

# ED CASE: PROUD OF HIS ROLE IN DISMANTLING THE LEASEHOLD SYSTEM IN OPPOSITION TO KAMEHAMEHA SCHOOLS/BISHOP ESTATE

In 1967, the Hawaii State Legislature passed the "Land Reform Act" enabling the state to force Native Hawaiian trusts and other private landowners to sell the leased fee interest in single-family properties to largely non-Hawaiian private lessees. Kamehameha Schools/Bishop Estate challenged this legislation in court. Ultimately, the United States Supreme Court ruled against Kamehameha Schools/Bishop Estate in Hawaii Housing Authority v. Midkiff, 467 U.S. 229, 104 S.Ct. 2321, 81 L.Ed.2d 186 (1984).

Ed Case's law firm, then known as Carlsmith Carlsmith Wichman & Case, represented lessees **against** Kamehameha Schools/Bishop Estate in this lawsuit. Ed Case personally worked on this case, and he has cited his role as one of the highlights of his legal career:

## Ed Case Biography

EdCase.com – 2004

[http://web.archive.org/web/20040427143516/edcase.com/congress/more\\_about\\_ed.php](http://web.archive.org/web/20040427143516/edcase.com/congress/more_about_ed.php)

**Private lawyer.** In 1983 I joined Carlsmith Ball, where I've practiced ever since, focusing on land and commercial law. There have been many cases throughout my career where I felt I helped real people and businesses out of real problems, **but certainly one of the highlights was our representation of residential lessees in the U.S. Supreme Court's determination of the constitutionality of the Hawai'i Land Reform Act.**

## Hawai'i Roots

**In Hawai'i since 1896.** The best place for me to start is 1896, when my great-grandparents, Daniel and Kathryn Case, moved to Honolulu from Kansas. Both of Daniel's parents were lawyers; his mother was the first female lawyer in Kansas, just one of a long tradition of strong

and independent women in my family. Daniel was also a lawyer; we still don't know exactly why they moved here, but maybe there were just too many Case lawyers in Kansas!

**On Maui.** Daniel and Kathryn lived in Honolulu for a few years. In 1903, they moved to Maui, where they spent the rest of their lives. Daniel practiced law for several years until he was appointed circuit judge on Maui by President Harding, eventually serving in that position for over 20 years. (After reappointment by President Roosevelt, he liked to joke that he was acceptable to both Republicans and Democrats.) On his passing in 1946, the Advertiser editorialized that "the Territory lost a citizen whose contributions to the welfare and development of the Islands were spread out over a multitude of activities."

Daniel and Kathryn had three children: Althea (later Marrack); Cleo, later a much-beloved teacher at Roosevelt High School; and Hib, my grandfather. Hib graduated from the University of Hawai'i, served with the Army in the First World War, married my grandmother, Betty, who had moved here from California to teach in North Shore public schools, and went into the sugar business, working his entire career for Grove Farm on Kaua'i.

**On Kaua'i.** Three sons were born to my grandparents in Lihue and raised there. Bill followed his dad into the sugar business, working for C. Brewer his entire career on Kaua'i, O'ahu and the Big Island. Dan followed his grandfather and great-grandparents into law and continues to practice in Honolulu. Mary Ellen ("Casey") Beck, Hib's adopted child of his second wife, Marie, also a much-beloved teacher at Kaua'i High, is a travel agent in Honolulu.

My father, Jim, served in the Navy during the Second World War and then went on to Harvard Law School. There he met my mother, Suzanne, who was attending Wellesley College and whose own roots lay in the Midwest. They returned to Hawai'i in 1949 upon his graduation and over the objections of my Missouri grandparents ("you're taking her where ..?"), which were reportedly overcome only upon a promise to them that she would graduate from college (and she did, earning her degree from UH in 1958 after having most of her children.)

**On the Big Island.** Following Daniel and Kathryn's lead, my parents started off in Honolulu for a few years before moving to Hilo in 1951, where my dad joined a small law firm, the oldest in the state, with big dreams. (After fifty years, he still practices in Honolulu with that same firm, now Carlsmith Ball, one of Hawai'i's largest with nine offices on O'ahu, Maui and the Big Island and beyond Hawai'i, and where I have worked now as well for almost twenty years.) They also wanted the same Neighbor Island upbringing for their children as he had had, and that's what they and we got. Their six children were born and raised in Hilo: besides me, the oldest, they are John (a computer administrator in Boston), Suzanne (current director of The Nature Conservancy in Hawai'i), Russell (a telecommunications executive in Atlanta), Elisabeth (a marketer who just returned home with her husband, Brian, who works at Diamond Bakery), and Brad (an economist with the Federal Reserve Bank in D.C.)

**A commitment to Hawai'i.** In their lives on the Big Island and Honolulu, my parents, besides raising six kids and leading full professional lives, followed their predecessors in emphasizing community service. My dad, for example, founded and served for a quarter century with the Association for Retarded Citizens/Hawai'i chapter, dedicated to the welfare of children with severe disabilities. My mother, the first politician in the family, was elected twice to the Hawaii School Advisory Council in the '60s before earning a masters degree from UH in library services and working as a children's librarian and school administrator; she has also volunteered her talents in countless capacities from President of the Waiakea-Kai Elementary PTA, to board chair of the Hawai'i Theatre for Youth and trustee of Mid-Pacific Institute. No doubt their example led me to this basic life formula: seek knowledge and do good.

In our second century in Hawai'i, the descendants of Daniel and Kathryn Case are well into five

generations and approaching a hundred in number. While many of us have made their home here and some have gone on to full lives elsewhere, we all, I believe, carry with us that unbreakable bond to Hawai'i and a sense of obligation to make it better.

[\[back to top\]](#)

## Formative Years

**Big Island upbringing.** I was born in the old Hilo Hospital, up by Rainbow Falls, on September 27, 1952. Most of my Hilo childhood was spent in Keaukaha, a diverse neighborhood along the ocean east of town. With virtually no TV reception (and, in our house, no TV at all!), no computers, video games, etc., we were left to our own entertainment, almost all of which was outdoors, whether surfing, or biking, or going downtown. To keep out of too much trouble, I also swam competitively, which I continued for eleven years through high school.

As a family, we took full advantage of all that the Big Island offered and still offers. And, to make sure we knew we were part of Hawai'i, my parents showed us much of the rest of our home. Some early memories endure, like the huge bonfire all of Hilo turned out for the day statehood was declared. Others are harder, like the night in 1960 when we evacuated our home to the sound of the warning sirens, as we had many times before, only to return that next morning through a tsunami-devastated Hilo.

I attended public school from kindergarten through sixth grade, first at the old pre-tsunami Waiakea-Kai (behind the stopped clock) and then at Keaukaha. While I didn't give it much thought then, what I remember most today is the ethnic and social diversity of my classes, where I was routinely one of if not the only haole, especially at Keaukaha, which was well over 90% Native Hawaiian. Looking back now, those seven years provided invaluable life lessons in living and working successfully in Hawai'i's multiethnic society.

In seventh grade I went to Hawaii Preparatory Academy, where I boarded for six years through graduation in 1970. If '50s small-town Hilo lent one to an outdoor-oriented and self-reliant life, Kamuela in the '60s was even moreso. But perhaps what I took with me most from HPA were the lessons of its headmaster, James Taylor, for whom character was everything, crystallized in these words: "If you don't have integrity, you have nothing."

**Years away/political beginnings.** The next eleven years were spent mostly away from Hawai'i in school, work and travel. While I was homesick and yearned to return throughout, this time was invaluable to understanding the rest of the world and preparing me for my life back home.

I attended Williams College in Massachusetts, graduating with a major in psychology in 1975. For a local boy the East Coast was a long way away both physically and culturally, with many puzzles like how much some cared about what religion and class you were and how focused some were on race. But I came to understand and appreciate mainland ways and can move comfortably among these diverse worlds.

In one of those twists of fate, my life changed unexpectedly and dramatically after graduation, when I went to work in Washington, D.C. for U.S. Representative and later U.S. Senator Spark Matsunaga as his Legislative Assistant. I had always known that my future lay at home and that it would include some form of public service, but Spark taught me the true essence of service to the public as an elected representative.

Not only did Spark entrust me with his Congressional efforts on the primary Hawai'i issues of the time – economics and taxes, sugar and agriculture, Kaho'olawe and Native Hawaiian rights, and

energy and the environment – but he exemplified the principle that unselfish service to his “bosses”, as he called his constituents, could inspire confidence in government. I moved on after three years, intent upon a career in elective politics, and believing my capabilities would be strengthened by a law degree, which I earned from the University of California/Hastings College of Law in 1981.

My earlier years were also devoted to a passion for travel, for seeing the rest of our world and for gaining perspective on your own. Perhaps the trip that influenced me most was a low-budget six-month backpack through Asia, where I absorbed much from the ancestral homelands of many of Hawai'i's peoples and saw poverty that few in our country even imagine. These experiences have helped me to relate well to different peoples, to prioritize what's really important, and to “think out of the box” when confronting challenges.

[\[back to top\]](#)

## Home: 1981 to present

**Hawai'i Supreme Court.** Returning home in 1981, I was again fortunate to work my first year as law clerk to Hawai'i Supreme Court Chief Justice William Richardson. Not only was this an invaluable experience in our judicial branch, but “CJ”, like Spark, exemplified a commitment to true public service and to the law as the means to a better society, a lesson I have never forgotten.

**Private lawyer.** In 1983 I joined Carlsmith Ball, where I've practiced ever since, focusing on land and commercial law. There have been many cases throughout my career where I felt I helped real people and businesses out of real problems, but certainly one of the highlights was our representation of residential lessees in the U.S. Supreme Court's determination of the constitutionality of the Hawai'i Land Reform Act.

I was made a partner of the firm in 1989, and in 1992 the firm asked me to serve as its Hawai'i managing partner, with day-to-day responsibility for what by then was one of the larger businesses in Hawai'i. This responsibility was not only invaluable to knowing what it takes to run a business and create jobs in Hawai'i, but also required difficult decisions as the firm, like everyone else in the private sector, struggled to adjust to the end of the Japanese investment boom. I came away with an enhanced commitment to living within your means, avoiding easy short-term decisions with harmful long-term consequences, and striving for the best but planning for the worst.

**Politics.** I had moved into Manoa when I came home and, in 1985, was elected to its Neighborhood Board, where I served for four years including two as Chair. In 1986 I ran for the State House of Representatives against the incumbent. Conventional political wisdom was that we had no chance to win (“you're too unknown; you don't have money; none of the political interest groups or bosses support you; you're a haole in a majority Japanese district”, etc.), but I felt that people wanted a change and would be receptive to my candidacy. After a hard campaign focused for me on one-on-one contact, we came up short by 36 votes. In 1988, at my party's request, I ran a grassroots campaign against the incumbent State Senator, losing by about 1% of the vote. These losses, while difficult, taught me three valuable lessons: don't trust conventional political wisdom; trust voters to make the right decision in the privacy of the voting booth; and hard work and one-on-one contact is everything.

In 1994, I was elected to the State House of Representatives from Manoa. I was reelected three times, serving eight years in all.

In 2002, I made the difficult decision to leave the state legislature and run for Governor because I felt I had more to offer Hawai'i. After a long and intense campaign, we fell short on Primary night by about 1% of the vote (yes, I'm now the king of cliffhanger losses!)

Six days later, the legendary Patsy Mink, U.S. Congresswoman from Hawai'i's Second District, passed away tragically, creating a vacancy in both the then-107<sup>th</sup> Congress and the upcoming 108<sup>th</sup> Congress. I ran for both and prevailed in the winner-take-all special elections: one on November 30, 2002 (with 51% of the vote in a field of over 40); and the other on January 4, 2003 (44% of the vote in a field of over 40).

Despite its personal and financial consequences, I have never regretted the basic commitment to elective public service I made as a young man with Spark Matsunaga.

**Family.** It has been a full twenty years personally as well. My first marriage in 1988 produced two wonderful sons, James and David, now 15 and 13. Our marriage ended in 1998, but we and our families remain close and we are actively co-raising our boys.

Back in the seventh grade at HPA I was smitten with a classmate, Audrey Nakamura, the daughter of Kamuela's Episcopal minister, James Nakamura (of Honolulu), and Magdalene (Hirata, of Kealahou, Kona). While she now claims she was also "interested," I was apparently too dense to pick up on it then, and we didn't see each other again until 2000, as her own marriage, which had produced two great kids, David and Megan, now 20 and 18, was ending. We are now very happily married and are running a true "Brady Bunch" family whose greatest difficulty is the confusion between two Davids. In Audrey, who has worked for over twenty years as a United Airlines flight attendant, I am blessed with a full partner whom I trust implicitly, and who has unfailing common sense, also relates well to different peoples throughout Hawai'i and beyond, and shares my commitment to public service.

Like others with children, our personal world revolves around our kids. I have coached soccer through a number of seasons, and have tried to pass down the same outdoor-oriented upbringing my parents gave me. In what little time we have left, we enjoy the beach, reading, exercising and just being with friends, family and each other.

[\[back to top\]](#)

## Putting it All Together

Although I've had my share of challenges and failures, by any measure I have been fortunate. I was born to deep roots and raised in all of Hawai'i's wondrous diversity, yet have lived, worked and traveled elsewhere; from this comes not only an understanding of this unique and special place, but an ability to interact well with many different peoples, from wherever and whatever walks of life, and to see what works here and what can be improved. I have worked extensively in both the private sector and in government, where I have served at both federal and state levels and in all three branches; from this comes an ability to move easily between these worlds, to understand the impact of each on the other, and find ways for them to pull together for the good of all. In my personal life, I have known the same trials and joys of marriage and raising children as many others. If effective leadership is in part the ability to relate to and work with many others, I believe I have been provided it.

But central to my life have been these themes: Hawai'i; family; community and public service. I was raised to take the sum total of all I have been given and to give it back. This is what I am doing.