

COMMENTARY ON THE HAWAII CEDED LANDS CASE AT THE U.S. SUPREME COURT

By Leon Siu
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The Hawaiian “ceded lands” case

The US Supreme Court announced on October 1, 2008 the acceptance of the *writ of certiorari* filed by the State of Hawaii seeking to reverse the Hawaii State Supreme Court’s decision of January 31, 2008 that curtails the State’s ability to sell or otherwise dispense, what is commonly referred to as “the Ceded Lands.” Oral presentations are being heard by the court this week, February 25.

The State of Hawaii is counting on a favorable ruling from the U.S. Supreme Court. At stake is the very survival of the 50th State of the union.

The land in question is the 1.8 million acres (nearly half the total land area of the Hawaiian Archipelago) that was hijacked from the government and the crown heads of the Hawaiian Kingdom in 1894 by the illegal, self-declared, rebel government, the Republic of Hawaii.

A few years later, in 1898, the Republic of Hawaii “annexed” itself to the United States, and in the process, passed off (“ceded”) the stolen lands to the U.S. In 1959, the U.S. ‘magnanimously’ passed on the stolen property (the “Ceded Lands”) as the land base for the newly created puppet government called the “*State of Hawaii*.” The State of Hawaii, is now the proud possessor of the stolen property and refers to it as “the Ceded Lands.”

The salient point is, back in 1898 the Republic of Hawaii did not have lawful title (or ownership or trust rights) to these lands when they handed them over (“ceded” them) to the U.S. Thus, no title to lands lawfully transferred. Although these successive acts of “cession” were clearly unlawful, over the years objections by the rightful claimants were summarily ignored, overruled or dispatched by the bully power of the U.S.

State Court Cites the Apology Law

The January 31, 2008 Hawaii State Supreme Court’s decision surprised everyone. It was the first time that a state court acknowledged that United States Public Law 103-150 (commonly called “The Apology Law,” passed by the U.S. Congress and signed by President Clinton in 1993) carries the force of law. Until this decision, all previous efforts by Hawaiian Kingdom nationals to invoke USPL 103-150 in state and federal courts in Hawaii had been summarily rejected by those courts.

In essence, the State Supreme Court’s decision says that the State’s ownership of the “ceded lands” is questionable because the Apology Law clearly indicates that these lands were improperly acquired. The court thus concluded that until the State of Hawaii settles this question of ownership with the “native Hawaiians” the State cannot sell or otherwise transfer any portion of those “ceded lands.” In its ruling, the court

parrots the common but faulty assumption that “native Hawaiians” are the default claimants to the lands.

The Rightful Claimants

While it is true the State of Hawaii does not *own* the “ceded lands” neither do the so-called “native Hawaiians.”

By citing “native Hawaiians” as the default claimants to the “ceded lands” the State Supreme Court perpetuates a critical error, ignoring the historical and lawful fact that the lands in question belong to the *Hawaiian Kingdom*, not the “native Hawaiians.”

This mis-direction is deliberately employed to avoid addressing the actual crime — *the theft of the national autonomy and the national lands of the Hawaiian Kingdom*. By doing so it also avoids the rightful remedy — *the return of the national autonomy and national lands to the Hawaiian Kingdom*.

The rightful owners of the land are the parties from whom they were stolen, namely the crown (ruling monarch) and the national government of the Hawaiian Kingdom who hold these lands in trust for the benefit of the people of Hawaii.

Misdirection

By projecting the “native Hawaiian” as the injured party, the State Supreme Court is consistent with established U.S. policy (as reflected in the Apology Law), of deliberate misdirection of the issue, framing it as a mere domestic problem rather than a grievous violation of an independent nation’s sovereignty.

When the United States landed armed troops to support the 1893 seizure of the Hawaiian Kingdom by insurrectionists, the U.S. brazenly violated the sovereignty of the Hawaiian Kingdom, a peaceful nation with close, friendly, treaty-guaranteed relations to the U.S. Leading up to that date, there were no complaints, no disputes, no provocations and certainly no hostilities that could possibly justify the invasive action taken by the U.S.

Aside from acknowledging and apologizing for these violations, the U.S. has done nothing to rectify the situation. Instead, in 1898, the initial violation of Hawaii’s sovereignty was shockingly magnified when the U.S. commenced its direct, illegal occupation of Hawaii through a phony “annexation.” Today, the State of Hawaii perpetuates the fraud in order to cover up its inherent illegitimacy — a puppet government installed under the illegal occupation of the U.S. Hawaii is a fake state.

This “ceded lands” case represents a desperate effort by the State of Hawaii and the U.S. to overcome the problem caused by the illegal “annexation” and the lack of any lawful title to the so-called “ceded” lands. The Apology Law clearly implicates these as lands having been illegally taken from the Hawaiian Kingdom.

What’s at stake for the State?

The State of Hawaii is counting on the U.S. Supreme Court to: 1) ignore the fact that the lands claimed by the State is actually stolen property and 2) somehow remove the cloud over the State’s claim to these lands.

The State's primary obstacle is the Apology Law. Thus, to overcome this obstacle, the State of Hawaii is seeking to have the U.S. Supreme Court brush aside or otherwise invalidate the Apology Law, rendering it as a kind of *noble sentiment*, but having no force of law. Certainly not the type of force that would interfere with or prevent the State from selling or otherwise conveying the "ceded lands."

Failure to convince the U.S. Supreme Court to nullify the Apology Law would destroy the very basis of the existence of the State of Hawaii. If the U.S. Supreme Court upholds 1st year's State Supreme Court's ruling, its implication is that the State of Hawaii has no land base! No land base, no State of Hawaii.

Furthermore, since they stem from the same illegal acts, not only would the State of Hawaii have no land base, but it would also have no governing base. If the State of Hawaii has no lands to stand on, the State of Hawaii also has no standing as a political or governing entity. The authority to administer the land is inextricably tied to the authority to govern politically.

Therefore, the actual default title holder and the default governing authority is that which was in place before the unlawful actions started, January 16, 1893 — that is the Hawaiian Kingdom.

Other ramifications

Not only is the very existence of the State of Hawaii at stake, this landmark case portends dire ramifications for any lands "acquired" from Native Americans all across the U.S. Seeing the potential danger, twenty-nine other states have filed friend-of-the-court briefs supporting the State of Hawaii in its effort to strike down the Apology Law.

These states rightfully fear that if the Apology Law is not overturned, much of their lands would be placed in serious jeopardy, especially those gained from the Native American through broken treaties, deception and outright theft.

Either way it goes, the outcome of this case will generate tremendous repercussions throughout the United States.

The jig is up. This would be a good opportunity for the U.S. to begin negotiating with the Hawaiian Kingdom for a peaceful transitional process to restore Hawaii as an independent nation.

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