

COMMENTARY

What's good, bad in 'autonomy **bill**'

Bill can't settle ceded-land claims

By William **Mehaula**

In 1993, the United States apologized for its role in the 1893 overthrow of the Hawaiian Kingdom. The Apology **Bill** stated that at the time of the 1898 annexation, the overthrowers ceded to the Territory of Hawaii 1.8 million acres of Hawaiian lands "without the consent of or compensation to the Native Hawaiian people."

The **bill** also admitted that Hawaiians "never directly relinquished their claims to . . . their national lands."

Today, the state of Hawaii controls 1.4 million acres of ceded lands. This includes 200,000 acres of Hawaiian Home lands. The federal government uses the remaining 400,000 acres for national security purposes and national parks.

One of the main objectives of Hawaiian sovereignty is to regain ownership of the ceded lands. Unfortunately, Hawaiians are barred by the Constitution from suing the state and federal governments for return of ceded lands unless those governments expressly grant Hawaiians the right to sue them. This right to sue has, to date, not been granted by either government.

At this point, Hawaiians can only attempt to stop sales of ceded lands. In May of this year, a circuit court judge will decide a case filed by the Office of Hawaiian Affairs and several Hawaiians to stop the state of Hawaii from selling ceded lands until the claim by Hawaiians to those lands is resolved.

Another obstacle to resolution of the ceded lands issue is that no one person or entity can purport to represent all Hawaiians. OHA is a state agency, created by a state constitutional convention. In resolving the ceded lands claim, Hawaiians should be represented by an entity of their own creation.

The Hawaiian convention proposed by the Hawaiian Sovereignty Elections Council and Ha Hawai'i would result in an entity that would have the authority to represent Hawaiians in resolving the ceded land claims.

Rep. Ed Case's proposed autonomy act seeks to eliminate the Hawaiians' claim to the ceded lands. The state now possesses 1.2 million acres of ceded lands, but the state does not have clear title to those lands because they were illegally obtained

The autonomy act deceptively aims to clear title to those ceded lands without negotiation with Hawaiians and without compensation to Hawaiians. The act ignores the admissions made by the United States in the Apology **Bill**.

The act is unjust and violates the due process clauses of the United States and Hawaii State Constitution.

Rep. Case and Attorney Gen. Margery Bronster did this on a lesser scale in 1995, when they modified the legislation relating to the \$600 million Hawaiian Home Lands settlement. The negotiated amount of \$600 million was based on a defined set of claims and the process left other claims unresolved.

Case and Bronster, however, expanded the language of the release in the legislation such that the act now purports to release claims against the state that were not negotiated.

Case's autonomy act confirms that he is a vigorous enemy of the Hawaiians. All voters should demand that the speaker of the House, Joe Souki, replace Case as the chair of the Committee on Hawaiian Affairs.

William **Mehaula** is an attorney in the suit that seeks to prevent the state from selling ceded lands.

Photo caption: **Mehaula**

Pull-out: The autonomy act deceptively aims to clear title to ceded lands without negotiatiion with Hawaiians.

Drop-in: What's this about?

In the legislative session opening Jan. 21, state Rep. Ed Case will propose a **bill** he says would greatly increase Hawaiian self-determination and self-reliance within Hawaii's current government context.

Hawaiian groups who have reviewed the proposed Native Hawaiian Autonomy Act see something quite different: an attempt to avoid honoring in full their land and other claims. They say the **bill** also would absolve the state of liability for not fulfilling its legal obligations toward Hawaii's aboriginal people.

On this page, Case outlines his proposal and five opponents respond. The issues will be further explored on this morning's "Price of Paradise Radio Show". (See box below for times and stations.)

Drop-in: Tune in today

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