



**LATE TESTIMONY**

**House Bill No. 1667  
RELATING TO CEDED LANDS**

**House Committee on Hawaiian Affairs**

February 4, 2009  
Room 329

9:00 a.m.

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Aloha Chair Carroll, Vice Chair Shimabukuro, and Members.  
**OHA strongly supports House Bill No. 1667** Relating to Ceded  
Lands.

This bill would enact public policy for a moratorium on the sale and exchange of ceded lands. The decision by OHA's Trustees to seek such legislation emerged following the state administration's appeal to the U.S. Supreme Court of a unanimous ruling by the Hawai'i Supreme Court that the State possesses a fiduciary duty to preserve the corpus of the public land trust, specifically the ceded lands, until such time as the "unrelinquished claims" of Native Hawaiians to these lands are resolved.

This bill is a means of maintaining the status quo and ensuring that the public land trust is preserved in order to ensure a fair and just settlement leading to reconciliation with the Native Hawaiian people. The bill serves as a legislative vehicle to implement the policy of the State's highest court

We urge your Committee to respond favorably to this bill.

Mahalo for the opportunity to testify.



## KAMEHAMEHA SCHOOLS

**LATE TESTIMONY**

Tuesday, February 03, 2009

WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

BY

Nainoa Thompson, Chair  
Diane J. Plotts, Vice Chair  
Corbett A.K. Kalama Secretary/Treasurer  
J. Douglas Keauhou Ing  
Robert K.U. Kihune  
Dee Jay A. Mailer, Chief Executive Officer

Re: HB 1667 – Relating to Ceded Land  
HB 1805 – Relating to Lands Controlled by the State.  
HB 1841 – Relating to the Public Lands Trust.

TO: Representative Mele Carroll, Chair  
Representative Maile S.L. Shimabukuro, Vice Chair  
Members of the Committee

Mahalo nui for the opportunity to testify regarding an issue of great importance to all of the people of Hawai'i and to our Native Hawaiian people in particular.

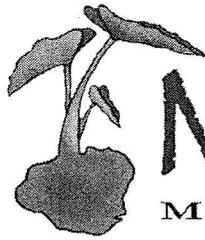
Kamehameha Schools supports this measure, which places a moratorium on the sale or transfer of ceded lands until the issues and claims surrounding these lands between Native Hawaiians and the state are resolved. Ceded lands tie directly to Native Hawaiian well being and identity, as former Crown and Government lands that were taken from the Kingdom of Hawaii after the overthrow of Queen Lili'uokalani in 1893 and later placed in trust to be used for five public purposes, including the benefit of Native Hawaiians, the indigenous people of these islands.

The Native Hawaiian people carry claims to those lands which have not yet been reconciled, and this is an obligation that must be resolved here at home. We stand with many others in our community in support of legislation that will keep intact Hawai'i's ceded lands trust until the claims can be resolved. As an Ali'i Trust founded to improve the capability and well-being of Native Hawaiians, we urge the state of Hawai'i to continue its long-standing support for Hawaiian rights and its commitment to the Hawaiian community by working with OHA, the Native Hawaiian people and the state Legislature to resolve the dispute over ceded lands without involvement by the U.S. Supreme Court.

567 South King Street • Honolulu, Hawai'i 96813-3036 • Phone 808-523-6200

*Founded and Endowed by the Legacy of Princess Bernice Pauahi Bishop*

# LATE TESTIMONY



# Mālama Kaua'i

M A L A M A K A U A I . O R G

RE: HB 1660 RELATING TO HAWAIIANS  
HB 1667 RELATING TO CEDED LANDS  
HB 1805 RELATING TO LANDS CONTROLLED BY THE STATE  
HB 1841 RELATING TO THE PUBLIC LANDS TRUST

To: Committee On Hawaiian Affairs: Rep. Mele Carroll, Chair, and Rep. Maile S.L. Shimabukuro, Vice Chair, Committee Members

From: Mālama Kaua'i

DATE: February 4, 2009

TIME: 9:00 a.m.

PLACE: Conference Room 329  
State Capitol, 415 South Beretania Street

## Testimony to support HB1660, HB1667, HB1805, HB1841

Dear Honorable Representatives,

The 1.8 million acres comprised of the Crown, Government and Public Lands, should continue to be held in trust and that the State of Hawai'i can not sell Hawaii's ceded lands until the unrelinquished rights of Native Hawaiians are resolved. Details of the rights of the Kanaka Maoli can be found in part or in whole in the 1898 Newlands Resolution, 1900 Organic Act, 1921 Hawaiian Homelands Act, 1959 Admissions Act and 1993 Apology Resolution.

Malama Kaua'i would like to state our support for House Bills 1660, 1667, 1805 and 1841. Each of these bills addresses an aspect of the Ceded Lands issue and we support the intent of each in order; HB1660, which recognizes Hawaiians as the indigenous people of Hawaii, HB 1667, which prohibits the board of land and natural resources from selling, exchanging, or otherwise alienating ceded lands in the public land trust, HB 1805, which prohibits the disposition in fee simple of ceded lands, HB 1841 prohibits the sale, exchange or other permanent transfer of lands in the public lands trust to a private entity; requires the Department of Land and Natural Resources to make an inventory of lands in the public lands trust; appropriates funds for the inventory, to be matched by the Office of Hawaiian Affairs.

We thank you for your support of these bills.

Mahalo nui loa,

Andrea Brower  
Project Manager

Keone Kealoha  
Executive Director

February 4, 2009

To: Representative Mele Carroll, Chair  
Representative Maile Shimabukuro, Vice Chair  
House Hawaiian Affairs Committee

From: Malia Koai Barrett

Re: **Testimony in support of HB 1667 Relating to Ceded Lands**

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I write you to ask for your support of HB 1667 Relating to Ceded Lands. This bill prohibits the Board of Land & Natural Resources from selling, exchanging, or otherwise alienating ceded lands in the public land trust.

I thank you in advance for your consideration. I urge you to please vote in support of HB 1667.

Sincerely,



241 Kuyaku St.  
Honolulu HI 96813  
524-3078

**LATE TESTIMONY**

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:42 PM  
**To:** HAWtestimony  
**Cc:** haakeamakaiwiroy@hotmail.com  
**Subject:** Testimony for HB1667 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1667

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Charles Haakea Roy  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [haakeamakaiwiroy@hotmail.com](mailto:haakeamakaiwiroy@hotmail.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

**Comments:**  
PLEASE SUPPORT HB 1667

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:42 PM  
**To:** HAWtestimony  
**Cc:** haakeamakaiwiroy@hotmail.com  
**Subject:** Testimony for HB1667 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1667

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Taresa Mapuana Roy  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [haakeamakaiwiroy@hotmail.com](mailto:haakeamakaiwiroy@hotmail.com)  
Submitted on: 2/3/2009

**Comments:**  
PLEASE SUPPORT HB 1667

**LATE TESTIMONY**

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 4:44 PM  
**To:** HAWtestimony  
**Cc:** keoneakapu@hotmail.com  
**Subject:** Testimony for HB1667 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1667

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: JR Keoneakapu Williams  
Organization: Individual  
Address: 94-572 Kupuohi St. #17a Waipahu, HI 96797  
Phone: 8087448242  
E-mail: [keoneakapu@hotmail.com](mailto:keoneakapu@hotmail.com)  
Submitted on: 2/3/2009

Comments:  
PLEASE SUPPORT HB 1667

**LATE TESTIMONY**

From: Alan Murakami [almurak67@gmail.com]  
Sent: Tuesday, February 03, 2009 4:48 PM  
To: HAWtestimony  
Cc: Mahealani Wendt  
Subject: HB 1677, 1805, 1841

**LATE TESTIMONY**

HOUSE OF REPRESENTATIVES  
REGULAR SESSION OF 2009

COMMITTEE ON HAWAIIAN AFFAIRS  
Room 329

February 4, 2009  
9:00 AM

RE: Testimony of Alan T. Murakami Related to HB 1677, 1805 1841

I testify in support of some form of interim moratorium on the dispositions of ceded lands pending the outcome of any resolution of Hawaiian land claims related to the illegal overthrow of the Hawaiian Kingdom in 1893.

If not an unqualified ban on the sale or exchange of ceded lands, the Legislature should impose strict limits on any disposition of this public trust resource to preserve the corpus of what was the most valuable asset base of the Kingdom. Besides imposing specific criteria for whatever limited form of sale or exchange is allowed, the law should require a reasonable period of consultation with the Office of Hawaiian Affairs and an opportunity for Hawaiian beneficiary input before any disposition. Finally, the Legislature should subject any such disposition to a 2/3 majority approval of both chambers of the Legislature.

The State government has yet to demonstrate why any such restriction would hobble the sovereign functioning of state government. As for providing affordable housing, I note that the state has for 50 years provided such housing to beneficiaries of the Hawaiian home lands trust program. I would be astonished if the State can justify the need for fee simple sales of affordable housing to members of the general public, when it never pleaded that case for Hawai'i's first citizens.

As a first step toward reconciling the land claims acknowledged by the Hawai'i Supreme Court in *OHA v HHFDC*, this branch of government should preserve the integrity of the ceded lands trust corpus. It is the prudent and pono thing to do, especially in light of the cultural value attached to land by Hawaiian culture. No prudent trustee, operating under like circumstances would do otherwise. Indeed, the Legislature has repeatedly been on record supporting the sovereignty of its indigenous people on several occasions during that 1993 Legislative Session. Act 340; Act 354; Act 359; 1993 Haw. H.R. Con. Res. No. 179 (1993 Haw. Sess. Laws). A measure to preserve the corpus of the land claims would be a natural extension of this record of support.

Thank you for this opportunity to testify.

Alan T. Murakami, Litigation Director  
Native Hawaiian Legal Corporation  
1164 Bishop Street, Suite 1205  
Ph: (808)-521-2302  
Email: [almurak@nhlchi.org](mailto:almurak@nhlchi.org)

**Rep. Maile Shimabukuro**

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**From:** ixaya chaska [ixohana@gmail.com]  
**Sent:** Tuesday, February 03, 2009 4:48 PM  
**To:** HAWtestimony  
**Subject:** HB 1667

I am in favor of HB 1667.

please vote yes on this bill.

the land is meant to be tended by  
THE PEOPLE  
who LIVE on the land.

NOT by people who live thousands of miles away,  
across the great ocean.

We feel the land should be secured for the people  
who LIVE in HAWAII, and especially to those who  
have a bloodline connecting them to this very land.

Yes on HB 1667

be pono please.

mahalo nui loa.

signed:

teresa grace johnston  
kauai resident who cares

# LATE TESTIMONY



**Rep. Maile Shimabukuro**

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**LATE TESTIMONY**

**From:** Lulani@aol.com  
**Sent:** Wednesday, February 04, 2009 5:53 AM  
**To:** HAWtestimony; WTLTestimony  
**Subject:** Moratorium on the Sale of Ceded Lands

Aloha mai kakou,

I am writing on behalf of the members of the 'Ewa - Pu'uloa Hawaiian Civic Club to request your support in placing a moratorium on the sale of the ceded lands until the unrelinquished claims of Native Hawaiians have been resolved.

A ruling on the State of Hawaii's pending appeal before the U.S. Supreme Court could extend well beyond the issue of the State's right to sell or transfer ceded lands. The conservative bent of this court and the prevailing legal view of Native Hawaiians as a racial category as opposed to a political entity could result in a ruling detrimental to existing Native Hawaiian programs.

Governor Lingle's concern that the current Hawaii Supreme Court ruling clouds the State's title to these lands pales in comparison to the potential harm that could be done to the many programs currently supporting Native Hawaiians. We need to do what's right, and your support is much needed and requested.

Sincerely,

Lawrence A. Woode, Jr.  
President, 'Ewa - Pu'uloa Hawaiian Civic Club

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Who's never won? [Biggest Grammy Award surprises of all time on AOL Music.](#)

**LATE TESTIMONY**

Ka Lei Maile Alii Hawaiian Civic Club  
45-659 Lohiehu St. • Kaneohe, Hawaii 96744  
Email: [Palolo@hawaii.rr.com](mailto:Palolo@hawaii.rr.com)

February 4, 2009

**COMMITTEE ON HAWAIIAN AFFAIRS**

Rep. Mele Carroll, Chair

Rep. Maile Shimabukuro, Vice Chair

RE: STRONG SUPPORT FOR **HB 1667 RELATING TO CEDED LANDS**

Aloha Rep. Carroll, Rep. Shimabukuro, and members of the Committee on Hawaiian Affairs,

Members of Ka Lei Maile Alii Hawaiian Civic Club voted at its regular quarterly meeting to strongly support HB 1667, prohibiting selling, exchanging, or otherwise alienating ceded lands in the public land trust. We assert that those lands belong to the Hawaiian nation, even though they are controlled by the state of Hawaii. We support a total moratorium until such time as the Hawaiian people have opportunity to determine their own future and the future of those lands.

Lynette Cruz, President  
Ka Lei Maile Alii Hawaiian Civic Club

**Rep. Maile Shimabukuro**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 03, 2009 6:14 PM  
**To:** HAWtestimony  
**Cc:** ailaw001@hawaii.rr.com  
**Subject:** Testimony for HB1667 on 2/4/2009 9:00:00 AM

Testimony for HAW 2/4/2009 9:00:00 AM HB1667

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: William J. Aila Jr. & Melva Aila  
Organization: Individual  
Address:  
Phone:  
E-mail: [ailaw001@hawaii.rr.com](mailto:ailaw001@hawaii.rr.com)  
Submitted on: 2/3/2009

**LATE TESTIMONY**

**Comments:**

We support passage of HB 1667 because the State Supreme Court made e correct decision and the State Legislature should confirm to it by agreeing through Legislation.

**Rep. Maile Shimabukuro**

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**From:** Chris Kobayashi [waioli2@hawaiiantel.net]  
**Sent:** Tuesday, February 03, 2009 7:51 PM  
**To:** HAWtestimony  
**Subject:** Re: MORATORIUM ON CEDED LANDS Legislation hearing set for Wednesday, February 4th, 2009 at 9:00am in room 329 for House Hawaiian Affairs Committee

**LATE TESTIMONY**

To: House Hawaiian Affairs Committee  
Date/Time: 2/04/09 9:00 am  
Room: Room 329  
Re: HB 1667

Aloha Rep. Mele Carroll, Chair  
Rep. Maile Shimabukuro, Vice Chair  
and members of the committee

I send testimony in support of HB 1667  
which Prohibits the board of land and natural resources from selling, exchanging, or otherwise alienating ceded lands in  
the public land trust.  
Right the wrongs and address the concerns and claims of Hawaiians first.

Mahalo

Chris Kobayashi

# KO'OLAU FOUNDATION

February 4, 2009

LATE TESTIMONY

To: Rep. Mele Carroll, Chair  
And Members  
House Committee on Hawaiian Affairs

From: Leialoha "Rocky" Kaluhiwa

Subject: **Support for H.B. 1667, Relating to Ceded Lands**

Aloha kakahiaka kakou!

My name is Leialoha "Rocky" Kaluhiwa, and I am a life-long resident and kupa'aina of the ahupua'a of He'eia, moku Ko'olaupoko, O'ahu. I wish to offer this testimony on behalf of myself, my family, and the Ko'olau Foundation.

We strongly support passage of this bill, and urge all members of the Legislature to pass it into law. We call upon Governor Lingle to sign it into law.

I feel that Governor Lingle should reconsider going against her own Supreme Court justices by taking this issue before the United States Supreme Court.

All of her constituents who voted for her trusted that when she took the oath to uphold the constitution and laws of Hawai'i, she would continue to protect the ceded lands for future generations.

The Hawaiians always planned and prepared for seven generations; I think that was and is the best policy to keep.

To sell the ceded lands now at these low economic prices is the worst thing to happen to the 'aina, especially since there was never an accurate inventory of these lands to begin with. And, until an appropriate inventory of these lands is made, it is premature to think of selling it.

To me, this is a justice issue that really needs to be addressed.

Mahalo for this opportunity to testify.

P. O. Box 4749  
Kane'ohe, HI 96744  
Ph. 286-7955  
Email: rockyfromheeia@aol.com

# **Kako`o O`iwi**

**P. O. Box 4870**

**Kane`ohe, HI 96744**

**Ph. 754-4862**

**Email: [unclejerry77@aol.com](mailto:unclejerry77@aol.com)**

**LATE TESTIMONY**

## Testimony on H.B. 1667

To Chair Mele Carroll and the members of the House Hawaiian Affairs Committee,  
Aloha from Kako`o O`iwi and the kupa`aina of Ko`olaupoko.

Kako`o O`iwi supports the passage of House Bill 1667 to protect Hawaiian ceded lands from being sold or transferred by the State DLNR.

It's not right that they give away land that is supposed to be held "in trust". We have been waiting for over 100 years to have this matter resolved, and it would be a grave injustice for the U.S. Supreme Court to rule in favor of the state administration.

This is an important bill, and should be signed into law by Governor Lingle.

Mahalo for this bill, and for allowing me to offer my testimony.



# KO`OLAUPOKO HAWAIIAN CIVIC CLUB

LATE TESTIMONY

February 4, 2009

TO: REP. MELE CARROLL, Chair  
& Members  
Committee on Hawaiian Affairs

FROM: MAHEALANI CYPHER, President  
Ko`olaupoko Hawaiian Civic Club

SUBJECT: TESTIMONY IN SUPPORT OF H.B. 1667,  
RELATING TO CEDED LANDS

Aloha mai kakou. The Ko`olaupoko Hawaiian Civic Club works with the people of nine ahupua`a surrounding Kane`ohe bay. Our membership is open to native Hawaiians and others who are "Hawaiian at heart". We strongly support House Bill 1667, and urge the Hawai`i State Legislature to pass this measure into law.

We find it almost unbelievable that anyone with any self-respect could stand up and tell us this bill should not become law. Anyone who loves these islands, who cares about our people and the future of Hawai`i should join us in urging passage of this bill. Anyone who loves justice and honors the tenets of the State and U.S. constitutions should be in support of this bill.

A grave injustice was done, 116 years ago. A peaceful island kingdom was overrun by commercial interests, with the help of the U.S. military. Its queen urged her people not to take up arms, believing that the treaty which existed then between Hawai`i and the United States would be honored with justice and integrity. Because of this, she ceded the islands into the care and trust of the U.S. government, fully expecting those lands to be returned and the sovereignty of the Hawaiian kingdom to be restored by an honorable American government.

Instead, unscrupulous commercial interests took the politically expedient route and persuaded the U.S. Congress to annex the Hawaiian Islands, allowing their falsely instituted "republic" to maintain control of the lands and resources of the Hawaiian kingdom.

We all know that the Blount report exposed all of these pono`ole actions, and that Queen Lili`uokalani was fully entitled to expect that the United States would “do the right thing” and reinstate both her throne and the lands of the Hawaiian kingdom.

Regrettably, we also know that “the right thing”, the pono thing, was not done. And these ceded lands have been held in trust for over a hundred years, awaiting the fulfillment of justice.

America has always prided itself on its foundation of justice and constitutional righteousness. This bill provides an ideal vehicle for continuing that promise of justice, by preventing the sale or transfer of these trust lands before the wrongs committed in 1893 can be rectified.

The Ko`olaupoko Hawaiian Civic Club salutes you for supporting this measure, and urges you and all of the people of Hawai`i – all of you who love Hawai`i nei – to put your minds and your hearts and your voices into advocating for justice for the Hawaiian people.

E mahalo nui loa for this opportunity to share our mana`o.

P. O. Box 664  
Kaneohe, HI 96744  
Ph. (808) 235-8111  
koolaupokohcc.org



Association of Hawaiian Civic Clubs  
P. O. Box 1135  
Honolulu, Hawai'i 96807

**LATE TESTIMONY**

TESTIMONY OF LEIMOMI KHAN, PRESIDENT  
IN SUPPORT OF

**HB 1667 - RELATING TO CEDED LANDS**

**HOUSE COMMITTEE ON HAWAIIAN AFFAIRS**

**Hearing date and time: February 04, 2009 9:00 a.m.**

Aloha Chairperson Carroll, Vice-Chair Shimabukuro and Members of the House Committee on Hawaiian Affairs.

Thank you for this opportunity to testify in strong support of House Bill 1667, which prohibits the board of land and natural resources from selling, exchanging, or otherwise alienating ceded lands in the public land trust.

Since 1992, the Association of Hawaiian Civic Clubs (AHCC) has adopted 13 resolutions opposing actions which would erode the Public Land Trust, the most recent adopted on October 14, 2008, at its annual convention, titled, "Urging the AHCC to Support Legislation for a Moratorium on the Sale of Ceded Lands."

Other expressions of support for a moratorium on the sale, exchange, transfer, or other alienation of the public lands trust by the community include:

- (1) The 1988 five-point action plan drawn up by attendees at a three-day Native Hawaiian Rights Conference which called for the state and federal governments to protect and preserve the ceded lands as the future land base for the sovereign Hawaiian government;
- (2) The 1989 Office of Hawaiian Affairs' Blueprint for Native Hawaiian entitlements, which states, "The United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Because of the illegal action of its agents . . . and because of the enormous benefits it has obtained from the uncompensated use of illegally obtained lands, the United States is obligated to restore to Native Hawaiians a substantial portion of the lands it received in 1898. Further, the United States must recognize the claims of Native Hawaiians to ceded lands that have been transferred to the State of Hawai'i. Legislation must be adopted by the Congress and the state transferring control of a substantial portion of

the ceded lands now controlled by the state to a Native Hawaiian entity developed pursuant to a process for Self-Determination and Self-Governance.

(3) Native Hawaiians who attended 50 community gatherings throughout the state convened by the Hawaiian Sovereignty Elections Council also called for a moratorium on ceded lands sales, exchanges, or any other disposition which would amount to permanent alienation from the public lands trust. HSEC member attorney William Meheula filed a lawsuit challenging the state's attempt to sell ceded lands.

(4) Amicus Curiae briefs filed by those listed on the attachment this past week with the U.S. Supreme Court in support of the Office of Hawaiian Affairs and four others, upholding the Hawai'i State Supreme Court's decision to prohibit the State of Hawai'i from selling or otherwise transferring the ceded lands from the public lands trust. Note that these briefs included both Hawaiian and non-Hawaiian organizations.

(5) Over 1200 signatures gathered on an AHCC petition calling on the Governor to withdraw the state's appeal of the Hawai'i Supreme Court's decision.

There are numerous other examples wherein the Native Hawaiian people and others have reaffirmed their support for a moratorium on the sale, exchange, transfer, or other permanent alienation of ceded lands, which they seek as a land base for a restored Native Hawaiian government.

The Association is in strong support of House Bill 1667, and urges passage out of this Committee.

The Association is a growing national confederation of fifty-five Hawaiian Civic Clubs, located throughout the State of Hawai'i and in the States of Alaska, California, Colorado, Illinois, Nevada, Utah, Virginia, Washington State, and Tennessee. It initiates and works to support actions that enhance the civic, economic, educational, health and social welfare of our communities, and in particular, the culture and welfare of the Native Hawaiian community.

Thank you for this opportunity to testify in support of House Bill 1667.

**AMICUS CURIAE BRIEFS  
in Support of Respondents (OHA and others)**

**LATE TESTIMONY**

Princess Abigail Kawananakoa

William Richardson, (Retired) Chief Justice of the Hawaii State Court; former Governor John Waihee,  
and Coleen Hanabusa, Senate President

Equal Justice Society and Japanese American Citizens League

Hawaii's Congressional Delegation

National Congress of American Indians

Yale Law School for SCHHA, Na 'A'ahuhiwa, Native Hawaiian Bar Association, Hui Kako'o 'Aina Ho'o  
Pulapula; 'Ahahui o Hawai'i

Asian American Justice Center, the National Coalition for Asian Pacific American Community  
Development, Inc., Organization of Chinese Americans, Inc., Asian Law Caucus, Asian American  
Institute, Asian and Pacific Islander American Health Forum, and the Asian Pacific American Legal  
Center

Native Hawaiians Samuel L. Kealoha, Jr, Virgil Emmitt Day Jr, Patrick Kahawaiolaa, Josiah L.  
Hooihuli, and Mel Hoomanawanui

Native Hawaiian Legal Corporation, Association of Hawaiian Civic Clubs, Hawaii Maoli, Native  
Hawaiian Chamber of Commerce, Council for Native Hawaiian Advancement, 'Ilioulaokalani Coalition,  
I Mua Group

House of Representative  
Committee on Hawaiian Affairs  
Rep. Mele Carroll, Chair  
Rep. Maile Shimabukuro, Vice Chair

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LAKE HAWAII

Date: February 3, 2008  
Time: 9:00 a.m.  
Place: Conference Rm, 329  
State Capitol  
415 S. Beretania Street

Aloha Madame Chair and distinguished committee members.

I am Keoni Kealoha Agard of the Royal Order of Kamehameha I, which has participating chapters on the islands of Kauai, Maui, Oahu and Hawaii. We speak in support of HB 1667.

The former Crown and Government lands of the Kingdom of Hawaii were unlawfully transferred without proper authority from the Republic of Hawaii government (traitors to the then legitimate government of the Hawaiian Kingdom) and "ceded" to the United States government in 1898 by way of a joint resolution. That joint resolution was utilized, after proponents had tried not once but two times in a failed attempt to annex the Kingdom of Hawaii and acquire its lands by way of a treaty of annexation. There is no authority under U.S. Constitution that allows annexation without securing a treaty between the parties. It is an uncontroverted historical fact and also part of the Congressional record that the U.S. never passed a treaty of annexation. The lands that were stolen ("ceded lands") by the U.S. in 1898 were later transferred to the State of Hawaii in 1959.

Further, the Apology resolution passed by U.S. Congress in 1993, Public Law 103-150 says in relevant part that "Native Hawaiians never relinquished control of their sovereignty or claims over their national lands".

Let us take an example: If you get your car stolen, and the thief decides to return the same car (61) years later to you, Daniel, and Sam, we must ask: What is wrong with that picture? Logic and common sense dictates that the car should be returned to the original owner, you. It should NOT be returned to Daniel and Sam, but to you. However, the State of Hawaii, through its Attorney General, is arguing that when the Statehood Act was passed in 1959 making Hawaii the 50<sup>th</sup> State in the Union, the "ceded" lands were given by the U.S. to the State of Hawaii, and that it was the intent to give such lands to ALL of the people of Hawaii. In response, this argument has absolutely no merit. First, the U.S. did not have authority to transfer the "ceded lands" because it had not properly

acquired these lands by use of a treaty, nor had it paid just compensation for the unlawful taking. It was a unilateral act without the consent of the Hawaiian Kingdom and/or Native Hawaiians.

Second, the U.S. Congress has already acknowledged the historical wrong by passing the Apology Resolution, and has also confirmed that Native Hawaiians never relinquished control of their sovereignty or claims over their national lands. Accordingly, the way to reconcile this particular situation is to allow negotiations to occur to permit both sides to reach a reasoned settlement on the ceded lands issue.

HB 1667 prohibits the State of Hawaii, through its, Dept of Land and Natural Resources branch, "DLNR" from selling, exchanging or otherwise alienating "ceded" lands. This legislation is consistent with the position that we take above. It is a common sense approach to allow a fair resolution to be reached on the claims of Native Hawaiians to the "ceded" lands between the appropriate parties.

On the other hand, if this legislation is not passed, the State can sell, exchange or alienate ceded lands leaving little or no chance of that portion of ceded lands inventory to ever be returned. We are in the process of negotiations and to take portions of the ceded lands inventory off the table and to transfer to third parties, even before we reach any resolution is not only premature, but simply unjust.

Such an action dismisses and makes meaningless the American principles of justice and fair play. Such an action ignores the facts discussed above.

Again, we, as members of the Royal Order of Kamehameha I, strongly support HB 1667.

We thank you for this opportunity to testify.

Sincerely,



Keoni K. Agard  
Mamo Ali'i Nui

ro-401