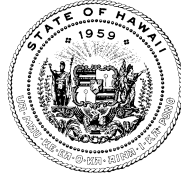


DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS
HEARING ON MARCH 24, 2022 AT 1:01PM VIA VIDEOCONFERENCE

**SCR 125/SR 110 REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS
TO ESTABLISH A WORKING GROUP TO RETURN CROWN LANDS TO NATIVE
HAWAIIANS**

March 24, 2022

Aloha Chair Shimabukuro, Vice Chair Keohokalole, and members of the Committee:

The Department of Hawaiian Home lands (DHHL) supports these resolutions requesting a working group to return crown lands to Native Hawaiians. DHHL requests that this Committee consider if the Office of Hawaiian Affairs or Ka Huli Ao Center for Excellence in Native Hawaiian Law are the more appropriate entities to establish the working group.

Thank you for your consideration of our testimony.

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HAWAIIAN AFFAIRS
For hearing Thursday, March 24, 2022

Re: SCR125/SR110
REQUESTING THE DEPARTMENT OF HAWAIIAN HOME HWN LANDS TO
ESTABLISH A WORKING GROUP TO RETURN
CROWN LANDS TO NATIVE HAWAIIANS.

TESTIMONY IN OPPOSITION

There is no reason why DHHL should establish a working group "to return crown lands to Native Hawaiians" for the simple reason that "Native Hawaiians" as a group were never the owners of the crown lands, and therefore those lands cannot be "returned" to them.

This issue was firmly and unequivocally settled by the decision in the only lawsuit ever brought by ex-queen Lili'uokalani against the U.S. Lili'uokalani demanded compensation from the U.S. for the crown lands, which she claimed had belonged to herself personally; and the Court ruled that she had never been the owner of those lands. Furthermore, by claiming personal ownership of the crown lands and demanding compensation only for herself, the ex-queen displayed her belief that so-called "Native Hawaiians" were not the owners of those lands -- she could have named them as co-plaintiffs or they could have moved to be added as class-action complainants, but neither of those things occurred. According to Lili'uokalani, she was sole owner.

Full text of Lili'uokalani's complaint filed in 1909, and full text of the Court's decision filed in 1910, along with commentary, can be found on a webpage:

"Lili'uokalani Loses A Big One (The Crown Lands) -- Liliuokalani v. United States, 45 Ct. Cl. 418 (1910)" at <https://www.angelfire.com/hi2/hawaiiansovereignty/liliucrownlands.html>

The ex-queen lost the case. But in the process, many of the claims made today by the sovereignty activists were asserted by the ex-queen and rejected by the Court based on irrefutable evidence. After seeing all the evidence and hearing all the arguments on both sides, the Court of Claims became convinced that her claims had no merit. The decision itself is a valuable legal document. It is important not only because it contains these arguments concerning the Crown Lands, but also because of the very important appendices included by the Court as part of the evidence. Some of the material in these appendices is difficult or impossible to find anywhere else, and decisively refutes claims raised by today's sovereignty activists on issues in addition to

the Crown Lands. It is also interesting that she never sued the United States for the "illegal overthrow" or the "illegal annexation" to try to reverse those events or be compensated for them; she sued only for money for "her" Crown Lands. The manner in which she lost lays out the evidence and the arguments for both sides in a direct confrontation between the ex-Queen and the United States. Such a direct legal confrontation at such a high level over "sovereignty" issues was never repeated for 90 years, until the Rice v. Cayetano case. The decision of the Court of Claims (like the Supreme Court decision in Rice v. Cayetano) is very clear and convincing. For example, in the Lili'uokalani decision, the Court cited the Treaty of Annexation both as evidence that the Court has jurisdiction to decide the case and as affirmation that the Treaty exists and is valid; and the Court provided full text of the Treaty of Annexation in an appendix which is included in the webpage.

Here are some of the "whereas" assertions in this resolution SCR125/SR110 offered in 2022, and refutations of them.

Reso: "the Hawaiian Kingdom was overthrown in violation of international law"

Refut: There is no international law against a revolution. And of course all revolutions that overthrow an existing government are illegal under the laws of the overthrown government.

Reso: "the Crown Lands ... became a collective resource to support the Hawaiian monarchs and Hawaiian people ... [and] were not truly "public" but were an entitlement of the Hawaiian people as the beneficiaries of a trust maintained by their monarch"

Refut: Part II of the Court's own summary of its decision, on page 419, clearly states: "The Hawaiian statute of 1865 curtailed the title vested in the King to the purpose of maintaining the royal state and dignity; and the King approved the statute which divested the sovereign of

whatever legal title he had theretofore had in the crown lands. After that the lands belonged to the office and not to the individual."

Reso: "the lands taken by the Provisional Government in 1893, Republic of Hawaii in 1894, and United States in 1898 were taken without the consent of or compensation to the Hawaiian people ... the 1993 federal Apology Resolution confirms that one million eight hundred thousand acres of Crown and Government Lands were thereafter ceded to the United States without the consent of or compensation to the Native Hawaiian people or their sovereign government"

Refut: Regarding "Lands were thereafter ceded to the United States without the consent of the Native Hawaiian people or their sovereign government": The nation of Hawaii remained an internationally recognized independent nation under its two successor governments: the Provisional Government and the Republic of Hawaii. After a revolution, the successor government speaks to other nations on behalf of all the nation's people including those on the losing side, whether they like it or not. Emperors, Kings, Queens, and Presidents of at least 19 nations personally signed letters addressed to President Dole, Republic of Hawaii, formally recognizing the Republic as the rightful successor government of the still-independent nation of Hawaii; thus, under international law, the Republic had the right to offer the Treaty of Annexation including the ceding of Hawaii's public lands. See photos of those letters at <https://historymystery.kenconklin.org/recognition-of-the-republic-of-hawaii/>

Further Refut: The claim that the crown, government and public lands of Hawaii were ceded to the United States "without compensation to the Native Hawaiian people or their sovereign government" is false. The United States compensated the Republic of Hawai'i government and its people (including kanaka maoli) by assuming their public debts, including the debts incurred under the Kingdom for the issuance of bonds to redeem all encumbrances on the Crown lands incurred by various monarchs to support their lavish lifestyles [including Kalakaua's

trip around the world and his construction and furnishing of Iolani Palace], as noted on pages 431-434 of the Court decision.

Further refutation concerning the 1993 apology resolution:

The Hawaii Supreme Court had ruled unanimously, 5-0, in favor of a lawsuit by OHA demanding that no parcel of ceded lands can be sold by the State of Hawaii without permission from Native Hawaiians [presumably that would be OHA] and based its decision partly on the 1993 apology resolution. But on March 31, 2009 the U.S. Supreme Court ruled unanimously, 9-0, to overturn the Hawaii Supreme Court's ruling. The U.S. Supreme Court clearly and forcefully rejected the apology resolution as having any force of law regarding the ownership of the ceded lands, concluding that the State of Hawaii owns all the public lands (including the crown lands) in fee simple absolute and can freely lease or sell them without regard to the apology resolution. Full text of the U.S. Supreme Court's decision in HAWAII ET AL. v. OFFICE OF HAWAIIAN AFFAIRS ET AL. is available at <https://www.supremecourt.gov/opinions/08pdf/07-1372.pdf>

See also a scholarly essay by Constitutional law attorney Bruce Fein, reprinted in the Congressional Record:
<https://www.angelfire.com/hi5/bigfiles3/AkakaFeinCongRec061405.html>

See also Patrick W. Hanifin, esq', HAWAIIAN REPARATIONS: NOTHING LOST, NOTHING OWED
XVII HAWAII BAR JOURNAL No. 2 (1982)
<https://www.angelfire.com/hi5/bigfiles/HanifinReparations1982.pdf>

and also "U.S. apology resolution 20th anniversary -- A resolution was introduced in the Hawaii legislature to commemorate the 20th anniversary of the U.S. apology resolution; and testimony by Kenneth Conklin, Ph.D., was offered to the Hawaii legislature in the form of a substitute resolution explaining that the apology resolution is filled with falsehoods, has produced bad consequences, and should be repealed."
<https://www.angelfire.com/big09/ApologyReso20thAnniv.html>



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Maile S. L. Shimabukuro, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Committee on Hawaiian Affairs

Re: **SCR 125 / SR 110 REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO ESTABLISH A WORKING GROUP TO RETURN CROWN LANDS TO NATIVE HAWAIIANS**

Hearing: Thursday, March 24, 2022, 1:01 p.m.
Conference Room 016, via Videoconference

Position: **Strong Support**

Aloha, Chair Shimabukuro, Vice Chair Keohokalole, and Members of the Committee on Hawaiian Affairs:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SCR 125 / SR 110. This measure would request the Department of Hawaiian Home Lands to establish a Crown Lands working group to return Crown Lands to Native Hawaiians.

The Crown Lands Working Group is to (1) identify which Crown Land tax map keys should be prioritized for return to Native Hawaiians; and (2) identify which entity or entities should receive the land from the State and assume responsibility for management of those lands in perpetuity.

The reason for this resolution is to return Crown Lands back to the Native Hawaiians for the unlawful taking of these lands as the result of the illegal overthrow of the Kingdom of Hawaii. Such lands were not public lands but were the personal domain of the King Kamehameha III which became a collective resource to support the Hawaiian monarchs and Hawaiian people as beneficiaries of a trust maintained by their monarchs. These lands were taken by the Provisional Government of 1893, Republic of Hawaii in 1894, and the United States in 1898 without the consent of or compensation to the Hawaiian people. The 1993 Federal Apology Resolution confirmed that 1,800,000 acres of Crown and Government Lands were ceded to the US without the consent of or compensation to the Native Hawaii people or their sovereign government. This Resolution would be the first step in correcting the wrongs that were bestowed on the Native Hawaiians for this illegal taking 129 years ago. Mahalo for the opportunity to testify,

Melodie Adyja Co-Chair, Environmental Caucus of the Democratic Party of Hawai'i

SCR-125

Submitted on: 3/21/2022 12:59:54 PM

Testimony for HWN on 3/24/2022 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
C. Milika'a Vierra	Individual	Support	Written Testimony Only

Comments:

Please do what is pono.

SCR-125

Submitted on: 3/22/2022 9:13:55 AM

Testimony for HWN on 3/24/2022 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I come from Papakōlea, O‘ahu. I'm a Kanaka Maoli born and raised in the Hawaiian Kingdom. I'm writing in full support of SCR125.

Support SCR125.

me ke aloha ‘āina,

Nanea Lo

SCR-125

Submitted on: 3/22/2022 2:40:11 PM

Testimony for HWN on 3/24/2022 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

Support

SCR-125

Submitted on: 3/22/2022 9:30:17 PM

Testimony for HWN on 3/24/2022 1:01:00 PM

Submitted By	Organization	Testifier Position	Testify
Kaweni Ibarra	Individual	Support	Written Testimony Only

Comments:

Dear Hawaii State Legislature,

I support SR110 as it has the potential to reconcile some of the historical injustices acted upon Native Hawaiian people by the United States, and could play a role in mitigating intergenerational traumas that have occurred from land dispossession. These aspects would not only be beneficial to the Native Hawaiian people, but could also positively reinforce the priorities of State and Federal agendas to fulfill their obligations to Native Hawaiian people under the Hawaiian Homes Commission Act of 1921.

Sincerely,

Kaweni Ibarra

Hawaiian Homes Working Group on Crown Lands

Senate Committee on Hawaiian Affairs

Senator Maile S.L. Shimabukuro, Chair; Senator Jarrett Keohokalole, Vice Chair

NOTICE OF HEARING

DATE: Thursday, March 24, 2022

TIME: 1:01 PM

PLACE: Conference Room 016 & Videoconference

TITLE: REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO ESTABLISH A WORKING GROUP TO RETURN CROWN LANDS TO NATIVE HAWAIIANS.

Testimony in Strong Opposition on SCR 125 and SR 110

Submitted by: James I. Kuroiwa, Jr. (kuroiwaj@earthlink.net)

The Hawaii Legislature must first accept the Federal Law (April 30, 1900 Organic Act) and the Supreme Court decision in Rice v. Cayetano on February 23, 2000, where Hawaii has only two Federally recognized groups of citizen, the “Hawaiian” (the larger class including all ethnic groups as written in the Organic Act) and the “native Hawaiian” with lower case “n” (a sub-class from the larger class Hawaiian as written in the 1921 Hawaiian Homes Commission Act).

There is absolutely no justification for the introduction of this Senate Concurrent Resolution 125 and Senate Resolution 110 to support the Revisionists attempt to change Hawaii’s Laws and History. The Legislature must first resolve who is “Hawaiian or Native Hawaiian”? Also, the Law is crystal clear that Public Lands (Crown and Government) belong to the State of Hawaii (all its citizens) in absolute fee and not to any “Racial” group.

The January 17, 1893, overthrow of the Queen was initiated on February 12, 1874, with the announcement that Kalakaua was elected King over Emma, where Emma was the Kanaka Maoli’s choice.

The Committee of Safety’s thirteen members consisted of four (4) American citizens, three (3) citizens who were born in Hawaii, three (3) naturalized Hawaiian subjects, one (1) German citizen, one (1) Scottish citizen, and one (1) German citizen.

There was no existing International Law in 1893 affecting the overthrow of the Hawaiian Kingdom and there was no existing International Law affecting the removal of a Queen, her Cabinet, and Sheriff, establishing a Provisional Government for the Islands of Hawaii, and keeping in place the 1887 Kingdom Constitution until July 4, 1894, upon adoption of the Republic of Hawaii Constitution.

On July 6, 1866, Kamehameha V signed the legislation relieving the Crown Lands from the control of the King and transferring the Crown Lands to the control and management of the Hawaiian Government. The Republic of Hawaii did not exist until July 4, 1894, some twenty-

eight (28) years following the relieving of the Crown Lands from the King and its transfer to the Hawaiian Government.

The Republic of Hawaii did identify the Crown Lands in its Constitution and merged the Crown Lands with the Hawaiian Government Lands and naming it Public Lands. The Public Lands were ceded in absolute fee to the United States on July 7, 1898, as agreed in the Newlands Treaty of Annexation. The Public Lands were then returned to the State of Hawaii upon Statehood on August 21, 1959 and is owned by the State of Hawaii in absolute fee.

The Public Lands belong to all the Citizens of the State of Hawaii and not to any racial group.

The Apology Resolution PL 103-150 of 1993 and its thirty-seven whereas clauses have no standing in the Federal Courts as decided by the United States Supreme Court on March 31, 2009 in the case of The State of Hawaii v. the Office of Hawaiian Affairs et al.

Submitted by James I. Kuroiwa, Jr.

Email: kuroiwaj@earthlink.net

Testimony on: SENATE CONCURRENT RESOLUTION 125 / SENATE RESOLUTION 110

REQUESTING THE DEPARTMENT OF HAWAIIAN HOME LANDS TO ESTABLISH A WORKING GROUP TO RETURN CROWN LANDS TO NATIVE HAWAIIANS.

WHEREAS, more than one hundred twenty-nine years ago, on January 17, 1893, *the Kingdom of Hawaii was overthrown with the participation of agents and citizens of the United States, effectively shattering the relationship that had existed between the Kingdom of Hawaii and the United States*; and

RESPONSE: The January 17, 1893 overthrow was initiated on February 12, 1874 when the announcement that Kalakaua was elected King over Emma. The legislative assembly elected Kalakaua king following death of Lunalilo on February 3, 1874. A riot by the Kanaka Maoli who opposed the election of Kalakaua and were supporters of Emma, wife of Liholiho, supported the election of Emma as Queen. At the request of Kalakaua, the U.S. Minister ordered troops to be provided for peace from U.S.S. Tuscarora and U.S.S. Portsmouth. Peace was secured with the U.S. troops on the third day. Kalakaua initial request was for troops from H.M.S. Tenedos, where they landed after peace was secured by the Americans. British Capt. Bay who was not available to receive Kalakaua's initial request, was relieved of command and a few months later retired. (The U.S. Senate Foreign Relations Committee Report No. 227 accepted by Congress on February 26, 1894)

The Committee of Safety was led by the following signers of the January 16, 1893 letter:

Henry Ernest Cooper, American citizen who arrived in 1890, named chairman at mass meeting January 14, 1893;

Crister Bolte, German national, Hawaiian subject, member;

Andrew Brown, Scottish national, member;
William Richards Castle, born in Honolulu June 19, 1849, attorney general for Kalākaua 1876, Hawaiian legislator 1878-88, member;
John Emmeluth, American citizen, member;
Theodore F. Lansing, American citizen, member;
John A. McCandless, naturalized Hawaiian subject, American, member;
Frederick W. McChesney, American citizen, member;
William Owen Smith, born on Kaua‘i August 4, 1838 of American missionaries, member;
Lorrin A. Thurston, born on Hawaii July 31, 1858 of Kingdom subject parents, member;
Edward Suhr, German citizen, member;
Henry Waterhouse, naturalized Hawaiian subject of Tasmanian birth, came to Hawai‘i 1851, member;
William C. Wilder, naturalized Hawaiian subject, American, brother of Samuel Gardner Wilder, member;

Others who assisted in the overthrow:

Charles L. Carter, American, naturalized Hawaiian subject, member, son of Henry A. P. Carter, brother of George R. Carter, died during the 1895 counter-revolution;
Samuel Mills Damon, born in Honolulu March 13, 1845 of American parents, vice president of Provisional Government;
Sanford B. Dole, American, naturalized Hawaiian subject, selected to head Provisional Government and Republic;
Peter Cushman Jones, American, naturalized Hawaiian subject, provisional government minister of finance;
James A. King, Scottish national, named minister of interior.

WHEREAS, *the Hawaiian Kingdom was overthrown in violation of international law*, and the Provisional Government was established in 1893, followed by the Republic of Hawaii, which lasted from 1894 to 1898; and

RESPONSE: There was no established International Law in 1893 to violate affecting the overthrow of the Hawaiian Kingdom and no International Law existed for the removal of a Queen, her Cabinet, and Sheriff, establishing a Provisional Government for the Islands of Hawaii, and keeping in place the 1887 Kingdom Constitution until July 4, 1894, when the Republic of Hawaii Constitution was adopted.

WHEREAS, in 1898, when Hawaii was annexed to the United States as a Territory, *the Republic of Hawaii ceded the remaining Crown and Government Lands to the United States*, which then became a public land trust; and

RESPONSE' The Public Lands, (the merged Crown and Hawaiian Government Lands) were ceded to the United States upon acceptance of the Republic of Hawaii's Treaty of Annexation on July 7, 1898, by the United States.

WHEREAS, the Crown Lands were originally part of the unique personal domain of King Kamehameha III *and became a collective resource to support the Hawaiian monarchs and Hawaiian people*; and

RESPONSE; On July 6, 1866, Kamehameha V signed the legislation relieving the Crown Lands from the control of the King and transferring the Crown Lands to the control and management of the Hawaiian Government. The Republic of Hawaii did not exist until July 4, 1894, some twenty-eight (28) years following the relieving of the Crown Lands from the King and its transfer to the Hawaiian Government.

WHEREAS, *the Republic of Hawaii confiscated the Crown Lands and merged them with the Government Lands and enacted the 1895 Land Act*, establishing a homesteading program through which some acreage was transferred into private ownership; and

RESPONSE: *Hawaiian history show that the Ceded Lands were never confiscated by the Republic of Hawaii:*

1810: Kamehameha I gained control of all the lands of the Kingdom upon surrender of the King of Kauai to Kamehameha I.

1839: There are dissatisfaction and disputes engendered by the payment of rents, the rendition of personal service, etc., imposed upon landholders, and encouraged the King to bring about a settled policy with reference to land titles.

1840: Kamehameha III in the first Kingdom Constitution states, "Kamehameha I was the founder of the Kingdom, and to him belonged all the land from one end of the islands to the other, through it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head and had the management of the landed property."

1846 - 1848: In conformance to the Kingdom Constitution, a board of land commissioners was appointed by law, charged with the duty of dividing the rights of the various individuals in lands, and quieting titles thereto, and finally, in March, 1848, the King "signed and sealed two instruments contained in the Mahele book," by which he demised specified lands described therein to the chiefs and people and reserved unto himself the lands now in suit, then and ever afterwards known as the crown lands.

June 7, 1848: "The legislature for the islands confirmed the action of the King, and thereafter all portions of the royal domain except the reserved crown lands were treated as public domain and managed and disposed of by appropriate legislation. The title to the crown lands was vested in the Sovereign; he leased and alienated the same at his pleasure; the income and profits therefrom was his without interference or control.

“Since 1848 the crown lands have descended to the reigning sovereign. At the April term of the Supreme Court of Hawaii in 1864 the nature and extent of the King's title in the crown lands was squarely before the court, and the court in an exceedingly able opinion held that under said act "the lands descended in fee, the inheritance being limited, however, to the successors to the throne, and each successive power may regulate and dispose of the same according to his will and pleasure, as private property, in like manner as was done by Kamehameha III." Booth, J., Delivered opinion of the Court. Liliuokalani v. the United States 45 Ct Cl 418, 1910.

January 3, 1865: “The unlimited latitude allowed the King in the control of the crown lands found them charged with mortgages to secure sums of money which threatened their extinguishment, and the legislature, by the act of January 3, 1865, relieved the lands from the oppression of the mortgages, by the issuance of bonds, provided against their alienation, and put their management and control in the hands of commissioners as provided in the act.

July 6, 1866: The Crown Lands is controlled and managed with the Government Lands. The legislature relieved the crown lands from the liquidation of the bonds previously provided for, and the Government assumed the Crown Lands and paid the mortgage debt.

July 21, 1882: While possessing certain attributes pertaining to fee simple estates, such as unrestricted power of alienation and encumbrance, there were likewise enough conditions surrounding the tenure to clearly characterize it as one pertaining to the support and maintenance of the Crown, as distinct from the person of the Sovereign. They belonged to the office and not to the individual. Significant in this connection is the transaction with Claus Spreckels in July, 1882. Her Highness Ruth Keelikolani, sister and heir of Kamehameha V, though never succeeding to the throne, conveyed to Spreckels all her interest in the crown lands. The sovereign authorities hastened to dispute the transaction, and subsequent legislation by way of compromise restored the attempted conveyance to the general body of the crown lands. (Appendix, p. 8.) Since 1865, so far as the record before us discloses, the character of the crown lands has not been changed; they have passed to the succeeding monarch. The income, less expense of management, has been used to support the royal office and treated as belonging to the Crown. All other property of the King has uniformly passed to his heirs regardless of his royal successor.

January 20, 1891: The claimant Liliuokalani became Queen of the islands, succeeding her brother, King Kalakaua.

January 17, 1893: Queen Liliuokalani yielded her authority over the islands by an instrument in writing, abdicated her throne, and was succeeded in authority by a provisional government to the United States.

February 26, 1894: On February 26, 1894, the United States Senate Committee on Foreign Relations submitted their report No. 227 for Congressional review and approval in conformance to the adopted Senate Resolution as to the involvement of the United States in the Hawaiian Revolution. The Senate Hearing was held from December 23, 1893, through February 26, 1894 on the overthrow of the Hawaii Monarchy and was the United States Ambassador Stevens and the Marines from the U.S.S. Boston complicit in the 1893 overthrow. Included in the report is

the James Blount's testimony and report, together with twenty-five (25) individual sworn testimony and twenty-three (23) notarized witness testimony on the overthrow of the Queen. The Senate Committee found by a 9 to 0 vote that the United States military was not complicit or involved in the Overthrow of the Queen. And, by similar 5 to 4 vote that both Ambassadors Stevens and Blount were found to have minimum interference in the Overthrow.

July 4, 1894: Public Lands (Crown Land merged with Hawaii Government Lands). The provisional government was succeeded by the Republic of Hawaii, and thereafter the Hawaiian Islands were peaceably, upon request, on August 12, 1898 annexed to and became a part of the United States of America.

The Republic of Hawaii's Constitution in "Article 95. - Crown Land. That portion of the public domain heretofore known as Crown Lands hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases thereof now in existence are hereby confirmed."

January 24, 1895: Liliuokalani submits letter to President Dole of the Republic of Hawaii, "I hereby do fully and unequivocally admit and declare that the Government of the Republic of Hawaii is the only lawful Government of the Hawaiian Islands, and that the late Hawaiian monarchy is finally and forever ended." And continued, "I hereby offer and present my duly certified oath of allegiance to the Republic of Hawaii."

June 16, 1897: The Republic Senate hereby ratifies and advises and consents to the ratification by the Republic President of the treaty between the Republic of Hawaii and the United States of America on the subject of the annexation of the Hawaiian Islands to the United States of America, concluded at Washington on the 16th day of June, A. D. 1897, which treaty is word for word as follows:

Approved, July 7th, 1898: Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The public debt of the Republic of Hawaii, lawfully existing at the date of passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said government shall continue to pay the interest on said debt.

April 30, 1900: The Organic Act, an Act to Provide a Government for the Territory of Hawaii replacing the Republic of Hawaii.

May 16, 1910: J. Booth delivered the opinion of the U.S. Court of Claims that: “The act of 1865 to become effective under the Hawaiian constitution required the approval of the King. (Fundamental Laws of Hawaii, p. 172.) On January 3, 1865, Kamehameha V approved the statute which expressly divested the King of whatever legal title or possession he theretofore had in or to the Crown lands. (6 Haw., 195-208.) The Hawaiian Government in 1865 by its own legislation determined what the court is now asked to determine.” Liliuokalani had sixty days to appeal the decision of the U.S. Court of Claims and decided not to appeal.

April 30, 1900 through August 21, 1959: The Lands of the Islands of Hawaii which Kamehameha III in the 1848 Great Mahele subdivided and provided 1,663,360 acres to the Alii, 1,538,608 acres to the Government, and 956,432 acres to the Crown. This followed with amendments of deducting 307,432 acres for Kuleana Lands (28,600 acres) and Lands Auctioned (278,832 acres). 191,600 acres Hawaiian Homes Lands, 328,414 acres United States, 112,137 acres for Military Use and 216,277 acres for National Parks and Reserves). Alii and other Private Land ownership April 30, 1900 totals 1,942,192. 2,216,208 acres as Government Lands ceded to the United States.

August 21, 1959: Statehood approved by Congress.

WHEREAS, the *Crown Lands were not truly "public" but were an entitlement of the Hawaiian people as the beneficiaries of a trust maintained by their monarch*; and

RESPONSE: Public Lands (Crown Lands merged with Hawaii Government Lands) was adopted in the Constitution of the Republic of Hawaii. The provisional government was succeeded by the Republic of Hawaii, and thereafter the Hawaiian Islands were peaceably, upon request, on August 12, 1898 annexed to and became a part of the United States of America.

The Republic of Hawaii’s Constitution in “Article 95. - Crown Land. That portion of the public domain heretofore known as Crown Lands hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues and profits thereof. It shall be subject to alienation and other uses as may be provided by law. All valid leases thereof now in existence are hereby confirmed.”

Also, the April 30, 1900 Organic Act under, “§91. Public property ceded and transferred to the United States. That, except as otherwise provided, the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the Governor of Hawaii. And any such public property so taken for the uses and purposes of the United States may be restored to its previous status by direction of the President; and the title to any such public property in the possession and use of the Territory for the purposes of water, sewer,

electric, and other public works, penal, charitable, scientific, and educational institutions, cemeteries, hospitals, parks, highways, wharves, landings, harbor improvements, public buildings, or other public purposes, or required for any such purposes, may be transferred to the Territory by direction of the President, and the title to any property so transferred to the Territory may thereafter be transferred to any city, county, or other political subdivision thereof, or the University of Hawaii by direction of the governor when thereunto authorized by the legislature; Provided, That when any such public property so taken for the uses and purposes of the United States, if instead of being used for public purpose, is thereafter by the United States leased, rented, or granted upon revocable permits to private parties, the rentals or consideration shall be covered into the treasury of the Territory of Hawaii for the use and benefit of the purposes named in this section.”

WHEREAS, *the lands taken by the Provisional Government in 1893, Republic of Hawaii in 1894, and United States in 1898 were taken without the consent of or compensation to the Hawaiian people*, as acknowledged in *the 1993 federal Apology Resolution and comparable enactments of the Hawaii State Legislature*; and

RESPONSE: Decision by the United States Supreme Court on March 31, 2009, in Hawaii v. the Office of Hawaiian Affairs: “**The Apology Resolution** did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union. Pp. 7 – 12”.

“(a) Neither of the resolution’s substantive provisions justifies the judgment below.

“The first such provision’s six verbs — i.e., Congress “acknowledge[d] the historical significance” of the monarchy’s overthrow, “recognize[d] and commend[ed] efforts of reconciliation” with native Hawaiians, “apologize[d] to [them]” for the overthrow, “expresse[d] [the] commitment to acknowledge [the overthrow’s] ramifications,” and “urge[d] the President . . . to also acknowledge [those] ramifications,” §1 — are all conciliatory or precatory. This is not the kind of language Congress uses to create substantive rights, especially rights enforceable against the co-sovereign States. See, e.g., Pennhurst State School and Hospital v. Halderman, 451 U. S. 1, 17 – 18.

“The resolution’s second substantive provision, the §3 disclaimer, by its terms speaks only to those who may or may not have “claims against the United States.” The State Supreme Court, however, read §3 as a congressional recognition — and preservation — of claims against Hawaii. There is no justification for turning an express disclaimer of claims against one sovereign into an affirmative recognition of claims against another. Pp. 8–10.”

RESPONSE: Subject: U.S. Supreme Court’s Opinion on 37 Whereas’ Clauses

“(b) The ‘State Supreme Court’s conclusion’ that *the 37 ‘whereas’ clauses* prefacing the Apology Resolution clearly recognize native Hawaiians’ ‘unrelinquished’ claims over the ceded lands is ‘**wrong**’ for *at least three reasons.*”

“First, ‘whereas’ clauses cannot bear the weight that the lower court placed on them.”

“Second, even if the clauses had some legal effect, they did not restructure Hawaii’s rights and obligations, as the lower court found. The Apology Resolution reveals no such intention, much less a clear and manifest one.” and

“Third, because the resolution would raise grave constitutional concerns if it purported to ‘cloud’ Hawaii’s title to its sovereign lands more than three decades after the State’s admission to the Union, the Court refuses to read the nonsubstantive ‘whereas’ clauses to create such a ‘cloud’ retroactively.”

“117 Haw. 174, 177 P. 3d 884, reversed and remanded.

“ALITO, J., delivered the opinion for a unanimous Court.”

WHEREAS, in 1978, the State of Hawaii acknowledged the consequences of these actions *by significantly amending the Hawaii State Constitution and enacting unprecedented legislation relating to the Native Hawaiian community*; and

RESPONSE: Election results of November 7, 1978 from State Elections Office: (*Note: the Hawaii Supreme Court decided on March 24, 1997, that “Blank and Over Vote” ballots count as “No” votes.*)

Hawaii Amendment #28 (1978) (Establishing the Office of Hawaiian Affairs)

Result:	Votes:	Percentage:	Percentage/Cast:
Yes	129,089	51.18%	44.10%
No	123,137	48.82%	42.08%
Over/Blank	40,474	0%	13.82%
Registered: 395,262	Votes: 292,690	74.05%	

WHEREAS, in 1993, the 103rd Congress enacted Public Law 103-150, as, in part, an official apology to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii by agents and citizens of the United States and the deprivation of the rights of Native Hawaiians to self-determination; and

RESPONSE: Decision by the United States Supreme Court on March 31, 2009, in Hawaii v. the Office of Hawaiian Affairs: “*The Apology Resolution did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union. Pp. 7 – 12*”.

“The ‘State Supreme Court’s conclusion’ that *the 37 ‘whereas’ clauses* prefacing the Apology Resolution clearly recognize native Hawaiians’ ‘unrelinquished’ claims over the ceded lands is ‘**wrong**’ for *at least three reasons.*”

WHEREAS, *the Apology Resolution confirms that the actions of United States agents in the overthrow and occupation of the monarchy violated treaties between the United States and the sovereign Kingdom of Hawaii as well as the norms of international law;* and

RESPONSE: Decision by the United States Supreme Court on March 31, 2009, in Hawaii v. the Office of Hawaiian Affairs: “***The Apology Resolution*** did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union. Pp. 7 – 12”.

“The ‘State Supreme Court’s conclusion’ that *the 37 ‘whereas’ clauses* prefacing the Apology Resolution clearly recognize native Hawaiians’ ‘unrelinquished’ claims over the ceded lands is ‘**wrong**’ for *at least three reasons.*”

WHEREAS, *the 1993 federal Apology Resolution confirms that one million eight hundred thousand acres of Crown and Government Lands were thereafter ceded to the United States without the consent of or compensation to the Native Hawaiian people or their sovereign government, as a result of the United States' annexation of Hawaii;* and

RESPONSE: Decision by the United States Supreme Court on March 31, 2009, in Hawaii v. the Office of Hawaiian Affairs: “***The Apology Resolution*** did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union. Pp. 7 – 12”.

“The ‘State Supreme Court’s conclusion’ that *the 37 ‘whereas’ clauses* prefacing the Apology Resolution clearly recognize native Hawaiians’ ‘unrelinquished’ claims over the ceded lands is ‘**wrong**’ for *at least three reasons.*”

WHEREAS, *the Apology Resolution recognizes that the health and well-being of the Native Hawaiian people are intrinsically tied to their deep feelings for and attachment to the land;* now, therefore,

RESPONSE: Decision by the United States Supreme Court on March 31, 2009, in Hawaii v. the Office of Hawaiian Affairs: “***The Apology Resolution*** did not strip Hawaii of its sovereign authority to alienate the lands the United States held in absolute fee and granted to the State upon its admission to the Union. Pp. 7 – 12”.

“The ‘State Supreme Court’s conclusion’ that *the 37 ‘whereas’ clauses* prefacing the Apology Resolution clearly recognize native Hawaiians’ ‘unrelinquished’ claims over the ceded lands is ‘**wrong**’ for *at least three reasons.*”

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2022, the House of Representatives concurring, that the Department of Hawaiian Home Lands is requested to establish a working group to return Crown Lands to Native Hawaiians (Crown Lands Working Group); and

BE IT FURTHER RESOLVED that the Crown Lands Working Group is requested to identify and report on:

- (1) Which Crown Land tax map keys should be prioritized for return to Native Hawaiians; and
- (2) Which entity or entities should receive the land from the State and assume responsibility for management of those lands in perpetuity; and

BE IT FURTHER RESOLVED that the Crown Lands Working Group consist of the following individuals, or their respective designees:

- (1) The Chairperson of the Hawaiian Homes Commission;
- (2) The Chairperson of the Board of Trustees of the Office of Hawaiian Affairs;
- (3) The Director of the Ka Huli Ao Center for Excellence in Native Hawaiian Law;
- (4) A Native Hawaiian legal practitioner selected by the Chairperson of the Hawaiian Homes Commission;
- (5) The President and Chief Executive Officer of ALU LIKE, Inc.;
- (6) The President of the Executive Committee of the Association of Hawaiian Civic Clubs;
- (7) The President and Chief Executive Officer of the Council for Native Hawaiian Advancement;
- (8) The President of the Executive Board of the Native Hawaiian Education Association; and
- (9) The Executive Director of Papa Ola Lokahi, Inc.; and

BE IT FURTHER RESOLVED that the Crown Lands Working Group is requested to select a chairperson from among members; and

BE IT FURTHER RESOLVED that the Crown Lands Working Group is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days before the convening of the Regular Session of 2023; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor; Chairperson of the Hawaiian Homes Commission; Chairperson of the Board of

Trustees of the Office of Hawaiian Affairs; Director of Ka Huli Ao Center for Excellence in Native Hawaiian Law; President and Chief Executive Officer of ALU LIKE, Inc.; President of the Executive Committee of the Association of Hawaiian Civic Clubs; President and Chief Executive Officer of the Council for Native Hawaiian Advancement; President of the Executive Board of the Native Hawaiian Education Association; and Executive Director of Papa Ola Lokahi, Inc.

OFFERED BY: _____

LATE

Aloha,

I am in support of SCR125. We must do what is right by the Hawaiian people and help them get their land back. Many Kanaka Maoli have lived and died on the list. By making a working group that is dedicated to this issue, it should help them get what is rightfully theirs.

Mahalo nui loa,
Cybil