

# My Side Of The Story

William Meheula

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## Case's proposals would undermine Hawaiians

THANK YOU for allowing me to address your editorial "Akaka campaign allows distortion of Case views," ([Star-Bulletin, Aug. 18](#)).

On July 26 and Aug. 16, I wrote letters to approximately 20 friends and supporters of Sen. Dan Akaka where I explained that Rep. Ed Case's 1998 proposed Native Hawaiian Autonomy Act would do the following:

- » Create a private non-profit corporation called the Native Hawaiian Trust Corporation which "shall not be a sovereign governmental entity."
- » Provide that the trust's 13 trustees shall be of Hawaiian blood and shall be elected by Hawaiians living in Hawaii.
- » Transfer the state's obligations to the Office of Hawaiian Affairs and Department of Hawaiian Home Lands to the trust.
- » Transfer the assets of OHA, the assets of DHHL and Kahoolawe to the Trust.
- » Transfer the results of any settlement of "historic claims by Native Hawaiians against the State" from the process established by Act 329 (1997).
- » Repeal Native Hawaiians' right to sue the state for breaches of the Hawaiian Home Lands Trust and the Public Land Trust under HRS Chapter 673.

In addition, the act's stated purpose was to stop the "continued dependence by native Hawaiians on others which prevents the development of the full potential of the native Hawaiian people."

THIS ACT, if passed, would have significantly hurt Hawaiians for the following reasons:

- » The act did not create a sovereign entity and therefore would have taken Hawaiians further away from the federal recognition needed to help defeat the equal protection challenges being levied against OHA, DHHL and Kamehameha Schools. In fact, the election process set forth in the act would have been unconstitutional under *Rice v. Cayetano*.
- » The state would not owe any future trust obligations to Hawaiians under the Hawaiian Home Lands Act (1921), the Admission Act (1959) or HRS Chapter 10 thereby effectively terminating DHHL and OHA.

» The only way Hawaiians could get redress for the state's past breaches of the Public Land and Hawaiian Home Land trusts would have been through a global settlement process set forth in Act 329, thereby totally eliminating any leverage Hawaiians would have to negotiate a fair settlement for themselves.

My letters also explained that in 1997, Case: (1) attempted to legislatively reverse a 1996 decision issued by then Circuit Court Judge Dan Heely that favored OHA with respect to OHA's right to ceded land revenue; (2) attempted to legislatively reverse another decision issued by Judge Heely that enjoined sales of ceded lands in Kealekehe and Leialii; and (3) attempted to influence the Federal Aviation Administration to issue a decision that ultimately led to the repeal of Act 304 (1990). (Act 304 was the act that had served to clarify OHA's right to ceded land revenues.)

My conclusion is that Ed Case's introduction of the act and his work to undermine Judge Heely's ceded revenue decision in favor of OHA and Heely's order enjoining the state from selling ceded lands demonstrate that voting for Case over Akaka probably would not be a wise political decision for Hawaiians and for all voters who believe in civil liberties.

IN A RECENT Star-Bulletin article, Case said: "My personal observation of knowing Bill (Meheula) both personally and professionally is that he is not going to let the facts get in the way of what he wants to say."

I know the facts because I litigated many of these issues. However, please go to [billmeheula.com](http://billmeheula.com), review my letters and the attached source documents including the act, and make your decision about who is telling the truth about the facts.

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William Meheula is a Honolulu attorney. His law partner, Andy Winer, is chairman of Sen. Daniel Akaka's re-election campaign.