
From: Amoriann L Laimana [amoriann@hawaii.edu]
Sent: Thursday, March 05, 2009 5:09 AM
To: JGO Testimony
Cc: entaniguchi@capitol.hawaii.gov; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom
Subject: Testimony

LATE

Thursday, March 4, 2009

SB 1085 Testimony 1

Name: Amoriann L. Laimana

Committee: Senate Committee on Judiciary and Government Affairs

Date/Time of hearing: March 5, 2009 at 9:45am

Re: Senate Bill 1085 - COMMENTARY IN STRONG SUPPORT

Dear Chairman Taniguchi,

I submit testimony in strong support of Senate Bill 1085. SB 1085 provides a re-affirmation of the Hawaii Supreme Court's landmark, January 31, 2008, decision in the case commonly known as Office of Hawaiian Affairs v. HCDCH.

Last month our state Senate passed two resolutions:

- Senate Resolution 25,

- Senate Concurrent Resolution 40.

These resolutions provide that the "Legislature declares the public policy of the State of Hawaii is to honor the decision of the Hawaii Supreme Court." Senate Concurrent Resolution 40 was also adopted by the state House of Representatives. In other words, our legislature has decided to support our state judicial branch on this issue.

SB 1085 is legislation that fits within the public policy of the State of Hawaii through our legislature. Our legislature passed the resolution, now it is time to support the appropriate bill.

Sincerely,

Amoriann L. Laimana

I urge you to support and pass SB 1085.

March 4, 2009

LATE

Chairman Brian Taniguchi
Committee on Judiciary and Government Operations
Thur. Mar. 4, 2009
Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Member Senators, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is *Dan-Michael Morales* I am a resident of Hawaii and am deeply concerned about the future of the “ceded” lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in **STRONG SUPPORT** of SB 1085.

As the body of officials elected to represent the people of Hawaii I ask that you please represent our voice and pass this bill out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of “ceded” lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle’s attempt to take this issue beyond our shores and allow nine judges that have no vested interest in or connection to Hawaii to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority, as State officials and as the legislative branch of government, to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists. It is important to the future of all of Hawaii’s people that this relationship, and the related land claims, continue to be recognized. It is in large part because of the mana and traditions of Hawaii’s first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,
Dan-Michael Morales

From: Kerry Long [kerryl@hawaii.edu]
Sent: Thursday, March 05, 2009 12:09 AM
To: JGO Testimony
Cc: Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; sennihihara@Capitol.hawaii.gov; Sen. Sam Slom
Subject: SB1085

LATE

March 4, 2009 Chairman Brian Taniguchi Committee on Judiciary and Government Operations Thur. Mar. 4, 2009 Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Member Senators, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Kerry Long I am a resident of Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii I ask that you please represent our voice and pass this bill out of your committee, unamended. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle's attempt to take this issue beyond our shores and allow nine judges that have no vested interest in or connection to Hawaii to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority, as State officials and as the legislative branch of government, to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists. It is important to the future of all of Hawaii's people that this relationship, and the related land claims, continue to be recognized. It is in large part because of the mana and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,
Kerry Long

From: RAYVANNE HOKOANA [hawaiiannaau@yahoo.com]
Sent: Wednesday, March 04, 2009 9:24 PM
To: JGO Testimony
Subject: Ceded Lands.....

LATE

My name is Rayvanne Hokoana-Matthews. I am a resident of Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii, I ask that you please represent our voice and **pass this bill** out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people..

I am deeply troubled by Linda Lingle's attempt to take this issue beyond our shores and allow nine judges, that have no vested interest in or connection to Hawaii, to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority as State officials and as the legislative branch of government to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists, and it is important to the future of all of Hawaii's people that this relationship continue to be recognized. It is in large part because of the mana (spirit/power) and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,

Rayvanne Hokoana-Matthews

ment2bhawaiian.....

From: Brandy McDougall [nalani.mcdougall@gmail.com]
Sent: Wednesday, March 04, 2009 6:48 PM
To: JGO Testimony
Cc: entaniguchi@capitol.hawaii.gov; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom
Subject: Strong Support for SB 1085

LATE

March 4, 2009
Chairman Brian Taniguchi
Committee on Judiciary and Government Operations
Thur. Mar. 4, 2009
Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Members, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Brandy Nalani McDougall. I am a resident of Manoa, Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii, I ask that you please represent our voice and **pass this bill** out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle's colonial attempt to take this issue beyond our shores and allow nine judges, that have no vested interest in or connection to Hawaii, to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority as State officials and as the legislative branch of government to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists, and it is important to the future of all of Hawaii's people that this relationship continue to be recognized. It is in large part because of the mana (spirit/power) and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,

Brandy Nalani McDougall

From: Desiree Lee [DLee@chaneybrooks.com]
Sent: Wednesday, March 04, 2009 6:47 PM
To: JGO Testimony
Cc: Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom; kupuaina@gmail.com
Subject: Strong Support of SB 1085

LATE

Chairman Brian Taniguchi
Committee on Judiciary and Government Operations
Chair Taniguchi, Vice Chair Takamine, and Members, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Desiree' M. Lee. I am a resident of Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii, I ask that you please represent our voice and **pass this bill** out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle's attempt to take this issue beyond our shores and allow nine judges, that have no vested interest in or connection to Hawaii, to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority as State officials and as the legislative branch of government to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists, and it is important to the future of all of Hawaii's people that this relationship continue to be recognized. It is in large part because of the mana (spirit/power) and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,
Desiree' M. Lee

From: Bob & Paulette Moore [rjmppm@hawaiiintel.net]
Sent: Wednesday, March 04, 2009 6:40 PM
To: JGO Testimony
Subject: Support for SB1085

LATE

March 4, 2009
Chairman Brian Taniguchi, et al
Committee on Judiciary and Government Operations
Thur. Mar. 4, 2009
Conf. Room 211, 9:45 am

Aloha Chair Taniguchi, Vice Chair Takamine, and Members, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

We are Robert and Paulette Moore of Pearl City. We are Native Hawaiians in our 70's, and deeply concerned about the future of the "ceded" lands. Obviously our concerns extend past any personal benefits to be realized during our lifetimes, but we look to the preservation of what is beautiful about Hawaii for future generations. The sale of ceded lands and profiteering from these sales does not accord with any long-term plan or vision. The actions of the Governor in appealing this case to the U.S. Supreme Court are very counter to our views on this issue. For this reason we our submit testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii we ask that you please add your weight to our voice and pass this bill out of your committee, unamended. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people. At this particular juncture in history, congressional action to recognize the stature and rights of Hawaiians, as has been previously done with Native Alaskans and other aboriginal peoples of the United States appears imminent, such that this process of reconciliation and self-determination might soon gain positive structure and legal force. The disposition of ceded lands should certainly await and become part of this reconciliation process.

We are deeply troubled by Linda Lingle's action to take this issue beyond our shores, petitioning nine judges that have no vested interest in or connection to Hawaii, nor scholarship or appreciation of our singular culture, to dictate the future of our lands and the future course of land stewardship. It is painful to contemplate that an issue of such vital import to Hawaiians might be negatively decided in a sterile courtroom by a group whose visions of their particular *aina* is colored by the drab environs circled by the beltway. Lingle's actions threaten the sovereign power of our State government. For that reason, we urge you exercise your authority as State officials and as the legislative branch of government to exert control over these issues.

We also assert that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists, and it is important to the future of all of Hawaii's people that this relationship continue to be recognized. It is in large part because of the mana (spirit/power) and traditions of Hawaii's first people that we have such a unique and beautiful society here. Despite their fine words to the contrary, we feel that neither Governor Lingle nor AG Bennett are privy to the profound love and appreciation of the *aina* that is required of government servant-leaders. This appreciation is developed, nurtured and harbored in the *na'au*. Their actions give evidence of its absence.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time and attention.

Sincerely,

Bob and Paulette Moore
2035 Aamomi Street
Pearl City, HI 96782
808.455-2737
rjmppm@hawaiiantel.net

From: Likolani Brown [kahaulauliko@hotmail.com]
Sent: Wednesday, March 04, 2009 6:12 PM
To: JGO Testimony
Cc: entaniguchi@capitol.hawaii.gov; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom; kupuaina@gmail.comsentaniguchi
Subject: Testimony for Senate Bill 1085

LATE

Name: Likolani Brown
Committee: Senate Committee on Judiciary and Government Affairs
Date/Time of hearing: March 5, 2009 at 9:45am
Re: Senate Bill 1085 - COMMENTARY IN STRONG SUPPORT

Dear Chairman Taniguchi,

I submit testimony in strong support of Senate Bill 1085. SB 1085 provides a re-affirmation of the Hawaii Supreme Court's landmark, January 31, 2008, decision in the case commonly known as Office of Hawaiian Affairs v. HCDCH.

Last month our state Senate passed two resolutions:

- Senate Resolution 25,
- Senate Concurrent Resolution 40.

These resolutions provide that the "Legislature declares the public policy of the State of Hawaii is to honor the decision of the Hawaii Supreme Court." Senate Concurrent Resolution 40 was also adopted by the state House of Representatives. In other words, our legislature has decided to support our state judicial branch on this issue.

SB 1085 is legislation that fits within the public policy of the State of Hawaii through our legislature. Our legislature passed the resolution, now it is time to support the appropriate bill.

Sincerely,

Likolani Brown

I urge you to support and pass SB 1085.

Windows Live™ Groups: Create an online spot for your favorite groups to meet. [Check it out.](#)

LATE

March 4, 2009

Chairman Brian Taniguchi
Committee on Judiciary and Government Operations
Thur. Mar. 4, 2009
Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Member Senators, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Cullen Yee. I am a resident of Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in **STRONG SUPPORT** of SB 1085.

As the body of officials elected to represent the people of Hawaii I ask that you please represent our voice and pass this bill out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle's attempt to take this issue beyond our shores and allow nine judges that have no vested interest in or connection to Hawaii to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority, as State officials and as the legislative branch of government, to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists. It is important to the future of all of Hawaii's people that this relationship, and the related land claims, continue to be recognized. It is in large part because of the mana and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,
Cullen Yee

LATE

March 4, 2009
Senate Committee on Judiciary and Government Operations
Senate Bill 1085

Dear Mr. Chair, Senator Brian Taniguchi, Mr. Vice-Chair Takamine, Members of the Senate Committee on Judiciary and Government Operations,

The Kupu'āina Coalition, an organization of students and recent alumni of the William S. Richardson School of Law, would like to express our **strong support for Senate Bill 1085**. Kupu'āina was formed to inform our community about the OHA v. HCDCH case and concerns arising from the potential sale of ceded lands. Our focus lately has been on legislation.

MORATORIUM LEGISLATION IS IMPORTANT TO OUR STATE AND FURTHERS RECONCILIATION EFFORTS WITH NATIVE HAWAIIANS.

Passage of legislation like Senate Bill 1085 is both necessary and important to the future of our great state. Our state government has previously committed itself to the reconciliation process with Native Hawaiians. The Hawai'i Attorney General, the Hawai'i Supreme Court, and the Office of Hawaiian Affairs have all agreed that the political-legislative process is the appropriate process for dealing with Native Hawaiian claims to the "ceded" lands.¹

LEGISLATIVE ACTS TOWARDS RECONCILIATION.

The Hawai'i State legislature, through a number of acts, has committed itself to a reconciliation process with the Native Hawaiian community. These acts include:

- **Act 340** passed in 1993, and affirmed that the "State shall transfer management and control of the island of Kaho'olawe and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawai'i."
- **Act 354** also passed in 1993 and it pledged "continued support to the native community by taking steps to promote the restoration of the rights and dignity of native Hawaiians."
- **Act 359** also passed in 1993, and concluded that the United States annexed Hawai'i as a territory in 1898 without the consent of or compensation to the Native Hawaiian people or their sovereign government. In addition the Act also

¹ The "ceded" lands are the Crown and government lands of the Hawaiian Kingdom. In 1893, the Hawaiian Kingdom was illegally overthrown by a few traitors who sought to transfer possession and control of the islands to the United States. These traitors called themselves the Provisional Government. In 1893, President Grover Cleveland acknowledged the illegality of the actions of the United States by one of its agents. President Cleveland called this an "act of war" and called for the restoration of the Hawaiian monarchy. After its unsuccessful attempt to transfer Hawai'i to the United States, the Provisional Government changed its name to the Republic of Hawai'i for the purpose of shedding its appearance as an oligarchy. In 1898, through a questionable process even by U.S law, the Republic of Hawai'i purported to transfer the Hawaiian Islands to the United States.

In 1993, the 103rd Congress recognized and acknowledged important facts surrounding the illegal overthrow, namely that lands were taken without compensation to or the compensation of the Native Hawaiian people or their lawful and sovereign government.

recognized that Native Hawaiians “were denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands, and their ocean resources.”

- **Act 329** passed in 1997, the Act established an interim revenue amount due to the Office of Hawaiian Affairs. The Act also required the Department of Land and Natural Resources to complete an inventory of the public land trust.

Passage of Senate Bill 1085 will further the legislature’s commitment to addressing historical wrongs, never corrected, by ensuring that the very lands taken without the consent of, or compensation to, the Native Hawaiian people or their government will not be sold.

THE LEGISLATIVE PROCESS IS APPROPRIATE FOR DEALING WITH “CEDED” LANDS ISSUES.

Statements made by different and independent parties show that legislative action is the agreed upon process for dealing with Native Hawaiian claims.

- “We believed, and continue to believe, that the claims that Native Hawaiians have should be addressed through the legislative process— through the Legislature and the Congress . . . but not in the courts.”²
- “[T]he OHA plaintiffs admit that the ‘ultimate resolution of the [n]ative Hawaiian claims must be through the political processes,’ and it is actively engaged in these processes.”³
- “We conclude that the plaintiffs have established that injunctive relief is proper pending final resolution of native Hawaiian claims through the political process.”⁴

Two disputing parties, (the Hawai’i Attorney General & the Office of Hawaiian Affairs) and an independent judiciary, the Hawai’i Supreme Court, agree that the legislative process is appropriate for dealing with these issues.

A DECISION TO NOT PASS MORATORIUM LEGISLATION, PROTECTING THE CEDED LANDS, IS LIKELY TO STIFLE RECONCILIATION WITH NATIVE HAWAIIANS BECAUSE RESOLVING LAND CLAIMS IS CRUCIAL TO THE RECONCILIATION PROCESS.

The Lingle Administration has previously been supportive of the Native Hawaiian community and committed itself to settling the ceded lands issue, “here at home in Hawai’i I will continue to work with you and with the Hawaiian community to **resolve the**

² Statement by Attorney General Mark Bennett. Honolulu Advertiser: Lands Focus of Rally, Gordon Pang, Page 31A, November 23, 2008.

³ Office of Hawaiian Affairs v. Housing and Community Development Corporation of Hawaii, 117 Haw. 174, 209 (2008).

⁴ Id. at 217.

ceded lands issue once and for all.⁵ The Lingle Administration has also lobbied Congress to pass the Akaka Bill.⁶

Hawaiian Homes Commission chairman Micah Kane, while lobbying Congress, explained why federal recognition is necessary, and was quoted as saying, "these troubling and unsettled issues relate to property title, ceded-land claims and rights to natural resources" and that "without federal recognition of Native Hawaiians, the state of Hawai'i will spend thousands of unnecessary man-hours and millions of taxpayer dollars defending and clarifying Native Hawaiian rights." In her own advocacy, the Star-Bulletin quoted Governor Lingle as stating that the Akaka bill "is vital to the continued character of our state, and it is vital to providing parity and consistency in federal policy for all native peoples in America".⁷

The Lingle Administration has put the state in an untenable position in the State of Hawaii v. Office of Hawaiian Affairs case now pending at the United States Supreme Court. The Hawai'i Supreme Court placed a moratorium on the sale of ceded lands until Native Hawaiian land claims are resolved. The Lingle Administration's stance on this case is untenable because, at its core, it is at odds with the administration's previous and current support of Native Hawaiian federal recognition.

RESOLVING LAND CLAIMS WITH NATIVE GROUPS IS NOT UNCOMMON IN OTHER STATES.

It is common in the United States, for native groups pursuing federal recognition, to resolve land claims with state governments. Selling ceded lands, before resolving native claims to those lands, conflicts with the Lingle administration's support of Native Hawaiian federal recognition because Native Hawaiians will be at a great disadvantage with less land available to resolve claims. Remember that in 2003, Micah Kane told U.S. Senators that federal recognition was important to ceded land claims and for clarifying Native Hawaiian rights. What we have here are inconsistent policies regarding very important issues affecting our island home.

Supreme Court Justice Clarence Thomas once described federal Indian law as schizophrenic because of the stark inconsistencies within that area of law.⁸ Here in Hawai'i, where our communities are so interconnected both physically and culturally we cannot afford schizophrenic policies and contradictory decision-making.

⁵ Honolulu Star-Bulletin: State of the State Address, Governor Linda Lingle, January 21, 2003. Emphasis added. Available online at <http://archives.starbulletin.com/2003/01/22/news/index1.html>

⁶ Contrary to popular belief, the Akaka Bill does not grant federal recognition to the Native Hawaiian people. Instead, the bill only provides a process for pursuing federal recognition.

⁷ Honolulu Star-Bulletin: Inouye: Gov Key to Akaka bill; The Senator says Lingle will be instrumental in getting the Hawaiian rights bill approved. Richard Borreca, February 25, 2003. Available online at <http://archives.starbulletin.com/2003/02/25/news/index1.html>

⁸ United States v. Lara, 541 U.S. 193, 219 (2004).

Reconciliation efforts with the Native Hawaiian community will be stifled if our state legislature does not act to protect the “ceded” lands from being sold before the unrelinquished claims of Native Hawaiians are resolved.

**THE HAWAI’I LEGISLATURE IS IN A UNIQUE POSITION TO TIP THE BALANCE OF POWER
TOWARDS JUSTICE AND EQUITY.**

In its January 31, 2008, landmark ruling, the Hawai’i Supreme Court stated, *[t]he continued diminishment of the public lands trust means that any land sold or transferred to third parties will be lost and, thus, unavailable for settlement purposes. As such, **native Hawaiians would be placed in an unfair and disadvantaged position inasmuch as they may, ultimately, be forced to accept less-than-desirable settlement terms and make concessions that they would not have otherwise made had certain ceded lands, for example, been kept in the public lands trust.***⁹

By appealing to the United States Supreme Court, with the intent of having our Hawai’i Supreme Court’s decision overturned, the Lingle Administration showed its disagreement with the decision of our state’s highest court. As a result, we have two of the three branches of government in disagreement. Our legislature, as a third branch of government, is well-poised to ensure that justice and righteousness continue in the pursuit of reconciliation. Our legislature began to ensure justice and righteousness last month when it passed and adopted Senate Concurrent Resolution 40, which “declares the public policy of the State of Hawai’i is to honor the decision of the Hawai’i Supreme Court.”

Groups and organizations often seek justice through the legal system. We must now rely on our legislature to solidify that just ruling. We need you to support and pass Senate Bill 1085. S.B. 1085 places a moratorium on the sale of ceded lands and promotes reconciliation while also being within the purpose of providing for the betterment of conditions of the Native Hawaiian people.

Thank you for this opportunity to provide testimony.

Sincerely,

Jocelyn Doane,
Derek Kauanoe
Davis Price

⁹ Office of Hawaiian Affairs v. Housing and Community Development Corporation of Hawaii, 117 Haw. 174, 216 (2008). Emphasis added.

From: Tanya Marie [tawnyahh@yahoo.com]
Sent: Thursday, March 05, 2009 9:07 AM
To: JGO Testimony
Cc: Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom; kupuaina@gmail.com

March 4, 2009

Chairman Brian Taniguchi

Committee on Judiciary and Government Operations Thur. Mar. 4, 2009 Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Member Senators, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Tanya Cadiente. I am a resident of Hawaii and am deeply concerned about the future of the "ceded" lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in STRONG SUPPORT of SB 1085.

As the body of officials elected to represent the people of Hawaii I ask that you please represent our voice and pass this bill out of your committee, unamended. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of "ceded" lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle's attempt to take this issue beyond our shores and allow nine judges that have no vested interest in or connection to Hawaii to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority, as State officials and as the legislative branch of government, to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this relationship exists. It is important to the future of all of Hawaii's people that this relationship, and the related land claims, continue to be recognized. It is in large part because of the mana and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee.

Mahalo for your time.

Sincerely, Tanya Cadiente

From: Tanya Cadiente [t.cadiente@yahoo.com]
Sent: Thursday, March 05, 2009 9:11 AM
To: JGO Testimony; Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom
Cc: kupuaina@gmail.com
Subject: Malama 'Aina

March 4, 2009

Chairman Brian Taniguchi

Committee on Judiciary and Government Operations

Thur. Mar. 4, 2009

Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Member Senators, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

My name is Tanya Cadiente. I am a resident of Hawaii and am deeply concerned about the future of the “ceded” lands. The actions of the Governor in appealing this case to the U.S. Supreme Court do not represent my views on this issue. For this reason I am submitting testimony in **STRONG SUPPORT** of SB 1085.

As the body of officials elected to represent the people of Hawaii I ask that you please represent our voice and pass this bill out of your committee, **unamended**. The passage of this bill reasserts the power of the legislature to address, not only the issue of proposed sales of “ceded” lands, but it also reasserts the policy of the State, which has been to commit to reconciliation and self-determination for Native Hawaiian people.

I am deeply troubled by Linda Lingle’s attempt to take this issue beyond our shores and allow nine judges that have no vested interest in or connection to Hawaii to dictate the future of our lands and local issues. Her actions threaten the sovereign power of our State government. For that reason, I urge you to exercise your authority, as State officials and as the legislative branch of government, to harness control over these issues.

I also would like to remind you that Native Hawaiians have a special relationship to the land that differs from the American or Western relationship. This relationship is beyond any description through words. It is a relationship that connects them to their past, present, and their future. The state has long recognized that this

relationship exists. It is important to the future of all of Hawaii's people that this relationship, and the related land claims, continue to be recognized. It is in large part because of the mana and traditions of Hawaii's first people that we have such a unique and beautiful society here.

Once the land is sold it will never be returned. Please carefully consider our future when reviewing this bill. I ask that you please pass this bill out of your committee. Mahalo for your time.

Sincerely,

Tanya Cadiente

From: Dee Texidor [DeeTex123@hawaii.rr.com]
Sent: Thursday, March 05, 2009 8:57 AM
To: Sen. Dwight Takamine; Sen. Sam Slom; Sen. Clarence Nishihara; Sen. Mike Gabbard; Sen. Robert Bunda; Sen. Brian Taniguchi
Cc: JGO Testimony
Subject: *****SPAM***** TESTIMONY FOR SB1085 HEARING TODAY -The Myth of Ceded Lands and the State of Hawai`i's Claim to Perfect Title
Attachments: norgie_closed_dna.gif
Importance: High

SB 1085 Testimony
March 4, 2009
Chairman Brian Taniguchi
Committee on Judiciary and Government Operations
Thur. Mar. 4, 2009
Conf. Room 211, 9:45 am

Chair Taniguchi, Vice Chair Takamine, and Members, Robert Bunda, Mike Gabbard, Clarence Nishihara, and Sam Slom, of the Committee on Judiciary and Government Operations,

The Myth of Ceded Lands and the State of Hawai`i's Claim to Perfect Title

In the recent Ceded lands hearing at the Supreme Court in Washington, D.C., on February 25, 2009, Attorney General Mark Bennett repeatedly asserted in the hearings that the State of Hawai`i has perfect title to over one million acres of land that were transferred to the United States government upon annexation in 1898 and then transferred to the State of Hawai`i in 1959. This is an incorrect statement. This falsehood, however, is not based on arguments for or against the highly charged Hawaiian sovereignty movement; rather, it is a simple question to answer since ownership of land is not a matter of rhetoric but dependent on a sequence of deeds in a chain of title between the party granting title and the party receiving title. In fact, the term "perfect title" in real estate terms means "a title that is free of liens and legal questions as to ownership of the property. A requirement for the sale of real estate."

What determines a perfect title is a chain of title that doesn't have a missing link. Here in Hawai`i all titles originate from the Hawaiian Kingdom government whether by Royal Patents or Land Commission Awards and all subsequent conveyances between individuals are registered at the Bureau of Conveyances located at the corner of Punchbowl and Beretania Streets on the ground floor of the Kalanimoku Building. An example of a chain of title would be the Hawaiian Kingdom government to Joe Smith, Joe Smith to Alex White, Alex White to Alapa`i, Alapa`i to Yao Wong, Yao Wong to Jonathan Judd. If there is no record of the deed between Alapa`i and Yao Wong there is a break in the chain of title and therefore Jonathan Judd cannot claim

to have a perfect title, which is a "requirement for the sale of real estate."

For so-called Ceded Lands, being the Hawaiian Kingdom government and Crown lands, the chain of title is supposedly from the Hawaiian Kingdom government and Queen Lili'uokalani to the Provisional government, the Provisional government to the Republic of Hawai'i, the Republic of Hawai'i to the United States, the United States to the State of Hawai'i. In this chain, however, there are two missing links and not just one. On January 17, 1893, the Provisional government seized control of the Government and Crown lands without conveyance, but through revolt, and after investigating the revolt, President Cleveland reported to the Congress on December 18, 1893 that the Provisional government was neither de facto (a successful revolution), nor de jure (the lawful government), but self-proclaimed (committing the crime of high treason). On November 13, 1893, U.S. Ambassador Albert Willis began to negotiate with the Queen, on behalf of President Cleveland, to grant amnesty for these criminals and an agreement to restore the Hawaiian Kingdom government was concluded with the condition that the Queen grant amnesty after the government was restored.

The other missing link is that there is no record of conveyance from the so-called Republic of Hawai'i to the United States when the Hawaiian Islands were supposedly annexed in 1898. According to the Merriam Webster Dictionary, the term cede is "to yield or give up by treaty." In order for countries to cede territory to the United States it must be made by treaty, e.g. Louisiana Purchase from France in 1803, or the Alaska Purchase from Russia in 1867. For Hawai'i, there are two failed treaties of cession, the first in 1893 and the other in 1897, but the first was permanently withdrawn from the Senate by Cleveland in March of 1893, and the second was not able to be ratified by the Senate because of protests by the Queen and Hawaiian subjects. Instead, the United States enacted a Congressional joint resolution proclaiming that the Hawaiian Islands had been annexed. The joint resolution of annexation is not a treaty or conveyance from the so-called Republic of Hawai'i. It is a unilateral declaration that was used to seize and occupy the Hawaiian Islands during the Spanish-American War. The United States today could no more annex Iraq by a joint resolution than it could annex the Hawaiian Islands by joint resolution in 1898. Congressional laws have no effect beyond the borders of the United States.

If there is no record of a deed from the Hawaiian Kingdom government and the Queen to the Provisional government transferring Government and Crown lands, there is a break in the chain of title and therefore the State of Hawai'i cannot claim to have a perfect title, which is a "requirement for the sale of real estate." As far as the term "Ceded lands," there is no such thing because the Government and Crown lands were never "yielded or given up by treaty" to the United States in the first place. Confusing cession for occupation is tantamount to confusing adoption for kidnapping. This is not a case of semantics, but ignorance of the legal and political history of Hawai'i.

Authored by Dr. Keanu Sai.

Submitted by: Ka Lei Maile Alii Hawaiian Civic Club.

From: Kamalei Chandler [kama.haena@yahoo.com]
Sent: Friday, March 06, 2009 10:01 AM
To: JGO Testimony
Cc: Sen. Brian Taniguchi; senatmine@capitol.hawaii.gov; Sen. Robert Bunda; sengabblard@capitol.hawaii.gov; Sen. Clarence Nishihara; Sen. Sam Slom
Subject: SB1085 Testimony-K. Chandler

LATE

Aloha mai my name is Kamalei Chandler, I *kakoo* (support) the SB1085 and what it stands for. Because of this dispute over land people are being deprived of their inheritance. Land is one thing that is held very close to the Hawaiian people. They receive more than just food, and water from this source, we retrieve our heritage, call upon our ancestors, and rely on the spirit that still lies within our ever-changing landscapes, both big and small. We are forced to share what is ours and now, our right to our land designated to us is questioned and put up for debate. When you die all you will leave is your life's story and the possessions you owned, all dispersed among your posterity. How would you feel if someone took away the only gifts you left them, and deprived them of what was rightfully theirs.

Think of this state as a family. When problems arise in the home the problems should be taken care of there and not shared with others, for they do not truly comprehend you, and your family, their outlook on life and the values you uphold. You do not just throw your problems at someone else to fix. If you made the problem fix it. So in my eyes there is no problem and the only reason for debate is that the government is looking forward to some more funds in their pockets. It is too hard for people to do the right thing anymore because not always do they get what they think they wanted out of it.

I am a descendant of Hawaiians both known by many and those just loved and cherished by family, I am not a famous person with a lot of money and power, I am not the strongest person in the world, but I have the agency to speak from my *naau*. All Hawaiians do not completely feel the same about everything but race out of the way. If you were to take away anything of value from someone any living thing, something precious to them they would not give up without a fight. Everything has been taken little by little, has been saved. My posterity will have the stories of these people, the spirit of their ancestors, and the bones from the ground will cry with a loud voice in unison **WE WILL HAVE A VOICE WE WILL BE HEARD AND WILL STAND FOR WHAT IS OURS**, for us and the generations to come. A belief is nothing without works. I am not just a descendant but a link between the past and future of my people.

Me ia mana
na Kamalei