumes that everyone, including native tenants, was required to submit claims to the Land Commission after it was established on 10 December 1845. He states that the “commission allowed only two years for people to step forward and make their claims. The inalienable right to land promised by the Declaration of 1839 and the Constitution of 1840 devolved to this great land-taking by the American-dominated government” (13). This was not so. Section 1 of the 1845 law establishing the Land Commission stated that it was “a board for the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior [ie, prior] to the passage of this act.” In other words, if a native or foreigner acquired a private interest in land from the king or his agent prior to 1845, that interest was subject to investigation and verification by the Land Commission. In 1846 the commissioners adopted a set of principles to guide them in the investigation of these claims, which were subsequently approved by the Hawaiian legislature on 26 October 1846 (*Principles Adopted by the Board of Commissioners to Quiet Land Titles*, published in Honolulu in 1847).

The Land Commission did not grant titles to land. It was strictly limited to investigating private ownership between the era of Kamehameha I and 10 December 1845, and when found valid the claimants would receive a Land Commission Award.

Claimants were given until 14 February 1848 to file their claims. What many recent scholars including Stauffer have overlooked, and which is the cause of great confusion, is what type of claim was initially required to be filed with the Land Commission. The 1845 act and the *Principles* clearly point out that these claims are a person's private interests in land, which could be fee-simple titles, life estates, or leases.

The chiefs and the native tenants did not have a separate and distinct private interest in the land, but rather a collective right in fee-simple together with the King, as stated in the 1840 Constitution. The Land Commission recognized that these vested rights of the Hawaiian government were still collectively undivided and were not the subject of their investigation. So the proprietary interests being investigated were claims against the paramount title of the Hawaiian government, which included the collective rights of the chiefs and natives. This is why the chiefs and the native tenants (except those individuals who had a fee-simple life estate or lease of their own) were not filing claims with the Land Commission. If they did, it would be a case of filing a claim against one's own collective interest. It wasn't until 1848 that the division of this collective ownership, called the Great Mahele, would take place. This Mahele was a separate and distinct process from the Land Commission and its *Principles*, which had been instituted only to investigate private ownership arising prior to 1845. The Land Commission was later used to help facilitate this division among the chiefs and native tenants.

In closing, I would rank Stauffer's uncovering of the nonjudicial foreclosure documents as high as Noenoe K Silva's 1999 doctoral thesis concerning Hawaiian nationals' protests in 1897 against the forced annexation of the Hawaiian Kingdom into the United States ("Na Kū'e Kūpa'a Loa Nei Mākou: Kanaka Maoli Resistance to Colonization"). But Stauffer fails to explain these findings within a sufficient historical and political context. Could these foreclosures be connected to the more sinister 1887 Bayonet Constitution, which instituted property qualifications and allowed aliens to vote so that the political power of the aboriginal Hawaiian nationals could be curtailed? And why is it that nineteenth-century Hawaiians, who were noted for sometimes being very critical, did not condemn the Mahele or label their political institutions as American-led or American-dominated in the multiple newspapers that were in circulation at the time?

In his book Stauffer fails to answer these crucial questions and only reifies a twentieth-century notion of American domination of the nineteenth-century Hawaiian Kingdom—a notion that, by all accounts, seems to have begun when Ralph S Kuykendall, an American, authored the first volume of *The Hawaiian Kingdom* in 1938. As a student of political science, and a descendant of Hawaiian nationals of aboriginal blood, I find that Stauffer fails to distinguish political institutions from the behavior of individuals. If Stauffer were to clearly explain the institutions and their functions without using political or racial overtones, I believe his interpretations of behavior within this institutional

context would be different. Because he failed to accurately explain the institutions, I find myself unable to agree with his conclusions.

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*Secrecy and Cultural Reality: Utopian Ideologies of the New Guinea Men's House*, by Gilbert Herdt. Ann Arbor: University of Michigan Press, 2003. ISBN cloth, 0-472-09761-X; paper, 0-472-06761-3; xvii + 269 pages, map, photograph, notes, bibliography, index. Cloth, US\$64.95; paper, US\$26.95.

In this thoughtful book, Gilbert Herdt proposes a general theory on secrecy by contrasting its uses and historical transformations in Melanesia and in the west. In chapter one, Herdt analyzes how early anthropological approaches to ritual secrecy were popularized. In the nineteenth century, millions of white middle-class American men turned to native Indian religion, to a certain romanticization of the primitive and the wild, to create secret male societies. In later chapters, Herdt uses his Sambian fieldwork to argue for the utopian aspects of secrecy in traditional Melanesia and the historical reconstitution of secrecy with pacification and Christianization. A renowned ethnographer of customary male initiation practices and the forms of subjectivity and selfhood these produced, Herdt shows himself to be a subtle thinker of social change as transformations in secrecy. Among the Yagwoia, the missionaries sought

to stop letting new recruits into the secrets of the men's house. Older men started to confine the secrets to themselves, perfecting the exchange and idealization of themselves before their secrets vanished. Herdt explores powerfully the pathos of cultural loss, of cultural treasures passed on since times immemorial but now halted. This is also the pathos of being robbed of one's sons, of the memorializing power of the living ritually directed toward the dead. It was also the castration and demasculinization of a world. Today, missionaries have laid claims to the souls of the young who receive Christian names not grounded in ancestral myths, songs, and places. Christianity also brings new ways of hanging on to one's soul as part of its processes for creating identity and moral order. Its understanding and practices about losing and reclaiming one's spirit or hidden self replace those of initiation and anti-sorcery rituals. By offering heaven, Christianity also removes souls to another world, making it difficult to maintain customary social conceptions of the dead as available for any kind of dialogue.

Herdt accuses anthropologists of negative western attitudes toward secrecy, based on liberal-democratic consensual views of social order. He also accuses them of privileging the rational, political, and utilitarian, by always reducing belief to ideology. Rituals and myths of origin are not just contrivances for justifying male power. Men are not just cynical manipulators; they believe in the hidden reality of the beliefs and objects that provide their political weapons and ideological resources. Instead of