



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2009

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1677, S.D. 1, H.D. 1, RELATING TO LANDS CONTROLLED BY THE STATE.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Wednesday, April 1, 2009 **TIME:** 3:00 PM

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Mark J. Bennett, Attorney General,  
or Charleen M. Aina, Deputy Attorney General

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Chair Oshiro and Members of the Committee:

The Department of the Attorney General has no objection on policy grounds to the passage of this bill, and only offers this testimony to (1) point out that the provisions of this bill cannot supersede the provisions for the sale or exchange of available lands of the Hawaiian Homes Commission Act ("HHCA"), (2) add a reference to the March 31, 2009 decision of the United States Supreme Court and what that Court decided, and (3) suggest technical, non-substantive revisions.

Sections 204(a)(2) and (3) of the HHCA allow the Hawaiian Homes Commission to sell and exchange title to Hawaiian home lands only under limited circumstances. Because those sections can only be amended with the consent of the United States, see Section 4 of the Admission Act, it is our view that the legislative disapproval process S.B. No. 1677 establishes cannot apply to sales and exchanges of Hawaiian home lands, and an express exemption from that process should be included in the bill to acknowledge the federal preemption. A proposed H.D. 2 is attached to this testimony to effectuate this recommendation by adding a third exemption in subsection (c) of the new " -5 Limitations" section of the new chapter the bill adds to the Hawaii Revised Statutes.

The attached proposed H.D. 2 makes other technical non-substantive changes to the bill, including incorporating subsection (d) of the new " -5 Limitations" section as a fourth exemption under subsection (c), revised to make clear that only the definition from section 171-52 is incorporated by reference.

# S.B. NO. 1677

S.D. 1

H.D. 2

PROPOSED

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## A BILL FOR AN ACT

RELATING TO LANDS CONTROLLED BY THE STATE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 2006, the legislature passed Act 317, which  
2 prohibited the Hawaii community development authority (HCDA)  
3 from selling or otherwise assigning the fee simple interest in  
4 any land in the Kakaako community development district to which  
5 HCDA holds title, and from approving any plan or proposal for  
6 residential development makai of Ala Moana boulevard and between  
7 Kewalo Basin and the foreign trade zone. The legislative  
8 history shows that in enacting this law, the legislature  
9 believed that "the disposition of the fee simple interest in any  
10 public lands must be carefully scrutinized to ensure that such  
11 disposition meets important public needs and goals."

12           This important discussion of the State's management of  
13 public lands was continued in 2008, when the Hawaii Supreme  
14 Court in *Office of Hawaiian Affairs v. Housing and Community*  
15 *Development Corporation of Hawaii*, 117 Hawaii 174, 177 P.3d 884  
16 (2008), enjoined the State from selling or otherwise

# S.B. NO. 1677

S.D. 1  
H.D. 2  
PROPOSED

1 transferring to third parties, any ceded lands from the public  
2 lands trust until the claims of the native Hawaiian people to  
3 the ceded lands are resolved.

4 In April 2008, the governor directed the attorney general  
5 to petition the United States Supreme Court for a writ of  
6 certiorari on whether the passage of Public Law 103-150,  
7 otherwise known as the Apology Resolution, strips the State of  
8 Hawaii of the authority to sell, exchange, or transfer ceded  
9 lands unless or until the State reaches a political settlement  
10 with native Hawaiians about the status of these lands. In  
11 October 2008, the United States Supreme Court granted the  
12 State's petition for certiorari in the foregoing case, and on  
13 March 31 2009, unanimously ruled in favor of the State, finding  
14 that the 1993 Congressional Apology Resolution did not strip the  
15 State of its authority to transfer its ceded lands, and  
16 confirming the fee simple absolute nature of the State's title  
17 to the ceded lands.

18 These developments highlight the need for the legislature  
19 to adopt a more active, reasonable, and comprehensive approach  
20 toward management of all of the State's lands. The legislature  
21 also finds that in light of these developments, it must reassert



## S.B. NO. 1677

S.D. 1  
H.D. 2  
PROPOSED

1 the State's constitutional authority to sell or exchange public  
2 lands as it deems appropriate.

3       The legislature does not undertake the authority in this  
4 Act without being fully cognizant of its attendant  
5 responsibility, and is firmly committed to ensuring appropriate  
6 management of the State's lands, realizing that any sale of  
7 these lands, however reasonable or necessary the sale may  
8 appear, is a permanent alienation of the land. Accordingly,  
9 this Act establishes a legislative disapproval process for the  
10 sale or exchange of the State's lands, that includes an  
11 informational briefing in the community where the land is  
12 located.

13       In addition, recognizing that under article XI, section 5,  
14 of the Hawaii Constitution the legislature may exercise its  
15 power over the State's lands only by general laws, this Act  
16 requires that sales and exchanges must be for public purposes  
17 and in accordance with any law authorizing the sale or exchange,  
18 and that legislative disapproval applies generally to sales and  
19 exchanges of the State's land and only as to all of the parcels  
20 proposed to be conveyed.

# S.B. NO. 1677

S.D. 1  
H.D. 2  
PROPOSED

1           Finally, the legislature does not intend this Act to apply  
2 to the sale or exchange of remnant parcels, which do not have  
3 the significance, nature, or extent, to justify legislative  
4 oversight of these sales. According to information from the  
5 department of land and natural resources, since 1998, there have  
6 been forty-nine remnant parcel transactions, and sales of these  
7 parcels total 13.649 acres, or an average of only 0.2786 acres  
8 per transaction.

9           The purpose of this Act is to establish legislative  
10 oversight of sales and exchanges of land, other than remnant  
11 parcels, held by the State by:

12           (1) Requiring an informational briefing in the community  
13 where the land to be sold or exchanged is located  
14 prior to finalizing a proposal for the sale or  
15 exchange; and

16           (2) Making proposed sales or exchanges of state lands  
17 subject to legislative disapproval by:

18           (A) The adoption of a resolution by a two-thirds  
19 majority vote of either the senate or the house  
20 of representatives; or

1           (B) The adoption of a concurrent resolution passed by  
2                   simple majority vote of both houses of the  
3                   legislature.

4           SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7                                   "CHAPTER

8                                   **SALE OR EXCHANGE OF STATE-HELD LANDS**

9           §     -1 **Definitions.** As used in this chapter:

10           "State-held land" means land held in fee simple title by  
11 the State, its agencies, or entities, including all lands for  
12 which fee simple title is held by the State, its agencies, or  
13 its entities in trust.

14           §     -2 **Legislative disapproval.** Any sale or exchange of  
15 State-held land to a person or entity other than the State, its  
16 agencies, or its entities shall be subject to disapproval by the  
17 legislature by two-thirds vote of either the senate or the house  
18 of representatives or by majority vote of both houses of the  
19 legislature in any regular or special session in which the  
20 resolutions and concurrent resolutions under section     -3 are  
21 submitted.

1           §     -3   **Concurrent resolution and resolution submittal.**

2   To effect the process of legislative disapproval required by  
3   section       -2, the State, agency, or entity, as appropriate,  
4   shall submit for introduction to the legislature resolutions and  
5   concurrent resolutions for review of each exchange or sale of  
6   State-held land, following the approval in principle of the sale  
7   or exchange by the State, its agencies, or its entities. The  
8   resolution and concurrent resolution shall include:

9           (1)   The location(s) and area of the parcels of land to be  
10               conveyed;

11           (2)   The appraised value(s) of the parcels of land to be  
12               conveyed;

13           (3)   The name of the appraiser;

14           (4)   The date of the appraisal valuation;

15           (5)   The sale price; and

16           (6)   The identity of the person or entity acquiring the  
17               State-held land.

18           §     -4   **Community briefing.** Prior to finalizing any

19   proposal for the sale or exchange of State-held land to a person  
20   or entity other than the State, its agencies, or its entities,

21   and prior to submission of the concurrent resolutions and

1 resolutions to the legislature under section -3, the State,  
2 agency, or entity, as appropriate, shall hold an informational  
3 briefing on the proposed sale or exchange in the community where  
4 the State-held land to be sold or exchanged is located.

5 § -5 Limitations. (a) Any disapproval of the  
6 legislature to a sale or exchange of State-held lands shall only  
7 be exercised:

8 (1) As to all of the parcels proposed to be conveyed in  
9 the resolutions and concurrent resolutions submitted  
10 pursuant to section -3; and

11 (2) During the legislative session in which the  
12 resolutions and concurrent resolutions are submitted.

13 (b) No sale or exchange of State-held land shall be made  
14 except for public purposes, and any sale or exchange of State-  
15 held land shall be in accordance with this chapter and any other  
16 law authorizing the sale or exchange of State-held land not  
17 inconsistent with the provisions of this chapter.

18 (c) This chapter shall not apply to dispositions of State-  
19 held lands:

20 (1) That do not result in the permanent alienation of the  
21 land, including sections 171-11 and 171-58;

# S.B. NO. 1677

S.D. 1  
H.D. 2  
PROPOSED

- 1           (2) For which a process of legislative approval or
- 2           disapproval is required, including sections 171-41,
- 3           171-42, and 171-95; or
- 4           (3) That are available lands under the Hawaiian homes
- 5           commission act; or
- 6           (4) That are "remnants" as that term is defined in section
- 7           171-52."

8           SECTION 3. Section 171-50, Hawaii Revised Statutes, is

9 amended by amending subsection (c) to read as follows:

10           "(c) Legislative disapproval. Any exchange of public land

11 for private land shall be subject to disapproval by the

12 legislature ~~[by two thirds vote of either the senate or the~~

13 ~~house of representatives or by majority vote of both in any~~

14 ~~regular or special session following the date of the board of~~

15 ~~land and natural resources' approval in principle of the~~

16 ~~exchange. The department shall submit for introduction to the~~

17 ~~legislature a resolution for review of action on any exchange to~~

18 ~~be consummated by the board wherein exchange deeds will be~~

19 ~~executed by the parties together with the following~~

20 ~~information: (1) the location and area of the parcels of land~~

21 ~~to be exchanged; (2) the value of the lands to be conveyed by~~

# S.B. NO. 1677

S.D. 1  
H.D. 2  
PROPOSED

1 ~~the State and the private party; (3) the name or names of the~~  
2 ~~appraiser or appraisers; and (4) the date of the appraisal~~  
3 ~~valuation.] as set forth in chapter \_\_\_\_\_."~~

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on January 1, 2046.



**SB 1677, SD 1, HD 1  
RELATING TO LANDS CONTROLLED BY THE STATE**

**House Committee on Finance**

April 1, 2009  
Room 308

3:00 p.m.

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Aloha Chair Oshiro, Vice Chair Lee, and Members.

The Office of Hawaiian Affairs (OHA) offers the following comments on this bill:

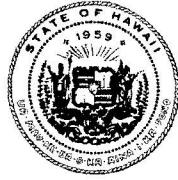
This bill provides a golden opportunity for the State to articulate its public policy on the extremely important issue of how best to preserve ceded lands in the public land trust until the unrelinquished claims of the Native Hawaiian people to those lands are resolved. The March 31, 2009 opinion of the United States Supreme Court in *Hawaii et al. v. Office of Hawaiian Affairs et al.* asserted that this matter is for the State to resolve. (556 U.S. \_\_\_\_\_ (2009), Slip Opinion, p. 12.)

However, instead of SB 1677, HD 1, OHA would prefer a bill that imposes a full moratorium similar to the approach of House Bill No. 902 and Senate Bill No. 996 of this Session. Those bills, which were part of OHA's legislative package, would have placed a moratorium on the sale or exchange of lands in the public land trust until the claims of the Native Hawaiian people to those lands have been resolved or until the Legislature finds that the State no longer supports reconciliation between the State and the Native Hawaiian people. Those bills would allow for transfer of lands between State agencies.

Mahalo for the opportunity to testify.



Linda Lingle  
GOVERNOR



KAREN SEDDON  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON FINANCE**

April 1, 2009, 3:00 p.m.  
Room 308, State Capitol

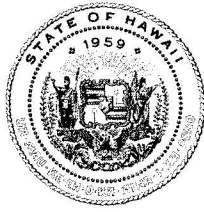
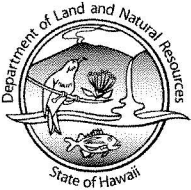
In consideration of  
**S.B. 1677, S.D. 1, H.D. 1**  
**RELATING TO LANDS CONTROLLED BY THE STATE.**

The HHFDC has the following comments on S.B. 1677, S.D. 1, H.D. 1.

We are concerned that this bill would interfere with the HHFDC's ability to purchase and resell individual single family properties or condominium units that are acquired under the 201H buyback provision or through foreclosure. Residential units developed under Chapter 201H, HRS are subject to resale restrictions including a 10-year buyback and sharing of appreciation equity. Should HHFDC repurchase a single family or condominium unit under the buyback provision or through foreclosure proceedings, the bill would impede the resale of that property to an eligible first-time homebuyer because of the possibility of legislative disapproval after the fact.

Thank you for the opportunity to testify.

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
FINANCE**

**Wednesday, April 1, 2009  
3:00 PM  
State Capitol, Conference Room 308**

**In consideration of  
SENATE BILL 1677, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO LANDS CONTROLLED BY THE STATE**

Senate Bill 1677, Senate Draft 1, House Draft 1 would require a majority vote of the Legislature or two-thirds vote of the House or Senate to disapprove the sale or exchange of state-held lands to non-state entities or persons. The bill would also require that an informational briefing be held in the community where the land to be sold or exchanged is located prior to finalizing a proposal for the sale or exchange. The Department of Land and Natural Resources defers to the Department of the Attorney General with regard to providing specific comments on this measure.

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
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**The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance**

**Testimony by  
Hawaii Government Employees Association  
April 1, 2009**

**S.B. 1677, S.D. 1, H.D. 1 – RELATING TO  
LANDS CONTROLLED BY THE STATE**

The Hawaii Government Employees Association supports the purpose and intent of S.B. 1677, S.D.1. The bill, as amended, would require informational briefings in the community where the land to be sold or exchanged is located prior to finalizing a proposal for the sale or exchange. It also requires the adoption of a concurrent resolution by a two-thirds majority vote of either legislative house or a majority vote of the House and Senate for the state to sell or exchange any lands, including ceded lands, held by the state in fee simple title. The sale or exchange of state-held land must be for public purposes.

We agree that it is necessary for the Legislature to assert its constitutional authority to resolve the ceded lands issue and to dispose of all lands under the control of the state as it deems appropriate. S.B. 1677, S.D. 1, H.D. 1 will enable the Legislature to carry out its fiduciary responsibilities to the people of Hawaii, and ensure the preservation of the public land trust (ceded lands).

Thank you for the opportunity to testify in support of S.B. 1677, S.D.1, H.D. 1.

Respectfully submitted,

**Nora A. Nomura**  
Deputy Executive Director



**Mālama Kauaʻi**  
M A L A M A K A U A I . O R G

RE: SB1677 SD1 HD1

To: House Finance Committee

From: Malama Kaua`i

DATE: April 1, 2009

TIME: 3:00 p.m.

PLACE: Room 308

State Capitol, 415 South Beretania Street

**Testimony to support SB1677 SD1 HD1, with amendments**

Dear Honorable House Members,

Malama Kaua`i would like to state our support for SB1677 SD1 HD1, with the following amendments:


*Amendment 1* requests to strike Section 5 which states, "This Act shall take effect on January 1, 2046" and replace it with the language in all earlier versions of the Act which stated, "This Act shall take effect upon its approval".

*Amendment 2* requests, as previously found in SB 1677 SD1, to reinsert the following language, "If the legislature fails to approve the concurrent resolution by at least a two-thirds majority vote of both houses, the transaction shall not be consummated by the state department or agency." It appears that SB 1677 SD1 HD1 explicitly removed similar language.

Mahalo nui loa,

Keone Kealoha  
Executive Director

Andrea Brower  
Project Manager



SB1677 Relating to Ceded Lands

FIN; Chair, Rep Marcus R. Oshiro

PLEASE RE-REVISE THIS BILL.

At the early stage of this bill, I testified for the passage of it. I believed that we should not sell ceded lands at all. However, if it is going to happen, we should sell them *only* when there is the approval of 2/3 of the house and senate. SB 1677 had done just that.

I am a student at the University of Hawaii at Manoa and have been tracking this bill for one of my classes. I was very confused and frustrated when I went to check on my bill last week and the wording was completely changed around. Now, it would take 2/3 majority vote to deny the sale of ceded lands? This is in no way, shape, or form the same bill that I supported a month ago. I didn't even know that this was legally possible! I thought that there had to be documented notation on the revised bill showing what has been changed.

This is not the same bill that I supported earlier in the legislative session and I am sure that many other people feel this way. The only problem is that I don't think that many people realize how drastically SB 1677 has been altered. Please do not pass this bill with the new wording and meanings.

Thank you,

Sarah

Sarah Inouye  
MSW student at the University of Hawaii at Manoa  
491 Ulumanu Dr.  
Kailua, HI 96734  
inouyes96734@gmail.com

Thomas T Shirai Jr  
P O Box 601  
Waiialua, HI 96791  
Email: [Kawaihapai@hawaii.rr.com](mailto:Kawaihapai@hawaii.rr.com)

Notice of Hearing  
Wednesday, April 1, 2009  
3:00PM / State Capitol Conference Room 308

House Committee on Finance (FIN)  
Representative Marcus Oshiro (Chair) / Representative Marilyn B Lee (Vice Chair)

March 31, 2009

RE: Testimony of Strong Support for SB 1677 SD1 HD1 (Relating To Lands Controlled By The State)

Aloha Chair Oshiro, Vice Chair Lee & Committee Members,

*Mahalo nui loa* for the opportunity to provide testimony regarding SB 1677 SD1 HD1. Before proceeding further, on behalf of my *Ohana (past and present)*, I identify myself as *Keao 343* regarding this matter.

This refers to our *Palapala Sila Nui* containing *Helu 343 (Land Grant 343)*.

I'm a lifetime resident of *Mokule'ia* with lineage spanning at least 10 generations within *Waiialua Moku* and originating at *Kawaihapai*. Prior to *WWII*, our *Ohana* owned several parcels of land with a majority of these holdings on the *Northwest Coastline of Waiialua Moku* encompassing the *Ahupua'a of Kamananui, Mokule'ia, Kekahi, Auku'u, Kawaihapai, Kealia and Kaena*. The most important and cherished of these is *Kawaihapai (Helu 343 and others)* where the *Dillingham Airfield (Kawaihapai Airfield)* is situated. Some of these holdings go back to the *Mahele* as original *Patentees* or earlier. My *kupuna* were featured in *Bishop Museum Publications* and coincided with their land tenure and stewardship also. I carry that *kuleana* today.

The outbreak of *WWII* had the *U S Military* take much land to build military installations like *Kawaihapai Airfield (ACT 276)* and *Makua Military Range* evicting many *Kanaka Maoli* with a promise of returning it at the end of *WWII* or presented with a cheap monetary compensation (*take it or leave it*) similar to the *OHA (Office of Hawaiian Affairs) Ceded Land Settlement* proposal between the *State of Hawaii* and them. I'd like to note that the demeanor of the *U S Military* and *Government* was very racially discriminating against *Kanaka Maoli*. An example of this discrimination is the *Morgan Ranch* at *Kualoa* where an airfield existed during *WWII* and returned outright because of *Caucasion* ethnicity whereas, not the same for *Kanaka Maoli of Waikane*.

Therefore, I strongly support SB 1677 SD1 HD1. This would instill authority for the *Legislative Branch*, is a form of public input and re-routes the *auwai*. Therefore SB 1677 SD1 HD1 should be amended to take effect in 2009. Enough *aihu'e (stealing)*. *Malama Pono*.

Thomas T Shirai Jr  
*Kawaihapai Ohana – Po'o*

## FINTestimony

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**From:** Tane . [tane\_1@msn.com]  
**Sent:** Wednesday, April 01, 2009 3:56 AM  
**To:** FINTestimony  
**Cc:** All Senators  
**Subject:** support for a full moratorium to SB1677 SD1 HD1 RELATING TO LANDS CONTROLLED BY THE STATE

This bill is scheduled for hearing in the House Finance Committee on Wednesday, April 1, 2009 at 3:00pm in Room 309.

**Everyone seems alarmed and spooked. Why?** It was very predictable and would not go as far as many wanted. Once again the question was very narrow. This ruse is to promote the Akaka Bill and get compliance from the kanaka maoli who are on the fence or against it. Remember this is a scare tactic and a form of terrorism.

It's strange that not many took to heart of what I said. The surprise was OHA's stab in the back to the kanaka maoli that made **the USSC decision a piece of cake**, and with the help of AG Bennet who wasted the Hawai'i's taxpayers' money aiding and abetting with the governor, Dingle Lingle. They should be removed from office!

Bennet's folly was using **the Newland's Resolution** to validate the transfer of seized/stolen lands of the Hawaiian Kingdom and at the same time discredited the Apology Resolution. This is where the USSC did not want to go. OHA made it easier by acknowledging the State's legal (?) right to the lands and admitting the native Hawaiians had no legal rights to it because of the Newlands Resolution but that **the Apology Bill admits U.S. complicity and involvement** to overthrow the Hawaiian Kingdom; so a settlement is in order to make things right and remain a U.S. state.

The question Bennet filed was do the states of the United States have clear title to do as it chooses with the lands ceded within its boundaries as a public trust which was handed to the state by the U.S. government.

When he entered court, he brought up the Newlands resolution as the basis for the lands being **ceded** to the U.S. legally and Hawai'i subsequently admitted as a state of the Union. The lands held in trust was transferred to the newly created State as a public trust for specified uses, a unique grant from the U.S. only for Hawai'i and not for other states (See the Admission's Act).

He was admonished for using that as an argument because the Supreme Court did not want to go there. What saved his pathetic ass was the fact that **OHA did not contest the validity of the Newlands Resolution** but sided with the Hawaii State Supreme Court in adjudicating a settlement because of the Apology Bill and promoting the Akaka Bill.

Bennet's argument was that the Apology Bill was symbolic which didn't affect the Newlands Resolution. What surprised the USSC which made them elated was that **the Defendants (OHA) agreed with the State**; but because of the Apology Bill, reconciliation (thru the Akaka Bill) would settle the matter.

It was then known that the state was working on resolving this issue with the "ceded lands" and would resolve the matter within the U.S. confines through a settlement (Akaka Bill) and no matter the verdict, the HSSC and the SOH would settle the matter brought forth to the USSC. So discounting the Apology Bill, the U.S. states has the right to sell the lands given to them by the

Federal government.

Now comes the real action. Since Bennet brought up the validity of the **Newlands Resolution which no one contested**, this issue is still alive whether anyone knows it or not. If Hawai'i nationals want to roll over and die; then let this go. If you want to fight for your country; then the answer is to bring this issue up in appeals to invalidate the Newlands Resolution of 1898. Add to this, is the **Turpie Resolution of 1894** and the **Ku'e Petitions of 1897**.

This is strengthened by the **lack of a Treaty of Annexation** and Oct 4, 1988 Opinions of the Office of Legal Counsel within the U.S. Department of Justice, which questioned the constitutional power which Congress used that gave them the authority to annex Hawai'i. Representative Ball in 1898, asserted that the **effort to annex Hawai'i by joint resolution after the defeat of the treaty as a deliberate attempt to do unlawfully that which cannot be lawfully done.**

Congress has the power under Article IV, Section 3 of the Constitution to admit NEW STATES into the nation; but **not land and people to be retained as a possession or in a territorial condition.**--- Andrew C. McLaughlin, A Constitutional History of the United States 504 (1936).

In the **North American Review, 1893, Volume 157 issue 445**, Rep. William Springer (D) Maine responds to U.S. Minister Stevens entered journal regarding the Hawaiian issue and denounced their actions against the Queen's government of the Kingdom of Hawaii.

Another congressman, **D.H.Chamberlain** of New York wrote a scathing article in the *New York Times, 12 Feb. 1894*, titled as **Hawaii Stolen Property - The President's only recourse was to restore it.** judging the policy of the Administration based on law, fact, and right; President Harrison's hasty action, following unwarranted interference by the Minister at Hawaii- caused the difficulty; careful analysis of events justifies the call for the Queen's restoration.

The **Blount Report** is reported accurately from Hawai'i, fairly, and constitutionally accepted as being commissioned by the President Cleveland. From that and the Queen's protest, Cleveland urged Congress to restore the Queen and Hawai'i's government to her people and to give amnesty to the U.S. American conspirators and traitors.

While the **Morgan Report** was specifically rendered, only out of Washington, D.C., to exonerate the U.S. and its conspirators. Morgan was the Grand Dragon of the KKK and firmly believed in racial segregation who was an expansionist arguing for annexation of Hawai'i in hopes to send all the blacks to Hawai'i and out of the continental U.S.

June 17, 1897, the Queen presented an **Official Protest** to the Treaty of Annexation in **Washington, D.C.** This was the second Official Protest; the first was on 17 January 1893, the date of the U.S. invasion and the following belligerent occupation of Hawai'i which still continues today.

**Miriam Michelson**, reporter for **The San Francisco Call**, did an investigative report in Hawai'i and wrote it out on the way back to her city which was published *Thursday Morning, September 30, 1897*. She confirmed "**...For Hawaii has not asked for annexation. There are 100,000 people on the islands. Of these not 3 percent have declared for annexation. To the natives the loss of nationality is hateful, aberrant.**"

**Professor Francis A. Boyle (International Law expert)** stated, "The Kingdom of Hawai'i has been under the military occupation of the United States government since 1893, to which the laws of belligerent occupation apply (see US Army Field Manual 27-10 [1956]) And belligerent occupation does not transfer or displace sovereignty, which still resides in the Kingdom and its people."

**Steven T. Newcomb** is Director of the Indigenous Law Institute and a Research fellow at the



Fourth World Center for Study of Indigenous Law and Politics. His article printed in the Honolulu Advertiser, Sunday, March 12, 2000 - B3, headlines:

**Justice memo shows U.S. never legally annexed Hawaii** - "...The Justice Department memo enables us to arrive at a number of conclusions. No annexation of the Hawaiian Islands ever legally occurred in 1898. The 'Territory of Hawaii' was not established in 1900, despite congressional legislation purporting to the contrary. The statehood vote was an attempt to hide an illegal act that began in 1893 with U.S. complicity.

And indigenous Hawaiians, nearly all of whom opposed U.S. annexation, and most of whom did not become citizens of the so-called Republic of Hawaii, have never been rightfully subject to the U.S. Constitution. This means *kanaka maoli* still have an inherent right to self-determination. By virtue of that right they may freely determine their own political status, including the option of independence, and freely determine their economic, social, and cultural development."

These are just a few of the documents available and should be circulated often and widely. So, instead of buying into their scare tactics and terrorist actions to have native Hawaiians comply and shepherd themselves into the Akaka Bill fiasco and the Kau Inoa manipulative roster to further their unlawful actions to attempt to usurp the legitimate Kingdom of Hawai'i which still exists. Knowing some of this, are you still willing to trade in your lei hulu for eagle feathers and pow wow or keep your lei hulu and "kaukau"?

I forgot to mention that there is a journal revealing the meeting or communication between Thurston and U.S. Secy James Blaine in which Blaine asked Thurston to destabilize the Hawaiian kingdom and takeover the kingdom without setting international precedent. He added that the U.S. would be open to annexation of the islands to the U.S.A.

A very dear friend and associate of Blaine was Minister Stevens who got kicked out of Paraguay and Uruguay for inciting the people to topple their government and annex their country to the U.S.A. He was sent to Sweden to cool off until they needed him in Hawai'i To support the takeover and place the U.S. traitors as the Provisional government which later changed its name to the Republic of Hawai'i under the protection of the U.S. Military. Harrison was frothing at the mouth, pissed that the so-called treaty of annexation wasn't passed in congress and he wanted it done before he left office.

Cleveland succeeded him and learned of the Queen's protest and withdrew the treaty; then sent Blount to Hawai'i to investigate the event. The journals revealed what they thought of Hawai'i and the conspirators and the Queen and the Hawaiian "niggers". Those involved, supported their actions with lies and misinformation; while others condemned their criminal actions and the use of the U.S. military.

We've got all these "bullets" and why wasn't any of this brought into court? OHA , the State of Hawai'i, and the U.S. federal government and corporations and military have been complicit in keeping the truth covered up and don't want this going before the USSC. Think about it. They have committed criminal acts; violated the treaties and the laws of occupation; disregarded the laws of neutrality and dismissed our neutrality status. U.S. citizens and foreigners that have entered and resided in Hawai'i in 1893 till now are violating the laws of occupation.

Now you understand why the USSC do not want to address this situation; this would eventually force the U.S. and it's loyal citizens and military to de-occupy the Kingdom of Hawai'i. The consequences and rammification because of the fraud is devastating for the U.S. to bear and gets worse for them as the belligerent occupation continues. It's the record-holding of the longest

belligerent occupation that rivals Tibet and Palestine.



This is the tip of the iceberg that splays the British and French for their criminal activities throughout the world, the parents of the U.S.A., Canada, New Zealand, and Australia, etc. Enough is enough; wouldn't you say?

Put a moratorium on sales of seized lands.

Mahalo,

Tane

AKA: David M. K. Inciong, II  
Pearl City, HI 96782-2581

[tane\\_1@msn.com](mailto:tane_1@msn.com)

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**FINTestimony**

**From:** Eric Keawe [ekeawe@msn.com]  
**Sent:** Tuesday, March 31, 2009 6:44 PM  
**To:** FINTestimony  
**Subject:** Support for SB1677

HOUSE OF REPRESENTATIVES  
 THE TWENTY-FIFTH LEGISLATURE  
 REGULAR SESSION OF 2009

COMMITTEE ON FINANCE  
 Rep. Marcus R. Oshiro, Chair  
 Rep. Marilyn B. Lee, Vice Chair

Rep. Henry J.C. Aquino	Rep. Scott Y. Nishimoto
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Rep. Sharon E. Har	Rep. Kymberly Marcos Pine
Rep. Gilbert S.C. Keith-Aqaran	Rep. Gene Ward
Rep. Chris Lee	

NOTICE OF HEARING

**DATE:** Wednesday, April 01, 2009  
**TIME:** 3:00 p.m.  
**PLACE:** Conference Room 308  
 State Capitol  
 415 South Beretania Street

Dear Members of the House Finance Committee:

I stand in support for SB1677. Please accept my testimony for this moratorium on the sale of ceded lands or lands held under the state jurisdiction. These lands belong to everyone. We do not support the sale of our lands that belong to the people of Hawaii. Once sold we the people of Hawaii will loose all that we have. Our culture will deminish because we will no longer be able to practice our gathering rights and access to our natural resources. After that is done what will the state have to support the future of our children and their prosterity?

Regards,

Eric K. Keawe  
 Citizen

4/1/2009

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 31, 2009 8:13 PM  
**To:** FINTestimony  
**Cc:** keoneakapu@hotmail.com  
**Subject:** Testimony for SB1677 on 4/1/2009 3:00:00 PM

Testimony for FIN 4/1/2009 3:00:00 PM SB1677

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Keoneakapu Williams  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, Hi 96797  
Phone: 8088522946  
E-mail: keoneakapu@hotmail.com  
Submitted on: 3/31/2009

Comments:  
Aloha mai,

I saddens me that the cultural genocide of the kanaka maoli continues. Please help by passing this bill. Do the right thing, mahalo nui.

Keoneakapu Williams

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 31, 2009 8:06 PM  
**To:** FINTestimony  
**Cc:** mauibrad@hotmail.com  
**Subject:** Testimony for SB1677 on 4/1/2009 3:00:00 PM

Testimony for FIN 4/1/2009 3:00:00 PM SB1677

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Brad Parsons  
Organization: Individual  
Address: Hanalei, HI 96722  
Phone:  
E-mail: mauibrad@hotmail.com  
Submitted on: 3/31/2009

Comments:  
Honorable Committee Members:

Regarding the so-called "Ceded Lands," and in light of the recent U.S. Supreme Court decision for which the Lingle Administration 'lobbied,' at a minimum, I support SB1677 HD1, and respectfully request it's passage by:

Requiring majority vote of the legislature or two-thirds vote of House or Senate to disapprove the sale or exchange of state-held lands to non-state entities or persons; requires community briefing where land located prior to sale or exchange.

Beyond SB1677, I believe there is more that the Legislature can do to protect these lands in question and that they not be allowed to be sold for short term gain to the benefit of narrow interests.

Mahalo,  
Brad Parsons

April 1, 2009

**LATE TESTIMONY**

The Honorable Marcus Oshiro, Chair  
The Honorable Marilyn Lee, Vice Chair  
HOUSE COMMITTEE ON FINANCE & MEMBERS  
Hearing on Wednesday, April 1, 2009 @ Room 309

**Testimony in Support w/ reservations**  
**SB 1677 SD1 HD1—RELATING TO LANDS CONTROLLED BY THE STATE**

Dear Chair Oshiro, Vice Chair Lee & Members of the House Committee on Finance:

Thank you for the opportunity to provide testimony on SB 1677 SD1 HD1 —Relating to Lands Controlled by the State which requires majority vote of the legislature or two-thirds vote of house or senate to disapprove the sale or exchange of state-held lands to non-state entities or persons; requires community briefing where land located prior to sale or exchange.

My name is David K. Kamai and I am the Kaka Olelo Nui of the Royal Order of Kamehameha I. I am providing testimony on behalf of the Legislative Committee of the Royal Order of Kamehameha I which consist of seven members representing each chapter across the state.

First, we are in **strong support of a full moratorium** on the sale and transfer of ceded lands. However, with the political climate here at the legislature, you leave us with the only option of this proposed legislation which provides a process requiring a majority vote of the legislature or two-thirds vote of house or senate to disapprove the sale or exchange of state-held lands to non-state entities or persons. **We do support this disapprove process.** However, we ask your committee to amend this bill and put back the language that reflects having an approval process requiring the house and senate through a concurrent resolution majority vote to approve the transaction.

Lets be clear here, transparency is necessary and with the track record of our state government, it is essential that we have an approval process in place before any lands are sold or transferred.

Thank you for this opportunity to provide testimony and we humbly ask you to **AMEND AND SUPPORT THE SENATE DRAFT 1 LANGUAGE OF SB 1677.**

Respectfully,

Jessie Makainai, Lani Ali`i  
Keoni Agard, Mamo Ali`i Nui  
David K. Kamai, Kaka Olelo Nui  
Arthur Aiu, La`au Ali`i Nui  
Douglas Kekona, Kaukau Ali`i Nui  
Herb Lau, Ali`i  
Lincoln Victor, Mamo

Royal Order of Kamehameha I  
Legislative Committee