

575A Iao Valley Rd.
Wailuku, HI 96793
Ph. (808) 242-8565



Hui O Nā Wai 'Ehā

No Be Lolo, Restore Stream Flow

December 18, 2014

Board of Directors:

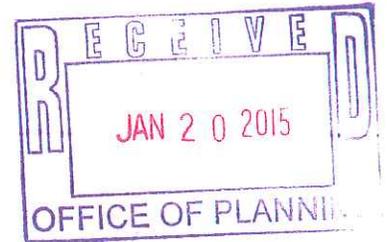
John V. Duey, President/Treasurer
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SOH, Board of Geographic Names

c/o Office of Planning
Dept. of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804



To whom it may concern,

By way of this letter we, the Board Members of Hui O Na Wai 'Eha by unanimous vote at our October 22nd, 2014 Board of Directors meeting, would like to express our full support of John V. Duey's application of name change to have Iao River renamed back to its original name - "Wailuku River".

The goal of Hui O Na Wai 'Eha is to restore mauka to makai stream flow to the Four Waters – Waikapu, Wailuku, Wai'ehu and Waihe'e. We are all residents of the Na Wai 'Eha area of Central Maui and advocates of stream restoration for the purposes of lo'i kalo, native Hawaiian gathering rights, recreation, aquifer recharge and preservation of land and water biota.

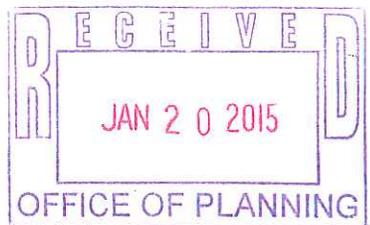
As the President of Hui O Na Wai 'Eha for the past 7 ½ years, John Duey has garnered extensive knowledge and background of all Four Waters of Na Wai 'Eha, especially the Wailuku River in Iao Valley where he has been a resident for the past 40+ years. Through Mr. Duey's ongoing research as well as our own in depth knowledge of the area, we believe that changing the name of Iao River back to "Wailuku River" is perfectly logical and ask for your support of his application.

Mahalo for your time and consideration.

Sincerely,


John V. Duey, President

.....



HAWAII GEOGRAPHIC NAME APPLICATION

75766

STATE OF HAWAII
 BOARD ON GEOGRAPHIC NAMES
 C/O OFFICE OF PLANNING
 DEPT. OF BUSINESS, ECONOMIC
 DEVELOPMENT & TOURISM
 P.O. BOX 2359
 HONOLULU, HAWAII 96804

	Spelling Correction
	Controversial Name
X	Obscure Hawaiian Name
	Name Form Change
	Name Change
	New Name (Unnamed Feature)

Recommended Name:

WAILUKU RIVER

Island: MAUI Tax Map Key: Zone _____ Section _____ Plat _____ Parcel _____

Latitude: _____ Degrees _____ Minutes _____ Seconds North

Longitude: _____ Degrees _____ Minutes _____ Seconds West ATTACHED

Description of feature (give precise location in relation to existing named features, particularly if geographic coordinates are not supplied). IAO STREAM FEATURE #359480

THE RIVER FLOWING OUT OF IAO VALLEY ORIGINATING AT THE
CONFLUENCE OF KINIHAPAI AND NAKALALO A STREAMS AT
IAO VALLEY STATE PARK AT ELEVATION 1,000 FEET ABOVE SEA
LEVEL. THE RIVER FLOWS APPROXIMATELY 5 MILES TO THE
OCEAN THROUGH MANY T.M.K.S.

Published Map or Other Source Using
 Recommended Name: ATTACHED
5 MAPS, AND 11
DOCUMENTS

Variant Names/Spellings:	Source:

Documentation or personal knowledge on origin, spelling and meaning of the recommended name or reason for change. If a new name, state basis for knowledge that feature is unnamed, reason for naming, and why the recommended name was chosen. NOT A NEW NAME CHANGE. REQUEST NAME BACK TO ORIGIN

ATTACHED ARE 16 DOCUMENTS AND MAPS AND A LETTER
OF EXPLANATION OF DOCUMENTS AND SUPPORT LETTERS

John V. Duey

Submitted by: _____
 Name: JOHN V. DUEY Title: PRESIDENT Date: 01/15/15
 Agency/Organization (if any): HUI O NA WAI EHA
 Address: 575A IAO VALLEY RD. WAILUKU, HI 96793
 Phone Number (Day): 808 242-8565
 e-mail address (if any): jduey@maui.net

Sequence	County	Code	State	Code	Country
1	Maui	009	Hawaii	15	US

Linear Feature (Stream, Valley, Arroyo) Mouth

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	20.9097937	-156.4849448	205435N	1562906W	Wailuku

Linear Feature (Stream, Valley, Arroyo) Source

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
2	20.8823101	-156.5390182	205256N	1563220W	Wailuku

Coordinates (One point per USGS topographic map containing the feature, NAD83)

Sequence	Latitude(DEC)	Longitude(DEC)	Latitude(DMS)	Longitude(DMS)	Map Name
1	20.9097937	-156.4849448	205435N	1562906W	Wailuku
2	20.8823101	-156.5390182	205256N	1563220W	Wailuku

U.S. Department of the Interior || U.S. Geological Survey
 12201 Sunrise Valley Drive, Reston, VA 20192, USA
gnis_manager@usgs.gov
 Form updated: December 13, 2014
[USGS Privacy Policy and Disclaimers](#)

STATE OF HAWAII
BOARD OF GEOGRAPHIC NAMES
C/O OFFICE OF PLANNING
DEPT. OF BUSINESS, ECONOMIC
DEVELOPMENT & TOURISM
P.O. BOX 2359
HONOLULU, HI 96804

Aloha Board,

By way of a short introduction. My name is John V. Duey my wife Rose Marie H. (Lindsey) Duey and I have lived, with our growing family, in Iao Valley since 1969.

I am one of the founding members of Hui 'O Na Wai Eha, a 501-c3 with over 400 members through out Na Wai Eha know as the four great waters of Maui. Waikapu, Wailuku, Waiehu and Waihee. The Hui was formed in Oct. 2003 with the mission to restore mauka to makai to the rivers of Na Wai Eha. With the settlement reached April 17, 2014 which called for 10 million gallons per day of water returned to Waihee River, 2.5mgd returned to Waiehu stream, 10mgd returned to Iao/Wailuku river and 2.9 mgd returned to Waikapu stream. I along with support form the Hui and others felt it was time for the river that flows from Iao Valley to have its rightful name returned to it.

The documents and maps that I am going to refer to and are included with our application tell the story of past history and why the name Iao Stream was first used in 1907. I have numbered the docs. In chronological order so as to make it a little easier to follow. These docs. and maps come from the Maui Historical Society, USGS, Wailuku Sugars Co's 1962 Centennial report and our personal library of books, maps and papers.

Doc 1: Copy of a map (circa 1850) "of the Poalimas of the Crown in Wailuku above the bridge" Wailuku River clearly shown.

Doc. 2: Some copies of pages of a book written by Linda Decker in 2011 about the life of Edward Bailey (1817-1903). With numerous references to Wailuku River.

Doc 3: Copy of a report from Wailuku Sugar Co. (circa 1963) with history of the Ahupua'a of Wailuku. Wailuku River is mentioned 7 times.

Doc. 4: A copy of the opinion dated Feb. 4, 1867 of the famous and probably first water case on Maui (Peck vs. Bailey) as in other documents the river flowing out of Iao valley is called Wailuku River .

Doc. 5: A copy of a map drawn in 1878 by E. Bailey clearly shows Wailuku River. This is the same Bailey as docs. 2 & 4.

Doc. 6: A copy of "The Planters Monthly" April, 1882. Which stated that the Wailuku River had been divided into three steam or ditches.

Doc. 7: A copy from the Legislative Assembly dated 1890 again Wailuku River.

Doc. 8: Copy of a map dated Nov. 14, 1893 of Sprecklesville Plantation which clearly shows Wailuku River.

Doc. 9: A copy of a page from Wailuku Sugars Centennial report dated 1962 makes reference to a water case on Maui Lonoaea vs. Water Sugar Co. May, 20 1895 which again refers to the river flowing out of Iao Valley as Wailuku River.

Doc. 10: A copy of another famous water case on Maui HC&S vs. Water Sugar Co. This case started in 1904 and lasted until 1924 and again Wailuku River was mentioned through out.

Doc. 11: A copy of a may drawn by James Taylor dated Oct. 1904 whereas the river is called Wailuku Stream and not river. I will explain later.

Doc. 12: A copy of a map drawn by J.K. Kahookele May 29, 907 again shows Wailuku Stream and not river.

Doc. 13: A copy of a page from the 1962 Wailuku Sugar Centennial report in 1962. And now here comes the name change. On June 24, 1907 when interviewed by the Pacific Commercial Advertiser James Taylor (who was the designer and builder of the Waihee Ditch) states "the steel pipe line crossing the famous Iao Stream". He now calls Wailuku River Iao Stream and I think for a logical reason. Wailuku Sugar had installed a large diversion (circa 1900) which captures the first 60MGD of water flowing in the river hence no or very little flow was left in the river except in the wet season or a freshet. According to USGS studies the river flows at 13MGD or less 90% of the time. So according to Mr. Taylor why call the water flowing out of Iao valley Wailuku River any longer I'll just call it a stream.

Doc. 14: A copy form the book "Legends of Maui the Demigod" by W.D. Westerfelt 1910 the Wailuku River in Iao Valley Maui was mentioned along with the Wailuku River in Hilo.

Doc. 16: The song "Na Wai Kaulana" which written May 9, 1949 by Aunty Alice Namakelua. Wailuku not Iao is in the chorus.

Doc. 17: A copy of a report to the DLNL dated March, 1969 by Sara B. Cole mentions Wailuku River.

Doc. 18: And last by not least a copy of a couple of pages of "Native Planer" by Handy and Handy. Of course Wailuku River is mentioned again.

Now you have 11 documents and 5 maps, there must be more, for reasons to reinstate the name, Wailuku River as it was called in the Hawaiian Kingdom and up until 1907 when one person decided to call the river Iao Stream. It is now time to return the name to Wailuku River, now that the river has water flowing in it again continually.

The Wailuku River has returned as of Oct. 13, 2014 it should no longer be called Iao Stream.

A handwritten signature in cursive script, appearing to read "John V. Duey".

John V. Duey, Pres.
Hui 'O Na Wai Eha
575-a Iao Valley Rd.
Wailuku, Hi. 96793



2375 A Main Street, Wailuku, Hawai'i 96793
808 244-3326 office, 808 244-3920 fax, e-mail: info@mauimuseum.org, www.mauimuseum.org

The Maui Historical Society shall collect, preserve, study, interpret and share the history and heritage of Maui.

January 13, 2015

BOARD OF TRUSTEES

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Board of Geographic Names
Dept. of DBEDT
PO Box 2359
Honolulu HI 96804

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EXECUTIVE DIRECTOR

Sissy Lake-Farm

To Whom it May Concern:

My name is Bryce Thayer, President of the Maui Historical Society. On behalf of the Maui Historical Society and its Board of Directors, I am writing to express our full support of Mr. John Duey with regard to the proposed restoration of the traditional place name of Wailuku to the watercourse currently known as 'Īao Stream. In this regard it is necessary to recognize traditional Hawaiian land tenure and the unique particulars to the ahupua'a of Na Wai Eha which includes Waikapū, Wailuku, Waiehu, and Waihe'e, of which three out of four of the main watercourses carry the place name of their ahupua'a into the modern era, the exception being that of Wailuku, which in modern times has come to be known as 'Īao. From historic survey maps of Wailuku Ahupua'a (Bailey n.d.; C.J.W. 1893; Dodge 1880; Monsarrat 1881) to the published literature (Kamakau 1992:85), testimony and survey notes of the Māhele 'Āina, and landmark court case of Sherman Peck et al. v. Edward Bailey, 8 Haw. 658, (Haw. King. 1867), the primary watercourse of Wailuku Ahupua'a has been documented as either "Kahawai o Wailuku", "Wailuku River", or "Wailuku Stream".

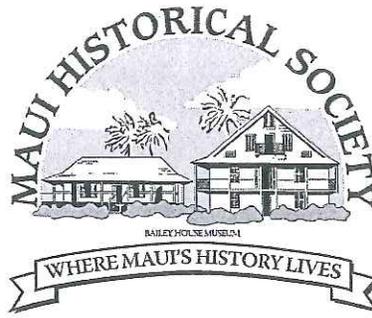
Therefore, we humbly ask that you support and approve Mr. Duey's request to restore and replace the name of the watercourse currently known as 'Īao back to Wailuku. Mahalo for you time and consideration.

Respectfully,

Bryce Thayer
President, Maui Historical Society

Sissy Lake-Farm
Executive Director, Maui Historical Society

Attachments: 1



2375 A Main Street, Wailuku, Hawai'i 96793
808 244-3326 office, 808 244-3920 fax, e-mail: info@mauimuseum.org, www.mauimuseum.org

The Maui Historical Society shall collect, preserve, study, interpret and share the history and heritage of Maui.

Attachement 1: References Cited

Bailey, E.

n.d. *Tracing of 597. E. Bailey vs. Wailuku Plantation Water Case. Wailuku Maui* [map]. Scale unknown. Copied from map in records of Supreme Court Honolulu.

C.J.W.

1893 *Map of Sprecklesville Plantation.* [map]. 200 ft = 1 in.

Dodge, F. S.

1880 *Preliminary Map of West Maui, Compiled from Old Surveys* [map]. 1:6000. Surveyed by W.D. Alexander. Hawaiian Government Survey.

Kamakau, S.M.

1992 *Ruling Chiefs of Hawaii.* Revised ed. The Kamehameha Schools Press, Honolulu, HI.

Monsarrat, M. D.

1881 *Map of a Portion of Wailuku* [map]. Scale: 1/1600. On file at the State of Hawaii Survey Office, Honolulu, HI, On file at On file at the State of Hawaii Survey Office.

CIRCA 1850

①



A map of Portlands of the Crown
in Whidbey
above the bridge

N

EDWARD BAILEY

of Maui



TEACHER & NATURALIST, ENGINEER & ARTIST

Wife *Maui* *Maui* *Maui*
LINDA MCCULLOUGH DECKER

RAINSONG

2011



Royal Wailuku



PREVIOUS PAGE
Mountainscape.
Caves in 'Āao Valley
are the burial places
of many of the highest
chiefs from all the
Islands, and also of
the great navigators
of voyages from
Tahiti; their mana
has increased the
spiritual power
of the valley.

When the Baileys arrived at their newly assigned station, if they knew the weighty history of the district they were probably unimpressed. They could not see that through ten centuries the town with its fertile farms, rich ocean, and fine surf had prospered. Here had been the seat of the kings of Maui, who were chiefs of the highest rank, honored throughout the Islands. Their Wailuku compound lay at the mouth of 'Āao, the sacred valley in which are buried the navigators of the great canoe voyages from Tahiti and many high chiefs from all the islands.¹ Among the early Maui chiefs were Pi'ilani, his son Kihaapi'ilani the roadbuilder, and his grandson Kamalalawalu, who was so highly regarded that in chants the island is still called by his name: Maui o Kama—"Royal Maui of Kama."

A century later as the Hawai'i Island chiefs grew restless, the fearsome reputation of Kahekili and his warriors—the right half of their bodies tattooed almost solidly black, even to the inside of their eyelids and gums²—kept them at bay for decades. When they did invade, Kahekili's chosen force defeated the invaders in the sand hills of Wailuku; and it was in the royal compound Halekalani that Kahekili received the high chief come to parlay. A few years later Kahekili conquered O'ahu and Moloka'i, and having a strong alliance with Kaua'i, for two decades he was the most powerful chief in the Islands.³

Kahekili's son, Kalanikūpule, a less skillful warrior, was defeated by Kamehameha, first in the three-day battle of Kepaniwai in Wailuku and then on O'ahu's Nu'uano Pali. The victor, establishing the Kingdom of Hawaii, pushed Maui's chiefs and its history into obscurity.⁴ Thereafter, the legends and genealogies of Hawai'i Island were the ones chanted at the royal court.

Nonetheless, to establish his dynasty Kamehameha needed the divine rank of the Maui line, and accordingly he took as his sacred queen the young Keopūolani, who had been born and raised at the great *heiau* Hale Ki'i on the Wailuku River.

1. Fornander, *Ancient History*, pp. 21–23, 136; Malo, *Ka Mo'olelo*, pp. 194, 227.

2. Fornander, *Ancient History*, p. 215.

3. Fornander, *Ancient History*, p. 225.

4. Fornander, *Ancient History*, p. 348.

disease which has been raging among them. Some have had strength of constitution to rise above it and are recovering. Several died, two died while I was at Lahaina, two more in a doubtful situation. As soon as the discovery was made salt was prohibited and there have been no new cases and most of those sick are improving. [MO to MC, 30 September 1840]

The mission's doctor in Honolulu, Gerrit Judd, was called to come to Wailuku. After an autopsy and three weeks of careful investigation of the school, he had a different theory: *The malady prevailing among them, which had created such a panic among the parents and guardians . . . was a low, nervous fever . . . marasmus . . . a chronic inflammation of the peritoneum, a disease which has been known to prevail in armies, hospitals &c. where many persons were collected together.*

The only cause and one which I think, satisfactorily accounts for the sickness, is the great change in the habits of the pupils, from a roving, active life, romping over the fields and mountains or on the sea shore, eating their food at irregular hours, and in irregular quantities, and often suffering from hunger, to a quiet condition within the bounds of the Seminary enclosure, having a full and regular supply both of food and fish, without a proportionate increase of bodily exercise. The consequence of this change is, that the system becomes filled up with nutriment, and a plethory succeeds, which predisposes the system to inflammatory action.⁴

Dr. Judd felt that the location of the school was a healthy one, and that with a schedule which allowed the girls more exercise, all would be well. He ordered a swing for the girls, and Bro. Green asked the Depository to send for it some stout rope that could withstand heavy use. Dormitory rooms were enlarged and bedding changed from the traditional mats and ferns to bedsteads. There is no description of the sanitation; however, the New Englanders were certainly familiar with proper outhouses and water systems, and the girls bathed frequently and washed their clothes every week. Abundant clean water was brought from the Wailuku River in the ancient ditch, the Kama 'Auwai.

The "more relaxed daily routine" was instituted, four days a week:

At day-light rise and work in gardens till 6:30

6:30 to 7:00 Morning Prayers.

7:00 to 8:00 Breakfast followed by one hour for sweeping and cleaning rooms.

9:00 to 11:00 School time devoted to study and recitation.

11:00 to 11:30 Free time.

11:30 to 12:00 Bathing time.

4. Green, "Female Education"

12:00 noon
2:00 to 4:00
4:00 to 5:00
5:00

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Time pass
Rufus Ander
the return of i

5. He was m

keeping his English school; when his health faltered and prevented him from teaching, he turned to land work full time.¹

Bailey had been called into action in November 1849 by the Privy Council: *Resolved that the Minister of the Interior be authorized to request Mr. E. Bailey of Wailuku to survey and lay out roads in Hamakualoa, Hamakuapoko, Makawao and Haliimaile, and to make a general outline map of these lands to be sent to the office of the Minister of the Interior.*

Acting as an engineer, laying out and building roads and bridges, Edward was building essential infrastructure for wheeled carts. He supervised the construction of the first bridge over the Wailuku River, a simple planked structure on Market Street, which was considered a great improvement to the district. *I am at road making now and shall not get through much before the end of the year. Have got the bridge in its place tho' it is not all finished. Hope to have our ways essentially mended* [EB to RAr, 26 November 1851]

For this work his labor force consisted of *pa'ahao*, prisoners generally convicted of minor offenses such as adultery, and *aupuni*, the required public labor provided to the chiefs by all able-bodied men, women, and children: It was typical conscript labor: *It has been Aupuni for working on the roads this week & I and my men all went into the work hilt deep to the ruin of white shirts and pants. . . . Today was Aupuni [also] but most of the people having contrived to shirk out, I could not work to advantage.* [EB to DB, 3 November 1848]

In February 1851 he wrote about another bridge, to his friend Rev. Richard Armstrong, now head of the Department of Public Instruction and in charge of selling its extensive lands to raise money to support the schools: *You must be overwhelmed with work, and I really feel ashamed for the part I have borne, and also inclined to say "uoki" [quit!] about the lumber. . . . It is necessary that those long beams be all of one piece for the reason that few carpenters understand putting together shorter stuff into the shape of a good solid bridge, and it would cost much more work than to have them all in one piece. A common splice will not do, for the reason that nothing can be put under to support it. But they may be a little shorter and we might venture to risk it on trial.* [EB to RAr, 22 February 1851]

Fifteen months later, when an important road, A'alaloloa, needed to be built over the ridge between Lahaina and the central valley near Mā'alaea, Bailey applied to the

1. The discussion of Bailey's work as a land agent, surveyor, and roadbuilder is based on a transcript in the author's collection of a talk given by David Forbes to the Maui Historical Society in 1999.

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the Kalani ʻAuwai on the other side of the river, one-third in the river itself. When there was a drought, everybody got less water. Whoever had water rights could use as much of his water as he needed—as long as nobody was injured by it.

Still the Baileys and the Waiuku Sugar Co. squabbled about the division of water; the reason, so some said, was that the Baileys were seen as rivals by the larger plantation⁶ and a very vigorous effort was made to crush it, but without success, by instituting against him the water lawsuits.⁷ In 1873 the two plantations agreed to arbitration by the Commissioner of Water, who added up acreage and assigned the water of the Kama ʻAuwai proportionately.⁸ But both parties appealed to the Supreme Court: that was not the ancient way. Water division had always been by time: for a night or a day the water in the ditch was allowed to run on one's land. The Supreme Court agreed, and recognized the right of the Bailey Plantation to use half the water of the Kama ʻAuwai. There was also a question of day rights and night rights: since the mills operated in the daytime, they fell into the habit of taking water in the day and allowing the water for others to run at night.

The Supreme Court took up the issue again in 1895⁹ when owners of Waiuku *loʻi* (taro patches), who were said to have a long tradition of squabbling over water, sued the Waiuku Plantation; the court agreed that taking water in the daytime and using it anywhere on the land before letting it run down through the *loʻi* was not the ancient way but ruled that it did no injury to the citizens downstream, who were using the water for taro and for domestic purposes, and it let the new method stand. Long before that day the two plantations had been combined, and used the water of the Waiuku River as they needed, leasing some of their water rights to the growing town.

FOLLOWING PAGE
Map of Waiuku for Peck vs. Bailey Lawsuit, 1867.
Bailey's map shows the Waiuku River flowing out of the mountains at far left. Kalani ʻAuwai is distinctly visible watering the cane fields. Kama ʻAuwai crosses Valley Road and carries Waiuku River water behind Bailey House and across the gulches toward Waikapū; a branch runs to Waiale pond.

6. Interestingly, one of the owners of Waiuku Sugar Co., James Robinson, had lent Bailey the money to establish his plantation.

7. *Hawaiian Gazette*, 14 December 1866 (report of the Golden Anniversary party).

8. *AH/Wilifong v. Bailey*/L-108,33 Haw 479 (1873).

9. *Lonoaea v. Waiuku Sugar Co.*, 9 Haw. 651 (1895).

Wailuku Ahupua'a

Lonoea vs. Wailuku Sugar Company 1895

Lonoea claimed that Wailuku Sugar Company had unlawfully constructed a dam in the Wailuku river which deprived him of the water he was entitled to.

He also claimed that Wailuku Sugar Company enlarged, deepened and tightened the dams supplying the Kalani 'auwai¹³ (an 'auwai leading from the Wailuku river). And had constructed a new and illegal dam to supply more water to the 'auwai than it was entitled to.

That Wailuku Sugar Company illegally maintained a flume which tapped the Kalani 'auwai and had taken the water to kula lands.

That Wailuku Sugar Company enlarged the Kama 'auwai (an 'auwai leading from the Wailuku river), and by doing so has taken water to kula lands and lands not entitled to it.

The court ruled that the dams in question were not used for an illegal purpose and refused to order their removal. The court recognized that the Kalani 'auwai and the Kama 'auwai were each entitled to 1/3 of the water in the Wailuku river. It found the size, shape, and number of dams were immaterial so long as Wailuku Sugar Company didn't divert more than the proportion of water allocated.

The court further ruled that the taking of water in times of

¹³ An 'auwai is a ditch

abundance was permitted as long as no one was injured by the taking.

The court ordered the removal of the flume which was taking water to kula lands. It was found unreasonable and illegal because it was not clear if the new use was injurious to the other owners who had water rights.

The courts declared that Wailuku Sugar Company was entitled to water from 4 o'clock a.m. to 4 o'clock p.m. every day except Sunday. That Lonoaea was entitled to the water from 4 o'clock p.m. to 4 o'clock a.m.

1904

Hawaiian Commercial and Sugar Company vs. Wailuku Sugar Company

Hawaiian Commercial and Sugar Company sought an injunction order against Wailuku Sugar Company to restrain it from continuing certain illegal diversions of water from the Wailuku river. At the time of this trial Wailuku Sugar Company owned 3,000 acres in the central section of the Wailuku ahupua`a which included the river bed. Hawaiian Commercial and Sugar Company owned 5,000 acres in the central section, as well as 19,500 acres in the lower section of the Wailuku ahupua`a, which were kula lands.

The courts found that Wailuku Sugar Company was taking water at night from the Wailuku river and diverting it to a reservoir in Waikapu. They were also found to be diverting water

Summary¹⁴

1848

Victoria Kamamalu received the konohiki lands in Waihe'e.¹⁵

Princess Ruth Ke'elikolani received the konohiki lands of Wailuku commons (lower Wailuku ahupua'a).

1862

Wailuku Sugar Company organized by James Robinson & Co., Thomas Cummins, J. Fuller and C. Brewer & Co., Ltd.

James Holbron starts cultivation of sugar at Waihe'e.

James Louzada and William Cornwell (who later married Blanch MacFarlane) started Waikapu plantation.

1863

C. Brewer & Co., Ltd. become the agents for Wailuku Sugar Co.

Wailuku Sugar Co. leases for 25 years lands in the 'Ili o Peepi and lands on the south side of the Wailuku river where Kamehameha III had a sugar mill.

Irrigation ditches were cut along the foot of the Wailuku (West Maui) mountains.

J. Holbron and Benjamin Jones build the first mill in Waihe'e. Christopher Lewis becomes owner of Waihe'e plantation.

1865

C. Brewer & Co., Ltd. bought 14/28 interest in Wailuku Sugar Co. from James Robinson & Co. and Thomas Cummins.

¹⁴ Wailuku Sugar Company Centennial 1962 unless other wise indicated.

¹⁵ Cultural Reconnaissance of Hydroelectric Power Plant Sites

Terms and Conditions

- Tickets are non-transferable and non-refundable unless otherwise specified
- Changes may be subject to penalties/service fees
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1903

Wailuku Sugar Co. purchases the lease of a parcel of land in Huelo which would intercept the route of a new ditch which H.C. & S. was constructing. The objective was to gain a similar advantage against H.C. & S. as H.C. & S. had against Wailuku Sugar Co. (H.C. & S. owned scattered parcels of lands from Waihe'e to Ma'alaea and used this as leverage against Wailuku Sugar Co. when they needed to acquire a right-of-way).

1904

H.C. & S. accepts 5/12 of the normal water flow of Waihe'e river, in exchange Wailuku Sugar acquires 9,673 acres. This arraignment was a lease agreement.

1905

Construction of Waihe'e ditch starts. It is to run from the head of Waihe'e Valley to the lands at Waikapu.

1909

Tunnel in Waihe'e valley is completed which will deliver 10 million gallons of water per day to a lower section in the Waihe'e ahupua'a.

1913

The intake of the Waihe'e ditch syphon across the Wailuku river was improved which resulted in a 30% increase in water capacity.

1921

Sections of the Waihe'e and Waikapu ditches are lined with concrete or iron flume to reduce seepage.

September 1, Waikapu Agricultural Co. is sold to Wailuku Sugar Co.

1924

H.C. & S. and Wailuku Sugar Co. reached an agreement and final settlement of the land and water rights. This was an Exchange Deed between the two parties which vested absolute title to land, water rights, and rights-of-way located in Waihe'e, Wai'ehu, and Wailuku. The premises conveyed were held under and exchange lease agreement signed in 1904.

Streams of the Na Wai`eha

Waihe`e River
Huluhulupueo
Mananole
Waihe`e

Wai`ehu River
North Wai`ehu
South Wai`ehu

Wailuku River
Ae
Kinihapai
Pohahoahoa
Nakalaloa

Waikapu River

Kinihapai
Poohahoahoa
Nakalaloa

(Waikapu River

Caution
As of: December 4, 2014 3:41 AM EST

Peck v. Bailey

Supreme Court of Hawaii

February 4, 1867, Decision Rendered

No Number in Original

Reporter

8 Haw. 658; 1867 Haw. LEXIS 1

SHERMAN PECK et al. v. EDWARD BAILEY

The court also found that the plantation owners had diverted water for their own use. The court denied the plantation owners' request for an injunction and dismissed the application. The court held that both parties were entitled to use the water for any purpose that they deemed for their interest as long as their usage did not injuriously affect the rights of others.

Core Terms

complainants, rights, river, watercourse, kalo, flowed, diverting water, diverted, appurtenance, easement, quantity of water, plantation, time immemorial, conveyed, parties, irrigation, watered, cane, riparian proprietor, prescriptive right, water flow, premises, patches, stream, pond, water rights, enjoyment, formerly, purposes, ditch

Outcome

The court dismissed the plantation owners' application for an injunction.

Case Summary

LexisNexis® Headnotes

Procedural Posture

Complainants, the owners of a sugar plantation and mill, filed an action against defendant landowner, alleging that the landowner illegally and wrongfully diverted the water in a river from the plantation owners' mill and premises. The plantation owners sought an injunction preventing the landowner from further diverting the river water.

Real Property Law > Encumbrances > Limited Use Rights > General Overview

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Limited Use Rights > Easements > Appurtenant Easements

Real Property Law > ... > Easements > Easement Creation > Express Easements

Overview

The court noted that the plantation owners and the landowner had title to their land and were entitled to water by immemorial usage. The court rejected the plantation owners' claim that they had the rights of lord paramount of the river. The court found that the landowner had not used more water than he was entitled to use and that he had not diverted the river any further than was necessary.

HNI An easement appurtenant to land will pass by a grant of the land, without mention being made of the easement or the appurtenances.

Real Property Law > Encumbrances > Limited Use Rights > General Overview

Real Property Law > ... > Easements > Easement Creation > Easement by Prescription

Real Property Law > ... > Limited Use Rights > Easements > Interference With Easements

Real Property Law > Water Rights > General Overview

Real Property Law > Water Rights > Riparian Rights

HN2 A sound distinction is recognized between the right to enjoy water in its natural state, and that which is created by artificial means. A riparian proprietor has the right to enjoy the benefits of a flow of water, as an incident to his estate, and he can use the water for irrigation, watering his cattle, and other domestic purposes, provided he does not materially diminish the supply of water or render useless its application by others. A right to interfere with the natural right to make use of water belonging to another, when it is connected with the occupation of lands, constitutes an easement in favor of the latter, as the dominant estate. Such an easement may be acquired by grant, or by adverse enjoyment so long continued as to raise a legal presumption of a grant.

Real Property Law > Water Rights > General Overview

HN3 If land has a water right, it will not be contended that the water shall be used forever for the same crop. It may be used for any purpose, which the owner may deem for his interest, always taking care that any change does not affect injuriously the rights of others. If the use is lawful and beneficial, it must be deemed reasonable and not an infringement of the rights of others, if it did no actual or perceptible damage to them.

Real Property Law > Encumbrances > Adjoining Landowners > Easements

Real Property Law > Adverse Possession > General Overview

Real Property Law > ... > Limited Use Rights > Easements > General Overview

Real Property Law > ... > Easements > Easement Creation > Easement by Prescription

HN4 An adverse right to an easement cannot grow out of a mere permissive enjoyment for any length of time.

Civil Procedure > ... > Injunctions > Grounds for Injunctions > General Overview

HN5 Injunctions are not awarded by courts of equity, for the infringement of even doubtful rights, until they have been established at law.

Headnotes/Syllabus

Headnotes

[**1] An easement appurtenant to land will pass by a grant of the land, without mention being made of the easement.

A riparian proprietor has a right, as an incident to his estate, to use the water for irrigation and domestic purposes, provided he does not materially diminish the supply of water or render useless its application by others; but his riparian rights are subject to the prescriptive rights of others.

The owner of an Ahupuaa may apply the water belonging to it to what land he pleases, but upon his conveyance of portions of the Ahupuaa to several persons, each grantee, in the absence of an additional grant of water rights to any of them, will hold the right to all the water which the portion of land purchased by him had enjoyed from time immemorial; the grantee of the larger portion of the Ahupuaa has no superior rights as lord paramount.

A party who has acquired a prescriptive right to use a certain quantity of water in a certain ditch for certain purposes on a certain piece of land, may alter the course of the ditch and use the water for other purposes on another piece of land, provided the changes do not affect injuriously the rights of others.

No prescriptive right [**1] can be acquired to the overflow of water from adjacent lands, however

long continued, where the overflow is merely by way of drainage and not in a regular water course or under a claim of right.

Counsel: C. C. Harris, R. H. Stanley, J. C. Farwell and J. W. H. Kauwahi, for petitioners.

A. F. Judd and W. C. Jones, for respondents.

Judges: In Equity. Allen, C.J.

Opinion

[*659] The complainants in this bill allege that they are the owners of a sugar plantation and mill, situated on the Wailuku river, on the Island of Maui, and that the said river continues its whole course through their plantation, and has so flowed from time immemorial, from which are two lateral water courses, which supply water for the use of the said mill and plantation, and which they are entitled fully to enjoy. The complainants further allege that their title is derived almost entirely from the konohiki of the Ahupuaa of Wailuku, whom they allege had the right of lord paramount over the Wailuku river as an appurtenance to his Ahupuaa, and they allege that the defendant has no right of water in the said stream, except that which was allotted by the konohiki for the use of certain taro patches of defendant, which they [*660] aver was much less than the defendant has diverted to his use, and to the injury of complainants.

The complainants allege that the defendant has, by a dam and other means, illegally and wrongfully diverted the water of Wailuku river from their mill and premises, which has caused great interruption to the use of their mill and injury to their cane. The complainants further allege that the defendant has extended the water course, which supplied his kalo land, so that it watered kula land of defendant which never was and is not now entitled to water, and thereby has diverted a large quantity of water from its usual course, and which from time immemorial has had its flow to the mill and

premises of complainants. The complainants pray that the defendant may be restrained by the injunction of this Court from making this illegal diversion of the water of the Wailuku river, as it has prevented the water flowing to the mill and premises of complainants in such regular quantities as they are entitled to, and to their great injury.

Defendant admits title to the land in occupancy of complainants, but denies their rights as lord paramount of Wailuku river, and claims that he has not used more [*661] water than he is entitled to by prescriptive right, immemorial usage, and the law of the Kingdom; that he has not dammed the Wailuku river any further than was necessary to make the usual diversion of water [*662] into the Kamaauwai. He admits that he has dried up some taro patches and transferred the water to another portion of his cane land, which he contends he had a legal right to do. He further alleges that the complainants have diverted the water from their own mill and premises by enlarging the ancient water course called Kalaniauwai, which had its head above the water courses which conducted water to the mill and premises of complainants, as well as the Kamaauwai, which water passed to the mill and lands of defendant.

The defendant alleges that complainants diverted this water, a large portion of which had always run in the Wailuku river, and used it for the irrigation of large quantities of cane land on the north side of the river, which is the opposite side from the mill and premises of complainants. The issue is substantially this, viz:

- 1st. The complainants claim the rights of lord paramount over the Wailuku river.
- 2nd. They allege that the defendant has wrongfully [*663] diverted from their mill and premises more water than he was legally entitled to by the Kamaauwai, to the great injury of their mill and cane.
- 3rd. They allege that by the extension of the Kamaauwai beyond its original and true terminus,

the defendant has conveyed an undue quantity of water -- far more than he was entitled on the twelve acres of kalo land, called Kapohakuokauhi -- on to his kula land beyond, and also that he has illegally diverted this water from the kalo patches, as the surplus had always passed over the road, adjacent to which they were situated, and watered complainants' land below.

The title of the land held by both parties, the rights and privileges of which are called in question, is derived from the King, and from the award of the Land Commission, on which Royal Patents have issued, or which are entitled to the same on complying with the usual conditions. By the Act passed on the 7th day of June, 1848, by the King, in co-operation with the Nobles and Representatives, a division of the lands of the Kingdom was made, in which certain lands were declared to be the [*661] private lands of His Majesty Kamehameha III, to have and to hold, himself, his heirs, [*66] and successors forever, and said lands to be regulated and disposed of according to his royal will and pleasure, and subject only to the rights of tenants. The Ahupuaa of Wailuku was one of these lands. It is admitted that the water courses known as Kamaauwai, Kalaniauwai, and the mill water course so called, have been used from time immemorial and they were the entire property of the King subject to the rights of tenants. This property became by inheritance the property of Kamehameha IV., from whom the parties derive title to the greater part of the lands which have been referred to in the investigation of this case. These lands were conveyed, with all the privileges and appurtenances annexed to them by law, in the usual form of a warranty deed, and without any peculiar grants to either.

There can be no difference of opinion that the complainants were entitled to all the water rights which the lands had by prescription at the date of their title. By the deed, the water courses were conveyed and a right to the water accustomed to

flow in them. The same principle applies to all the lands conveyed by the King, or awarded by the Land Commission. If any of the lands were entitled to water [*67] by immemorial usage, this right was included in the conveyance as an appurtenance. *HN1* An easement appurtenant to land will pass by a grant of the land, without mention being made of the easement or the appurtenances. But if lands had not such rights, and no additional grant of water rights was made, it certainly could take nothing by having been a portion of the Ahupuaa. It appears by the deed of the land of complainants, on the north side of the river, that the land although comprising several hundred acres is bounded by the river only by a small portion of it. How far this would affect its riparian rights, is not material in this case, for the reason that the right which it enjoys by the Kalaniauwai is far more than its riparian right -- all riparian proprietors have taken this conveyance, subject to the rights of others enjoyed by prescription. So if a riparian proprietor should interfere with an ancient auwai, by which other lands had been watered from [*662] time immemorial, he would be liable in damages, because this was clearly an easement for the benefit of those lands through which the ancient water course extended. *HN2* A sound distinction is recognized between the right to [*68] enjoy water in its natural state, and that which is created by artificial means. A riparian proprietor has the right to enjoy the benefits of a flow of water, as an incident to his estate, and he can use the water for irrigation, watering his cattle, and other domestic purposes, provided he does not materially diminish the supply of water or render useless its application by others. Washburn, in his 2 vol. Real Property, p. 65, says a right to interfere with the natural right to make use of water belonging to another, when it is connected with the occupation of lands, constitutes an easement in favor of the latter, as the dominant estate. Such an easement may be acquired by grant, or by adverse enjoyment so long continued as to raise a legal presumption of a grant.

The complainants contend that they have the right of lord paramount to the Wailuku river. The grantor of a large portion of the complainants' land had the same right as his ancestor, who was the konohiki of this Ahupuaa, subject to the rights of tenants, which were afterwards confirmed by the Land Commission. These rights were certain taro patches and the water necessary for their cultivation. This was a limitation to the [*9] entire control of the river.

The grantor of complainants has conveyed portions of this Ahupuaa to several persons. Each grantee will hold all that has been conveyed to him, unless it should conflict with a previous conveyance. This includes the water courses on their lands, and all the water which the lands had enjoyed from time immemorial. The deeds to defendants were from the same source originally and conveyed similar rights and privileges as appurtenant. So it appears by the deeds to the complainants and defendant, that a large part of the Ahupuaa has been conveyed to them by the konohiki, with all the rights and privileges appertaining. By the evidence it appears that there are large valuable water rights appurtenant to these lands. It is very evident, therefore, that the complainants cannot be lords paramount [*63] over the Wailuku river, but they have certain valuable rights of water as an appurtenance to the land conveyed to them, and nothing more. They cannot claim any rights except what they have acquired by their deeds and leases, and the defendant is in the same category. Both are limited in their rights of water, and there is not the slightest ground for declaring [*10] either as lords paramount; as much reason, as a matter of principle, in the one case as the other. The difference consists merely in the far greater possessions of the complainants.

The next material question is that of a diversion of the water by the defendant to the injury of the mill and premises of the complainants. The title of the land on which the complainants' mill is situated is derived from an award of the Land Commissioners

to William Lunalilo, and by him leased to them. As alleged, there was formerly a sugar mill at the same place on which the mill is now situated, and the same was erected and used by order of Kamehameha III. That in consequence of the extension and diversion of the water flowing through the Kamaauwai from the Wailuku river, the complainants have been deprived of their usual flow of water, so that their works have been obliged to stop, and have been otherwise injured in their usual business of sugar culture and manufacture.

The Court have already declared that the complainants are entitled to the same flow of water in the water course to the Wailuku Plantation Mill as has run there from time immemorial; but after a very careful examination of the evidence, [*11] I am of opinion that whatever deficiency there may be, in comparison to former times, it is accounted for by the fact of a diversion of water above, by the Kalaniauwai, of far larger quantity than ever flowed there before. Some of the witnesses testify that there are two or three times as much as formerly, and that it waters some four hundred acres of cane of complainants. It may be well to remark here that the complainants commenced planting in 1863. It will not be seriously contended by the complainants that they had a right to lessen, by the Kalaniauwai, the quantity of water in the water courses below, and if they did, that they could claim damages from those interested in [*64] the Kamaauwai, because they secured their usual flow. This quantity they had a right to. It is very clear from the evidence that had there been the same flow of water in the Wailuku, below the Kalaniauwai, that there was prior to its enlargement, that the complainants would have had no occasion to complain of the want of the usual flow of water in their mill water course. This is a complete and satisfactory account of the deficiency of water, but, as it was caused by themselves, they cannot with propriety [*12] complain of their neighbors, who have rights of water in the Kamaauwai.

From the general current of the evidence, it appears to me most manifest that the injury which the complainants have received, from want of the usual flow of water to their mill, has arisen from their own acts. They have diverted a large quantity of water by the Kalamauwai, which was accustomed to flow in the Wailuku river, and which supplied the Kamaauwai and the mill water course. There is nothing in the titles which give to complainants any pre-eminence, and they are not justified by the evidence.

My opinion is that the Kamaauwai, the Kalamauwai and the Wailuku Mill water courses are each entitled to the quantity of water which has usually flowed therein, and that the owners of neither can rightly divert water from the other. Their rights are based upon grants and immemorial usage. No riparian proprietor can lessen these rights. The owners of the lands watered by the Kamaauwai have no right to increase the flow, and the weight of evidence is that they have not, and that the quantity which now flows is in conformity to the ancient usage, and that it does not exceed it. It is in evidence that the amount [**13] of water varies very much in the Wailuku river. It is subject to freshets. The head of the Kamaauwai is usually washed away in the water, and the bed of the river is lowered, which renders it necessary to build up a wall so that the water can flow into it. All the inhabitants interested in lands watered by it have, for many years, united for this purpose.

The complainants further allege that the defendant has diverted and extended a lateral water course of the Wailuku river [**65] and caused the water to flow on to kula lands, which were not entitled to water either by grant or permission of the konohiki or by the usage and custom of the kingdom, and that, in consequence of this extension and diversion of the water flowing through the Kamaauwai from the Wailuku river, the complainants have been deprived of their user and that they have been damaged in consequence

of the diversion. It is contended by the complainants that as the defendant has the right only to the use of the water of the Kamaauwai ditch for the watering of twelve acres of kalo land, the extension of the ditch on kula land and a diversion of the water from the kalo patches to cane was illegal, because it was originally [**14] appropriated for this kalo land and always used as such, and the diversion has injured their lands in Kalua. It is further contended that it would be difficult, if not impossible, to admeasure the quantity of water so that the same amount would be conveyed on the kula land that has run on the kalo. The Court regard this as an illiberal construction of the prescriptive right and one which would do infinite mischief.

In the deeds introduced by the parties, it is not set forth for what purpose the water to which the lands were entitled by prescription should be used. It is very well known, however, that originally the water was wanted mainly for the cultivation of kalo and more recently for cane. *HN3* If land has a water right, it will not be contended that the water shall be used forever for the same crop, be it kalo or cane. It may be used for any purpose which the owner may deem for his interest, always taking care that any change does not affect injuriously the rights of others.

If the persons whose lands and mills are watered by the Kamaauwai have not taken any more water than what they have always enjoyed, the complainants have no cause of complaint. As Chief Justice Shaw says in the [**15] case of *Wheeler v. The Trustees of the Hawaiian Kingdom*, "If the use is lawful and beneficial, it must be deemed reasonable and not an infringement of the rights of the plaintiffs, if it did no actual or perceptible damage to them." Various parties interested in the Kamaauwai have hitherto [**66] mutually agreed upon the diversion of water, and for a period the complainants participated with them. When there are various interests in the same flow of water, it is desirable for the parties to agree upon a suitable

mode and arrangement to regulate and adjust the same, but if they are unable to agree, an admeasurement may be made by order of Court. This is by no means a new problem. There is no evidence that the lands of defendant, adjacent to his kalo lands, have any prescriptive right to water, and although it is in evidence that Kaluapuhi was purchased as cane land, still there is no right of water conveyed. The Court is of opinion, however, that the defendant had the right to use the water of his kalo land on other lands, if in the transfer or passage of water over his own land no injury was done to others. He is limited to the same quantity of water to which he was entitled on [*16] his kalo land by immemorial usage.

When a party has the right of water, he can use it for any purpose, although different from the original use, and in a different place, if the change does not effect injuriously the rights of others. Angel, in his valuable treatise on water courses, has given the law and cited the authorities which sustain it on these points. In the case of *Hall vs. Swift*, 6 Scott 167. where the plaintiff had a right to water flowing from the defendant's land, across a lane to his own land, and it appeared that formerly the stream meandered down a lane before it flowed on to the plaintiff's land, and that in the year 1835 the plaintiff, in order to render its enjoyment more commodious to himself, a little varied the course by making a straight cut direct from the opening under defendant's hedge, across the lane to his own premises, and this it was contended negated the right claimed; Chief Justice Tindal, in delivering his opinion, said: "If such an objection as this were allowed to prevail, any right, however ancient, might be lost by the most minute alteration; the making straight a crooked bit of footpath would have this result. No authority has been cited, [**17] nor am I aware of any principle of law or common sense, upon which such an argument could base itself."

"In this country" (the United States), says Angel in his valuable Treatise on Water Courses,

"the doctrine is well settled, that where a right has been acquired by virtue of twenty years enjoyment, to use a certain quantity of water, a change in the mode and objects of use is justifiable; and here as in England the only restriction is, that the alterations made from time to time shall not be injurious to those whose interests are involved." *Stickney vs. Tall, 10 Sciz. & Ravin 63; Blanchard vs. Baker, 8 Mo. 727.*

"Where a right exists to use a certain quantity of water for propelling machinery, a change may be made not only in the mode and objects of the use but in the place of using it, if the quantity of water used is not increased, and the change is not to the prejudice of others. Thus a party had for more than twenty years used a certain quantity of water at a particular dam: it was held he might open his gates and draw that quantity without using it there, in order to use it at other works below on the same stream. And the owner of the mill may even [**18] draw a larger quantity of water through his gates than he had been accustomed to use, if he has lawfully provided the surplus, for his own use, by means of a *reservoir* above, and causes no injury thereby to the owner of another mill situated upon the same dam, or to other persons having rights in the stream." *Whitton vs. Cochran Manufacturing Company, 9 N.H. 434; Bracegirdle vs. Peacock, 10 Jur. 9.*

In the English Court of Exchequer an action was instituted for the diversion of water, the plaintiff alleging in his declaration a reversionary interest in three closes of land, to wit, three ponds filled with water, one pond being on each of said closes, and a right to the flow of water into such closes for supplying the said ponds with water. The defendant traversed the right. It appeared in evidence that the plaintiff had enjoyed an immemorial right to the flow of this water into the ancient pond in one of his closes, but that when thirty years ago he made a new pond in each of the three closes, and turned the water so as to supply them, he thenceforth disused the old pond.

Park, B., said: "The use of the old pond was discontinued only because [*668] the plaintiff [**19] obtained the same or greater advantage from the use of the three new ones. He did not thereby abandon his right, he only exercised it in a different spot. The right alleged is a right to have the uninterrupted flow of a certain surplus water into a pond, and that right is equally proved, whether it be by prescription or grant. The declaration means no more than this. The plaintiff has the right to the overflow of water either in one pond or three ponds." *Hall vs Oldroyd*, 14 Mees & Welsb. 789.

In the case of *Saunders vs. Newman*, 1 Barn. & Ald. 258, the claim in the declaration was for a mill generally. It was held that the right to the discharge of the water was not lost by an alteration in the dimensions of the water-wheel. "The owner," said Mr. Justice Abbott in that case, "is not barred to use the water in the same precise manner, or apply it to the same mill; if he were that would stop all improvement in machinery." The same principle applies with equal force to improvement in agriculture. "All that the law requires," says Chancellor Kent, "is that the mode or manner of using the water should not be materially varied to the prejudice of other owners; and the proprietor is not [**20] barred to use the water in the precise manner, or to apply it to the same mill, for such a construction of the rule would stop all improvement in machinery. He is only not to abuse the enjoyment to the prejudice of his neighbors." See Kent's Com., 576.

It is further contended by the complainants that their lands, situated in Kalua, opposite and across the road from the twelve acres of kalo land of defendant, have been injured by the diversion of water, as formerly the surplus passed from the kalo patches into a ditch bordering on the road, and thence flowed across on their lands, and had done so from time immemorial. It appears in evidence that the Kalua lands were supplied with water from a branch of the Kamaauwai, and that

the original design of its extension was merely for the purpose of watering the twelve acres of kalo land. The question is whether it was such a use as would give a prescriptive right. It is unlike the case of adjacent proprietors of kalo lands, when water is supplied [*669] from one kalo patch to another. In this case there was no such distinction. It is more like the cases that have been cited in reference to the water flow from mines, where a use for twenty [**21] years affords no presumption of a grant of the rights of water in perpetuity. It is merely a right to use the water as long as it continues to flow.

And the defendant contends that he is under no legal obligation to keep this land forever in kalo, to supply a drainage to the lands of complainants. It is entirely unlike the use of a viaduct laid out by the konohiki, to accommodate several lands, or a series of kalo patches, and the flow from one to another. In the case of *Wheatley & Baugh*, 25 Penn., Chief Justice Lewis says, that "to entitle a stream to the consideration of the law, it is certainly necessary that it be a water course, in the proper sense of that term." Washburne says in his very valuable work on Easements and Servitudes, 378, that "the law has never gone so far as to recognize in one man a right to convert another man's farm to his own use for the purpose of a filter."

A man may drain his swamp, although by so doing he may prevent the water which was accustomed to collect there from penetrating the earth, and thereby finding its way into a stream which flows to an existing mill, and thus diminish the quantity which was usually supplied thereby.

So if the water [**22] of a mill is accustomed to overflow and spread itself upon adjacent lands, without forming any definite channel, the owner may stop such overflow, although he thereby prevents its draining into a ditch through which it finds its way into a small stream, and in that way injuriously affects the operation of a mill thereon; 2 Washburn on Real Property. When a tract of

land attached to an academy is purposely left unenclosed, and an owner of adjacent land passing over such tract for more than twenty years, such passing is regarded as permissive and not adverse; so that he acquires no right of way, unless he does some act indicating a use under a claim of right. *HN4* An adverse right to an easement cannot grow out of a mere permissive enjoyment for any length of time.

[*670] Take, for example, the case of a miner who uses a steam engine to drain his mine, and the water pumped up flows on the land of an adjacent proprietor, and is then used for agricultural purposes, it will not be contended that this is a reason from which a grant would be presumed, and if so, the owner of the mine would be obliged to keep his steam engine in operation to supply the land with water in perpetuity. Suppose, [**23] for example, that water runs from the spout of the eaves of a row of houses and flows into an adjoining yard, and is then used for domestic purposes, it would not be contended that the owner of the house had incurred an obligation that his structures should always be such as to provide for this purpose. An adverse right cannot arise from a permissive enjoyment. There is no pretense that this water was claimed as a matter of right. It was merely the reception of water from the drainage, and it certainly can create no right to oblige the defendant and his grantees forever to use the land for the exclusive purpose of kalo.

The counsel on both sides have made frequent reference to the rights of riparian proprietors at common law. The principles which govern them have very little practical application to this case. A riparian proprietor has a qualified property in the soil to the thread of the stream, with all the privileges annexed thereto by law. He has a right to divert the water for irrigation, but it can only be done so as not to injure other proprietors. It is often a nice question where the right ends and the wrong begins in the scale of admeasurement of such diversion. If it is [**24] made only of such

water as the complaining party could not have used for a beneficial purpose, and made in a reasonable manner, and for a proper purpose, an action will not lie. If the rights of these parties were limited to those of riparian proprietors, they would be much less than they are. *In Tyler vs. Wilkinson*, 4 Mason C.C. 397, Mr. Justice Story says, "that the riparian proprietors have annexed to their lands the general flow of the river, so far as it has not been acquired by some prior and legally operative appropriation." In this case the right of the parties consist in the water courses, diverted [*671] from the Wailuku river, and they are entitled to all the rights which they have enjoyed from time immemorial.

The counsel for defendant contends that the right of irrigation is a natural right. It is an incident to an estate if a stream of water runs through it. This principle does not apply to lands situated as the defendant's are. His claim is based exclusively on an artificial water course which was included in his grant as an appurtenance. The counsel would not seriously contend that natural rights, even in an arid country, would authorize a man to trespass on the [**25] property of others, in order to procure water for his own lands. It is very true that irrigation early claimed the attention of the cultivators of the soil on these islands, not only from the fact of its being a necessity on most of the land, but from the fact that the vegetable from which the national food of the country was furnished required flowing water, and hence in all portions of these islands the traveler will see evidence of ancient water courses, as well as those now in use. The water courses on this Ahupuaa have existed from time immemorial, and were doubtless made by the order of some ancient King, and when the late King conveyed these lands to the proprietors, the rights of the water courses, in their full enjoyment, was included as an appurtenance. While the King owned this Ahupuaa, he had a right to apply the water to what land he pleased, but after the water courses were made, more especially after being in use from

time immemorial, his conveyance of the land would include them, the same as his conveyance of land bordering on the Wailuku river will include the rights of water in said river, which had not been before granted. It is very evident that each party has rights [**26] to the water courses running through their lands, the title to which they have shown.

The kula land of the defendant has no riparian rights, and it does not appear by the evidence that it has any prescriptive rights of irrigation by the Kamaauwai. The counsel has made the allegation that this land has a natural right to irrigation, and that all lands have it in arid countries. There is no doubt that the law which regulates the use of water would be somewhat different in tropical countries from that in a northern latitude. [*672] In some portions of the United States advantages are given to mills over lands, so that a mill owner can build a dam, and overflow the land of another person, and thereby convert the land to his own use, and he is only responsible in damages. It is true that in this Kingdom these rights of irrigation would not probably be infringed upon in this way. The principle cannot be carried to the extent contended for by the counsel, for the reason that it would be using water which is the property of others, as well as passing it over the lands of others, which would be a trespass.

In a final adjustment between these parties, they may regard certain principles [**27] as settled, that as they hold from the same grantors, and with similar privileges and appurtenances, and neither having exceptional rights, each is entitled to all the rights which his deeds give him, no more and no less, at least so far as their rights conflict. Kalaniauwai, Kamaauwai and the mill water course are entitled to all the water which have flowed in them from time immemorial. And if at any time there is a drought, and the water is diminished in the Wailuku river, these auwais will lose pro rata. The proprietors of the Kalaniauwai have no right to divert the water of the river so

that the Kamaauwai and the mill water course will not have their usual flow. And it is very clear that had there been the same flow of water in the river as there was prior to the cultivation of land on the north side by the complainants, and the enlargement of the Kalaniauwai, there would have been no occasion to lessen the water in the mill water course. It is in evidence, satisfactory to my own mind, that those interested in the Kamaauwai have diverted a disproportionate quantity of water, as it flowed in the Wailuku river, from the mill water course. But the evidence is conclusive that the complainants [**28] have diverted a very large quantity of water into the Kalaniauwai from the river beyond its prescriptive rights, which, prior to the cultivation of their plantation, supplied the Kamaauwai and the mill water course of complainants. And as they have caused the deficiency in the river, they have no reason to complain of the diversion as it is not greater than the Kamaauwai is entitled to as a prescriptive right. The weight of [*673] evidence is that about an equal quantity of water flowed formerly in the Kalaniauwai and Kamaauwai, and that far more in the latter than formerly, but a great deal more has flowed since the period referred to in the Kalaniauwai.

The original purpose of these water courses was to supply kalo patches, and the intention of the konohiki must have been to give all the kalo lands on this Ahupuaa rights of water at all times when needed. Kalaniauwai has no priority of supply over Kamaauwai and the mill water course, because it was situated above them on the stream, and neither has Kamaauwai superior rights to the mill water course for the same reason; but all are entitled to their usual flow. The weight of evidence is that no more water flowed in the Kamaauwai [**29] at the time complained of than formerly. Witnesses have testified to this fact having existed for more than twenty years; therefore complainants have not sustained the allegations of an illegal diversion. The defendant has not sustained his answer on this, that his lands, called Kaluapuhi

and Kekipi, were entitled to water, either by grant or prescription; but I am of opinion that he had a right to transfer the water from his kalo lands adjacent to these lands, if by doing so he did no injury to other persons. The complainants have not sustained the allegation that it has done so to them. It is only changing the place of using the water, and they had no right to complain if it worked no injury to them. The defendant is not obliged to keep the water on his kalo that it might filter through these patches and flow over the road on to the land of complainants below.

The change in the place of the water course on his own land is justified on the same principles. These changes of the ditches, or of the water, depend upon the question whether injury is inflicted on others. The complainants have not sustained the allegation of injury.

These are my views of the rights of the parties. To admeasure [**30] the quantity of water to which the Kamaauwai is entitled is not a difficult matter, and for many years, at least, it is very evident that those interested have very amicably adjusted the same. These parties, who are very intelligent men, can easily [*674] do it, and I trust they will in a friendly manner. The principles which the Court have now declared, are, in many respects, as

important to the complainants as to the defendants. A portion of their lands was formerly cultivated with kalo, which is now planted with cane, and very likely some of the water which was formerly devoted to kalo, if not already transferred by the extension of the ditches, so that it irrigates cane, they may wish hereafter to do so. A slight change in the course of the ditch for mill purposes, or any other beneficial purpose, which causes no injury to another, is as likely to commode one as the other. The opinion of the Court must rest upon general principles of law and equity, and any other opinion upon the questions raised in this case, as it appears to me, would be as much against the common judgment of the practical planter, as against these principles.

HNS Injunctions are not awarded by Courts of Equity, [**31] for the infringement of even doubtful rights, until they have been established at law, and therefore I cannot certainly in this case issue an injunction as prayed for. Still as there was evidently on the minds of both parties mistaken ideas of their rights, which were very honestly entertained, and which this investigation will aid, I trust, in correcting, I shall dismiss the application, and each party must pay the costs incurred by the same.

MAP

OF THE

WANTUIN

PLANTATION

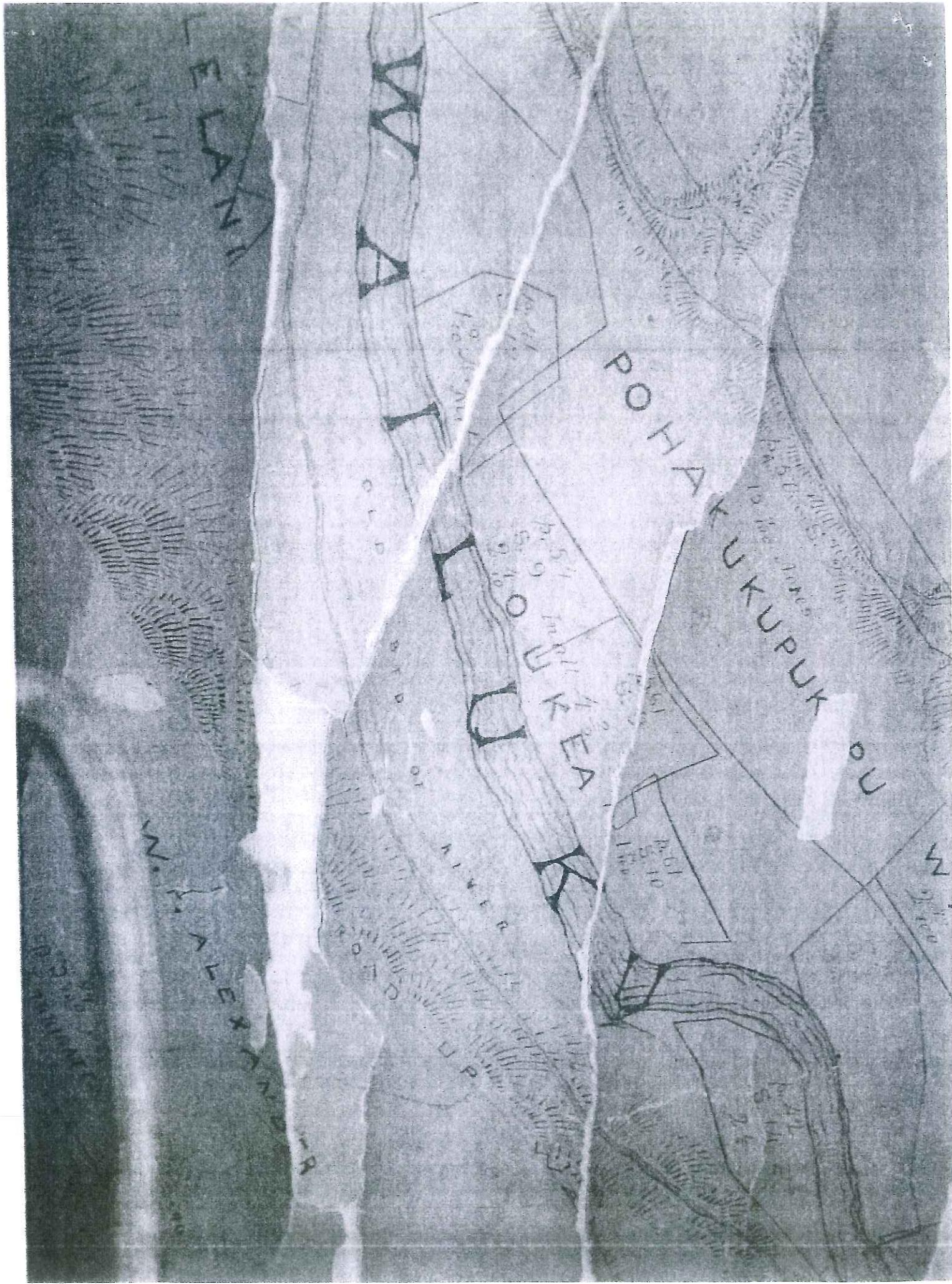
ON THE MAGNETIC MERIDIAN

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1873

By Geo. Hartley

(5)



WALL

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ALEXANDER

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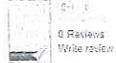
MOUNTAIN

HILL

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BOOK PREVIEW

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Hawaiian Planters' Monthly, Volume 1

planters monthly 1882

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THE PLANTERS' MONTHLY,

PUBLISHED BY THE

Planters' Labor and Supply Company.

VOL. I.

APRIL, 1882.

NO. 1.

ALTHOUGH the suggestion of publishing a journal was generally ap-

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Volume 1

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sorghum pans, many of them were neatly constructed and I believe capable of doing the work the owners said they could do.

The first of March, 1868, I took a trip to New Bedford, and on my way home, while in Boston, I met my old friend Dr. Wood at C. Brewer & Co's. We took the cars that afternoon for Concord, New Hampshire. The Doctor held out some inducement to me; an offer to sell one half of the Koloa Plantation to which I consented, if terms could be made satisfactory. I took my leave from the Doctor in concord with the understanding that we should meet again in Honolulu.

I returned home, sold my cattle and sheep, and left Vermont for Honolulu, where I arrived about the first of June, 1868, but I failed to meet Doctor Wood; as I learned afterward he was kept back on account of sickness. As there was some uncertainty, I accepted the management of the Wailuku Plantation from Sherman Peck, acting for the Wailuku Sugar Co. I took the management the first day of September, 1868. A short time after I had moved to Wailuku, Dr. Wood and A. H. Spencer called on me. The Dr. said he was ready to carry out what he had suggested, but as I had made my engagement with Mr. Peck, I could not go back on him.

The Wailuku lands were divided between three plantations: Wailuku Sugar Co., E. Bailey, Ball and Adams, and the Wailuku river from Iao Valley was divided in three streams or ditches for watering the lands on both sides, their names as follows: Kaalaneawai, Kamaawai and Malukahakaawai or Kaupoli (the latter better known by Mill stream). The division of water during the dry season caused much quarrelling which resulted in heavy law suits.

My experience up to that time had been in cultivating only higher land with no irrigation. The lands at Wailuku are deep and alluvial soil and favorable to good crops of cane. At that time *kopuaole* was the favorite cane at Wailuku.

I soon found by experience that the *kopuaole* did not ratoon well, and I wished to make a change and succeeded in getting some of my fields planted with Lahaina cane, which was a success.

Planting for irrigation was new to me, I soon found that great care was needed to plow and lay out the rows for planting; the furrows to be deep and as near level as possible. In 1875-76 I tried the experiment of trenching before planting, striking a water level for each trench cut for placing the seed. the cane came on well and grew a fine crop. My experience of

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Volume 1

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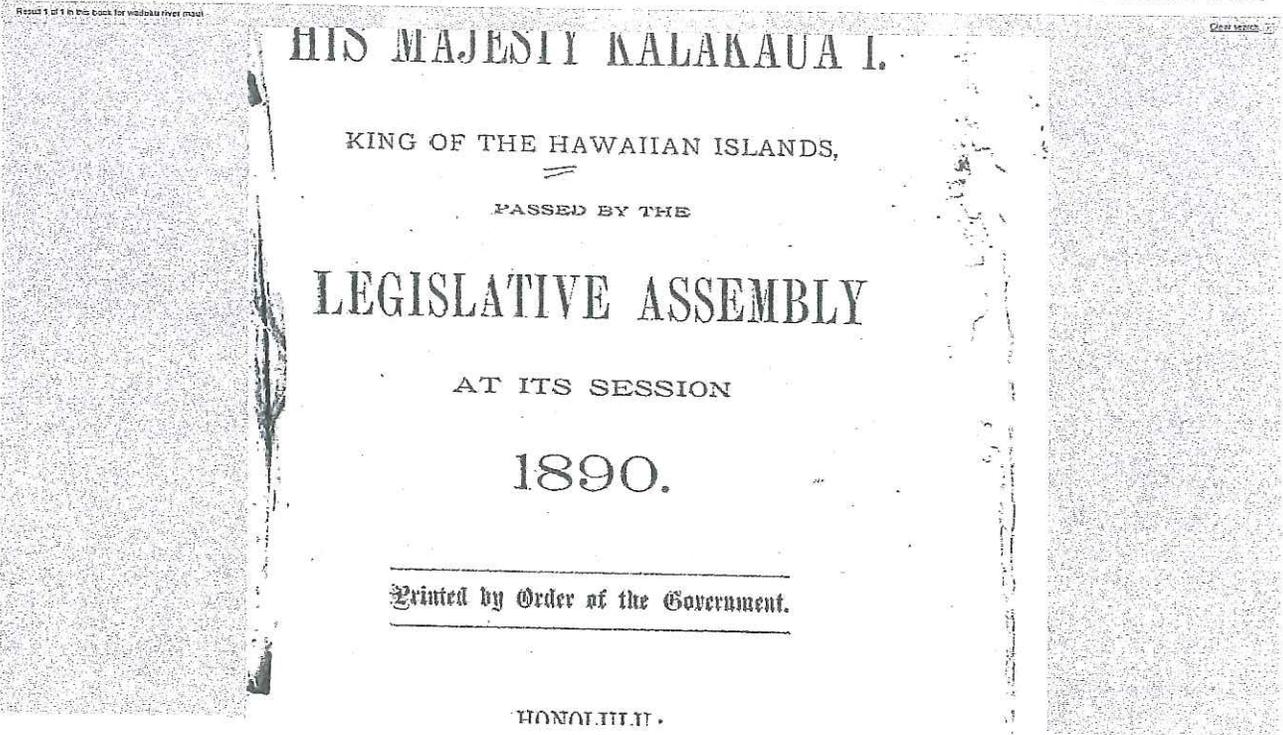
Na kanawai o ka repubalika o Hawaii

By Hawaii

wailuku river maui

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Map of
SPRECKLESVILLE
PLANTATION

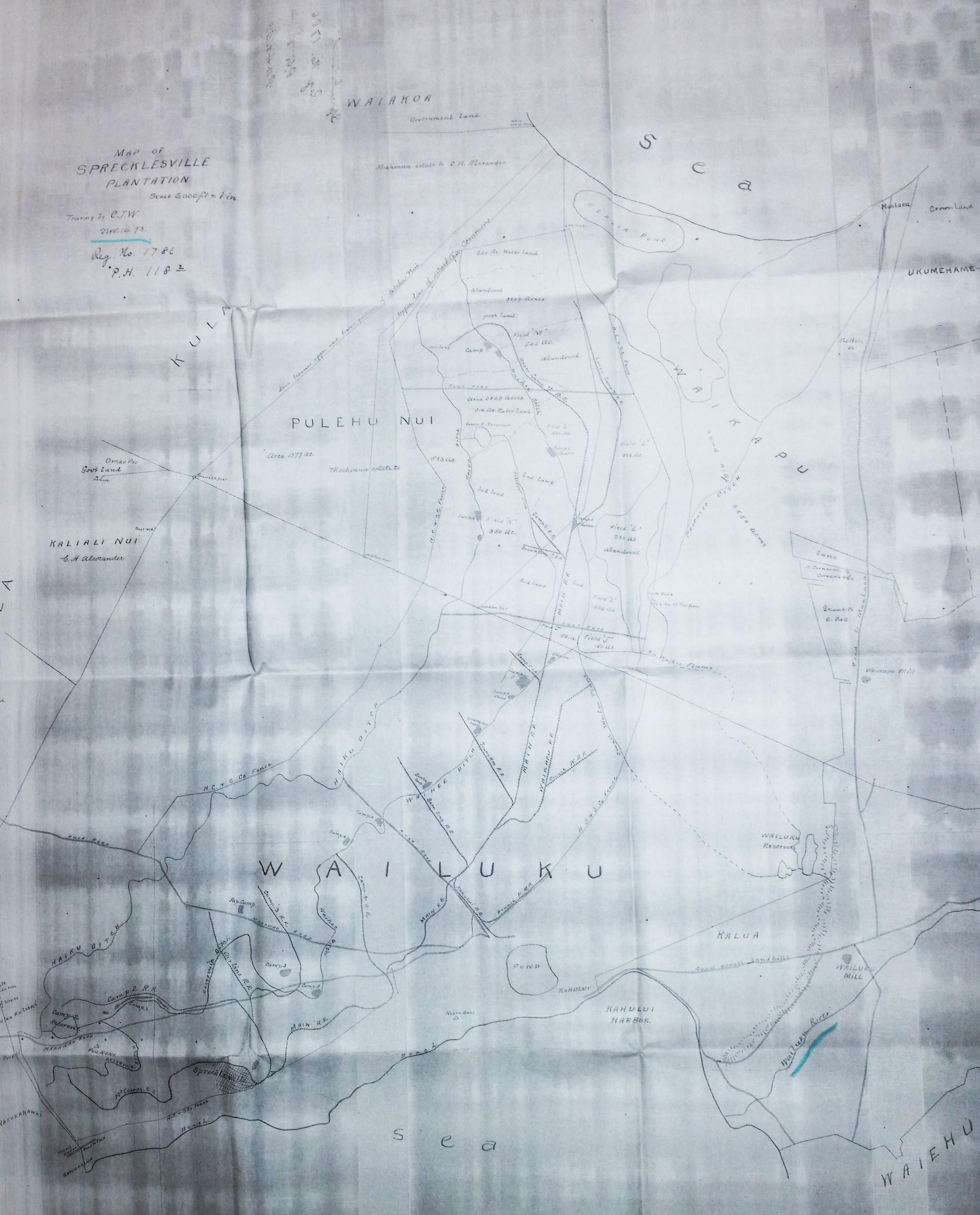
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Nov. 14, 78.

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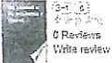
P.H. 1182



Handwritten notes at the bottom of the map, including:
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1900

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Hawaii, ...
By Hiram

wailuku river maui

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First: The island of Molokai, to be called the Molokai District.

Second: The districts of Kaanapali and Lahaina, on Maui, and the island of Lanai, to be called the Lahaina District.

Third: That portion of the district of Wailuku lying north of the road running from the Iao valley (on the south side of the river) to the sand hills; thence along the crest of the sand hills to the mouth of the Wailuku river, to be called the North Wailuku District.

1872, 8
Fourth: That portion of the district of Wailuku lying south of the North Wailuku District, and including the

1895

9

WAILUKU SUGAR COMPANY
1862 NOVEMBER 1962

CENTENNIAL



**A CENTURY OF PROGRESS
IN SUGAR CANE CULTIVATION**

well lands in Waikapu, known as "Aikanaha Land."



CHARLES B. WELLS: appointed manager on April 5, 1893 and continued for 15 years when H. B. Penhallow succeeded him on Nov. 1, 1908. He died in Oakland, California at the age of 70 years in June, 1928.

1897

On March 20, several hundred Japanese immigrants, failing legal requirements, were denied the right to land in Hawaii.

A special session of the Hawaiian Senate was called to ratify the Treaty of Annexation which, on the 9th of September, carried unanimously.

As of December 1, the capital of Wailuku Sugar Company was increased to \$700,000. Production for the year totalled 6,461 tons of sugar.

Manchurian laborers arrived in Hawaii to work on plantations.

1898

Sugar production for the year totalled 6,725 tons. The Hawaiian Islands were annexed to the United States (August 12).

Three hundred and sixty-five Galicians, Austrians and Spaniards arrived in Hawaii during the year. Also 101 Japanese arrived, among them 21 women.

SUPREME COURT DECIDED IN WAILUKU WATER CASE

The Wailuku Water Case was heard by the Supreme Court on July 2, 1894. The decision, filed by Chief Justice Judd and concurred in by Justice Bickerton, was filed on May 20, 1895.

The suit was started by Mahi Lonoaea and two others against the Wailuku Sugar Company. However, on the day of the hearing 34 other persons, claiming to be interested, were made parties plaintiff and, subsequently, Mr. Claus Spreckels intervened as a party defendant.

The case was tried by A. G. M. Robertson as a special Commissioner of Private Ways and Water Rights, because S. E. Kaiue, the regular commissioner for Wailuku, was an interested person. Mr. Robertson's decision favored the claims of the plaintiffs.

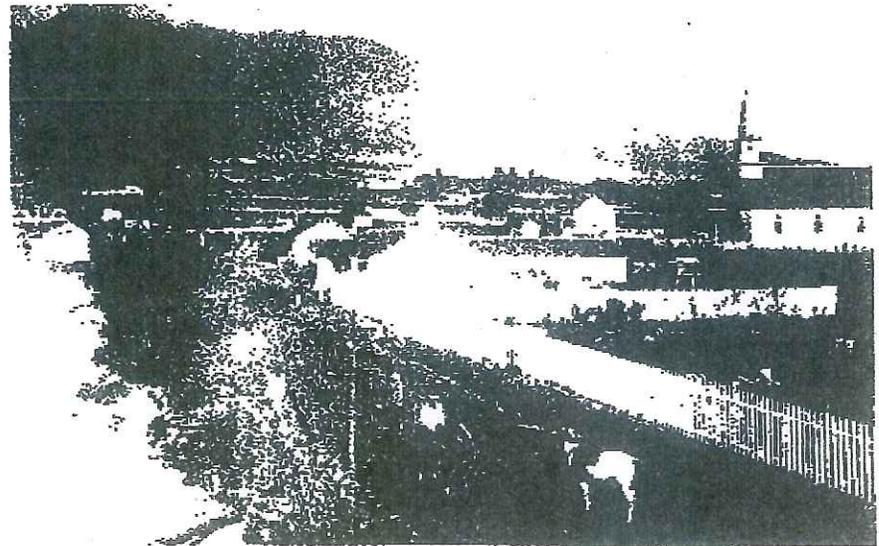
The plaintiffs complained that the company had unlawfully constructed a dam in the Wailuku river; that it enlarged and tightened the dams supplying the Kalaniauwai; that it enlarged and deepened the Kalaniauwai; that it illegally tapped said Kalaniauwai by diverting a large amount of water by means of a flume; that the company has unlawfully enlarged the Kamaauwai and has taken water beyond the amount to which it was entitled.

The Supreme Court ruled that the plaintiffs were entitled to such amounts of water as they had acquired by prescription for their various lands during the night from 4 p.m. to 4 a.m., from the large auwais (Kalaniauwai, Kamaauwai and the Wailuku mill water cours-

es) leading from Wailuku river; that the Wailuku Plantation was entitled to the water each day except Sunday, from 4 a.m. to 4 p.m., the dams to be kept as they were at the time, composed of loose stones and dirt, and that the defendant corporation carry out this order, the costs to be divided.

Justice Frear rendered a dissenting opinion. He held that the purchase by the corporation of taro lands holding prescriptive rights to water by night did not give it the power to change such night rights to day rights unless nobody was injured thereby. He said the complaint should be dismissed, but the costs should be divided.

Attorneys F. M. Hatch and V. V. Ashford represented the petitioners; W. A. Kianey, the Wailuku Sugar Company; and P. Newmann, Claus Spreckels.



Waikapu Village about the year 1895.

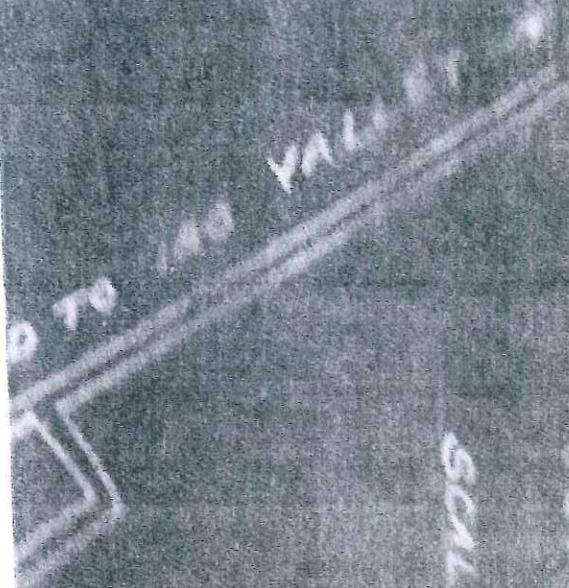
MAP
OF PART OF

WHILOHOU, MAUI

T. H.

LINES SHADDED GREEN
SURVEYED BY JAS. STAYLER
OCTOBER, 1904.

SCALE 1000 FT TO 1 IN.





MAP

FOR THE WAILUKU S. CO.
OF ONE ACRE LOTS
IN IIAO VALLEY
WAILUKU: MAUI.

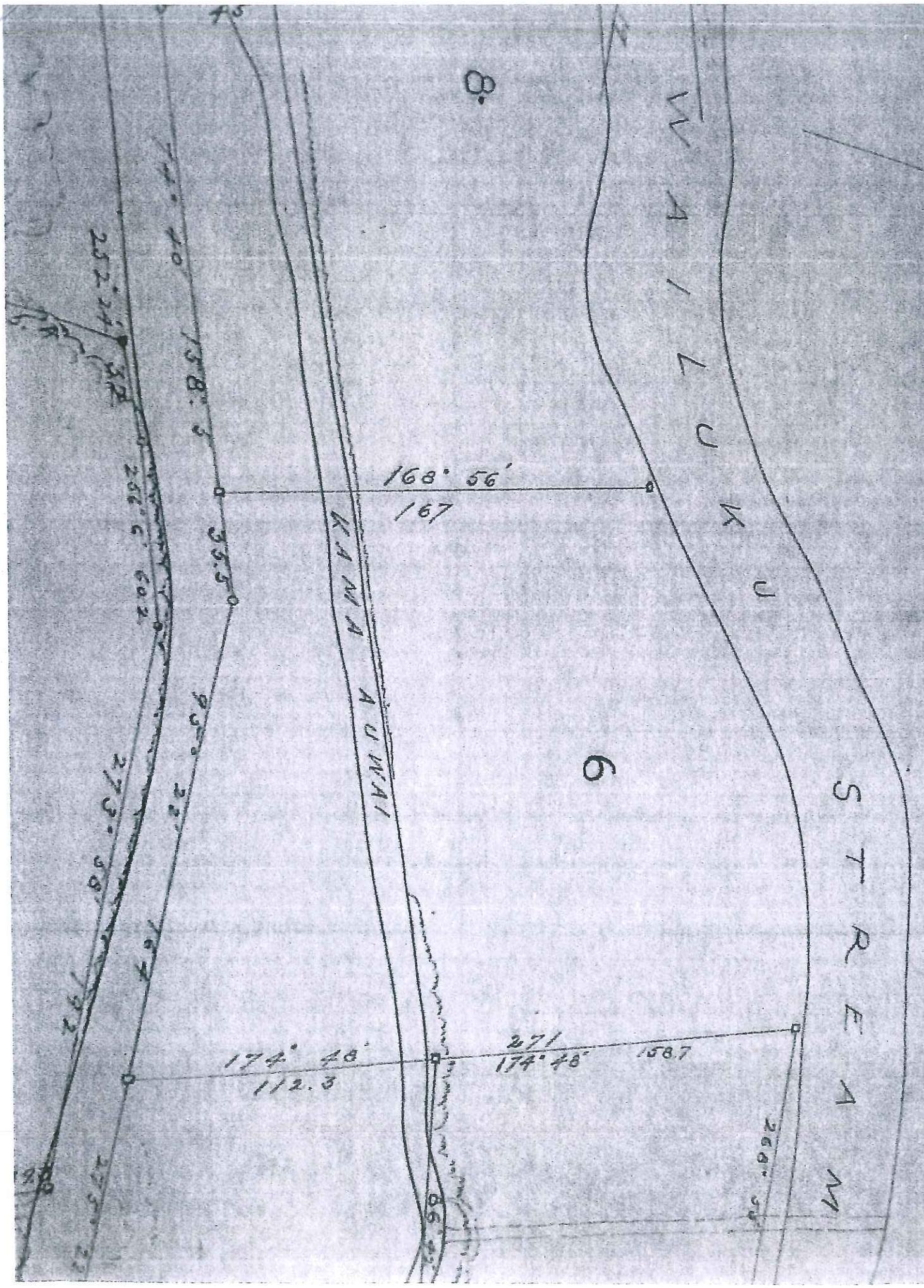
Scale 50' = 1"

Survey and map by

J. K. Kohoekela
Surveyor

May 29 - 1907.

- ~~Y~~ \circ indicate corners
" " planted with post.
Dimensions in feet
of each lot appeared on map.



The Waihee Ditch Story Told By Engineer Taylor

Hawaii to work on sugar plantations. C&H Refinery was organized. A railroad line was installed, and a 25-ton steam plow arrived in October. Yield for the year totalled 7,828 tons of sugar.

1907

On March 31, the capital of Wailuku Sugar Company was increased to \$1,500,000.

On May 15, the new Waihee ditch was opened. This was witnessed by representatives of Wailuku Sugar Company and HC&S Company, citizens of Wailuku and neighboring towns and the first party of Congressmen from Washington, who were visiting the Islands.

Production for the year totalled 7,427 tons of sugar. C&H Refinery commenced operations. Our fields were now practically free from the leaf-hopper, however, the borer was on the increase. The first 12-roller mill was installed at Oahu Sugar Co.



James T. Taylor

1908

On November 1, Harry B. Penhallow succeeded Charles B. Wells as manager.

Production for the year totalled 10,072 tons of sugar. A forest nursery was established to propagate trees for fuel and other plantation purposes. American-Caucasian laborers arrived in Hawaii.

Kahului Harbor breakwater was practically completed at private expense.

The readers may have already observed that the Waihee Ditch, which runs the length of the plantation, was opened on May 15, 1907. Mr. James T. Taylor, C.E., was engaged by Wailuku Sugar Company as chief engineer on this project.

We are indebted to the Pacific Commercial Advertiser and its publication of June 24, 1907, which gave a detailed account of the work in connection with this project.

James Townsend Taylor, who was interviewed in 1907 about the Waihee Canal, now known as the Waihee Ditch, had a professional record of thirty years beginning July, 1877. He worked in the engineering department of the Southern Pacific Railroad in charge of tunnel work and construction. He also worked for the U.S. Government, various railroad, land and irrigation companies, cities and municipalities.

Mr. Taylor came to Hawaii in 1898 to become chief engineer of the Honolulu Sugar Co. He also worked for Kekaha, Waialeale, Wahiawa, Kona, Haiku and Peia plantations, and the Kahului Railroad Company. Mr. Taylor also was consulting engineer in charge of the Wailuku and Kahului waterworks.

In 1905, Mr. Taylor was engaged to construct the Waihee Ditch. This would provide irrigation water for new land for the cultivation of sugar cane; second, for a permanent supply of water for the cane lands already under cultivation; third, the ditch would convey the freshet waters of the Waihee Valley to storage reservoirs where it would be conserved for irrigation purposes, thus augmenting the normal water supply derived from the Waihee, Waiehu, Iao and Waikapu streams.

The division dam and head works of the canal were located just below the famous Aliie Falls, in Waihee Valley, at an elevation of 649.5 feet above sea-level and 2 1/2 miles up the valley.

There were 22 tunnels, from the head works in Waihee Valley to Puuhale Reservoir, at the lower end of the canal. The total length was 16,539 feet. There were also 39 flumes, totalling 2,764 feet in length. Open ditch totalled 35,549 feet, and pipe, 1,253 feet. The grand total came to 10.62 miles.

All of the tunnels were cut to a

true line and uniform grade of .25 per station of 100 feet, or 18.20 feet per mile.

The cutting of the tunnels was all done by Japanese labor, the contract prices ranging from 25 cents to \$5.00 per foot, depending upon the material cut, the location and the length of the tunnel.

The formation in the long tunnels was principally of lava rock, of alternate strata of aa and pahoe-hoe.

The open ditch varied in cross-section and grades to comply with the conditions of soil and capacity.

The steel pipeline crossing the famous Iao Stream was 1,253 feet in length and three feet inside diameter.

The capacity of the ditch was 45,000,000 gallons in 24 hours.

Construction of the canal was begun in March, 1905, and completed in June, 1907.

The construction of the canal was the result of an exchange of land and water rights on the part of Wailuku Sugar Company and the Hawaiian Commercial and Sugar Company, in settlement of the litigation going on for many years over the rights to the water of the Iao Stream.

Water in the ditch from Waihee was owned both by Wailuku Sugar Co. and HC&S Co., 7/12 and 5/12, respectively.

Wailuku Sugar Company acquired, in exchange, a large area of land of extremely fertile soil, which doubled its area of cane land.

The cost of the new Waihee Canal was about \$160,000.

The water was turned into the new canal on the 15th day of May, 1907, in the presence of the representatives of the plantations, interested persons in Wailuku and neighboring communities and a number of visiting Congressmen.

14



LEGENDS OF
MAUI A DEMI-GOD

OF POLYNESIA

AND OF

HIS MOTHER HINA.

BY

W. D. WESTERVELT.

1910

III

HERE are two rivers of rushing, tumbling rapids and waterfalls in the Hawaiian Islands, both bearing the name of Wailuku. One is on the Island of Maui, flowing out of a deep gorge in the side of the extinct volcano Iao. Yosemite-like precipices surround this majestically-walled crater. The name Iao means "asking for clouds." The head of the crater-valley is almost always covered with great masses of heavy rain clouds. Out of the crater the massed waters rush in a swift-flowing stream of only four or five miles, emptying into Kahului harbor. The other Wailuku river is on the Island of Hawaii. The snows melt on the summits of the two great mountains, Mauna Kea and Mauna Loa. The water seeps through the porous

DEPARTMENT OF THE INTERIOR
UNITED STATES GEOLOGICAL SURVEY
GEORGE OTIS SMITH, DIRECTOR

WATER-SUPPLY PAPER 318

WATER RESOURCES OF HAWAII
1909-1911

PREPARED UNDER THE DIRECTION OF M. O. LEIGHTON

BY

W. F. MARTIN AND C. H. PIERCE



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WASHINGTON
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1913

IAO STREAM BASIN.

GENERAL FEATURES.

Iao basin is situated on the eastern slope of West Maui, south of Waiehu basin and north of Waikapu basin. It is a deep basin with almost vertical walls which widen out toward the upper end to form a sort of amphitheater tableland lying about 4,000 feet below the summit of Puu Kukui, the highest point on West Maui. Iao Valley is the most striking topographic feature in West Maui, and is frequently described as the Yosemite of Maui. (See Pl. VIII, A.)

The basin is 7 or 8 miles long, about 2 miles wide, and has an area of approximately 15 square miles. The upper part is contiguous to Waihee basin on the north, Kahoma, Kauula, and Laniupoko on the west, and Olowalu on the south.

The main stream has several tributaries or branches. It derives water also from several development tunnels which have been driven in the upper part of the basin.

Water is diverted from Iao Stream through several ditches on each side at various levels.

Gaging stations have been established on the main stream above all diversions and on Maniania ditch, which is the largest diversion from the stream.

IAO STREAM NEAR WAILUKU, MAUI.

A gaging station was established on Iao Stream at a point 2.9 miles above Wailuku, May 7, 1910. The station is below the two main branches of the stream and above the intake of the highest ditch at an elevation of 810 feet.

A Friez weekly clock register is used to obtain gage heights, individual readings being made by a chain gage attached to the clock register house.

Measurements are made from a cable or by wading at low stages. Ordinarily the stream is 25 to 40 feet wide and the total range in stage is 6 or 7 feet.

The discharge at this point gives the total flow above all diversions.

1910

15

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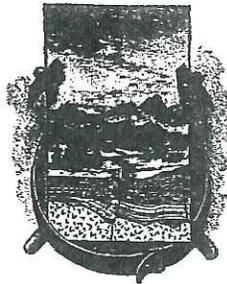
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IAO STREAM NEAR WAILUKU, MAUI.

A gaging station was established on Iao Stream at a point 2.9 miles above Wailuku, May 7, 1910. The station is below the two main branches of the stream and above the intake of the highest ditch at an elevation of 810 feet.

A Friez weekly clock register is used to obtain gage heights, individual readings being made by a chain gage attached to the clock register house.

Measurements are made from a cable or by wading at low stages. Ordinarily the stream is 25 to 40 feet wide and the total range in stage is 6 or 7 feet.

The discharge at this point gives the total flow above all diversions.

16

Na Wai Kaulana -Words & music by Alice Namakelua

Click Title to Access Melody

`Ike ana i ka nani `o Maui
I Kepaniwai o `Iao
Ke kokolo a ka uwahi o Kula
Me he uhiwai ala no ka uka

Hui:

Ka`apuni `oe a puni o Maui
E `ike i nâ wai `ehâ
O Waikapû, o Wailuku, o Waiehu
Kaulana nâ wai `ehâ
He `înikiniki mâlie
O Waihe`e i ka makani Kilio`opu
O nâ wai kaulana `ia a`o ku`u`âina
O nâ wai kaulana `ia a`o ku`u`âina

Â luna a`o Haleakalâ
`Ike ia e ka nani kamaha`o
`Alawa aku `oe i ka nani
Ka nani o ke kukuna o ka lâ

Eia iho ho`i ia nani
O ka nani o ka pua li`ulâ
He pua mâka`ika`i mau ia
E ka nui ma ke lehulehu

Kaulana nâ pua like `ole
`A`ohe no a`e like aku
Me ka nani o ka pua roselani
O ka wehi a`o ku`u`âina

Seeing the beauty of Maui
Kepaniwai at Iao
The drifting of the dust of Kula
Like fog, there in the uplands

Chorus

You travel around Maui
And see the four streams
Waikapû, Wailuki, Waiehu
Famous are the four streams
Gently piercing is
Waihe`e by the wind Kilio`opu
These are the famous streams of my
land
These are the famous streams of my
land

Above Haleakalâ
See the wondrous beauty
If you glance over there, you will see
The beautiful rays of the sun

Here is the beauty
A mirage of flowers
Stroll between the flowers
Multitudes, growing in profusion

Flowers so famous, like no other
Yes, none can compare to
The beauty of the rose
They adorn my land

Source: "Aunty Alice Namakelua's Lifetime Hawaiian Compositions" - Composed 9 May 1948, for the Kamehameha Day Parade Maui float. This was Alice Namakelua's 3rd composition and praises the four famous streams of West Maui and other well known features of that island. Verse 1, stanza 2, Kepaniwai was the stream that was clogged with bodies after the great battle between Kalani`ōpu`u and Kahekili. `Iao Valley was the sacred burial grounds of the ali`i. Verse 2, stanza 1, Haleakalā is the volcano and highest point on Maui. Chorus, the four famous streams are: Waikapū (water of the conch), Wailuku (water of destruction), Waiehu (water spray), Waihe`e (squid liquid). Kilio`opu is the name of a Waihe`e wind. Translated by Kanani Kamai. Copyright 1973, Heinz-Guenther Gerhard Pink. Music clip by Gippy Cooke

IAO VALLEY

MAUI

Presented to the Division of State Parks,
Department of Land and Natural Resources. Hawaii

Sara B. Cole
March, 1969

(Thrum, 1894)

2

Iao Needle (Puu Kane), an erosional remnant of the Wailuku range, is composed of basalt cut with dikes and rises 1200 feet from the floor of the Valley to an elevation of 2250 feet. (Stearns, 1966, p. 157) The nearly circular valley, an old caldera of the West Maui Range, is tapped by the Wailuku River and has become enlarged by erosion. Beyond the Needle, the valley becomes considerably narrower and there is an elliptical depression the bottom of which is below sea level. The mean monthly rainfall in the Valley at an elevation of 1720 feet is 161.95 inches, although precipitation is highest on Mt. Kukui. (Stearns, 1966, p. 30) The trade winds bring the moisture in from the north-east against the peaks, consequently, the mountain sides and gulches on the south side get less rain and are more barren than those on the north. Wild cattle and pigs at one time lived in the wetter and more overgrown sections while wild goats flourished in the more barren cliffs. (Childs, 1925).

Kukui, lehaq and eucalyptus trees abound in the valley and although there is little coffee grown at the present time, a considerable amount of it was raised in the past in the valley and yielded 3 crops a year. Many of the indigenous birds have disappeared from the valley such as the ao, iwi, o'u, amakihi, apapani and amao. (Field 1942) In the swamp or bog at the foot of Mt. Kukui grew a close relative of the Silver Sword plant which is found on Haleakala.

3

An account by Chester Lyman in 1846 reports that the southern part of the neck of the island (the isthmus) is "entirely destitute of vegetation but within 2 to 3 miles of Wailuku it is covered with a fine grassy carpet". The Valley itself, as described by Mr. Lyman that same year, is "everywhere full of the remains of old taro patches no longer used, as is also the whole plain for several miles about Wailuku showing that the population must have been vastly denser than at the present." Cheever (1851) also states that "as you get into the valley and vega of Wailuku you see numerous remains of old kinohiki (or cultivated lots and divisions of land) now waste, showing how much more extensive formerly was the cultivation." The soil is fine and deep with an appearance of red ochre. It contains from 30-40% red oxide of iron. (Geol. Survey, Dept. of Interior, 1883) It appears from all accounts and photographs that although the vegetation in the Valley, particularly along many of the ridges, has always been dense (at least as far back as the early 19th. century) it has become even more dense.

Directly behind Iao Needle, to the west, is a tableland referred to as Ka'ala-holu. Through this tableland runs Kinohiki Stream and a branch of Peohohohoa (or Peohohohoa) Stream. It was reported to me that the Lokalani rose at one time flourished here. This is a Hawaiian rose with petals rimmed in white and having a red center. It was obviously cultivated by those people living in the tableland. This area is uninhabited now. Sandalwood also grew along the

that she climbed the heights of Iao Needle and dashed herself into the valley below, turning the waters of the stream red with her blood. (Field, 1942)

HISTORY

The most significant event that occurred at Iao Valley, which has been well documented, was the battle of Kepaniwai.

In 1790, Kamehameha I landed with a large army on Maui in a fleet so large it is said that the canoes covered the whole landing area from Keoneoio to Olowalu without a space intervening.

(Fernander Collection, Vol. V. Part 2, p. 470) This was Kamehameha's second attempt to take control of Maui from the ruling chief, Kahakili, who, according to many accounts, might very well have been Kamehameha's father. Kahakili was supposed to have said of Kamehameha, "O kuu keiki ia, a'ole kanaka e ae e hakaka e like me ia." (That is my child, no other fights like he). (Thurston, 1936. p. 30) The two opposing forces met at Waikapu, where the army from Hawaii had gathered at the blowing of the conch shell (Waikapu means "water of the conch"). The Maui army was led by Kalanikapule who was the son of the ruling chief, Kahakili. Accompanying Kamehameha's forces were John Young and Isaac Davis who had brought with them a cannon which was placed at Kapelewele'wa. It was the first battle in Hawaii at which gun powder was used. Kamakau's (1961 ed. p. 148) account of the battle reports that there was a great slaughter but no important chiefs were killed. "The woman and children

and aged had been sent out of harm's way, up the steep mountain sides of Iao Valley. The wives and mothers looked down into the valley, until then the peaceful burial place of the kings, upon the slaughter of their husbands and sons." (Alexander, undated msc.) It is generally thought that the stream, Wailuku, meaning "Water of Destruction" derives its name from the battle at Iao, but there is a strong possibility that it was named this before 1790 and refers to the flooding nature of the stream.

The battle at Iao Valley, is known also as the Battle of Kepaniwai (stopping the water), Kananu-Pali (battle of the precipice) or Ka'uwan i ka Pali (scratching of the cliffs). The last name refers to the frantic efforts of Kalanikapule's men to climb up the steep sides of the valley to escape the forces from Hawaii. One of the stories told of the battle concerns a sub-chief, Kepiaina. He had six warlike sons and a beautiful daughter, Kaleilehua. The sons were trained by their father in spear-throwing, boxing, wrestling and other manly sports. The daughter was to be married soon to a close friend of her brothers. During the battle, Kepiaina placed his six sons plus his daughter's betrothed at the entrance to the valley while he and others climbed the mountains to Waikapu, hid, and prepared to throw boulders down on the advancing enemy. His sons fought well but died in battle, their bodies damming the waters of the stream. His daughter's future husband fled up into the valley to Kaleilehua who had climbed

(15)

PRINTED 1972

Native Planters

In Old Hawaii

Their Life, Lore, and Environment

E. S. CRAIGHILL HANDY AND ELIZABETH GREEN HANDY

WITH THE COLLABORATION OF MARY KAWENA PUKUI

broad valley bottoms and flatlands between the mountains and the sea which taken all together, represent the most extensive wet-taro area on Oahu. These taro lands were irrigated from both streams and springs. Along the shore thereabouts were also some very large salt-water fishponds. This whole region must have supported a dense population, but so far as is known it was not noted traditionally or historically as a seat of political power.

The area that included what is now Kane'ohe and Kailua, which was rich in fishponds and tillable lands, was the seat of the ruling chiefs of Ko'olaupoko (Short Ko'olau) which was the southern portion of the windward coast.

MAUI

On Maui there were five centers of population. Kahakuloa was an isolated area on the northwest coast of West Maui, a valley intensively cultivated with wet taro. The second was the southeast and east part of West Maui where four deep valley streams watered four areas of taro land spreading farward to seaward: the Four Waters (Na-wai-'eha) famed in song and story—Waihe'e, Waichu, Wailuku, and Waikapu. Here sugar cane has taken over the former taro lands.

On the southwest coast of West Maui, beginning at Olowalu and continuing through Launiupoko, Laupakanui, Waine'e, and Lahaina and on to the small terraced valleys of Honokawai and Honokahau, were taro lands irrigated from streams out of the West Maui mountains. Lahaina, famous by excellent fishing grounds, was the primary seat of the chiefs of West Maui.

On the south coast of East Maui, from Kula to 'Ulupalakua, a consistently dry and lava-strewn country, Makena and Ke'oneo'io were notable for their fishing; this brought many people to live by the shore and inland. There were some patches of upland taro, not irrigated; but this was a notable area for sweet potato, which, combined with the fishing, must have supported a sizable population although it cannot be counted as one of the chief centers.

On the northeast flank of the great volcanic dome of Haleakala, however, roughly opposite the more sheltered shore line of Makena, the two adjacent areas of Ke'anae and Wailua-nui comprise the fourth of the main Maui centers and the chief center on this rugged eastern coast. It supported massive and extensive wet-taro cultivation. Further eastward and southward along this windward coast line is the district of Hana, the fifth great center. It is a region famous in legend and history, although it was supported only by fields of mulched (dry) taro cultivation and sweet potato, the small stream-valley called Wailua being almost the only area of wet taro near the coast.

NA WAI EHA ("THE FOUR STREAMS")

The old 'okana (land division) named Na Wai Eha (*Na Wai Eha* means "The Four Streams") comprised the four great valleys which cut far back into the slopes of West Maui and drain the eastward watershed of Pu'u Kukui and the ridges radiating northeastward, eastward, and southeastward from it. Two of the great valleys, Waihe'e and Waiehu, open toward the ocean and their streams empty into it. Wailuku is partly landbound, but its stream flows into Kahului Bay, which has been eroded by the ocean out of what was formerly the stream mouth. Waikapu is landbound. The waters of its great stream, not utilized for irrigating a great acreage of sugar cane, formerly was diverted into *lo'i* and its overflow was dissipated on the dry plains of the broad isthmus between West and East Maui.

Waihe'e is the northernmost of "The Four Streams" of the Wailuku District. From Waihe'e to Wailuku Valley, in ancient times was the largest continuous area of wet-taro cultivation in the islands. In 1934 the northern and southern slopes and the mouth of Waihe'e Valley were well cultivated, about a third of the old patches being used as commercial plantations, some worked by Hawaiians, some by Japanese, some by Portuguese. Waihe'e, like Kahakuloa, takes its name from a historic *lo'i*. This patch, named Waihe'e, formerly belonged to the *ali'i* and is a large patch near the sea.

An elderly *kama'aina*, William Kahalekai, told us that there are numerous abandoned terraces at Eleile, far up in the valley beyond the end of the road and above the new reservoir. He said that in ancient times the terraces were more or less continuous in a belt between the sand dunes and the present irrigation ditch. That section is now mostly under sugar cane, which has obliterated the terrace lines, although the cane fields were in many places broken by *kuleana* still held by Hawaiians who had preserved the old terraces. In many of these isolated plots taro was still grown by Hawaiians or Japanese and a number of the terraces, dry or irrigated by little ditches, were used by enterprising Japanese for growing vegetables: lettuce, beans, onions, eggplant and some Japanese and Chinese taro. The old terraces are satisfactory for truck farming except in a wet season, when they do not drain.

These terraces, interspersed through the cane fields, were numerous between Waihe'e Valley and Waihe'e town. South of the town, the cane fields were continuous on the lower slopes all the way to Waiehu.

There was a *heiau* named Pu'ukuma (*kuma* means gardening) on the Waiehu side of the ridge between Waihe'e and Waiehu, which was built by the *Ali'i Nui* Kalanikupule "for the welfare of the people and the land." Kamehameha and Lono were the principal gods (which indicates that this was the type of shrine called a *Heiau ho'o uluulu 'ai*, Shrine-to-cause-increased-growth-in-food) (Stokes, 1922, pp. 125-126).

Waiehu is the second valley of the famous Na Wai Eha of western Maui

and it is watered by this region, continuous from Puakala from the upper limits of the terraces. Some were used for taro, except for these few patches of taro, though under.

Wailuku is the third valley, the highest cloud-capped valley. Much of the upper section was used for taro sites. Along the valley up and inland, the terraces were used for taro sites for Camps 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Waikapu, with its terraces, is the second valley of western Maui's second "Four Streams." Spreading over a considerable distance between the sand dunes, now almost obliterated, there are preserved terraces along the roads. Among these are Japanese taro. From the valley half a mile below the old terrace ground, the terraces on the south side there are numerous terraces were used for taro. Some were flooded with water, some dry Japanese taro was grown for their edible, the narrow level strip of taro.

The name Waikapu has been given to the valley of the stream above the town. Its sound was used for the water-of-the-conch.