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HAWAII ADVISORY COMMITTEE
TO THE
U. S. COMMISSION ON CIVIL RIGHTS
CONSULTATION ON NATIVE HAWAIIAN
HOME LANDS

Held in Room C-270, United States Courthouse, Honolulu,
Hawaii, commencing at 8:48 o'clock a.m. on Monday, August 27,
1979.

BEFORE: Roger K. Williams, Court Reporter

APPEARANCES:

- Ms. Patricia K. Putman, Chairperson
- | | |
|------------------------|-----------------------------|
| Mrs. Thelma I. Akau | Mr. Dennis Kauahi |
| Mrs. Rai Saint Chu | Mr. Charles K. Maxwell, Sr. |
| Mrs. Alma Cooper | Mrs. Florence Morinaga |
| Mr. Arthur A. Corrales | Mr. Roy E. Crocker |

MEMBERS OF THE STAFF:

- Jeff Wallace
Sally James
Phil Montez

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1 MS. PUTMAN: Good morning, everyone. The Hawaii
2 Advisory Committee public meeting on the administration of
3 native Hawaiian home lands will now come to order.

4 I am Patricia Putman, Chair of the Hawaii Advisory
5 Committee to the United States Commission on Civil Rights.

6 The State Advisory Committee advises and makes
7 recommendations to the United States Commission on Civil
8 Rights upon matters which the committee or any of its sub-
9 committees study.

10 The other members of the advisory committee in attend-
11 ance during the day for this meeting are: Thelma Akau, Rai
12 Saint Chu -- Rai hasn't arrived yet -- Alma Cooper, Arthur
13 Corrales, Dennis Kauahi, Charles Maxwell, Florence Morinaga,
14 and Roy Crocker.

15 One of our members, Louise Manwell, is unable to be
16 with us today because of a serious illness. A native
17 Hawaiian and a dedicated citizen of our State, Louise is
18 deeply committed to the project, and we will miss her pres-
19 ence today.

20 Also with us today from the Western Regional Office
21 of the Commission on Civil Rights are the Regional Director,
22 Philip Montez -- Philip is here in front (indicating) --
23 Jeffrey Wallace (indicating), Sally James (indicating), and
24 Grace Diaz.

25 This consultation is being held pursuant to rules

1 applicable to State Advisory Committees and other require-
2 ments promulgated by the United States Commission on Civil
3 Rights.

4 The Commission on Civil Rights is an independent
5 agency of the United States Government, established by
6 Congress in 1957, and authorized by the Civil Rights Acts of
7 1957, 1960, 1964, and 1973, to do the following things:

8 1. Investigate complaints alleging that citizens are
9 being deprived of the right to vote by reason of their race,
10 color, religion, national origin or sex;

11 2. To study and collect information concerning legal
12 developments which constitute a denial of equal protection
13 of the laws under the Constitution;

14 3. To appraise federal laws and policies with respect
15 to equal protection of the laws;

16 4. Serve as a national clearinghouse for Civil Rights
17 information; and,

18 5. Investigate allegations of voter fraud.

19 I would like to emphasize at this time that this is a
20 consultation and not an adversary type of proceeding. Indi-
21 viduals have been invited to come and share with the committee
22 information relating to the subject of today's inquiry. Each
23 person who will participate has voluntarily agreed to meet
24 with the committee.

25 Every effort has been made to invite persons who are

1 knowledgeable about the problems and progress in the areas
2 to be dealt with here today.

3 In our attempts to get a well-balanced picture about
4 the administration of Hawaiian Home Lands in Hawaii, we have
5 invited individuals involved with home lands on a day to day
6 basis, as well as those involved in legal research related
7 to the administration and enforcement of the Hawaiian Home
8 Lands Act of 1920 and Section 5F of the Hawaii Admissions
9 Act of 1959.

10 In addition, we have allocated time this afternoon to
11 hear from anyone who wishes to share information with the
12 committee regarding the Hawaiian Home Lands. Each person or
13 organization will have five minutes to speak to the committee
14 and may submit additional information in writing for the
15 record. Those wishing to participate in the open session,
16 please contact commission staff during the day.

17 Since this is a consultation, the press, radio, tele-
18 vision stations, as well as individuals, are welcome. Any
19 person discussing a matter with the committee, however, may
20 specifically request that they not be televised. In this
21 case, it will be necessary for me to comply with their
22 wishes.

23 We are very concerned that we get all of the informa-
24 tion relating to the matter under study. We are, however,
25 concerned that no individual be the victim of slander or

1 libelous statements. In the unlikely event that such a
2 situation should develop, it will be necessary for me to
3 call this to the attention of the persons making the state-
4 ment and request that they desist in their action.

5 If the testimony a person is offering, however, is of
6 sufficient importance, it may be necessary for the committee
7 to hear the information at a closed session. The person
8 against whom the allegations are being made will have ample
9 opportunity to make a statement in closed session before the
10 committee if he or she so desires.

11 In any event, prior to the time that the committee
12 submits its report to the commission, every effort will be
13 extended to get a complete picture of the situation as it
14 exists.

15 We are concerned that no individual be the victim of
16 retaliation for any statements made at this consultation.

17 Witnesses are protected by the provisions of Chapter
18 18, United States Code, Section 1505, which provide:

19 "Whoever, by threats or force, or by any threatening
20 letter of communication, endeavors to intimidate, influence,
21 or impede any witness in any proceeding pending before any
22 department or agency of the United States, or in connection
23 with any inquiry or investigation being held by either House
24 or any committee of either House; or whoever injures any
25 party or witness in his or her person or property on account

1 of his or her attending or having attended such proceeding,
2 inquiry or investigation, or on account of his or her testi-
3 fying or having testified to any matter pending therein,
4 shall be fined not more than \$5000 or imprisoned not more
5 than five years, or both."

6 In the event that any person testifying before this
7 committee considers any adverse action taken against him or
8 her to be the result of having testified, he or she should
9 immediately contact the Western Regional Office of the
10 United States Commission on Civil Rights.

11 With those formalities out of the way, I am now very
12 pleased and honored to announce that Charles Maxwell, who is
13 a member of our advisory committee, and Genoa Keawe will open
14 this meeting with a traditional Hawaiian song, Kaulana Na Pua.

15 MR. MAXWELL: This song, Kaulana Na Pua, was written
16 in 1918 by Ellen Wright Prendergast. The song was entered
17 into several congressional testimonies as the feelings of the
18 native Hawaiian people in 1893, when Hawaii was overthrown.

19 The song was a sacred song and could not be danced
20 until recently, because it calls upon the four major kings
21 of Hawaii. It calls on their help.

22 This song, Kaulana Na Pua, means: "Famous Are The
23 Children of Hawaii."

24 And Auntie Genoa Keawe, appropriately, will be doing
25 this song for us. Auntie Genoa is Hawaii's foremost

1 entertainer and one of our living treasures of Hawaii.

2 Kaulana Na Pua.

3 (As Genoa Keawe sang the song on Hawaiian,
4 accompanying herself on an ukulele, the words
5 were translated by Mr. Maxwell as follows:)

6 Famous are the children of Hawaii, ever loyal to their
7 land.

8 When the evil-hearted messenger comes, with his docu-
9 ment, greedy of extortion.

10 Hawaii, land of King Keawainui, who answers; King
11 Piilani of Maui comes to help; King Manokalanipo of Hawaii
12 sends support; and so does the sands of King Kakuihewa of
13 Oahu.

14 We will not fix our signature to the paper of the
15 enemy, with its sin of annexation and sale of native civil
16 rights.

17 We do not value, we do not care for the government's
18 sums of money.

19 Enough for us is the stone, the majestic food of our
20 land. We support Queen Liliuokalani, who is the rightful
21 ruler of this land.

22 Tell the story. Tell the story of the native Hawaiian
23 people of Hawaii who love their beautiful islands.

24 We support Queen Liliuokalani, who is and will be the
25 rightful ruler of this land.

1 and those that are attending the consultation session this
2 morning:

3 My name is Richard Paglinawan, and just to give you a
4 little background, I have been with the Hawaiian Homes
5 Commission as a deputy director for approximately six years,
6 prior to going to the Department of Social Services and
7 Housing as a deputy director there.

8 Originally, when I went to the Hawaiian Homes
9 Commission, Mr. A. Piianaia was the executive director at
10 that time; then after him, Mr. William Among was the director;
11 and then Mrs. Billie Beamer.

12 And at that time, I then moved over to the department.
13 So I have had approximately six years' experience with the
14 Hawaiian Homes Commission.

15 I would like to thank the committee for inviting me
16 to present a historical perspective of the homesteading
17 program, basically, up to 1921, when the Hawaiian Homes
18 Commission Act came into being.

19 I will not touch on the recent Hawaiian Homestead
20 legislation, because I understand the executive director,
21 Georgiana Padeken, will be presenting that particular aspect
22 of it.

23 I think in order to understand the Hawaiian Homes Land
24 program, one must understand and go back into history. Let
25 me take you back into history in terms of -- and start off

1 with 1778.

2 1778 is a very important date, because this was the
3 date when a Western discoverer by the name of Captain James
4 Cook had rediscovered the islands. Of course, the Hawaiians
5 were living here at that time, with a population of approx-
6 imately 300,000.

7 He had estimated, I think it was, somewhere around
8 400,000, but they finally brought it down to approximately
9 300,000 native Hawaiians residing here at that time.

10 They had a very successful culture, the Hawaiians.
11 They had an extensive land system. And let me give you an
12 idea as to how it worked -- and if I could use the board?

13 MS. PUTMAN: Please do.

14 MR. PAGLINAWAN: Thank you.

15 I think, in order to understand the land system, one
16 must also understand that in 1778, when Captain Cook arrived,
17 the islands were ruled by several chiefs. And the islands
18 were not unified, as when Kamehameha came into being.

19 The moku, or the district, was ruled by a -- one what
20 is known as the alii ai moku. Okay. Literally translated,
21 the chief who eats the land. The moku or the island or the
22 district.

23 The next area was the ahupua'a.

24 The alii ai moku, the one who had served him as an
25 officer, that was called the alii ai ahupua'a. Okay?

1 The districts or islands were subdivided into
2 ahupua'as, and the ahupua'a is usually a land district that
3 ran from the summit of the mountain all the way to the sea,
4 and in some cases out to about one point five miles out into
5 the sea, which included kouohiki fishing rights; and in some
6 instances, out to an island that is out in the sea.

7 Let me give you an example. If you have ever been in
8 the Kaneohe area, you will find that the ahupua'a of Kahalua
9 extends all the way to the Island of Kapapa --

10 MS. PUTMAN: Excuse me. Would you see if that switch
11 is on?

12 MR. PAGLINAWAN: Okay. Thank you.

13 The island extended all the way -- I mean, the
14 ahupua'a extended all the way out to the Island of Kapapa,
15 the small, flat island.

16 It is usually bounded by gullies or mountains that
17 run parallel down to the sea. And so in this case, an
18 ahupua'a is a subdivision of the moku.

19 Now, the ahupua'a is further subdivided into smaller.
20 land sections, which is called ili; and there are several
21 types of ili. An ili is usually a complete land section.

22 Oh, I might add that the ahupua'a is usually a land --
23 a section of land of the moku that is complete in its
24 resources; okay?

25 All of the natives, chiefs and so forth, who reside

1 within the ahupua'a were limited within terms of resources
2 to the ahupua'a.

3 As I mentioned already, it included not only the
4 fishing rights, but also the plant and the material resources
5 that the natives could obtain within the ahupua'a; so that
6 you have the alii ai ahupua'a.

7 Now, you will find that we also use the term ohana.
8 Okay. When we talk about the social class system, the ohana
9 is headed by what is known as the ahaku. Ohana in this case
10 is the extended family system. The oha is the offshoot of
11 the taro culture, and it is related to the many offshoots,
12 which literally is what ohana means, and so its derivation
13 is then going back to the taro culture, in which the taro
14 was the staple crop of the native Hawaiians.

15 And, therefore, the ohana, the extent, the vigor of
16 the ohana, the strength of the ohana laid in the land itself,
17 because the oha or the offshoots were planted in the land
18 itself; and whatever the nutrients of the land itself, the
19 ohana derived from it.

20 And so therefore, the ahaku, the head, was next in
21 authority after the alii ai ahupua'a.

22 Now, what we know as the hale or the individual
23 families, these were headed by what is known as the po'o.
24 And these are what we would call today as the head of
25 households.

1 Okay. Within the ahupua'a itself, the ohana, the
2 ohana itself here -- and there are many ohanas that live
3 within the ahupua'a -- okay? The ohana itself would have a
4 section of land; and they in turn, each of the hale -- what
5 we would call your nuclear families -- would have kuleana
6 lands within; and they would be able to till these lands and
7 fish and so forth.

8 I might add that the traditional ohana land system,
9 if you might call it, included sections of land that were
10 arable land; that could be cultivated, up in the uplands;
11 usually taro lands.

12 And those lands that were makai, so that they could
13 use for fishing. So this was, in essence, some of your
14 particular land system that was operating at that time.

15 The islands were divided into many kingdoms or
16 chiefdoms; and it wasn't until 1795 that Kamehameha I was
17 successful in unifying the islands.

18 Of course, at that time, he had unified only the
19 islands of Hawaii, Maui, Oahu, Molokai, and Lanai. It was
20 not until 1805 when Kaumualii from the Island of Kauai
21 finally decided to cede the lands of Kauai over to
22 Kamehameha I.

23 And of course, in 1819, Kamehameha I dies. His suc-
24 cessors, I might add, due to the westernization of the
25 Hawaiian Islands, was under great pressure by foreign

.1 influences to make lands available.

2 Many of them who in their minds thought that they
3 were given lands for use, to own, found that actually what
4 they had in effect was permissive use of these lands; that
5 the chief, at his discretion, could withdraw these lands and
6 take it back.

7 And as a result of that, there was tremendous pressure
8 by Western influences to push for what is known as the Great
9 Mahele. And this would make it possible then for the lands
10 to pass to individuals.

11 And the Great Mahele, that we oftentimes know it as,
12 occurred in -- and, I might add, developments of it were
13 prior to this -- but it is oftentimes referred to as in 1848
14 that the Great Mahele occurred.

15 The intent of the Great Mahele was to divide the land
16 in three equal parts: that of the king; that of the chiefs;
17 and that of the commoners.

18 One of the criteria for the Mahele is that the chiefs
19 and commoners had to petition the commission at that time to
20 quiet land titles, and had a period of time in which they
21 had to do it.

22 The Great Mahele, of course, although the whole idea
23 was that one-third of the land would go to the tenants, who
24 -- or" this case, the commoners -- the government survey
25 information had indicated that after the Mahele occurred --

1 and if you need some statistics, it shows that the crown
2 lands, those lands that were for the king, comprised approx-
3 imately 984,000 acres; the land for the chiefs, or kouohiki,
4 comprised of approximately one million -- one point six
5 million acres; and the lands of the government comprised
6 about one point four million acres; and the kuleana lands,
7 which is for the makaainana, or the commoners, comprised of
8 only 28,000 acres.

9 Now, one must also understand what at that time hap-
10 pened to the makaainana. And the reason for this discrepancy
11 is that, first of all, when they were given the opportunity
12 to acquire lands, they first must petition the government,
13 and then have these lands surveyed. Many of them did not
14 understand this concept. This concept was totally foreign
15 to them.

16 This is not to say, though, that Hawaiians did not
17 exercise this right. There were approximately 13,000 appli-
18 cations for Mahele lands, and of that 13,000, only 9000 was
19 actually granted.

20 And many, thereafter, even after they got the land,
21 lost it because they got in fee, and then sold it outright --
22 afterwards, again, because of the lack of understanding of
23 the new system.

24 I might add that the whole psychology of the Hawaiian
25 was that the land was always there; would always be there;

1 and therefore, they could return to it at any given time.

2 And that is one of the reasons why many of the
3 Hawaiians were not able to -- again, as I've stated, it's
4 because of this lack of understanding of the new land system.

5 Secondly, they also had to pay for the surveying
6 costs. And although at that time the surveying costs were
7 very nominal -- two dollars up to approximately twenty
8 dollars -- many of the Hawaiians did not have that money at
9 that time.

10 A very sad case, I would like to point out, is that
11 if you look at the Island of Niihau, Niihau was acquired by
12 the Sinclair family during this -- after the Mahele.

13 Many of the natives that were living on the Island of
14 Niihau had petitioned the monarchy at that time to get the
15 lands surveyed.

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16 However, when they were -- when they were approached
17 as to payment for the survey, they were not able to do so.
18 And so many of them, therefore, were unable to acquire the
19 lands that they had lived on for centuries.

20 And when the land was finally ceded to the monarchy,
21 because of default -- because they weren't able to put up
22 the necessary amounts -- the monarchy in turn turned around
23 and sold it to the Sinclair family for approximately \$10,000.

24 Okay. And only history then points out as to what
25 happened. Many Hawaiians then, who were natives, who

1 resided -- and I might add, there was a big population living
2 on Niihau -- many, then, because of the inability to acquire
3 land, finally decided that they were to leave, and many left
4 for the islands of Kauai and the rest of the islands; and
5 only a very few remained there.

6 And this is why you have a very small native popula-
7 tion there. But this is a classic example of that, of all
8 of the Mahele, the lands that were divided.

9 Now, we find that they -- the total amount of acres
10 involved was approximately 4.1 million acres. Incidentally,
11 I did mention lands of government. The king had a second
12 mahele, and because he had second thoughts, he felt that if
13 foreign influences would take over the Hawaiian Islands, that
14 possibly he had to make it clear which was his own land, and
15 which lands would be government land; and so therefore, he
16 subdivided his lands into two parts, crown lands -- those
17 that are reserved for him -- and lands of the government,
18 from which revenues then could be derived, such as leasing
19 and so forth, so that the government could make money, so
20 that they could run the government.

21 One significant land act, which is of importance, is
22 the -- after the monarchy, is the -- I'm sorry; not after
23 the monarchy. But the Land Act of 1895, this was the first
24 serious attempt at a comprehensive compilation and codifica-
25 tion of land laws in Hawaii.

1 And at that time, the public lands were defined as
 2 all lands heretofore classed as government lands; all lands
 3 heretofore classed as crown lands; and all lands that may
 4 hereafter come into the control of the government, by pur-
 5 chase, exchange, escheat, or by the exercise of right of
 6 eminent domain, or otherwise except as below set forth.

7 Now, the first attempt at homesteading was in terms
 8 of this particular Act of 1895. Public lands available for
 9 homesteading were classified first as agricultural lands;
 10 and the agricultural lands were further broken down into
 11 first, second and third class.

12 The next category was pastoral lands, and those were
 13 broken down into first and second; and the third category was
 14 the pastoral-agricultural lands; fourth category, forest
 15 lands; and fifth category, wastelands.

16 Now, the Land Act of 1895 had established what is now
 17 known -- well, what was known at that time as a commission
 18 of public lands; and it was comprised of a board of three
 19 commissioners.

20 One was the Minister of the Interior; and two to be
 21 appointed by the president above the -- at that time, of the
 22 Republic of Hawaii, with his cabinet approval.

23 And I might add that the -- of the three commissioners,
 24 one member was chosen as the agent of public lands, and was
 25 the active business representative of the board.

1 Now, under the Land Act of 1895, the three types of
2 homestead leases were created. The first was known as the
3 homestead lease. The homestead lease was for a term of 999
4 years. There was no blood criteria.

5 It was issued only after compliance with terms and
6 conditions of a Certificate of Occupation, which was a pro-
7 bationary right of occupation for the purposes of proving up
8 on the homestead.

9 I might add that the issuance of both the Certificate
10 of Occupation and the Homestead Lease was discontinued by an
11 amendment of the Organic Act of 1951, and is known as Public
12 Law 746.

13 Let me give you an example of this. If you are famil-
14 iar with the islands, of these homestead leases developed
15 throughout the territory, if you go to Keanae, many of the
16 farmlands there are under this homestead lease, the 999 years.

17 If you go up to Palolo on the Island of Oahu, the
18 Waiamao area, up in the right-hand side of the valley, as you
19 go up, these are the 999-year leases.

20 And many Hawaiians, I might add, took advantage of
21 this type of homesteading program.

22 I might add that on the homestead lease, on the term
23 of 999 years, there was opportunity for successorship. And
24 successorship is clearly defined, of course, by the law
25 itself. And I will not go into this, because I think the

1 land department would be in a better position to make refer-
2 ence to this.

3 The second type of homestead program was the right-of-
4 purchase lease. It was a lease for 21 years, and one had a
5 right to purchase at any time, after the third year; and the
6 homesteaders were selected by either drawing or by lot. Okay

7 This was very clear, that in the right-to-purchase
8 lease, when one got on it, he had the opportunity to purchase
9 it in fee, outright, after he got it, after the third year.

10 And the third homestead category was the cash freehold
11 agreement. And in essence, what it was, it was just an agree-
12 ment of sale. The purchaser paid 25% of the purchase price
13 as down payment; and over a three-year period, paid the re-
14 maining 75%. Okay. And then in the end, of course, would be
15 able to acquire ownership of it.

16 MRS. AKAU: Excuse me. The second and third type,
17 were there blood criteria?

18 MR. PAGLINAWAN: No.

19 MRS. AKAU: No?

20 MR. PAGLINAWAN: No. Okay.

21 The price for the fee was actually determined by bid-
22 ding at that particular time, on this particular program, the
23 cash freehold agreement. Okay.

24 Now, the Organic Act was amended in 1910. And the
25 amendment at that time provided for homesteading of public

1 lands upon public demand.

2 Now, this was a very important factor which led to the
3 Hawaiian Homestead Commission Act. What it provided for is
4 that upon the receipt of a petition of 25 eligible citizens,
5 the Land Commissioner was mandated to survey and open up
6 agricultural lands.

7 And as a result of this, there were numerous requests
8 from citizens to the government at that time to open up many
9 of these particular lands.

10 And so many, many feared -- particularly the sugar
11 interests -- feared that many of these lands that were now
12 in cultivation would be petitioned, and would be taken over
13 and used for -- for homesteading.

14 Again, you understand that this homesteading program
15 is opened up to the general public. But again, only to
16 citizens of Hawaii. Okay.

17 Now, after 1910, a substantial amount of acreages were
18 again in sugar cultivation; and these were known as prime
19 agricultural lands, flatlands, lands that have access to
20 water and so forth.

21 In 1917, 1921, over 200,000 acres of government lands
22 were due to expire under lease; and these were basically
23 crown lands.

24 As a result of that, there was a movement in the com-
25 munity to secure many of these lands, to withdraw it; after

1 it is terminated, to open it for homesteading.

2 One must also understand that homesteading was not new
3 only in Hawaii; but it was something that was also occurring
4 elsewhere in the United States. The whole idea of the west-
5 ward movement, settlement of new lands, was part of the
6 American scene. And so Hawaii was no different.

7 So therefore, in 1917-1921, when over 200,000 acres
8 were coming up for termination, there was great interest in
9 securing these lands for homesteads.

10 So you have the homestead proponents, and then you
11 have those that are the sugar interests, to keep it in sugar
12 land. There are many converging factors or forces which then
13 led to what we now know as the Hawaiian Homes Commission Act,
14 or the Rehabilitation Act.

15 At that particular time, if you look at the informa-
16 tion I've given you on Table 1, if you look at the Hawaiian
17 and part-Hawaiian population, 1778 to 1960 -- and this was
18 taken from the Andrew Lind "Hawaii's People" -- you will
19 find, in 1778, it was estimated approximately 300,000
20 Hawaiians; and these were pure Hawaiians. Okay.

21 And then you will find, 1848, after the Mahele, you
22 find that there are 80,000, approximately 80,000 Hawaiians.

23 And down to 1920, when the Hawaiian Homes Commission
24 Act came into being, you will find the -- I'm sorry -- 80,000
25 total population, 1849; the number of Hawaiians was 78,000.

1 Okay. If you go to 1920, the total population in the
2 territory at that time was 255,000, and you will find the
3 native population was 23,000.

4 You will find there's a marked decrease in the native
5 population from 300,000 in 1778 -- 1849, 78,000 -- and in
6 1920, dropped down to a low of 23,000.

7 And so therefore, there was a concern of the native
8 Hawaiians. When we say "native Hawaiians," those that are
9 pure. However, if you take a look on the part-Hawaiian
10 population, although there was concern for the pure native
11 Hawaiians, you'll find that the reverse is happening here.

12 You will find that the native Hawaiians were inter-
13 marrying outside of their ethnic group. And as a result of
14 that, you will notice, as of 1849, when there was only approx-
15 imately 78,000 native Hawaiians, you will find that there's
16 471 part-Hawaiians.

17 And then you will find by 1920, it has risen up to
18 almost double that amount, 18,000. And as you go down to
19 1960, the proportion then increases.

20 You'll find, however, that the native Hawaiian has
21 dropped to approximately 9,000 population currently. So you
22 find that although the pure Hawaiians are decreasing, the
23 part-Hawaiian population is increasing.

24 Okay. So the converging -- one of the converging
25 forces at the time when the Hawaiian Homes Commission Act

1 was thought about, the concern for the native Hawaiians, and
2 the need to take corrective action to stop further deteriora-
3 tion of their numbers, and as citizens of the territory at
4 that time.

5 Another concern that was occurring at that time, as I
6 have indicated, there were substantial amounts of acreages
7 that was going to be opening up; and as a result of that,
8 there was concern for the insistent demands to release more
9 lands for homesteads by the proponents of the homesteading
10 program.

11 And the third converging force was that there was
12 urgent need, as was thought of at that time, both by the
13 United States Congress and those in power here in the terri-
14 tory at that time, the urgent need to protect the sugar
15 industry -- which, at that time, was the most profitable
16 export industry -- and prevent the cultivated sugar lands
17 from being withdrawn for homesteading purposes, those that
18 were under lease.

19 Another concern at that time, which is not talked
20 about much, but there were a lot of racial issues that
21 occurred at that particular time. I have touched upon one
22 of them, and that's the decline of the native population.

23 But one of the racial issues was also, at that time --
24 which indicates another facet in the changing Hawaiian popu-
25 lation -- was the increasing prices of certain Hawaiian

1 staples, like fish, poi, and so forth.

2 With the Hawaiians, under this system of ahupua'a and
3 the ohana system, it was a self-contained system, a self-
4 sufficient people. And although they were often referred to
5 as subsistence farmers, they were able to maintain their home
6 and to maintain their livelihood.

7 However, due to Western civilization, many of them
8 flocked to urban centers, for job opportunities and so forth;
9 and many left the land and were not cultivators of the lands.

10 And as a result of that, they were dependent upon --
11 they became consumers; basically, became consumers, and were
12 then subject to those that provided these staples to them --
13 like the cultivation of taro and so forth.

14 And as a result of that, the increase in prices of
15 certain Hawaiian staples created a lot of problems to the
16 native Hawaiians at that time, and they got very upset about
17 it.

18 And again, many of these prices were controlled by,
19 then, a lot of the Orientals that were leaving many of the
20 plantation systems and were setting up businesses and so
21 forth.

22 Another factor, a racial issue, which came into being
23 was that the job competition between Hawaiians and non-
24 Hawaiians, prior to the Hawaiian Homes Commission Act, there
25 was a sort of understanding in the community that many of

1 your -- let's take, for example, the stevedores -- was
2 solely for Hawaiians at that time.

3 But you find that a lot of the Orientals were forming
4 into hui, and were breaking into this system. And as a
5 result, many of the native Hawaiians were feeling threatened
6 by this.

7 And incidentally, I might add that it was particularly
8 the Japanese that were very strong in this area.

9 Another racial concern that was developing at that
10 time, what is oftentimes referred to as the anti-tenement
11 campaign of the Honolulu Ad Exchange.

12 The anti-tenement ad campaign was a very interesting
13 one, because it was again argued, because of the movement of
14 the native Hawaiians to urban centers, that they have been
15 living in socially deteriorating conditions, such as tenement
16 housing, especially here in Honolulu.

17 I might add, though, even after the Great Fire, the
18 Chinatown Fire in Honolulu, there were still many tenement
19 houses that were in disrepair and so forth.

20 And it was argued at that time that many Hawaiians
21 were living under substandard conditions in living in
22 Honolulu.

23 Many oldtimers -- that I'm sure that are here -- will
24 also recall what is now known as the kakaako. These were a
25 lot of the shantytowns that were established during that time.

1 because many Hawaiians were living under substandard condi-
2 tions, in hopes of uplifting their lifestyles by coming to
3 urban centers, securing jobs and so forth.

4 And many, of course, were confronted by disillusion-
5 ment.

6 Another factor that was occurring at that time was
7 that the Hawaiian leaders were encouraging a racial conscious-
8 ness among Hawaiians: that they were just as good as any
9 citizen of the United States; and that they -- if they put
10 their minds to it, they would be able to deal with many of
11 these issues, both economically and politically.

12 The good Prince Jonah Kalaniana'ole Kuhio was instru-
13 mental in establishing the Hawaiian Civic Club, what most
14 people identified as a social club. This was not so. The
15 original intent of the Hawaiian Civic Club was to form a
16 Hawaiian political movement.

17 And as a matter of fact, when he first started it, he
18 chastised many of the Hawaiians who participated, who did
19 not really recall the purpose of the particular movement.
20 And so the Hawaiian Civic Club movement came into being.

21 Now, if you put all of these factors together, the
22 need then for the 200,000 acres, more or less, that were
23 coming up, something had to happen.

24 There was another force that was operating, if you
25 recall. It was during the time of World War I, and

1 afterwards. They were concerned at that time that many of
 2 those who had petitioned the government to release lands for
 3 homesteading were Orientals -- basically, Japanese -- and in
 4 the United States proper itself, they were concerned about
 5 the -- what they oftentimes referred to as the Yellow Peril
 6 -- those that are older than me would recall -- and as I
 7 might add, that mentality existed all the way up to World
 8 War II, and even afterwards.

9 But again, the Yellow Peril was so evident. And so
 10 therefore, the United States Congress itself was concerned
 11 as to what will happen to the islands if the homesteading
 12 program that existed at that time would continue; that many
 13 of these lands would then fall into the hands of non-
 14 Hawaiians.

15 Another concern, too, was that the homesteading pro-
 16 grams that was successful in withdrawing these lands, and put
 17 into homesteading use, that many of them were dismal failures.

18 Let me give you an example. In Waiakea, substantial
 19 acres were withdrawn from the Waiakea Sugar Company, and
 20 these were considered at that time prime agricultural lands.
 21 They were withdrawn for homesteading purposes.

22 However, as a result of that those that petitioned and
 23 those that got the lands were not suited for homesteading
 24 purposes. And as a result of that, the agriculture adventurers
 25 became a dismal failure. And again, the sugar interests

1. pointed to this as an example of saying, "See, if you release
2 these lands, this is what will happen."

3 And as a result of that, of course, there were really
4 concerns of not opening more lands.

5 Taking all of these converging forces together, what
6 do you have? At that time, job-wise, the advent proponents
7 of the Rehabilitation Act was able to locally develop what
8 is known as the legislation, which was the forerunner for
9 the Hawaiian Homes Commission Act.

10 I might add that when they first introduced the home-
11 steading bill, there was no reference to Hawaiians. But as
12 these converging forces came into being, the legislation
13 that they introduced finally took a new twist, and it then
14 brought into focus the plight of the native Hawaiians.

15 And as these converging forces started interacting to
16 each other, one way out of it, to stop the homesteading --
17 the need for opening up more homesteading lands by non-
18 Hawaiians -- would be to limit it to Hawaiians.

19 And just to show you the difference, if you take the
20 homesteading under the existing at that time program, and
21 the HHC -- okay? -- under the first, it's 999-year lease;
22 the Hawaiian Homes Commission, 99 years.

23 I oftentimes wonder how in the hell, from 999 years,
24 they somehow, the other day, developed the Hawaiian Homes
25 Commission Act of 99 years. But anyway, that's the way it

1 ended up. Okay?

2 Options to purchase. No option.

3 Lease. Okay? No blood criteria. 50% Hawaiian, under
4 the Hawaiian Homes Commission.

5 And it's interesting to note that the Hawaiian Homes
6 Commission Act defined a native Hawaiian as those races in-
7 habiting the Hawaiian Islands previous to 1978. Okay?

8 It's clear. It says: "Those races which had been in
9 the Hawaiian Islands prior to 1978." Okay?

10 Successorship? Likewise, successorship. However,
11 this limited to still 50%.

12 In other words, that if a successor is less than 50%,
13 he's unable to acquire the lease under the Hawaiian Homes
14 Commission.

15 But under the homesteading program, that person is
16 able to do so.

17 And so, with a stroke of the pen, the Hawaiian Homes
18 Commission Act came into being. It staved off some of these
19 concerns.

20 First of all, the Hawaiian Homes Commission lands,
21 only those lands that were available. In other words, what
22 lands were available? The agricultural lands and sugar were
23 protected. They were under lease. Okay.

24 So these lands could not be withdrawn and used for
25 homesteading purposes. Okay?

1 For those that are proponents, to open up more lands
2 to non-Hawaiians, by putting the homesteading program and
3 limiting it to 50% Hawaiians, which would partially satisfy
4 that need for homesteading. And so therefore, 50% Hawaiians.

5 The other concern is that of the native Hawaiians,
6 this rehabilitation program, which would supposedly address
7 that issue as to the native Hawaiians. And what they had in
8 mind, the whole idea, was to get the Hawaiians back to the
9 lands.

10 And supposedly, by the sweat of their brow, they would
11 be rehabilitating themselves. Again, the whole concept was
12 a foreign concept. Okay.

13 And again, the successorship, as was indicated there.

14 If you look on the Table 2, you will find that under
15 the resolutions of 12683 and 13500, these two resolutions
16 that went to Congress had identified the various lands
17 throughout the islands.

18 And you find that the act itself, which is the far
19 right-hand corner, in some cases differs with the proposed
20 lands that were identified. Okay.

21 Prior to the enactment of the Hawaiian Homes Commission
22 Act, you will find that under HR 12863, there was a total of
23 approximately 191,000; under HR 13500, approximately 194,000;
24 and the Hawaiian Homes Commission Act, 200,000 acres, approx-
25 imately. Okay.

1 If you will take, then -- if you will look at the
2 Table 3, when the Hawaiian Homes Commission Act came into
3 being in 1972, a study was done; and as a result of the study,
4 there were -- the Hawaiian Homes Commission was interested
5 to find out really how many acres they had that was under
6 their jurisdiction.

7 And as a result of that, Akinaka was charged to do
8 the study; and as a result of that, you will find that the
9 total amount of acreages identified in 1972, that belonged to
10 the Hawaiian Homes Commission Act, was approximately 189,000.

11 Now, again, there are discrepancies between these
12 figures. And even the Hawaiian Homes Commission Act referred
13 to 200,000 acres, more or less.

14 The problem in that is that, again, as I have men-
15 tioned previously, with the native Hawaiians, or even with
16 the community at large at that time, the land was always
17 there. And so there was no need to survey these lands, first
18 of all.

19 And even if they did, they did not have their resources.
20 The survey department was unable to survey many of these
21 lands.

22 As a result of that, many of these lands were not
23 surveyed, so they really did not know the total amount of
24 acreage. So when they identified the location of these
25 grants, they didn't really know the total amount of acreages.

1 It was a guesstimate at that time.

2 In some cases where the lands were surveyed, then,
3 there has not been a problem. Let me give you an example.
4 If you look down on the Island of Molokai, on Table 2, you
5 will find Kalaupapa.

6 Although in the two resolutions, there was no refer-
7 ence to Kalaupapa, you will find in the act that Kalaupapa
8 included 5,000 acres.

9 Now, going back to the Hawaiian land system, the
10 ahupua'a, Kalaupapa, if you fly along the north shore of
11 Molokai and you look down, you see that peninsula, and it
12 actually comprises three ahupua'as, not one -- although it
13 is referred to as Kalaupapa.

14 So many people think that the whole of that peninsula
15 belongs to the Hawaiian Homes Commission. This is not so.
16 They own approximately 2,000 acres of that, because it
17 involves three ahupua'a, and that's the total acreages that
18 they have on Kalaupapa, is 5,000, which would be for the
19 total three.

20 So that then brings up some of these kinds of discrep-
21 ancies. I might add that the other discrepancies occur in
22 that a provision in the Hawaiian Homes Commission Act make
23 it possible for the Hawaiian Homes Commission to exchange
24 lands with the land commissioner, of equal value.

25 In other words, whatever the appraised value is, they

1 can exchange lands for that purpose, to promote the home-
2 steading program under the Hawaiian Homes Commission Act.

3 Now, that means, then, that a prime land for resi-
4 dential purposes, a Hawaiian homestead -- well, let me take
5 it the other way.

6 The public lands at that time, prime residential land,
7 the value thereof, could be much higher than lands that were
8 in agriculture. The acreages would not be the same -- okay?
9 -- because of the appraised value.

10 So when the exchange occurs, therefore, you will have
11 a diminishing effect in terms of the Hawaiian Homes Lands,
12 the exchange thereof. And for this, the Commission has been
13 criticised.

14 But again, you have to understand the context in which
15 it is done, because the Hawaiian Homes Commission law does
16 make provision for it.

17 And of course, if you look at the Table 4, you will
18 find that this gives you a current total of the lands that
19 were identified in 1972 as 189,000; and the Hawaiian Homes
20 Commission Act. So you will notice that as you go down,
21 item for item, you will notice that there are some discrep-
22 ancies in the figures.

23 And again, going back to the understanding that at the
24 time of the Hawaiian Homes Commission Act, they really did
25 not have a clear understanding as to the total amount of

1 acreages involved.

2 Madam Chairman, I'm open to questions.

3 MS. PUTMAN: I think you have done a marvelous job,
4 Richard, in covering some very intricate issues over a long
5 period of time.

6 Does anyone on the committee want to ask any specific
7 questions?

8 MRS. COOPER: I would like to ask Richard a question.

9 MS. PUTMAN: Yes.

10 MRS. COOPER: Richard, in one of your last sentences,
11 you mentioned that there's a provision for the equivalent
12 exchange of lands between Hawaiian Homes, the land inventory,
13 and the State.

14 Are you, in your statement, saying that there has been
15 some equivalent exchange of lands, and that there is a record
16 that shows that this exists?

17 MR. PAGLINAWAN: Yes. The Hawaiian Homes Commission
18 should have information as to these exchange of lands. As a
19 matter of fact, it must be spelled out by a Commission
20 resolution.

21 And again, the lands must be appraised, both sides,
22 the public lands and the Hawaiian Homes Commission lands, and
23 the exchange thereof.

24 So there is documentation of that.

25 MS. PUTMAN: Any further questions?

1 MS. JAMES: Madam Chairman, I just have one.

2 On these 999-year leases, approximately what percent
3 of the -- I assume there are quite a few of those still out?

4 MR. PAGLINAWAN: Yes. I think -- okay. Continue.

5 MS. JAMES: Approximately what percent of those, if
6 any, do Hawaiians have, as opposed to, say, the plantations?
7 Do you know?

8 MR. PAGLINAWAN: No, I don't know. I think that's a
9 question, as I have indicated previously, --

10 MS. JAMES: For the --

11 MR. PAGLINAWAN: -- for the Land Board. Perhaps you
12 might want to address that question to them.

13 I might add that many Hawaiians today that refer to
14 kuleana lands, those are really lands that were originally
15 on the original homesteading act, but not the Hawaiian Homes
16 Act. But the original homesteading. This is a second chance
17 to get lands for themselves, when perhaps they were not able
18 to exercise the option under the Great Mahele.

19 MS. PUTMAN: Thank you very much, Richard. We really
20 appreciate your cooperation and marvelous performance.

21 MR. PAGLINAWAN: Thank you.

22 A SPECTATOR: Madam Chairman, can I say that if any-
23 one in the front there does speak, can they speak into the
24 mikes, please?

25 MS. PUTMAN: Oh, fine. Will you remember that, please,

1 to use the mike?

2 MS. JAMES: And I think you have to put it a little
3 bit closer.

4 MS. PUTMAN: Our next witness is Winona Rubin, who is
5 speaking in behalf of her position as director of Alu Like,
6 Incorporated.

7 Thank you, Winona.

8 MS. RUBIN: Madam Chairman, members of the panel,
9 aloha kakou.

10 I am Winona Kealamapuana Ellis Rubin, Executive
11 Director of Alu Like, a private nonprofit organization whose
12 major focus is that of assisting in the development of
13 economic and social self-sufficiency for native Hawaiians,
14 consistent with the Native American Program Acts, Title VIII
15 of Public Law 93-644 and Public Law 95-568.

16 I might add, at this particular time, that we receive
17 federal funding from two major sources, one from the Division
18 of Indian-Native American Programs, Department of Labor,
19 under Public Law 94-444, recently revised into Public Law
20 99-524; and the Administration for Native Americans, under
21 the office of the Human Development Services, Department of
22 Health, Education & Welfare, under the earlier-cited public
23 laws.

24 We do receive some State grants, as well as private
25 foundation monies in our organization.

1 As requested, my presentation will provide some data
2 on native Hawaiians -- those of full and part-Hawaiian
3 ancestry.

4 In cooperation with other public and private agencies
5 in the State, Alu Like has put some information regarding
6 Hawaiians together for people to utilize.

7 Copies of one of those summaries, He Hawaii Makou,
8 have been provided for your general information. Other more
9 detailed information is available, but rather than duplicate
10 volumes of material, you may wish to be more specific as to
11 the needs you have following all of the presentations today,
12 since I believe many people will be providing you with a lot
13 of information.

14 There are over 150,000 native Hawaiians in this State,
15 according to the latest figures from DPED. This is nearly
16 18% of the total State population. Of the 150,000, approxi-
17 mately one-half are 18 years of age and younger. The median
18 age for native Hawaiians is 18.7 years. Of the native
19 Hawaiian population, almost 70% live on Oahu; 16% on Hawaii,
20 10% on Maui County, and about 4% on Kauai.

21 For the native Hawaiian population, 62.6% have no
22 income. And that includes children as well. Of the persons
23 receiving income, nearly one-third -- 31.2% -- get less than
24 \$4,000 per year. The median annual personal income for
25 native Hawaiians was about \$6,900 in 1975, and it is still

1 below that of the median for the State.

2 While one-fourth of the native Hawaiian population are
3 successful in terms of income, one-fifth are below the
4 poverty level. Those people in poverty circumstances, 44%
5 are native Hawaiian.

6 It is still difficult to get complete data about
7 native Hawaiians, since State and Federal agencies, as well
8 as other private organizations, collect data differently; and
9 a common definition of terms and categories is still non-
10 existent.

11 In the area of education, there are significant kinds
12 of needs. Here are some items of interest:

13 Approximately 21% of the 173,000 students in public
14 schools throughout the State are of Hawaiian ancestry.

15 Of the nearly 9,475 teachers, counselors and principals
16 in the State Department of Education, about 660 or only 7%
17 are Hawaiian or part-Hawaiian.

18 Approximately 33 of the 224 public schools have
19 enrollments with 40% or more young people who are Hawaiian
20 and part-Hawaiian.

21 Parents surveyed in 1976 by Alu Like almost unanimously
22 felt that it is important for their child to finish high
23 school; and at least 75% feel that some college is important.

24 Only 5% of the enrollment at the University of Hawaii
25 (Manoa) are native Hawaiian. The enrollment at community

1 colleges is approximately 10%.

2 Of the native Hawaiian youngsters who come to the
3 attention of the Family Court, the recurring characteristic
4 is the youngster is in trouble in the educational system.

5 The absence rate of native Hawaiian youngsters in this
6 State who are enrolled at public schools with 40% or more
7 Hawaiian youngsters is an average of 43 days -- almost a full
8 quarter of the year.

9 Native Hawaiian youngsters tested in the public
10 elementary schools score on an average at least two stanines
11 below the average for the State in reading and mathematics.
12 And that's Stanine 1 and Stanine 2, for those of you who are
13 aware of the nine-stanine scale, which means that it's between
14 11% and 20%.

15 The Grade 10 failure is still one or two stanines
16 below the State average.

17 Earlier reports of test scores and absence problems
18 made by Queen Liliuokalani Children's Center in the 1960s
19 and early 1970s indicate that the same symptoms of alienation
20 and lack of success existed even at that time.

21 One-third of the Alu Like Needs Survey respondents are
22 not satisfied with the public schools. The percentage is
23 higher in some rural areas. One of the major complaints is
24 that the public schools are not sensitive to the needs of the
25 child with a culturally Hawaiian lifestyle.

1 In the area of employment, the unemployment level for
2 native Hawaiians is approximately double that of the level
3 for the State.

4 The percentage of non-Hawaiians in professional and
5 management occupations is nearly twice that of the Hawaiians,
6 but the percent not in the labor force is only slightly
7 higher for Hawaiians, 38% to 36%.

8 Significant blocks to success in employment experi-
9 ences -- and from our viewpoint, as an employment and train-
10 ing prime sponsor for the State -- appear to be: (1) lack
11 of basic education; (2) stereotyping, low self-image; (3)
12 lack of skill training and job readiness orientation.

13 Although Hawaiians constitute 2% more of the total
14 working force in Hawaii, they occupy only 8% of the profes-
15 sional and managerial positions.

16 Some efforts are being made by the private sector to
17 employ Hawaiians at other than entry levels, but too few
18 Hawaiians have the necessary training to take advantage of
19 the opportunities.

20 Increasing efforts are currently being made toward
21 entrepreneurship among Hawaiians, particularly in areas con-
22 sistent with the lifestyle -- aquaculture, agriculture,
23 crafts, oli, mele, and instructions. And initial capital and
24 technical skills in marketing projections are blocks.

25 In the area of Social Services, of the approximately

1 19,000 Department of Social Services and Housing clients
2 receiving AFDC assistance, 4,700, or 25%, are adult native
3 Hawaiians.

4 Of the over 39,000 DSSH clients receiving ADC assist-
5 ance, 12,000, or 31%, are Hawaiian children.

6 Therefore, approximately 30% of the welfare recipients
7 in the State are of Hawaiian ancestry.

8 Of the 551 DSSH social workers and administrators in
9 the State, 45, or only 8%, are Hawaiian or part-Hawaiian.

10 Of those people in poverty circumstances, 4% are
11 native Hawaiians.

12 Health? Native Hawaiians do not fare as well by many
13 indicators of health when compared to the average for all
14 other ethnic groups in the State.

15 Native Hawaiians have higher than normal physical
16 health problems for specific chronic conditions such as
17 cancer, diabetes and gout, coronary heart disease, and for
18 dental health and child and family nutrition.

19 While self-reports of health conditions, such as days
20 in bed, hospital visits and time lost from work, are compara-
21 ble to all other groups, native Hawaiians have death rates at
22 all ages higher than the other groups. The life expectancy
23 at birth is shorter by six to seven years for native
24 Hawaiians, as compared with all other ethnic groups.

25 Approximately 25% of elderly native Hawaiians, age 65

1 and over, have either not registered for Medicare or not
2 enrolled in other health care programs.

3 The poorer-than-average health and lower-than-average
4 income of elderly Hawaiians leave them especially vulnerable
5 to high health care costs.

6 Most elderly native Hawaiians make use of traditional
7 means of coping with illness, both spiritual and folk reme-
8 dies. Professional help would be sought by them only after
9 traditional remedies are exhausted, and only if the health
10 care provider-patient relationship is a personal one.

11 Because Hawaiian Homes Lands is presenting information,
12 I very briefly indicated just a few points.

13 Approximately 3,000 lessees occupy over 25,000 acres
14 of Hawaiian Homes Lands; and the breakout is: 87% residential
15 leases; 11% farm, or farm-residence combinations; and 2%
16 pastoral.

17 There are 5,300 active applicants seeking Hawaiian
18 Homes Lands, and 90% for residential purposes, 6% farm, and
19 4% pastoral.

20 Approximately one-third, or about 55,000 native
21 Hawaiians, are of one-half to full-Hawaiian ancestry. And
22 if we allow for a family comprised of five to six persons,
23 that would mean approximately 9,000 potential applicant
24 families for Hawaiian Homes Lands.

25 In the area of Native rights, legal assistance is a

1 major problem. It's needed for those Hawaiians who may not
2 be eligible for poverty programs since they share an interest
3 in land, but cannot afford to safeguard their interest with-
4 out selling the land or giving it up because legal services
5 for court action cannot be afforded.

6 And I have indicated that the problems there, in the
7 legal area, are: adverse possession; kuleana land rights,
8 land registration, title search, land access, water rights, .
9 preservation of sites of historic and religious significance
10 and importance.

11 In 1977, arrest rates for persons of Hawaiian ancestry
12 were lower or equal to the State's rates. However, the
13 offender population rate (persons in correctional facilities)
14 is twice as high for Hawaiians and part-Hawaiians.

15 Since the types of crimes causing arrests were not
16 appreciably different, an explanation appears to be that
17 those arrested who have Hawaiian ancestry may not be receiving
18 the same legal assistance, sentencing practices and parole
19 procedures, as are other ethnic groups.

20 Disproportionate percents of the juvenile offenders
21 come from homes receiving welfare and are living in public
22 housing; disproportionate percents of the adult male offenders
23 over 30 years of age have physical handicaps, mental problems,
24 and alcohol addiction.

25 Determination still has to be made by the State

1 regarding the percent of Section 5F public trust land
2 revenues to be used for addressing the needs of native
3 Hawaiians and the means for addressing the needs.

4 The Hawaiians are a heterogeneous population; that is,
5 the population as a whole is not a "depressed" one, but seg-
6 ments of it are. However, some problems are found in all
7 Hawaiian groups.

8 While one-fourth of the population could be considered
9 successful in terms of income, one-fifth have incomes below
10 the poverty line, and one-third of the women interviewed
11 receive two or more types of public or private assistance.

12 While one-half of the population report owning their
13 own homes, many of these are quite modest, and many are on
14 subsidized land, since fee simple ownership is the exception
15 in Hawaii, and land costs are the highest in the nation.

16 Hawaiians are a working population with 80% of the
17 adult men and over half of the women employed or looking for
18 work. They are overwhelmingly family-centered. Only a fifth
19 of the men and an eighth of the women (nearly all of them
20 young) have never been married, while about a third have had
21 six or more children.

22 Since the median income ranges from eleven to thirteen
23 thousand for men and women interviewed, respectively, there
24 is not much to spare. (These figures must be reduced by
25 about 20%, for comparison with the United States Mainland

1 figures.) Larger families report incomes that are inadequate.

2 Different categories of the population have different
3 problems. The urban, higher income group, both men and
4 women, lack adequate educational preparation for the better
5 jobs that they want. The lower income urban group suffers
6 from joblessness, an insufficient supply of low-cost housing
7 in the urban areas, and consequently doubling-up of families.

8 The rural group suffers from lack of job opportunities,
9 a limited range of job choices, and, particularly on Oahu, a
10 steady loss of access to natural resources. From 30 to 90%
11 of those interviewed (differing by island) reported obtaining
12 at least some food by gardening, hunting, fishing, gathering,
13 and sharing -- even on Oahu -- but this is becoming increas-
14 ingly difficult as land is turned to urban uses, and people
15 are either evicted, or access to land for these purposes is
16 denied.

17 Hawaiians in all groups frequently report loss of
18 pride and bitterness resulting from the historic loss of
19 their family lands and their homeland. Some three-quarters
20 desire to return to the self-sufficiency that they associate
21 with living off the land and sea.

22 Hawaiians in all groups are also frequently frustrated
23 and angry about a system of public education that they see as
24 largely irrelevant to learning how to make a living, one
25 which contradicts their most cherished values of group

1 cooperation and personal relationships, is insensitive to
2 their identity, traditions and history, and is generally un-
3 responsive to their individual efforts to effect changes
4 (this came from our survey of the community.)

5 The problems of the host population of this State --
6 Hawaiians and part-Hawaiians, who are recognized by congres-
7 sional legislation as Native Americans -- are complex and
8 must be addressed on several fronts concurrently, and at
9 least initially with more resources and comprehensive plan-
10 ning than has been previously provided.

11 MS. PUTMAN: Thank you very much.

12 Are there any questions?

13 MRS. COOPER: I have a question.

14 MS. PUTMAN: Can you use the mike?

15 MRS. COOPER: Yes, I will.

16 Winona, --

17 MS. RUBIN: Yes.

18 MRS. COOPER: -- since Alu Like has identified the
19 needs of the Hawaiians in education, and since you have this
20 very concise statement on the last page of your report --

21 MS. PUTMAN: Is that mike on?

22 MRS. COOPER: Oh. I will start again, and I will
23 abbreviate it this time.

24 Since, on your last page, you very concisely identify
25 the feelings of the Hawaiians relative to their disenchantment

1 with the public education system, I wonder what Alu Like is
2 doing to resolve this educational problem that we recognize
3 as existing?

4 MS. RUBIN: There are a few things that we initiated,
5 I believe, that may have some effect. The initial needs
6 assessment in 1976 identified many of these areas. And so,
7 for 1977, we did ask of the congressional delegation to
8 initiate four items of legislation, really.

9 One, which dealt with the employment and training
10 problem, which was second priority in the Hawaiian community;

11 And, two, which was first priority, and that was the
12 education. And we asked for an introduction of legislation
13 to address that area.

14 The Native Hawaiian Education Act is currently in
15 Congress. It was passed by the Senate last year, and did
16 not pass the House in the last of the congressional sessions.

17 It has been reintroduced in both houses this year,
18 and is in the Select Committee on Union Affairs in the
19 Senate, and in two House committees, one on the elementary
20 and secondary education committee, and the higher education
21 committee.

22 We are hopeful maybe that some of the resources pro-
23 duced from the Native Hawaiian Education Act will provide
24 the resources that are sorely needed to make the major kind
25 of change in direction for Hawaiians in the system, since

1 the Department of Education earlier had indicated that they
2 did not have the funds to address the special needs of the
3 native Hawaiian group here locally. And this would provide
4 that means.

5 In the absence of such legislation, and the limitations
6 of our funding -- since we have one program fund only, and
7 that's the Employment and Training Program fund that we
8 receive as a prime sponsor in the State -- we have had dif-
9 ficulty in doing too much more.

10 The other funding source that we have pays only for
11 administration and operation costs.

12 We have, however, through placement of people in some
13 employment and training positions, in certain projects,
14 attempted to impact the system in a small way.

15 We have placed individuals at the Waianae High School,
16 as para-counselor positions, two positions there, with a
17 supervisor and a monitor of that arrangement, in collabora-
18 tion with the Department of Education, and with other agencies
19 of the community.

20 In the cooperative effort to address the attendance
21 problem, which is a severe one, at Waianae High School, when
22 the records were assessed to see how large a problem it was,
23 the people of 20 days of absence or more, they stopped count-
24 ing at 500.

25 And so these people then attempted to address this

1 problem, and were fairly successful with a small pilot group
2 that they attempted to address, with increase in attendance
3 as well as success in school.

4 The spin-off arrangement, collaboration with this
5 particular effort, the Hawaiians assistance program, was
6 that of assisting parents with this problem to better know
7 how to address the system, and to try to support the efforts
8 of their youngsters in the school, as well as to provide
9 more sensitivity to the educational system for their concerns.

10 And so a parent group was initiated there, with the
11 assistance of a number of agencies, including the Queen
12 Liliuokalani Children's Center. And in turn, that parent
13 group, after learning how to, and developing some of the
14 skills there, having on their own to address the Board of
15 Education, to impact on the school processes, successfully
16 initiated efforts to have a summer school, where the summer
17 school was not previously planned for.

18 And has in turn, I believe, been the impetus behind
19 some of the efforts by the Waianae High School administration
20 to meet with many community groups and parent groups to
21 revise some of the things that may be happening at the school.

22 And we believe that, with better access to the many
23 other resources in the community, in collaboration with the
24 school, that that can help to meet the needs of those
25 youngsters.

1 MS. PUTMAN: Winona, --

2 MS. RUBIN: Yes.

3 MS. PUTMAN: -- the main direction of our concern or
4 consultation, and the recommendations that we will be making --

5 MS. RUBIN: Yes.

6 MS. PUTNAM: -- both at the State and the Federal
7 level, is, I think, Native Hawaiian Home Lands.

8 MS. RUBIN: Yes.

9 MS. PUTMAN: I'm wondering if the Native American
10 Program acts that you have cited, going back to 1974, do any
11 of them address these issues specifically?

12 MS. RUBIN: The Hawaiian homestead is addressed in the
13 Administration for Native Americans -- the Native American
14 Programs Act, rather.

15 MS. PUTMAN: Yes. I guess what I'm wondering is
16 whether Alu Like has any specific progress to report, or any
17 issues that they feel we should consider in our recommenda-
18 tions to the Federal Government?

19 MS. RUBIN: In order to provide appropriate resources
20 for the Department of Hawaiian Home Lands, in addressing some
21 of the needs of the Hawaiian community, there has not been
22 sufficient resources from the Federal Government, beyond what
23 the Home Lands is currently operating on, which is State
24 monies.

25 MS. PUTMAN: Yeah.

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21 of the needs of the Hawaiian community, there has not been
22 sufficient resources from the Federal Government, beyond what
23 the Home Lands is currently operating on, which is State
24 monies.

25 MS. PUTMAN: Yeah.

1 MS. RUBIN: Legislation for the HUD still doesn't
2 clearly provide for a Native American focus; and I think
3 other federal housing support types of programs do not pro-
4 vide the resources that could be utilized by the Hawaiian
5 Home Lands.

6 MS. PUTMAN: Have those proposals been formulated into
7 specific recommendations in Alu Like?

8 MS. RUBIN: No, we haven't. We have made inquiry with
9 our congressional offices regarding these, but no specific
10 formulation has been made, yet.

11 MS. PUTMAN: Charles?

12 MR. MAXWELL: Winona, on Page 5, you mention the
13 offender population rate in the correctional facilities. Has
14 Alu Like established whether the offenders come from Hawaiian
15 homes, property of -- you know, Hawaiian Homes Lands? And if
16 so, you know, what has Alu Like done, if anything, to work
17 with the people in the correctional centers?

18 MS. RUBIN: The first question, no, we have not
19 identified out of the correctional inmates how many were from
20 Hawaiian Homes Lands.

21 And I think that the extraction of that information
22 would be difficult, because I don't think that the input from
23 the forms they keep, the records that they keep, includes
24 Hawaiian Homes Lands delineation.

25 Secondly, in working with the correctional system, all

1 that we have been able to do in collaboration with other
2 agencies is to provide for the inmates therein assistance,
3 with programs that they have requested, where Hawaiian
4 culture or training types of programs have been necessary for
5 them, so that they would be better prepared for leaving the
6 institution.

7 So this is the only ways that we have on each of the
8 islands been involved with this type of program for inmates,
9 inside the institution.

10 MR. MAXWELL: You say on all the islands; right?

11 MS. RUBIN: Yes, correct. On the Island of Hawaii,
12 particularly in collaboration with the Hilo Community College.
13 There, they have provided us with a tremendous number of
14 resources and resource people, as their kind contribution to
15 efforts directed toward providing more programs to the inmates
16 in their institution there on the island.

17 The same has been on each of the different islands.

18 MR. MAXWELL: Okay. Thank you.

19 MS. PUTMAN: Any other questions?

20 MRS. COOPER: Yes. I would like to ask another
21 question.

22 Winona, do you find that the people on Hawaiian Homes
23 Lands have more problems with the education of their children,
24 in comparison to the Hawaiian who does not live on Hawaiian
25 Homes Lands?

1 Do you have any kind of comparative studies between
2 the non-Hawaiians -- that is, those who do not live on
3 Hawaiian Homes Lands -- with those who do live on Hawaiian
4 Homes Lands?

5 MS. RUBIN: We have not specifically identified them
6 as Hawaiian Homes versus non-Hawaiian Homes from responses
7 in our surveys, purposely, because our advisory council has
8 always insisted that we not differentiate; that Hawaiians are
9 Hawaiians wherever they may be.

10 But if you would look at the data from the schools,
11 other institutions, that are able to identify people from
12 Hawaiian Homes Lands areas, you will find that there are
13 high populations of Hawaiians in the school systems; and in
14 those particular segments of the educational system, they
15 are not doing well in school.

16 There are many problems in absences; there are related
17 kinds of spin-offs of problems, failure and success in educa-
18 tion -- meaning high unemployment rates, all these kinds of
19 things.

20 MRS. COOPER: Isn't it strange -- or don't you think
21 it's rather strange that in the areas where the population
22 is highly Hawaiian, and the school population is the same,
23 that those are the exact schools that should be experiencing
24 so many of the problems with education for their students?

25 MS. RUBIN: Um-hmm.

1 MRS. COOPER: That seems to me to be a very significant
2 fact.

3 MS. RUBIN: It is, yes. We haven't labeled them as:
4 result of Hawaiian Homes Lands being located in those areas.
5 But it is very significant, that's true.

6 MS. PUTMAN: Thank you very much, Winona.

7 MS. RUBIN: Thank you.

8 MS. PUTMAN: We are going to take a 10-minute break
9 now. If you haven't found your way around, there's a cor-
10 ridor on that side of the elevator that goes to the women's
11 room; and there's a corridor on the other side of the elevators
12 that goes to the men's room, for your convenience.

13 We will reconvene in ten minutes. Thanks again very
14 much, Winona.

15 MS. RUBIN: Thank you.

16 (Recess.)

17 MS. PUTMAN: Our next witness is Georgiana Padeken,
18 who is the executive head of Hawaiian Homes Commission.

19 She will make a presentation, and then we will proceed,
20 as before, and the committee will be able to ask questions.

21 Thank you very much, Georgiana, for joining us.

22 MS. PADEKEN: What I would like to do is just read
23 from testimony here, which is just a brief overview here of
24 the points of this program, addressing specifically the areas
25 that the Advisory Board wanted me to cover in my presentation.

1 I have been requested to present to the Hawaii
2 Advisory Committee of the United States Commission on Civil
3 Rights information and materials on the role and function of
4 the Department of Hawaiian Home Lands in the administration,
5 management and enforcement of the Hawaiian Homes Commission
6 Act of 1920, as amended.

7 The Department of Hawaiian Home Lands is the State
8 agency which administers the Hawaiian Homes program. It is
9 one of several principal departments which currently make up
10 the Objective Branch of the State of Hawaii, having come into
11 being on May 11, 1960, under the provisions of the Hawaii
12 State Reorganization Act of 1959.

13 In reality, the establishment of the Department of
14 Hawaiian Home Lands was a matter of evolution rather than of
15 creation, providing for the continuation of the Hawaiian
16 Homes program as Hawaii progressed in political status from
17 an incorporated territory of the United States to becoming
18 the Fiftieth State of the Union.

19 Originally created by Congress as the Hawaiian Homes
20 Commission in the Hawaiian Homes Commission Act of 1920, it
21 was incorporated into the Constitution of the State of
22 Hawaii in accordance with the requirements of the Admission
23 Act.

24 Although the purpose of the Hawaiian Homes Commission
25 Act was not specified in the Act itself, the general intent

1 of the Act's supporters was clearly stated at the 1920
2 congressional hearings on the proposed measure and reinforced
3 by subsequent opinions of the Attorney General; namely, that
4 the emphasis in the Act was to permit the Hawaiian, a victim
5 of change, to return to the land.

6 Paternal assistance was provided by a commission
7 created by congressional statute. The statute protected the
8 Hawaiian against himself and at the same time attempted to
9 promote his well-being.

10 Shortly after the admission of Hawaii as a state, the
11 agency known as the Hawaiian Homes Commission was transferred
12 into the Department of Hawaiian Home Lands. This department
13 is vested with the responsibility of administering the
14 Hawaiian Homes Commission Act of 1920, as amended. The name
15 Hawaiian Homes Commission is still retained as the name of
16 the executive board which heads the department.

17 Now, the role and function of the department in the
18 administration of the Hawaiian Homes Commission Act, 1920,
19 as amended:

20 The Department of Hawaiian Home Lands is headed by an
21 executive board who are nominated and appointed by the
22 Governor, by and with the advice and consent of the Senate,
23 for overlapping four-year terms.

24 The commission is composed of eight members: three
25 from the City and County of Honolulu; one from the County of

1 Hawaii; two from the County of Maui, one of whom shall be a
2 resident of Molokai; one from the County of Kauai; and the
3 eighth member shall be the chairman of the Hawaiian Homes
4 Commission.

5 The commission is specifically (1) authorized to
6 formulate and adopt rules, regulations and policies;

7 (2) required to pay all expenses upon the presentation
8 of itemized vouchers approved by the chairman of the commis-
9 sion; and

10 (3) required to submit an annual report to the
11 Legislature upon the first day of each regular session and
12 such special reports as are requested.

13 The Commission may delegate to the chairman such
14 duties, powers and authority as may be lawful or proper for
15 the performance of the functions vested in the Commission.
16 The chairman, however, shall report to the Commission for
17 ratification of any action taken within the scope of dele-
18 gated duties.

19 The Department is also responsible for the control of
20 "available lands" which are to be used and disposed of in
21 accordance with the provisions of the Hawaiian Homes Commission
22 Act.

23 The Department is required to (1) place the native
24 Hawaiian upon the land in order to ensure his rehabilitation;

25 (2) ensure that alienation of such land be made

1 impossible;

2 (3) provide water in adequate amounts for all tracts
3 of land; and

4 (4) financially aid farming operations until such
5 operations are well under way.

6 The Role and Function of the Department in the
7 Management of the Hawaiian Homes Commission Act, 1920, as
8 Amended.

9 The management's role of the Department is to promote,
10 protect, and insure that the resources set aside by the
11 Hawaiian Homes Commission Act are maximized to the highest
12 possible level in the interest of native Hawaiians. Manage-
13 ment functions of the Department over resources established
14 by the Act are comprised of two categories:

15 (1) those resources which are used by the general
16 public for revenue-generating purposes, such revenues to be
17 used by the Department; and

18 (2) those resources for native Hawaiians to be used
19 for residential, farming or pastoral purposes.

20 As of July 31, 1979, a total of 2997 leases have been
21 awarded to native Hawaiians for purposes of the Act. This
22 represents approximately 25,000 acres distributed to native
23 Hawaiians of "available lands" for purposes of the Act. How-
24 ever, the waiting list totals 6310 applicants. 90% are
25 applicants for residence lots, 6% for agriculture, and 4%

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1 for pastoral lots.

2 The department, whose only independent source of
3 revenues has been through the general leasing of its lands,
4 will require continued funding from the State Legislature
5 and hopefully from Federal and private sources.

6 This is just a brief overview of what our role and
7 function is, as the Department of Hawaiian Home Lands.

8 MS. PUTMAN: Thank you very much. We will have some
9 questions for you.

10 Any of you have a question? Charles?

11 MR. MAXWELL: Yes.

12 Georgiana, how much land is leased -- you said 25%
13 here. How much land is --

14 MS. PADEKEN: What I indicated is that 25,000 acres
15 of the original grant -- which was 200,000, more or less --
16 25,000 of this number have been awarded to native Hawaiians
17 through a homestead lease.

18 MR. MAXWELL: Okay. Then how many acres have been
19 leased to non-Hawaiians?

20 MS. PADEKEN: Okay. Remember, when -- as I indicated,
21 there are two resources that are comprised in two different
22 categories; and conceivably, a Hawaiian can general lease a
23 Hawaiian Home Land. So I think maybe the question is: How
24 many acres of land have been general leased to the public?

25 At this point in time, the total number of acreage for

1 nonhomesteading purposes is 122,129 acres.

2 MR. MAXWELL: Okay. But I still specifically would
3 like to know, from these general leases, how many nonnatives,
4 if you have that information? If you don't have it at the
5 present time, you can submit it to this committee.

6 MS. PADEKEN: It would be very difficult, Mr. Maxwell,
7 for us to obtain that. Because the -- the identification of
8 one's ethnic background is not a requirement of receiving a
9 general lease.

10 MR. MAXWELL: I see. Then, what about by corporations
11 or by companies?

12 MS. PADEKEN: Yes. General leases are awarded on a
13 public auction basis to corporations, as well as to
14 individuals.

15 MR. MAXWELL: I see. Then maybe that --

16 MS. PADEKEN: The corporations don't have an ethnic
17 identity, necessarily. And individuals, I don't know. It's
18 -- unless we ask them, we really wouldn't know.

19 MR. MAXWELL: Maybe then you can just send into this
20 committee the corporations, so then we could check on our
21 own probably, because that -- to me, the theory -- it's very
22 important. Then I would know -- like 25% to how many,
23 25,000 acres? And how many acres do we have to non-Hawaiians?
24 That is important to me.

25 MS. PADEKEN: Okay. That information that you've

1 asked is a matter of public record. It's published annually
2 in our annual report.

3 But for the committee's purposes, if I can be clear,
4 you'd like for the Department to identify the specific cor-
5 porations or individuals who have --

6 MR. MAXWELL: Whoever.

7 MS. PADEKEN: -- who have Hawaiian Homes property,
8 who are non-Hawaiians?

9 MS. PUTNAM: Georgiana, could you, too, let us have a
10 copy, say, of the last three annual reports of the Commission?

11 MS. PADEKEN: Okay. Along those same lines, Mr.
12 Maxwell, the Constitutional Convention and the voters of
13 Hawaii passed an amendment to the State Constitution, which
14 now mandates the Department of Hawaiian Home Lands to enter
15 into negotiated general leases with native Hawaiians.

16 And what it means, essentially, is that before lands
17 are placed out on a public auction basis, that these lands
18 must first be made available to native Hawaiians.

19 So consequently, since the passage of the Constitutional
20 amendment, that we have not generally leased any of our prop-
21 erties. We are still in the process of putting together the
22 proposed rules and regulations to implement that particular
23 provision of the Constitution.

24 I guess one of the areas that we would need to take a
25 look at, very specifically, is what constitutes a native

1 Hawaiian corporation. Must all the members be native
2 Hawaiian? And by that is meant at least 50% Hawaiian or more.
3 Or must the majority of the members of the corporation be at
4 least 50% Hawaiian?

5 So these are some of the areas that we are still
6 thinking about, you know.

7 MR. MAXWELL: Okay.

8 MS. PADEKEN: One of the things we are afraid of is
9 that we don't want the native Hawaiian corporation to be a
10 front organization for a non-Hawaiian corporation. So we
11 are trying to look into these areas in terms of developing
12 the rules and regulations.

13 MR. MAXWELL: Okay. I have several more questions --

14 MS. PUTMAN: Go ahead.

15 MR. MAXWELL: -- if it's all right.

16 My concern is, basically, right at the present time,
17 I know the ConCon has passed a lot of good things for the
18 Hawaiian Homes Commission. But at the present time, I know
19 of places that are being leased by corporations, on which
20 native Hawaiians, who actually are recipients of this Act,
21 are denied access to the ocean, number one.

22 Then, hunting rights are not given to them. In other
23 words, what I'm saying, is it possible to put into leases --
24 or even to put into the leases that have already been issued
25 out -- some kind of clauses which would permit the native

1 Hawaiian to go down to the ocean or to the mountain, when-
2 ever he wants to? Or to harvest some of the game that's on
3 the land?

4 That's one question. The second phase of the question
5 is: Can there be some restrictions put on the leases, that
6 the native plants, flora and fauna, be protected?

7 Because I personally know of places on Maui where rare
8 native lama plants and olapa, kauili and ohia are being
9 ravaged by cattle.

10 And you know, for the protection of our people --

11 MS. PADEKEN: Well, with respect to the question of
12 reserving to the native Hawaiian the right of entry to prop-
13 erties that have been leased out for nonhomesteading purposes,
14 in order to gain access to the mountain or to the ocean, once
15 a lease is entered into, all the provisions governing that
16 particular general lease or license, you know, is all part
17 and parcel of that particular document.

18 I don't believe that the Commission, in years past --
19 or even at the present, you know -- have considered looking
20 into the provisions that you have explained here, about
21 reserving certain rights to native Hawaiians.

22 I don't know what the legal implications are with
23 respect to liabilities, you know, to general lessees.

24 MR. MAXWELL: Well, I think if we can stick to our
25 traditional rights -- it's just a suggestion, but I think it's

1 -- at this day and age, when it's hard for us to get our
2 native foods, it is very important that if we can't lease
3 the lands, at least we can use the land for access to the
4 ocean and for some of what the land provides as resources.

5 I think this is a very important question, that if it
6 has to be done legislatively, in a legislature, you know,
7 let's do it. But I think it's a recommendation that we have
8 to follow.

9 MS. PADEKEN: Yeah, it's a good recommendation. I'm
10 not clear as to the legal implications at this point.

11 I guess one immediate concern -- you know, I would
12 imagine a general lessee would have -- is, "Well, who will
13 be liable, you know, if someone gets hurt? You know, in the
14 process of crossing over this particular property?" et cetera.
15 I don't know about these areas.

16 MS. PUTMAN: I think we have some general legislation
17 for recreational purposes that might perhaps be re-examined,
18 to see if it could be expanded for other aspects.

19 And as far as preserving endangered species, there is
20 now some federal legislation that perhaps we could examine
21 to see if -- I know that flora and fauna here do need pro-
22 tection; several varieties are very rare.

23 MR. MAXWELL: But my specific thinking is that when
24 native Hawaiians go to the ocean, it's not for recreation.
25 It's for something other than recreation.

1 MS. PUTMAN: Yes. What I'm just saying is that exist-
2 ing laws could be looked at, to see if they could be expanded
3 for this other purpose.

4 MS. PADEKEN: Each of the leases, you know, have been
5 awarded for specific purposes. And it is definitely true
6 that the lessee has to exercise as much caution as possible
7 with respect to the use of that land.

8 MS. PUTMAN: Are those leases prepared by the Attorney
9 General's Office, then?

10 MS. PADEKEN: They're approved, reviewed, and
11 approved as to form and legality by the Attorney General's
12 Office, yes.

13 MR. KAUAHI: I have a question.

14 MS. PADEKEN: But you know, I'll go back to the
15 Department, and I'll inquire into the areas of the concerns
16 you have raised with respect to right of entry, and the
17 preservation of flora and fauna.

18 I'm not too concerned about the endangered species,
19 because I know, you know, there are federal statutes that
20 govern that.

21 I'm trying to determine what you mean by flora and
22 fauna, whether these are actually things you had --

23 MR. MAXWELL: Well, okay. Let me just be specific.
24 I know of an area on Maui, Kahikinui, that is the only area
25 on the island that you have lama; you have ohia; you have

1 the olapa trees; you have the kauili trees.

2 And this area is overrun with cattle. I saw evidence,
3 myself, of the forest in that area dying.

4 And a lot of people feel that this is an important
5 part of the culture and should be protected; and if it's on
6 Hawaiian Home Lands, that it will be protected.

7 I mean, you know, something should be done for that
8 to be protected.

9 Now, my last question -- if I may, and then I'll yield
10 to you, Dennis -- my last question: How can a Hawaiian -- or,
11 a group of native Hawaiians form a corporation? You touched
12 on that just a bit in your presentation.

13 How can they form a corporation? Say I'm interested
14 in a -- a whole group of us are interested in some land which
15 is being presently leased to a non-Hawaiian corporation? And
16 say we form a corporation?

17 Who do we -- we file our papers in incorporation, and
18 then what? We present it to the Hawaiian Homes Commission?
19 And in five years, if it's -- can you explain that process,
20 please?

21 MS. PADEKEN: Just let me ask: You want to use the
22 land on the basis of a general lease, or a homesteading
23 lease?

24 MR. MAXWELL: A homesteading lease.

25 MS. PADEKEN: Yeah. At this point in time, we are not

1 authorized, under the Hawaiian Homes Commission Act, to
2 award homesteading leases for the purposes that you indicated.

3 Our leases are for residential purposes, for agri-
4 culture purposes, to individuals, you see; and for pastoral
5 purposes.

6 Now, once you become a homesteader, it is possible for
7 the homesteaders to form a corporation, and to secure a
8 license for different kinds of commercial, mercantile,
9 businesses on the homestead.

10 But again, the status is the question. If you become
11 -- if not a homesteader, then the other route is through a
12 general lease. And I explained that.

13 MR. MAXWELL: And in a general lease, there's no dis-
14 tinction of -- you have got to be Hawaiian or anything like
15 that; right?

16 MS. PADEKEN: With the exception of the conditions I
17 mentioned.

18 Now that the Constitution has been amended, that
19 native Hawaiians must be given first option.

20 MR. MAXWELL: Oh, yeah. Okay. I understand that.

21 But now, say, I form this native Hawaiian corporation,
22 and I ask for land that is already leased to a nonnative
23 corporation.

24 Could, within five years, the Withdrawal Act be placed
25 on this land?

1 MS. PADEKEN: Okay. The withdrawal provision relates
2 to lands that were -- or are managed by the Department of
3 Land and Natural Resources.

4 Now, we still have a few more lands managed by the
5 Department of Land. I don't know if --

6 MS. PUTNAM: Mr. Ono is going to come next, so he can
7 probably tell us that.

8 MS. PADEKEN: Okay.

9 See, with the exception of lands that were needed for
10 homesteading purposes, lands that were actually awarded, all
11 other lands under control of the Hawaiian Home Lands were
12 actually managed by the Department of Land and Natural
13 Resources.

14 Prior to statehood, it was under the Commission of
15 Public Lands, and that particular commission later became
16 the Department of Land and Natural Resources.

17 As a matter of fact, the Department of Hawaiian Home
18 Lands has only established a land division in 1975. And at
19 that point in time, it was set up to recall their lands.

20 Now, with respect to your question about the with-
21 drawal clause, yes, we still have that ability to -- that
22 authorization to do that, for lands that are under the con-
23 trol of the Department of Land and Natural Resources.

24 It's a one to five year clause in the Act, a minimum
25 of one year notice, and maximum of five years.

1 MR. MAXWELL: So even though their lease has not
2 expired, say, for the next 10, 20 years, that can be applied;
3 right?

4 MS. PADEKEN: Yes. But see, here's where the catch
5 comes in again. If we are going to re-dispose of that land,
6 you know, it's going to be disposed of by a general lease.

7 Say, for instance, if you were the applicant, you
8 know, then we would be having to comply with the provision
9 of ConCon.

10 MR. MAXWELL: Yeah. Right.

11 MS. PADEKEN: But the withdrawal still exists, no
12 doubt, for those lands that --

13 MR. MAXWELL: You know, I'm still a little confused,
14 and -- just excuse me; okay? So I can understand it?

15 I go home and I form this Hawaiian corporation, right,
16 with 10, 15 other Hawaiians.

17 We make a provision -- we make a request to the
18 Hawaiian Homes Commission for land that X Corporation has
19 here. And then we are going to do farming, ranching. Okay?

20 Now, then, you look at the merits of this corporation,
21 whether we are a viable corporation, whether we have sub-
22 sidies to subsidize, blah, blah, blah; okay?

23 Then, you -- then what will happen after that with
24 this land that I want?

25 MS. PADEKEN: Okay. If the land is presently

1 encumbered under a general lease to someone else, we would
2 have to -- and these are not lands under Hawaiian Homes
3 management at the present.

4 MR. MAXWELL: Right.

5 MS. PADEKEN: These are lands under the Department of
6 Land and Natural Resources.

7 We would have to request and give notice to the
8 Department of Land and Natural Resources that we would like
9 to have these lands recalled.

10 But there are other aspects to that problem. Okay?
11 These lands are general leased by the Department of Land and
12 Natural Resources. The revenues derived from the general
13 leasing of those lands are actually referred back to the
14 Department of Hawaiian Home Lands for its purposes.

15 We are not mandated, under the provisions of the
16 Hawaiian Homes Commission Act, to make these lands -- to have
17 these lands recalled.

18 In a sense, you know, it's -- we are -- it's sort of
19 a Catch 22 situation.

20 Because the lands are presently general leased for
21 nonhomesteading purposes, there are revenues being generated
22 to the Department.

23 Now, if we are to take these lands out of general
24 leases, then somehow, we have to find a way to compensate
25 for the loss of those revenues.

1 So, that's an additional consideration with respect
2 to the commission making a decision to recall the lands.

3 MR. MAXWELL: Yeah. But if the ConCon say that, from
4 now on, monies will be funded by the -- explain that to me.
5 I thought it was my understanding --

6 MS. PADEKEN: Well, the language is that the Legislature
7 shall make sufficient funds available to the Department of
8 Hawaiian Home Lands, you know, for its programs.

9 We intend to, in the next session of the Legislature,
10 to indeed test out that particular provision of the ConCon --
11 of the Constitution.

12 But again, the Legislature, being the keeper of the
13 purse, has certain discretionary powers available to them.

14 The real question is: What does "sufficient funds"
15 mean?

16 And I'm sure you are aware, you know, that we -- the
17 program has been, you know, in the political arena, where --

18 MS. PUTMAN: You are developing, though, that legisla-
19 tion for a supplemental appropriation?

20 MS. PADEKEN: Right. We will be asking for general
21 funds.

22 MR. MAXWELL: So then, eventually, in the long run,
23 you will not have to rely on general leases for subsistence;
24 right?

25 MS. PADEKEN: That was the intent of that particular

1 Now, with respect to your question of which lands we
2 determine --

3 MRS. COOPER: Yes, how do you determine which lands
4 are assigned to the Department of Land and Natural Resources,
5 and which lands are retained by the Commission?

6 MS. PADEKEN: As I indicated, we -- you know, origi-
7 nally all the lands that are not needed for homesteading
8 purposes were under the management of the Department of Land
9 and Natural Resources.

10 And since 1975, the Department has been recalling
11 most of these lands, with the exception, at this point, of
12 17,000 acres.

13 Why the Department continued, you know, to let the
14 balance of 17,000 acres be administered by the Department of
15 Land and Natural Resources? Okay. There's one very large
16 parcel involved on this, on the Island of Kauai, about 10,000
17 acres that are under sugar cane production.

18 And the determination, you know, at that time -- you
19 know, there was an existing lease; and the Commission at that
20 point, I believe, did not feel that they were ready to open
21 up those lands for homesteading purposes.

22 And I suppose it was a matter of timing, that a lease
23 was still current. And we had no -- you know, we had no real
24 use for those lands at that point in time.

25 So it continued to be administered by the DLNR.

1 MRS. COOPER: Will you tell us what some of the leases
2 are, for general public lease, as issued by the Department of
3 Land and Natural Resources, that may be regarded as leases
4 including large parcels of Hawaiian Homes Lands?

5 MS. PADEKEN: One large parcel on the Island of Kauai,
6 the Kekala Sugar Ranch, for cultivation of sugar cane. That
7 is about 10,000 acres.

8 With respect to the smaller parcels, I would have to
9 check.

10 MS. PUTMAN: Is that in your annual report, Georgiana?

11 MS. PADEKEN: Yes. We are going to get that.

12 MRS. COOPER: Then my next question is: As the
13 director of Hawaiian Homes, what impact has the awarding of
14 Hawaiian Homes Lands that are set aside for the rehabilita-
15 tion of Hawaiian people had on the purposes and intent of the
16 Act? In other words, has it been in the best interests of
17 the Hawaiian people to have the general public leases of
18 lands, to non-Hawaiians?

19 MS. PADEKEN: Well, my personal opinion is that I --
20 let me just talk to you personally at this point.

21 The intent of the proponents of the Hawaiian Homes
22 Commission Act was that the rehabilitation of the native
23 Hawaiian would come about through -- through a land base.
24 And I suppose, if we follow that particular position, you
25 know, to its fullest, then, you know, I would have to agree

1 that all of these lands should eventually be in the hands of
2 native Hawaiians.

3 I think that the fact that the department has had to
4 general lease its lands out to the public has created a lot
5 of animosity, especially since there are native Hawaiians who
6 are still waiting to secure, you know, a piece of land for
7 themselves.

8 And you know, I would have to say that the general
9 leasing, you know, of these lands to the public has really
10 not served the best interests of the -- at least, the spirit
11 of the Hawaiian Homes Commission Act.

12 But there are limitations also, and I can appreciate
13 why the commission has had to go this route. When the Act
14 was passed, the only revenues that came to the department
15 were the revenues that were 30% of the revenues from the
16 cultivation of sugar cane lands, and the water licenses. And
17 these were revenues derived from State lands.

18 Okay. This was the only source of revenue that the
19 Federal Government set aside, and it's -- this is rather
20 ironic, because these were actually State lands that were
21 eventually conveyed back -- actually, these were Federal
22 lands conveyed back to the State of Hawaii.

23 And the Federal Government has not funded the program
24 in any other way, except to say the revenues derived from
25 these lands would go back to fund out -- to go towards the --

1 well, a portion, anyway, to the support of the Hawaiian
2 Homes program.

3 All other proportions that the Department of Hawaiian
4 Home Lands have received have come through the State, through
5 legislative proportion.

6 We are required to provide the access, roads, utilities,
7 to the properties. I think in time, the specifications of
8 the native Hawaiian community has changed. It is no longer
9 1920.

10 Ironically, the original purpose of the Act was for
11 agriculture and pastoral purposes. But it was discovered,
12 as early as 1928, that native Hawaiians did not want to live
13 in the rural areas; that they wanted to continue to remain
14 in residential lots in urban areas, if possible, but still
15 residential lots, as opposed to farming or cattle ranching.

16 And so consequently, today, 90% of our waiting list
17 are individuals, native Hawaiians, who are wanting a piece
18 of property to build a home, rather than wanting land to
19 farm or to ranch.

20 MRS. COOPER: Would you say that the funds received
21 from the leases on these properties, under the general public
22 use, has been fair and equitable?

23 MS. PADEKEN: Well, if I had to assess it today, I
24 would have to say: No. The really profitable general
25 leases are few and far between.

1 There are standard practices today with respect to,
2 say, industrial leases.

3 MRS. COOPER: What are the reopening periods?

4 MS. PADEKEN: Oh, it varies. The earlier ones, you
5 know, sometimes 20, 30 years, before reopening. So this is
6 the pilikia. This is the problem. But there's nothing we
7 can do about it.

8 You know, it was already entered into 40, 50, 65 year
9 periods.

10 MRS. COOPER: I have got one more question. It's been
11 said from time to time that there have been lands taken out
12 of the Hawaiian Homes Lands inventory by executive order, and
13 for which there has never been equitable compensation or
14 exchange.

15 As director of Hawaiian Homes, will you comment upon
16 that?

17 MS. PADEKEN: Well, that particular subject, the use
18 of Hawaiian Home Lands under executive order, you know, is
19 now under litigation.

20 It's the position of the Department of Hawaiian Home
21 Lands that executive orders are illegal; they're invalid.

22 And the only way that Hawaiian Homes can dispose of
23 property is through an exchange, through a general lease,
24 through a license of some sort.

25 And such was not the case with respect to the use of

1 these lands under the guise of an executive order. It is the
2 subject of litigation at this point in time.

3 - MRS. COOPER: What would be the intention of the
4 Hawaiian Homes Commission, relative to a possible land that
5 was, by executive order, taken out of the Hawaiian Homes
6 inventory, and is presently a large income-producing source
7 for the State of Hawaii? Is there a recourse at this point?

8 MS. PADEKEN: Can you repeat your question again?

9 MRS. COOPER: Well, let's suppose that there's a parcel
10 of land located somewhere on one of these islands, and from
11 which its present use is bringing into the State a very
12 large sum of income.

13 Now, what would be the recourse of the Hawaiian Homes
14 Commission, relative to this particular land that was taken
15 out of its inventory without compensation or --

16 MS. PADEKEN: What you are saying is that -- whether
17 the commission would be open to considering exchange of lands
18 presently under executive order, to State lands?

19 MRS. COOPER: Well, would the commission be open to
20 that? Or would the commission be looking at the source of
21 income from this particular land and maybe looking now to see,
22 "What does this mean in terms of what we have not gotten
23 previous to this? And what we ought to be getting now?
24 Because this is still our land."

25 MS. PADEKEN: Well, so that there would be some

1 question as to whether or not we would want to exchange those
2 lands --

3 MRS. COOPER: Would you want to?

4 MS. PADEKEN: -- or continue to --

5 MRS. COOPER: Yeah.

6 MS. PADEKEN: Well, with respect to that question, we
7 are -- we are not authorized to purchase lands under the
8 Hawaiian Homes Commission Act. The decision as to whether
9 or not we will continue to receive revenues or we will decide,
10 you know, to exchange lands at an equal value, for equal
11 value, that decision has to be arrived at with respect to the
12 needs of the program.

13 Okay. Take the Island of Oahu, for example. We have
14 the capability of building approximately 2,000 more lots, or
15 opening up 2,000 more lots.

16 And yet 90% of our waiting list of applicants who are
17 wanting, you know, to reside on the Island of Oahu.

18 That particular problem, it may have some relation-
19 ship as to whether we would exchange or not. The considera-
20 tion that we do not have land in the Honolulu area, for
21 example, or in Kona, may add to the decision to exchange a
22 particular parcel, so that lands could be situated through-
23 out the islands.

24 So there's really no hard and fast rule with respect
25 to whether we exchange or not, or whether we'd just accept

1 the land back for revenue purposes.

2 There are many considerations which lead up to the
3 decision of whether we continue to derive income from these
4 lands, or whether we exchange.

5 MRS. COOPER: All right.

6 MS. PUTMAN: Thank you very much, Georgiana.

7 You do have a note of that other information we asked
8 from your department?

9 MS. PADEKEN: Yes.

10 MS. PUTMAN: You have a lot of headaches ahead, don't
11 you?

12 Again, thank you very much. We really appreciated
13 your cooperation.

14 Your questions will come at the open session this
15 afternoon. But of course, you can talk to Georgiana
16 personally.

17 Thank you very much.

18 Our next witness is Mr. Susumo Ono, who chairs the
19 Board of the Department of Land and Natural Resources.

20 Thank you for joining us, Mr. Ono.

21 MR. ONO: Chairman Putnam, members of the committee:

22 Thank you for asking us to participate in your hearing
23 this morning.

24 My name is Susumo Ono, Chairman of the Board of Land
25 and Natural Resources, State of Hawaii. I have been asked to

1 present testimony on the role and function of my office in
2 the administration, management and enforcement of the
3 Hawaiian Homes Commission Act of 1920, as amended.

4 The Board of Land and Natural Resources is an execu-
5 tive board, whose members are appointed by the Governor and
6 whose nominations are subject to confirmation by the State
7 Senate. The Chairman is a full-time employee of the State
8 and heads the Department of Land and Natural Resources, which
9 is charged with the management, administration and control of
10 the public lands, water resources and minerals of the State.

11 The department also manages and administers the con-
12 veyances, State parks, historical sites, forest and fish and
13 game programs of the State.

14 I might add that the Board of Land and Natural
15 Resources' functions and responsibilities are similar to
16 those of the Hawaiian Homes Commission in its relationship to
17 the Department of Hawaiian Home Lands.

18 When the Hawaiian Homes Commission Act was passed by
19 Congress in 1920, certain territorial public lands were
20 designated as "available lands" and assumed the status of
21 Hawaiian Home Lands. These lands then came under the juris-
22 diction of the Hawaiian Homes Commission.

23 The Act specified, however, that those Hawaiian Home
24 Lands not used directly in the Hawaiian Homes program could
25 be leased out to the general public until such time as they

1 were required for Hawaiian Homes' own program.

2 Under the terms of the Act this leasing to the general
3 public could not be handled by Hawaiian Homes itself, but was
4 to be handled by the Commissioner of Public Lands, the prede-
5 cessor of the Department of Lands and Natural Resources, in
6 the same manner as were the Territory's public lands.

7 Approximately 70,500 acres of Hawaiian Home Lands were
8 involved. All proceeds from the leasing of Hawaiian Homes
9 Land were to be turned over to the Department of Hawaiian
10 Home Lands as were 30% of all revenues from Territorial public
11 lands in sugar cultivation and from water licenses (up to a
12 maximum of five million dollars). About \$250,000 a year was
13 turned over under this arrangement.

14 With the advent of Statehood in 1959, the Hawaiian
15 Homes Commission Act became a part of the State Constitution
16 and the responsibilities of the Commissioner of Public Lands
17 in respect to Hawaiian Homes Lands were assumed by the Board
18 of Land and Natural Resources.

19 All revenues received from the leasing out of Hawaiian
20 Homes Lands by the Department of Land and Natural Resources
21 were and are being turned over to the Department of Hawaiian
22 Home Lands.

23 In addition, 30% of the revenues from State-owned
24 sugar lands and water licenses were turned over to Hawaiian
25 Homes until the five million dollar maximum was reached (for

1 the second time as authorized by legislative action for a
2 total of ten million dollars) some years ago.

3 Since Statehood, the Legislature has authorized the
4 Department of Hawaiian Home Lands to handle its own leasing
5 to the general public of lands not immediately required for
6 the Hawaiian Homes program.

7 Accordingly, as leases covering Hawaiian Homes Lands
8 which have been issued by this department expire, we have
9 been returning the lands involved to the Department of
10 Hawaiian Home Lands.

11 We can anticipate that within the next few years the
12 Department of Hawaiian Home Lands will be handling practically
13 all the leasing (and collection) of their own lands.

14 The 1978 Hawaii State Constitutional Convention
15 amended Article XI, Section 1 (now Article XII) of the State
16 Constitution by providing that 30% of the receipts derived
17 from the leasing of State-owned cultivated sugar lands and
18 from water licenses shall be transferred to the Native
19 Hawaiian Rehabilitation Fund, Section 213 of the Hawaiian
20 Homes Commission Act, for the purposes enumerated in that
21 section.

22 It also provided that 30% of the State receipts
23 derived from the lands cultivated as sugar cane lands on the
24 effective date of the section shall continue to be trans-
25 ferred to the Native Hawaiian Rehabilitation Fund whenever

1 such lands are sold, developed, utilized, transferred, set
2 aside or otherwise disposed of for purposes other than the
3 cultivation of sugar cane.

4 No ceiling was imposed. Accordingly, as soon as the
5 number of acres actually in sugar on the effective date of
6 the section have been determined and certain other legal
7 questions connected with the section have been answered, the
8 30% payments, now without ceiling, will resume.

9 I do have some statistical data that I could briefly
10 go over with you. I don't want to take too much of your time
11 on this one.

12 MS. PUTMAN: Excuse me, Mr. Ono. Are you going to
13 make a copy of this?

14 MR. ONO: Yes, we do have copies.

15 MS. PUTMAN: Thank you.

16 MR. ONO: We went back to -- just to get some per-
17 spective to the amounts we're speaking about, we went back to
18 1969-70, and all the way up to 1978-79, a period of ten years,
19 and funds from what we call the "available lands" that was
20 under the management of the Department of Land and Natural
21 Resources.

22 In '69-'70, approximately \$201,000 was turned over to
23 the Hawaiian Homes Commission.

24 And the next year, it was \$275,000. The following
25 year, two hundred thirty-three, two thirty-three, two forty-

1 one. And it reached a peak in '74-'75, with \$326,000 being
2 turned over.

3 And from '74-'75, the amounts gradually became smaller.
4 \$206,000 in '75-'76. And in '77-'78, it reached about
5 \$152,000.

6 One of the reasons the reduction is taking place is
7 because more and more of the lands are being turned over to
8 the control, the direct control, of the Hawaiian Homes
9 Commission. That's for the available lands.

10 There's another source, what we would call Act 4, the
11 Additional Receipts Fund. One interesting -- two interesting
12 aspects here. When the ceiling was reached, the five million
13 dollar ceiling that was in existence was reached in '72-'73,
14 that year, \$116,000 was turned over.

15 The succeeding year, because the ceiling was reached,
16 nothing came from this source; but the following year, '74-
17 '75, the ceiling was lifted. And at that time, also, the
18 price of sugar was way up. So because there's a percent on
19 the gross of sugar receipts, about 1.9 million dollars from
20 this source was turned over to the Hawaiian Homes Commission.

21 So in total, for the ten years that we went back to
22 look at these two sources, approximately 5.9 million dollars
23 was transferred to the Hawaiian Homes Commission.

24 Chairman Putnam, that concludes my testimony.

25 MS. PUTNAM: Thank you very much.

1 The process we have been following is to permit com-
2 mittee members to ask questions.

3 MR. ONO: Madam Chairman, with your permission, I
4 would like to have Mr. Detor also participate.

5 MS. PUTMAN: That's why we have an extra chair there,
6 for him.

7 MR. ONO: Mr. Detor is the head of the Land Management
8 Division, and he has had considerable experience, actual
9 experience, in dealing with not only the lands directly under
10 the Department of Land and Natural Resources, but also under
11 the jurisdiction of the Hawaiian Homes.

12 MR. DETOR: My name is Jim Detor, D-e-t-o-r.

13 MS. PUTMAN: Charles?

14 MR. MAXWELL: Yes.

15 Mr. Ono, I asked a similar question to Georgiana, but
16 now I see maybe you are the one.

17 Okay. On a general lease, are you in control of all
18 general leases, lands that are leased on general lease to
19 non -- you know, general leases? Are you in control of that?

20 MR. ONO: You've talking about non --

21 MR. MAXWELL: -- Hawaiian homes.

22 MR. ONO: Well, I think we have two categories: those
23 that we do have direct, and -- because it's -- the earlier
24 ones, leases that were issued, still carry on. That part,
25 we still have.

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MR. MAXWELL: Okay. Then you are the right person to ask this question.

I was interested in -- well, this particular lease, I know a large acreage on Maui that have native fauna and flora, and it should be protected.

I asked Georgiana, and she was supposed to be checking, if she can get this information probably from you.

But how can this be protected? Some of the native fauna and flora that's on Hawaiian Homes land, which you have jurisdiction over?

MR. ONO: Mr. Maxwell, there is a current lease that's in effect, when you're talking about this particular parcel?

MR. MAXWELL: Right.

MR. ONO: Yeah. Okay. One of the things that we would look for right now, on the current conditions, is to see what the land is zoned for. Okay. If it's agriculture or urban or --

MR. MAXWELL: Pastoral lands.

MR. ONO: Uh-huh. And if the lease is to expire, let's say, within the next year or so --

MR. MAXWELL: Excuse me. 1989.

MR. ONO: 1989? Then if -- if you have a current lease in effect, and you want to change the conditions of the lease, that's going to become a legal problem.

MR. DETOR: I have got --

1 MR. ONO: Jimmy, have you got any --

2 MR. DETOR: Well, all of our leases have withdrawal
3 provisions in them. In other words, we can withdraw land
4 from any lease for a public purpose.

5 And I would imagine that this particular reason would
6 constitute a public purpose.

7 MR. MAXWELL: How about instigating this?

8 MR. DETOR: I think, by directly bringing it to our
9 attention -- what lease are you talking about?

10 MR. MAXWELL: Kahikinui. There's Kauili there, lama
11 trees. I have already specified what they are. Native
12 plants, rare native plants.

13 MR. DETOR: Well, I think that shouldn't be too much
14 of a problem, insofar as isolating the -- you know, having
15 our forestry people look at it.

16 And let's say we were going to withdraw it. I think
17 your practical problem would probably come later on, even if
18 you can withdraw it.

19 But how are you going to physically protect it? Are
20 you going to fence it or what? You know, this is the problem.

21 But as far as the legal ability to do something about
22 it, I don't think that's any problem.

23 MR. MAXWELL: Well, I think if you withdraw it, then
24 the lessee would not be in control of that area, then he
25 would have to keep his cattle away from damaging the --

1 MR. DETOR: Well, as I say, you may have a physical
2 problem, as far as fencing that kind of thing.

3 But in answer to your question, it is possible.

4 MR. MAXWELL: It is possible.

5 MR. DETOR: There's no legal problem that I can see.

6 MR. MAXWELL: Another question I had, on the statis-
7 tics, where you were talking about monies that were given to
8 the Hawaiian Homes. From the leases, general leases that the
9 monies are derived from general leases, does it go directly
10 to the Hawaiian Homes? Or does it go into the State funds,
11 directly into the State funds, and then proportioned out to
12 the Hawaiian Homes?

13 MR. ONO: I'm pretty sure it's the latter. It comes
14 into a central account first, and then the determination is
15 made.

16 MR. MAXWELL: Does it go on face value? In other
17 words, if my lease is \$40,000 a year or \$50,000 a year, then
18 it goes into the general fund, and is then \$50,000 given to
19 the Hawaiian Homes Commission?

20 MR. ONO: We have another fiscal person here, that
21 can address possibly the --

22 MR. TAKIKAYA: Yes, it does. It goes directly to
23 Hawaiian Homes.

24 MR. ONO: Yes. You're talking about available lands,
25 now, I suppose?

1 MR. MAXWELL: No, no. I'm talking about lease lands,
2 that are already being leased. Like I said, if it's being
3 leased for \$50,000, does it go to the general fund of the
4 State, or does it go directly to the Hawaiian Homes?

5 MR. TAKIKAYA: Directly to Hawaiian Homes.

6 MR. MAXWELL: Directly to Hawaiian Homes. Thank you.
7 That's all the questions I have for now.

8 MS. PUTMAN: Excuse me. Would you wait for just a
9 moment? We have a little change of parties. We have one
10 committee member leaving and another arriving.

T-7

11 MR. MAXWELL: Madam Chairman, if I might just address
12 this? If the audience has a question, if they could write
13 it on a note and bring it up to us, we will ask the questions.

14 MS. PUTMAN: Thank you.

15 Did you have any more questions, Charles?

16 MR. MAXWELL: No. Thank you, Mr. Ono.

17 MR. KAUAHI: I have a question. This is in regards
18 to the withdrawal clause. I just wanted to know specifically,
19 you know, what are some of the specifics of the clause? Does
20 it give the lessee a period of time? Or so many days, or
21 what?

22 MR. DETOR: Well, the leases have a provision in them
23 that says that within one to five years notice -- this is
24 generally what are in them -- Hawaiian Home Lands can be
25 withdrawn and returned to the jurisdiction of the Hawaiian

1 Homes Commission.

2 The way that works is that Hawaiian Homes would notify
3 us, and they would have to give this time period, that they
4 want to withdraw such and such lands from the operation of
5 such and such a lease.

6 We would in turn transmit that to the lessee.

7 MR. ONO: If the lessee is agreeable, it can be done
8 sooner.

9 MR. DETOR: Yes. Mr. Ono has brought up that if it's
10 presumably agreeable, and the lessee has no objection, why,
11 fine.

12 MRS. COOPER: It's my understanding that 70,000 acres
13 of Hawaiian Homes Lands are now under the jurisdiction of
14 your department; is that true? Did I hear that correctly?

15 MR. ONO: That was at the outset, we had 70,000.

16 MRS. COOPER: Seven zero?

17 MR. ONO: Seven zero.

18 MRS. COOPER: What do you now have?

19 MR. ONO: I don't know.

20 Jim?

21 MR. DETOR: I don't have the exact figure, but it
22 isn't anywhere near that.

23 MR. ONO: Close to 17,000.

24 MRS. COOPER: Now you are saying 17,000?

25 MR. ONO: But the 70 was the figure that was at the

1 very beginning.

2 MRS. COOPER: All right. And two criteria that
3 enables you to assume the jurisdiction over these lands is,
4 one, that the lands are not immediately needed by Hawaiian
5 Homes; and, two, that the lands will serve a public interest;
6 is that right?

7 MR. DETOR: No, no. The way it stands right now, we
8 have no -- we do not have the legal ability to commandeer,
9 if you want to call it that, any Hawaiian Home Lands.

10 We can lease them out -- they're so-called "available
11 lands" -- only when the Hawaiian Homes Commission says, "Will
12 you do it for us?"

13 Or, they can do it themselves.

14 Now, I think the only real case at point right now is
15 Kekala -- well, there are two: the Kekala sugar lease, where
16 you have a mixture of Hawaiian Home Lands and State lands.

17 Now, we sold a lease covering those lands back -- the
18 newest lease, around 1970, '71.

19 Before doing so, we checked with Hawaiian Homes and
20 got their okay to include -- to put the two together.

21 So it's easier for land as one lease. It would be
22 very difficult to split them up.

23 The other one is at Analona, where the lands have not
24 been developed, the Hawaiian Home Lands. There's State
25 lands.

1 Rather than hold up the leasing process, by agreement
2 with Hawaiian Homes, we have sold the lease, but have reserved
3 the right, together with Hawaiian Homes, to make the parti-
4 tion later on. And this will be done.

5 The monies will then be -- you know, if the accounts
6 do not balance out properly, pursuant to whatever division
7 is made at the time, it can be straightened out at that time.

8 MRS. COOPER: But why couldn't Hawaiian Homes Commission
9 itself lease these lands out?

10 MR. DETOR: They didn't have -- they weren't legally
11 able to do so until -- I forget what year. But it's been
12 about -- oh, maybe eight, nine years ago, that the Legislature
13 passed the bill which gave Hawaiian Homes the authority to
14 lease out their own lands to the general public.

15 Up to that time, they didn't have the legal ability to
16 do so.

17 MRS. COOPER: I see. And so, Mr. Ono, you say that
18 in a few years, it's most likely that all of the land will
19 be returned to Hawaiian Homes, and under its jurisdiction?

20 MR. ONO: That's right.

21 MRS. COOPER: What will necessarily have to happen
22 before this result?

23 MR. ONO: Usually it's at the end of the lease that's
24 in existence. You know, instead of changing the management,
25 so to speak, of that particular lease, we let the current

1 lease run out; and then turn it over to Hawaiian Homes for
2 issuance -- or for whatever disposition that the commission
3 decides to make.

4 MRS. COOPER: And so in terms of the leases you now
5 have, and the termination of those lease periods, when do you
6 see the end of the -- perhaps the most of your leases?

7 MR. DETUR: Oh, it's just a few years. I don't think
8 there are any in existence, with the exception of the Kekala
9 one.

10 MRS. COOPER: Does this also mean that you will not
11 be negotiating for new leases --

12 MR. ONO: Well, again --

13 MRS. COOPER: -- on any properties of Hawaiian Homes?

14 MR. ONO: Only if we are requested to do so, to assist
15 the Hawaiian Homes Commission.

16 Otherwise, we would not get involved.

17 MR. DETOR: I can give you a classic example, I think.
18 Humuula, on Hawaii, Hawaiian Home Lands which were under leases
19 to Richard Smart. And that lease ran out several years ago.
20 You're talking about some 30,000 acres.

21 When that lease ran out, it was turned back to
22 Hawaiian Homes. They have since leased it out, directly.
23 But we have nothing to do with it.

24 MRS. COOPER: I see.

25 MR. DETUR: So right there, you see how your acreage

1 comes down.

2 MRS. COOPER: All right.

3 MS. PUTMAN: Sally, do you have a question?

4 MS. JAMES: Yes. I just have a question.

5 We have mentioned this withdrawal clause several times.
6 Have you ever actually been asked to do that?

7 MR. DETOR: To withdraw?

8 MS. JAMES: Yes. Has that part ever been --

9 MR. DETOR: I don't recall a specific instance, but
10 I'm sure we could probably provide you with an example.

11 But I just, off the top of my head, don't have that
12 information available.

13 MS. JAMES: It hasn't been a frequent practice?

14 MR. DETOR: No.

15 MS. PUTMAN: The first speaker today mentioned the
16 Homesteading Act of 1895, I think it was, where there were
17 999-year leases.

18 That is under your jurisdiction?

19 MR. DETOR: Those are not Hawaiian Home leases?

20 MS. PUTMAN: No. That was before the Hawaiian Homes --

21 MR. DETOR: Oh. All right.

22 MS. PUTMAN: There was this homesteading program of
23 999-year leases.

24 MR. DETOR: Right, so-called homesteading. It --
25 those leases were 999-year leases, which were awarded by the

1 Land Commissioner. They did not cover Hawaiian Home Lands,
2 just State lands -- or Territorial lands at the time.

3 MS. PUTMAN: Right.

4 MR. DETOR: And they're no longer given out.

5 MS. PUTMAN: Right. Do you know approximately how
6 much acreage, total acreage, those leases now encompass?

7 MR. DETOR: The ones still in existence?

8 MS. PUTMAN: Yes.

9 MR. DETOR: No, I don't. But I can get it for you.
10 We had a report prepared.

11 It's not extensive. You're talking about, really,
12 mostly about one-acre, two-acre parcels, like that. There
13 are no big acreages, under the 999-year leases.

14 MS. PUTMAN: Yes.

15 MR. DETOR: And the reason for that is that Congress
16 passed an act some years ago which provided that people hold-
17 ing those leases could purchase the fee, and gradually they
18 have been doing this over the years.

19 Now, I don't think that you have any homestead lease
20 of that kind that covered a -- you know, a great amount of
21 acreage. Most of it, you're talking about, as I say, one,
22 two acres -- some even less.

23 I do recall some on Hawaii of 25 acres, but I don't
24 recall any great big acreages given out in that manner.

25 And they're gradually being phased out, so that today

1 I think there are none of any size left at all.

2 MS. PUTMAN: There are three specific questions from
3 the audience. I will do them one at a time.

4 Have any initiatives been made to renegotiate sugar
5 cane leases and water licenses in order to more fairly reflect
6 current values?

7 MR. ONO: I assume that this is leases that are in
8 effect?

9 MS. PUTMAN: In effect now, yes.

10 MR. ONO: Before the expiration dates?

11 MS. PUTMAN: Yes.

12 MR. ONO: Okay. My experience has been very --
13 compared to Jimmy's, very limited. But I haven't been aware
14 of any.

15 Jimmy?

16 MR. DETOR: Well, the leases that have been sold in
17 the last few years -- and when I say "last few years," I'm
18 talking about the last 15, at least -- all have in them a
19 base price, a minimum, which the plantations pay each year.

20 Then, there is a percentage of the gross feature,
21 should it exceed that minimum.

22 Now, that percentage figure varies, depending on the
23 productivity of the land, so at Kekala, for example, you're
24 talking about 6% of the gross, should it exceed the minimum.
25 And it invariably does exceed the minimum.

1 So in that sense --

2 MS. PUTMAN: So there is an escalator built in?

3 MR. DETOR: There's an escalator clause. And the
4 classic example, again, is when the sugar was so high. Gee,
5 it was amazing, the difference in income between that year
6 and the next.

7 MS. PUTMAN: All right. The next question:

8 In the event the Legislature does not provide funding
9 for administrative expenses -- that's for the Hawaiian Homes
10 Commission, I assume -- will the present level of general
11 leasing have to be maintained, at 122,000 acres? Have any
12 initiatives been made to decrease the number of acres in
13 general leases?

14 MR. DETOR: It's a hard -- I don't know what the ques-
15 tion -- you know. I'm not familiar with the 122,000-acre
16 limit.

17 A SPECTATOR: That question was actually directed to
18 Georgiana.

19 MS. PUTMAN: That really should go more to her. All
20 right.

21 A SPECTATOR: And the next one, too.

22 MS. PUTMAN: Yes. All right.

23 MRS. COOPER: Just one more question. Of the 17,000
24 acres you now have, are there parcels in those acres -- or
25 acreages -- that are appropriate for homesteading for farm

1 lots, and for pastoral lands, for the native Hawaiian people
2 to qualify?

3 MR. DETOR: Gee, that's hard to say, you know, without
4 looking at the individual -- there probably are. I don't
5 know. But -- I don't have a list here, you know, to --

6 MR. ONO: We can get the figures --

7 MR. DETOR: I mean, on that --

8 MR. ONO: -- on an assessment.

9 MRS. COOPER: The reason why -- so you will understand,
10 there are, as we have heard this morning, over 6,000 Hawaiian
11 people on the waiting list for homesteading. And so part of
12 the rationale is that if there are existing lands somewhere
13 for homesteading and other land usages, appropriate for the
14 native Hawaiians, that may become available, and if they're
15 held under lease now, what would be the reasonable perspec-
16 tive to take at this time?

17 MR. DETOR: Well, the big problem is here on Oahu, and
18 you don't have those kinds of lands here.

19 MRS. COOPER: Well --

20 MR. DETOR: You don't have those kinds of general
21 leased properties on Oahu.

22 I think Mr. Maxwell is probably familiar with the one
23 thing on Maui, where the State has lands, you know, around
24 Hana and Nahiku, in through there. Okay?

25 Some years ago, our land agent compiled a list of them

1 and said, "You ought to exchange them with Hawaiian Homes,
2 because most of the people who are occupying these lands, by
3 permit from the State, basically, are Hawaiians."

4 But then, when we started looking at it, you know, if
5 we were to exchange, these people aren't even on the list
6 with Hawaiian Homes. So if we were to make an exchange, the
7 chances are, they would be out, the people who are occupying
8 them now.

9 This is one of the problems.

10 MRS. COOPER: All right.

11 MS. PUTMAN: Charles?

12 MR. MAXWELL: Well, Mr. Ono, could you explain -- you
13 know, you are aware of the intent of the Hawaiian Homes Act,
14 the regulations as to acquiring land or exchanging of land.

15 Could you explain to me the acquisition of an execu-
16 tive order type of thing, that was placed on land which is
17 owned by the Hawaiian Homes?

18 MR. ONO: Yes. A number of years in the past, when-
19 ever -- I'm using State agencies as an example, just as an
20 example -- whenever State agencies, like the Department of
21 Education, or the Health Department, required additional
22 land, and the desired parcel was under the jurisdiction of
23 the Hawaiian Homes Commission, the practice was to seek an
24 executive order from the Governor, to have that particular
25 parcel transferred -- and I'm talking about the day-to-day

1 management of that parcel -- transferred over to the agency
2 that's seeking -- or might have been to the public --

3 MR. DETOR: Yes.

4 MR. ONO: To DLNR, the land department. And this
5 practice has been going on, as I have said, for a number of
6 years in the past.

7 Several years ago -- two or three years ago -- we did
8 receive a revised Attorney General's opinion that said this
9 practice is not legal; that the Hawaiian Homes Commission
10 cannot really dispose of its lands in the manner of a -- of
11 the executive order route.

12 And this has brought about problems. And Ms. Padeken
13 mentioned one case under litigation, but we also have others,
14 like DOE and the Health Department uses, under review from
15 our department.

16 You know, what do we do to correct the, quote, illegal
17 action that was taken in the past?

18 MR. MAXWELL: Don't you think that if you had a ruling
19 by the Attorney General, you could, in your capacity, then
20 recall the land? Specifically, the airport, the 92 acres in
21 Hilo?

22 MR. DETOR: I don't think -- that's something that's in
23 the courts right now, so -- you know. No answer to your
24 question.

25 MR. MAXWELL: Um-hmm. So we would have to wait for

1 the courts, huh?

2 MR. ONO: Yeah. It would be inappropriate for us to
3 comment on that specific point.

4 But on the principle of the thing, you know, it's --
5 we know what was done, and what we should be doing.

6 MR. MAXWELL: My other question was: The Hawaiian
7 Homes Act is a federal mandate, an act passed by Congress.

8 MR. ONO: Um-hmm.

9 MR. MAXWELL: Then how can the State Legislature or
10 the bodies within the State revise and redo the Act to their
11 benefit? Can you explain that to me?

12 MR. ONO: I think the -- I'm not sure -- even the
13 Admissions Act does provide for legislative action.

14 MR. MAXWELL: The Admissions Act actually --

15 MR. ONO: Yeah, there is the fact that this Act still
16 is a federal mandate.

17 MR. MAXWELL: Um-hmm. And I was just wondering, you
18 know, as to why -- how the Legislature or the departments
19 can draw up their own regulations on a federal mandate?

20 Pat?

21 MS. PUTMAN: In particular, I think the Constitution
22 provides that certain aspects of the Hawaiian Homes Act can
23 be amended by the Legislature alone; but others cannot,
24 unless there is also reform by an act of Congress. So -- and
25 I think that line sometimes is fuzzy.

1 We haven't really brought that issue up before right
2 now.

3 MR. MAXWELL: Uh-huh.

4 MS. PUTMAN: But I think that's the problem, to
5 decide whether it's something that has to be referred back
6 to Congress or not.

7 MR. MAXWELL: Yes. Because, you know -- well, what I
8 -- from what I gather, and the way many Hawaiians look at the
9 Act, is the 200,000 acres or so, as something that is given
10 to us by Congress.

11 Yet presently, we are not using it. So this is where
12 the animosity is.

13 So we are just trying to find the problem and where
14 it is, what can be corrected.

15 Thank you.

16 MS. PUTMAN: I have another question from the audience.

17 When Hawaiian Home Lands is exchanged for other lands
18 -- and I gather there are evaluations made to see that there's
19 some sort of equivalency -- how is that recorded?

20 Do you have any idea of how the evaluations are made,
21 to insure equity and equality? Do you have any ideas on
22 that?

23 MR. DETOR: By appraisal. This is something -- like
24 someone said, we have mutually agreed on an appraiser who,
25 you know, appraised all the lands.

1 And I think the Act says it has to be of equal value.

2 MS. PUTMAN: Is there some notation of that made in
3 the Bureau of Conveyances, for instance, on that land, so it
4 could be traced? Or --

5 MR. DETOR: Well, there's no requirement that it --
6 see, the Bureau of Conveyances, number one, is part of our
7 department.

8 MS. PUTMAN: Yeah, that's why I asked the question.

9 MR. DETOR: And secondly, the Division of Land
10 Management -- which is my function -- is also an office of
11 record. And all State government lands are in effect
12 recorded there.

13 MS. PUTMAN: I see.

14 MR. DETOR: So we don't -- unless we are specifically
15 asked to, we don't record with the Bureau.

16 Now, maybe some of these -- I don't know offhand if
17 any of these exchanges have been recorded with the Bureau;
18 but they certainly are on record in our department, as well
19 as in Hawaiian Homes' department.

20 MS. PUTMAN: So through your department, the original
21 Hawaiian Home Lands could be traced back, historically?

22 MR. DETOR: Yes, um-hmm.

23 MS. JAMES: Mr. Maxwell mentioned a point, in clari-
24 fication between the Federal Government's responsibility and
25 the State government's.

1 Do you -- does your department have any ongoing rela-
2 tionship with the Department of the Interior? And if so,
3 what is that relationship with regards to their responsibility
4 for the home lands, vis-a-vis your responsibility?

5 MR. ONO: No, we don't have that kind of an established
6 lines of communication, on a -- you know, on a day-to-day
7 basis.

8 MS. JAMES: There's no individual in the Department
9 of Interior that you go to, or --

10 MR. DETOR: The only requirement there is that, on an
11 exchange of lands between Hawaiian Homes and the State, it
12 still is -- the approval of the Secretary of the Interior is
13 still required, as far as I know.

14 MS. JAMES: We came up with something, and I wasn't
15 sure if maybe it had been amended or whatever, that said
16 that the Secretary of Interior shall designate, from his
17 department, someone experienced in sanitation, rehabilitation
18 and reclamation, to reside in the State and cooperate with
19 your department -- brackets -- in carrying out its duties.

20 Has there been such an individual, that you know of,
21 that --

22 MR. DETOR: Not to my knowledge.

23 MR. ONO: Not that specific.

24 MS. JAMES: This is from the Hawaiian Homes Commission
25 Act itself. You don't --

1 MR. ONO: Although we do have offices here, Department
2 of Interior offices, like Fish & Wildlife.

3 MS. JAMES: Right.

4 MR. ONO: Those representatives are here.

5 MS. JAMES: But no one specifically on the Hawaiian
6 Homes staff?

7 MR. ONO: Not that I'm aware of.

8 MR. DETOR: I have never heard of any.

9 MR. ONO: There was another change that took place
10 very recently, under Secretary Andrus. He has designated
11 his personal -- as his personal representative to work out
12 of the West Coast -- I guess either Sacramento or San
13 Francisco; I don't know if --

14 MS. JAMES: Yes, Sacramento, right.

15 MR. ONO: But again, specifically on --

16 MS. JAMES: But not on specific --

17 MR. ONO: -- Hawaiian Homes, to act as a sort of
18 liaison with the State of Hawaii and the Secretary's office.

19 MS. JAMES: All right. Thank you.

20 MS. PUTMAN: Are there any other questions by the
21 members?

22 Mr. Ono, and staff, thank you very much.

23 Okay. We will now take a break. It has been a long
24 and stimulating morning, and we will reconvene at 1:15. And
25 I hope all of you will be able to join us again.

(The luncheon recess was taken at 11:45 a.m.)

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1 Honolulu, Hawaii, Monday, August 27, 1979; 1:18 o'clock p.m.

2 --o0o--

3 MS. PUTMAN: Our Advisory Committee of Hawaii, to the
4 United States Commission on Civil Rights, will convene again
5 after our very pleasant lunch break.

6 We are having this consultation on Native Hawaiian
7 Home Lands. We had a lot of good information presented this
8 morning, and we are going to fill our heads with still more
9 this afternoon.

10 Let me remind you that if there is anyone here who
11 wants to make a statement to this committee, it will be
12 limited to five minutes at the end of our scheduled speakers.
13 We will be very happy to hear from you.

14 And in the meantime, if you can let Jeff know, so that
15 we have an accurate list of anyone who wants to speak to us?

16 If you have information that you think would take
17 longer than five minutes to present, if you submit it in
18 writing, we will consider it, and it will be added to the
19 official record of this consultation. Okay?

20 We are now very pleased to hear from Adelaide DeSoto.
21 whom most of us refer to as "Frenchy." And Adelaide is going
22 to be speaking to us as the Community Services Director of
23 the Waianae community satellite.

24 I think you all know that she was a ConCon delegate
25 and chaired the Committee on Hawaiian Affairs at our last

1 State Constitutional Convention.

2 So, Frenchy, the way we are proceeding is that each
3 of the scheduled witnesses makes a presentation of about a
4 half an hour, and then the committee members can ask ques-
5 tions after that. So you are scheduled for 45 minutes.

6 Thank you.

7 MS. DeSOTO: Mahalo kakou.

8 Pat and members of the State Advisory Committee on Civil
9 Rights.

10 I am quite honored and fortunate, I feel, this after-
11 noon, to come before you to show mana'o, in response to the
12 letter I received from you.

13 And as I understand that letter, it was to share what
14 transpired during the 1978 State Constitutional Convention,
15 as that relates to native Hawaiians in Hawaii.

16 First, I would like to start out -- I haven't any-
17 thing prepared, which is typical of me, I think -- but I
18 would like to first start out by explaining to you the purview
19 of the committee at the 1978 Constitutional Convention and
20 the scope of the Hawaiian Affairs Committee.

21 That scope and perview was to provide constitutional
22 bases for the Native Hawaiian Affairs, which includes but is
23 not limited to the protection and perpetuation of ancient
24 Hawaiian rites, traditions, heritage and archeological sites;

25 Two, the implementation of native Hawaiian culture

1 and language -- meaningful implementation, and not just lip
2 service --

3 Three, the preservation of native Hawaiian vegetation
4 and crops;

5 Four, the recognition of problem areas common to
6 native Hawaiians, and the constitutional provisions which
7 seek to address such areas as education, social adaptation,
8 economic opportunity and general improvements needed to pro-
9 vide for the betterment of native Hawaiian conditions;

10 And, of course, the Hawaiian Homes Commission Act of
11 1920, as amended.

12 The Committee on Hawaiian Affairs was a representation
13 of a broad section of our social and economic strata in
14 Hawaii. Not only did Hawaiians serve on that committee, but
15 the committee members were made up of every group or ethnic
16 representation in the State of Hawaii.

17 As we know, the old Constitution, under Article XI,
18 addressed itself simply to the Hawaiian Homes Act. The
19 committee felt that after entertaining the acceptance of
20 proposals to implement on the Act, to impact on the Act, that
21 after a lot of deliberations, we came out with amendments
22 that were passed by the committee as a whole.

23 Amendments that would, as an example, change one word,
24 such as "may." "The Legislature may fund" to "The Legislature
25 shall fund."

1 The rationale back of this one word change was that
2 this was the only state department in Hawaii that was forced
3 to lease out their lands to generate revenue to pay for their
4 administrative costs.

5 We felt that this was very inequitable; we felt it
6 was -- the committee felt that it was surely perhaps some-
7 thing that was overlooked, we hoped.

8 But nevertheless, our principal article is now called
9 Article XII, in that we did include another article in the
10 Hawaiian Homes Act. We found that although 200,000 acres --
11 in our research and input by staff and different members of
12 our broad community -- 200,000 acres were set aside for the
13 use of native Hawaiians as defined by the Act, those that
14 had the blood quantum, that fit into the blood quantum
15 requirement of being no less than half -- of having no less
16 than half of blood of races inhabiting the Hawaiian Islands
17 prior to 1778 -- that although 200,000 acres were set aside,
18 we find that in 1978, only 28,000, approximately 28,000 acres
19 were being utilized by native Hawaiians;

20 That twenty some odd thousand acres were lost. And
21 when I say "lost," I mean that it's our opinion at the
22 ConCon, the Committee of Hawaiian Affairs, that it is un-
23 accounted for; and twenty-four to twenty-six thousand acres
24 have been executive-ordered out of that land bank for high-
25 ways, for beach parks, for a multitude of things; some of

1 them were being leased by the Federal Government at 21 to
2 24 cents an acre.

3 And these are the kinds of revenues that the Department
4 was expected to exist on. We felt that that was just
5 atrocious.

6 We also found that 113,000 acres, approximately --
7 because, you see, prior to today, we didn't have any idea of
8 exactly how much land and where it was, prior to the conven-
9 tion -- that 113,000 acres was being leased out to nonnatives,
10 under general leases, for industrial, economic development
11 and things of that nature; farming, large ranches.

12 I think the maximum amount of money that was being
13 utilized -- or realized -- was approximately three point
14 some odd dollars per acre. So, ostensibly, then, the com-
15 mittee felt that the Hawaiian Homes Act had built-in failures.

16 With that in mind, we tried to look at it, look at the
17 Act, and look at how it could better serve the native Hawaiian,
18 without jeopardizing their existing status.

19 It's well known among us Hawaiians that we are very,
20 very nervous when someone wants to look at Hawaiian Home
21 Lands, which somebody wants to look at some of the few crumbs
22 that we as native Hawaiians have in Hawaii.

23 Sometimes those kinds of fears cause us to act in
24 several ways. One of the ways was for me to decide, at the
25 very last minute, that perhaps I might not attend this

1 hearing, this consultation.

2 Those fears were allayed because I trust Pat Putman.
3 And I didn't know who the other members were, or certainly I
4 would have contacted them to express the fears that have been
5 going through the Hawaiian community, is that at that point
6 in time, because of the Indian backlash in Washington, we
7 did not want Congress to look at the Hawaiian Homes Act.

8 We may be more stable in the future, for them to look
9 at it and perhaps to decide that it's a State responsibility.
10 But as of 1978, we did not want to jeopardize the people who
11 live on Hawaiian Home Lands.

12 The things that we found out about that department
13 were just atrocious. I'm sure that most of us who have been
14 -- you see, for me, it was a revelation, because I had never
15 been into the department itself, and I hadn't been into the
16 Act itself. I had just been an applicant for 33 years.

17 I had no idea. So what I found out, personally, was
18 shocking: that although people have petitioned for the use
19 of land, it went to someone else, a non-Hawaiian.

20 We tried to correct those things. We did not want to
21 tie ourselves or tie the Department down, so we didn't mess
22 with rules and regs.

23 In the beginning, we started to fool around with that;
24 we wanted to set down some rules and regs, but we need some
25 flexibility.

1 We felt, towards the end, the committee did, that to
2 lock in the department to rules and regs in our Constitution
3 would be in effect a crippling effect.

4 We recognized that the intent and purpose of our
5 committee proposal was to provide the means to locate more
6 Hawaiians on the lands specified for them through the
7 Hawaiian Homes Commission Act of 1920, as amended.

8 And the committee learned that the Department of
9 Hawaiian Home Lands must finance its own program through the
10 general leasing of its lands, and that it is the only one
11 that has to do this, so the -- that is, of the seventeen
12 State departments, the only one which must fund itself.

13 Therefore, the land of any value, through the years,
14 has been general leased for revenue purposes which are used
15 by the department for its operating budget.

16 The committee argued that, in its eagerness for state-
17 hood, the Territory made promises regarding Hawaiians and
18 the Act that it would soon forget. Members concluded that
19 consequently it had taken all too long to even arrive at
20 Committee Proposal No. 11, which at the Constitutional
21 Convention dealt with the Hawaiian Homes Act.

22 There were no nays heard to this committee -- no nay
23 votes heard to this committee proposal. And the committee
24 as a whole recommended adoption unanimously, almost, and
25 passed it on the second reading.

1 We amended Section 1 of Article XI, in that we said
2 that -- we tried to define -- you see, it was the feeling of
3 the Hawaiian community, as we went statewide, that much of
4 the things that -- let me back up a little bit.

5 Many of the things that were worked on at the
6 Constitutional Convention did not occur at that point; they
7 had occurred several months and years before, where people
8 had met at an aha kaukana'wai to discuss, from all of the
9 moku ai'nas -- that's all of the islands -- they had come
10 together in a legislative body, to try to identify the needs
11 of the Hawaiian community.

12 So many of that -- many of those proposals and recom-
13 mendations for solutions -- problem-solving or solutions --
14 were initiated before. We just took them mana'o.

15 We said that in that Article XII, that the Legislature
16 -- we changed that section that says, "may from time to time
17 make additional --" and we said, "shall make sufficient sums
18 available for the purposes of --"

19 We now tried to identify one systematic rehabilitation
20 thing, where it was left up to whim. Whenever a director is
21 put in there, the director determines what is rehabilitation.
22 It was never documented.

23 So consequently, the beneficiaries always suffer. One
24 term, somebody will say, "Well, the way to rehabilitate a
25 Hawaiian is to build 50,000 Hicks homes and throw them in

1 there." You see? And we felt that that was very bad.

2 So we attempted to outline some policies for the
3 department. We said that, "Funds shall be made available
4 for the purposes of the development of home, agriculture,
5 farm and ranch lots; home, agriculture, aquaculture, farm
6 and ranch loans; rehabilitation projects to include, but not
7 limited to, educational, economic, political, social and
8 cultural processes by which the general welfare and condi-
9 tions of native Hawaiians are thereby improved; the admini-
10 stration and operating budget of the Department of Hawaiian
11 Home Lands; in furtherance of (1), (2), (3) and (4) herein,"
12 and so on and so on.

13 So we say to the Legislature: "You have a fiduciary
14 responsibility to that department, because of the Admissions
15 Act, because of your trust agreement."

16 Because the committee thoroughly believed -- at least,
17 up until the time that we adjourned -- that the State -- no,
18 that the Hawaiian Homes Act, and provision for it, to have
19 constitutional basis was an important factor in order to
20 generate -- or achieve statehood. That was a condition of
21 statehood.

22 We added a Section (B): "30% of the State's receipts
23 derived from the leasing of cultivated sugar cane lands under
24 any provision of law or from water licenses shall be trans-
25 ferred to the Native Hawaiian Rehabilitation Fund, Section

1 213 of the Hawaiian Homes Commission Act, 1920, for the
2 purposes enumerated in said section.

3 "30% of the State receipts derived from the leasing
4 of lands cultivated as sugar cane lands on the effective
5 date of the section herein shall continue to be so trans-
6 ferred to the Native Hawaiian Rehabilitation Fund whenever
7 said lands are sold, developed, leased, utilized, transferred,
8 set aside, or otherwise disposed of for purposes other than
9 the cultivation of sugar cane. There shall be no ceiling
10 established for the aggregate amounts transferred into the
11 Native Hawaiian Rehabilitation Fund."

12 Now, I'm sure that the learned committee members are
13 well aware of Sections 5b and 5f of the Admissions Act, that
14 caused the money to be set aside for the use of Hawaiian
15 Home Lands.

16 We also established eight special funds, and those
17 special funds are called the Native Hawaiian Rehabilitation
18 Fund, with those monies derived from the sugar cane lands.
19 Even if they wiped out sugar cane and built houses, they
20 have to give us that money.

21 We amended Section 204 of the Act, "(Controlled by
22 Department of 'available lands', return to Board of Land
23 and Natural Resources, when.) Upon the passage of this Act--"

24 We also amended Section 204, saying: "Any available
25 land, including lands selected by the department out of a

1 larger area, as provided by this Act not leased as
2 authorized by the provisions of Section 207 of this Act,
3 may be returned to the Board of Land and Natural Resources
4 (and may be leased as provided --)" No; we struck "(and may
5 be leased by it as provided in Chapter 171, Hawaii Revised
6 Statutes)," and said: "as provided under Section 212 of
7 this Act."

8 What we tried to do was say: Before you lease the
9 land out to nonbeneficiaries, make sure that you have satis-
10 fied the needs that -- you know, make sure that the bene-
11 ficiaries get the opportunity to lease land.

12 Who says that a Hawaiian, a native Hawaiian, cannot --
13 as an example -- go into economic development? Who says
14 that Hawaiians cannot form a hui as long as they are bene-
15 ficiaries, petitioning for the use of that land, for welding
16 shops, for whatever it is? That's economic self-sufficiency.

17 And it is not historically and continuously for the
18 rest of our lives being employed by other people. The lands
19 are set aside for our use.

20 It was the committee's opinion that, with our agri-
21 cultural lands, that diversified and cooperative types of
22 agriculture businesses be allowed for the Hawaiians.

23 And to that end, that native Hawaiian, the beneficiar-
24 ies of the native Hawaiians Homestead Act, is contributing to
25 the breadbasket of this State.

1 Who the heck says that we have always got to import
2 all our damn food? We have the highest rate -- I'm sure you
3 heard statistics all morning, so that what I am about to say
4 is nothing new.

5 We are not genetically inferior. I think we can all
6 agree on that.

7 Then why in the heck is almost 60% of the prison
8 population native Hawaiian?

9 And every time I go into the prisons -- which I don't
10 do lately, because it's so depressing -- but every time, you
11 hear them say to me, "When we come out, can we get back to
12 the land? I would like to work as a farmer. I need to get
13 back into the land. I need to sweat. I need to contribute
14 in that manner."

15 And what the committee thought was: Give them an
16 opportunity to get back to the land, either to kukai or get
17 off the pot.

18 At least, afford them that opportunity.

19 All that is needed is funds. The department needs
20 funds to contract the expertise, the person who will develop
21 the market.

22 We can grow all the cabbage and daikon we want, to
23 eternity; but if we have no market outlet, it's nothing.

24 The department needs the money to do that, to develop
25 a market, to look at the lands and say what can grow there

1 and what cannot be grown there, on a rotating basis. If you
2 can envision a pie that is cut up in five sections, perhaps,
3 with one refrigeration unit in the middle and one tractor.

4 So that we implement the ohana concept, reinforce
5 that concept, and still contribute to the broader base of
6 this state community.

7 Many of the land -- of the provisions that we have in
8 here are said to have been self-serving. And since I have
9 been accused of that all the time, I might as well get it
10 out: I don't feel very regretful about any of this.

11 Perhaps history will prove me wrong, but we felt
12 strongly that the department be expressly authorized to
13 negotiate, prior to negotiations with the general public,
14 the disposition of a lease; that the department make avail-
15 able to the native Hawaiians -- or organizations or associ-
16 ations owned or controlled by native Hawaiians -- for "com-
17 mercial, industrial, or other business purposes, in accord-
18 ance with the procedures set forth herein."

19 And we also deleted one very important part: "The
20 department shall not lease, use, nor dispose of more than
21 20,000 acres of the area of Hawaiian Home Lands, for settle-
22 ment by native Hawaiians, in any calendar five-year period."

23 We said: "The department may, with the approval of
24 the Governor --" and we took that approval process out; we
25 deleted the approval of the Governor, retained the approval

1 of the Secretary of the Interior.

2 The committee's original feeling was to delete that
3 process also. It was when the committee was petitioned by
4 Hawaiian homesteaders to leave that in as a check and
5 balance that the committee decided to retain that.

6 "The department may, with the approval of the
7 Secretary of the Interior, in order to consolidate its hold-
8 ings or to better effectuate the purposes of this Act,
9 exchange the title to available lands for land, privately or
10 publicly owned, of an equal value."

11 That is to say that if the department wanted to build
12 a homestead program on Lanai, they may exchange private land
13 area, so that the Hawaiians who live on Lanai may have an
14 opportunity -- or Hawaiians who are beneficiaries -- to get
15 homesteads.

16 We said that: "No such exchange of land publicly
17 owned by the State shall be made without the approval of two-
18 thirds of the members of the Board of Land and Natural
19 Resources. For the purposes of this subparagraph, lands
20 'publicly owned' means land owned by a county or the State
21 or the United States."

22 We said that -- what we did was amend another section.
23 We said that Hawaii Revised Statutes -- we said, "except --"
24 we deleted that, and we said: "provided that such lands may
25 not be sold, leased, set aside, used, transferred, or

1 otherwise disposed of except under a general lease only. Any
2 lease by the Board of Hawaiian Home Lands hereafter entered
3 into shall contain a withdrawal clause, and the lands so
4 leased shall be withdrawn by the Board, for the purpose of
5 this Act, upon the department giving at its option, not less
6 than one nor more than five years' notice of such withdrawal;
7 provided, that the minimum withdrawal-notice period shall be
8 specifically stated in such lease."

9 Now, the thing that we -- that the committee talked
10 about was to cause the leases to be retracted immediately.
11 The committee also realized the economic impact, and we
12 probably would be in court for the next two hundred years;
13 but with the existing -- the leases that existed prior to
14 our convention had withdrawal clauses, but they varied; and
15 we don't want to cause an economic impact, a lessening of
16 anybody's money from any race.

17 All we are saying is that: As your leases come up
18 for renewal, the department, you negotiate with the bene-
19 ficiaries first, so that everybody in Hawaii who is using --
20 especially the town of Hilo, a classic example, those
21 businesses there.

22 Now, we need to talk about fair value, fair market
23 value; yeah? And we need to look at all those things.

24 "Notwithstanding the provisions of Hawaii Revised
25 Statutes Section 171-95, in the leasing of Hawaiian Home

1 Lands by the Board to a public utility or other governmental
2 agency, where such use directly benefits the Department of
3 Hawaiian Home Lands or the homestead lessees, the rental may
4 be nominal."

5 That is because when we develop homesites, and the
6 light company comes in and puts in the utilities and things
7 like that, they service the Hawaiian community, the bene-
8 ficiaries, so we say, "Yes, you can do that; you can allow
9 the electric company, the water company, nominal rates. In
10 all other instances, however, the lease rental shall be no
11 less than the value determined in accordance with Hawaii
12 Revised Statute Section 171."

13 And you attorneys know more about that than I do.
14 But what it does is, it says, "You get fair market value;
15 yeah?"

16 "Any general lease of Hawaiian Home Lands, hereafter
17 entered into by the Board, shall be null and void unless
18 prior to the disposition of said lease by public auction,
19 direct negotiation or otherwise, approval shall be obtained
20 from the Department of Hawaiian Home Lands."

21 We amended Section -- or, we added a new section in
22 the Constitution, but amended the Act, Section 221, by
23 saying:

24 "Water systems in the exclusive control of the depart-
25 ment shall remain under its exclusive control; if any

1 provision or the application of such provision is inconsistent
2 with the provision contained herein, this section shall
3 control.

4 "Water systems includes all real and personal property,
5 together with all improvements to the same, acquired or con-
6 structed by the department for the distribution and control
7 of such water for domestic or agricultural use."

8 I would like to just briefly give you an example of
9 the thinking of the committee at that point.

10 We had found out in our research, as an example, that
11 the Department of Hawaiian Home Lands had constructed a water
12 reservoir over on the Big Island.

13 Immediately upon completion of that reservoir and
14 water systems, it was given over to the County of Hilo.
15 Below this water system existed old agricultural lots, 40-
16 acre plots.

17 If you can envision a mountain (indicating) that has
18 a reservoir? Okay. A well was dug, and the water was tapped,
19 and the whole system was built.

20 Below here (indicating) on the flats were agricultural
21 lands, ten 40-acre lots. When this water system was com-
22 pleted, it was given over to the County of Hilo.

23 The County of Hilo immediately diverted the water
24 away from the Hawaiians down here (indicating), and then the
25 director at that time went back to these homesteaders and

1 said, "You are not developing your land to its maximum
2 capability. So consequently, you'll have to surrender the
3 land."

4 So we said, "Where there's water --" and I think we
5 have only two existing systems in the whole department, and
6 one is on Molokai, and that's so that Maui County doesn't
7 get tourist happy over in Molokai -- we said that the depart-
8 ment keeps that water forever.

9 Well, of course, that is contingent upon whether or
10 not the courts find out that the water system belongs to
11 individuals; and in that case, Hawaiian homesteads will be
12 all right, or if it belongs under the jurisdiction of the
13 State, it will still be all right.

14 So many of the proposals that came out of the committee
15 dealt not only with Hawaiian Home Lands, it dealt with
16 education.

17 In going statewide, the heavy, heavy appeal to the
18 committee was for changes in -- for the Hawaiians. As an
19 example, it was to our dismay, the committee's dismay, to
20 find out that the Hawaiian language was in the foreign
21 language department of the University of Hawaii. It was
22 like throwing salt in an already-gaping wound; insult to
23 injury. If anything, English is the foreign language.

24 So then, we did something symbolic. We pushed to
25 have the Hawaiian language recognized as one of the two

1 languages of Hawaii. We also said that the Department of
2 Education -- which historically has not addressed the needs
3 of the native Hawaiian community, until this date; although
4 there are attempts, however, in all honesty, to address our
5 unique problems of education -- but the hit-and-miss attitude
6 of the Department of Education with respect to education is
7 grotesque.

8 And for many of the committee members -- and I know I
9 risk sounding like I'm a radical -- but the feeling was that
10 it is done because if you take away our language, you take
11 away our souls. Our eyes have no sight. The kaunoa is lost
12 forever; and we will float, like dead sponges, upon the sea.

13 So we felt that we needed to incorporate in our educa-
14 tional system the mana'o of the kupuna.

15 And I have to say, in front of my brothers and sisters,
16 that this amendment was compromised. I compromised, in that
17 the union had propagandized the other members; and I was
18 afraid that we would lose the entire amendment.

19 So what the amendment does say now is that, "The
20 Department of Education shall provide for teaching, the
21 learning of the Hawaiian language and history in the schools."

22 And that instead of saying the kupunas, we tried to
23 give -- you know, the unions are hung up on the accreditation;
24 we have always got to play the palapala game.

25 It's like my trying to tell a Filipino chef how to

1 cook dinuguong.

2 But there was a lot of -- a lot of resistance to
3 giving the kupuna any kind of stature. And so the compromise
4 came, and we said that the use of community expertise shall
5 be encouraged in a suitable and essential manner, in further-
6 ance of Hawaiian language, culture, and history.

7 We also talked about traditional and customary rights.
8 This was another compromise. We talked about the right of
9 native Hawaiians, access to the mountains and to the ocean.

10 We talked about the kuleana lands; we talked about a
11 lot of things.

12 But one thing was glaringly clear to the committee:
13 that constitutional basis needs to be given to traditional
14 and customary rights.

15 And we said, "The State reaffirms and shall protect
16 all rights possessed by tenants of an ahupua'a, who are
17 decedents of native Hawaiians, who inhabited the Hawaiian
18 Islands prior to 1778 --" you see, even us were caught up
19 in that garbage -- "that are customarily and traditionally
20 exercised for the subsistence, cultural and religious pur-
21 poses, subject to the right of the State to regulate the
22 same.

23 "Subject to the right of the State to regulate the
24 same" is the compromise. And if anybody is interested in
25 asking me why, I think it's obvious; yeah?

1 That we do not have religious freedom in Hawaii as
2 Hawaiians, because our religion takes us to the aina. And
3 the United States of America continuously will not recognize
4 our rights of religious freedom.

5 We also talked about quieting title. In Hawaii we
6 have a law that legally licenses thievery. It's called
7 "adverse possession."

8 And it's been going on for generations.

9 In testimony, in Kona, we had one kupuna stand, and
10 I need to tell you that -- and I say this only for the pur-
11 poses of the staff understanding, because most of the people
12 here know that this went on for too long -- we had a kupuna
13 stand before us. Now, our people do not -- or have not in
14 the past -- come out and publicly testified to whomever
15 about whatever; it is not very Hawaiian to air your grievances
16 in public, because it doesn't have that aka; it doesn't have
17 that essence of love and respect in many instances -- not to
18 reflect negatively on today's proceedings.

19 But that's the truth. Because you are required to
20 present 25 copies of testimony, five sets of fingerprints,
21 whatever the critique is. It discouraged our people from
22 participating in the past.

23 You see, we are lucky now. We are getting our act
24 together.

25 So that this kupuna said, in front of the committee,

1 "Somebody please help me. My father and my father's father
2 lived on this kuleana land. Now, the hotel come and put this
3 big fence. I say, 'Oh, somebody make mistake,' because
4 that's how I go to the ocean every day, to momoe, na upena,
5 to lay my net.

6 "But now I look, da big fence. So I climb over the
7 fence, and I throw my net over. I climb over the fence. I
8 say, 'Maybe I see the boss, I go tell him make mistake, how
9 I get to water now?'"

10 And when he got over there and was on his way to the
11 beach, he was arrested for trespassing. He went to court.
12 He was fined \$50 for trespassing and received 30 days in
13 jail.

14 He's a kupuna, almost 80 years old. And I don't have
15 to say that the entire committee just bust out crying, to
16 realize that these things still occur in Hawaii today.

17 He said, "I don't beg, but now I cannot go catch fish.
18 I'm forced to go to the market. I'm on retirement. I
19 receive \$204 a month. I cannot pay the price for fish today."

20 That type of testimony was heard statewide. State-
21 wide.

22 With respect to the Department of Hawaiian Home Lands,
23 one kupuna on Molokai, at Hoolehua, we had the hearing, and
24 she said to us -- and it was not only the Hawaiian Affairs
25 Committee; it was a lot of other committees -- she said,

1 "The administrator of the Hawaiian Home Lands came to me."
2 She says, "I remember, when I was a young girl, we had one
3 baby, my kane and I. They said, 'Oh, you get aina on
4 Molokai.'

5 "'Oh, my kane. We offer thanks to the gods.' So we
6 went over; we dig with our hands. We went to work, part-
7 time, to the pineapple."

8 She said, "We pay for our house." She said, "My kane
9 is gone. All my children grown up. Three gone to different
10 places to get work, because no work. Only my two moopunai
11 and I -- my two grandchildren and I -- here.

12 "Now, the administrator come, she told me, 'Oh, Auntie,
13 we have to broke your alii.'

14 "'How come?'

15 "'Because it's unsightly. Because we have to put up
16 a new home.'"

17 So this kupuna said to us -- she cried -- "How I get
18 pay for this new house they like to put for me? My house
19 clean."

20 I think that you know what I'm trying to illustrate
21 here. We are dealing a lot with attitudinal constraints by
22 many people who come and enforce and impose their value sys-
23 tems on us. But it impacts on us, that we are not living
24 unless we are living in a Hicks home or somebody else's home.

25 And those kinds of things, the committee was well aware

1 of this, and if you brought them in one by one and questioned
2 them, they'll tell you the same thing, for the people in
3 Hawaii -- 1978, I'm talking about.

4 For the native Hawaiian to come and beg for help --
5 my God, we are in big trouble. No wonder we've got so many
6 problems in Hawaii now.

7 We talked about rights; we talked about many things.
8 We gave constitutional bases for a lot of things.

9 Many things, quite frankly, I thought that the general
10 public was not ready for. But most of the things are docu-
11 mented: the things which impact on Hawaiians; the things that
12 will impact on, say, Waianae -- such as education. If the
13 Department of Education does -- I wish you folks could come
14 to Waianae, as an example, where 51% of the population is
15 Hawaiian.

16 "We always kicked out from Honolulu --" myself
17 included -- "because we couldn't continue to pay the rates
18 in Honolulu."

19 And many people who live on other areas on Oahu look
20 at Waianae as a Hawaiian community; right?

21 So now, we hear talk in the State about housing
22 developments for us poor Hawaiians.

23 What we also did -- I'm carried away now, E kala mai
24 -- I'm sorry, Pat; not very professional.

25 We also established, at the Constitutional Convention,

1 we gave basis to OHA. Now, the concept of OHA is very con-
2 troversial. There are members in the Hawaiian community who
3 disagree with the Office of Hawaiian Affairs.

4 The committee thought very strongly that we could not
5 -- there were recommendations made from the Hawaiian commu-
6 nity, for us to -- for the committee to give constitutional
7 basis to establish perhaps another entity, a private entity,
8 manned by Hawaiians out of the community, for the receipt of
9 the trust corpus, which is 5f.

10 We set that corpus forth, and we say: "Our prorata
11 share, if we identify the five purposes as public, schools,
12 education, parks, home development -- and one of those five
13 purposes under the Act was for the betterment of the condi-
14 tions of native Hawaiians, native Hawaiians as identified by
15 the Hawaiian Homes Act, which means that these Hawaiians
16 would have to be 50% Hawaiian or more." Okay?

17 So we are saying if there's five purposes -- indeed,
18 there are only two: the general public, and native Hawaiian.

19 This past Legislature gave substance to the idea of
20 the Office of Hawaiian Affairs. And I would like to share
21 with you my mana'o about what happened at the Constitutional
22 Convention committee -- okay? -- so that you can get an idea
23 from the very -- from the aka about why.

24 The committee members realized that in many instances,
25 and with all good intents and purposes, there are a lot of

1 people who are not native Hawaiian, who have been making our
2 decisions and have been making policy for us.

3 The Hawaiian Homestead is a good example of that.
4 Congress gave birth to that, in conspiracy with Kuhio and
5 the sugar interests; but they didn't give one dollar. They
6 gave birth to that illegitimate child in the Western concept,
7 you see, because in the Hawaiian concept, there is no illegit-
8 imacy; that all children -- one of the things that we need
9 to address among ourselves is the realization that every
10 child is a valuable child in Hawaii, whether they were born
11 under the sanction of a church or not. They're still very
12 valuable.

13 So the Office of Hawaiian Affairs was conceived at
14 the 1978 Constitutional Convention. If you look at all the
15 resources that the State develops, that the Federal Govern-
16 ment develops under Native Americans -- right? -- all of a
17 sudden, we have now become a Native American. The Hawaiian
18 community has become Native Americans.

19 So because there's a lot of existing legislation that
20 impacts on American Indians, they have linked us together
21 with that.

22 So now, the Indians and the Hawaiians are native
23 Americans. Everybody else -- you guys -- are not natives.

24 (Laughter.)

25 So there's a lot of money that's being generated up

1 in Congress for us. We were saying that we need to have a
2 vehicle that would identify existing resources for us, co-
3 ordinate those resources, with no overlapping; spend wisely
4 the dollar thirty-eight; take care of it.

5 And who else should be better qualified to take care
6 of their own business but the native Hawaiian?

7 Out came this dream, that is now a reality. We are
8 saying now that the -- you know, it's no sense to argue the
9 concept of OHA now, whether it's good or bad. Because it is
10 a fact. The last Legislature implemented the election
11 process.

12 The election process deals with native Hawaiians
13 electing native Hawaiians to form a board, who then would
14 in turn hire an executive director to run the Office of
15 Hawaiian Affairs.

16 Okay. They will be elected -- one must be elected
17 from each island, and then -- I forget right now -- either
18 four or five shall be elected at large.

19 You see, we are not -- we address this thing not
20 looking at whether we are -- we, as Hawaiians, are an ethnic
21 group.

22 No, we address this, in looking at prevention treat-
23 ment that has been extended the native American Indians.
24 Congress has set precedent, as an aboriginal class of people.
25 And we are not looking at native Hawaiians with this respect:

1 that we are doing this for a particular ethnic group. We
2 are doing it for a class of people.

3 The Office of Hawaiian Affairs is indeed -- was indeed
4 created to become a public trust.

5 And again, history will show whether or not it's
6 going to be effective for us.

7 We said that, in order to register to vote, you must
8 be of Hawaiian ancestry. It doesn't matter what quantum.
9 You must be a resident of the State of Hawaii, and you must,
10 of course, be a citizen of the United States, 18 years of
11 age by November 5th of 1980.

12 Nine members to be elected statewide; four State
13 residents at large, one from Hawaii, one from Maui, one
14 from Molokai, one from Kauai, one from Oahu.

15 And I really am sorry at this point that we did not
16 include Niihau. And I don't remember, really, how that came
17 about. I feel very sad about that.

18 And the four board members receiving the highest
19 number of votes in the 1980 election will serve the four
20 years; the remaining five members will serve for two years.

21 And the Committee on Hawaiian Affairs looked at the
22 Office of Hawaiian Affairs as the nucleus, the malulani,
23 because Congress has historically divided the Hawaiian people,
24 because of blood quantum requirements. We look for the
25 Office of Hawaiian Affairs to become a malulani, for that

1 lokahi.

2 We also see the Office of Hawaiian Affairs -- and this
3 has not been written anywhere here, nor will you ever find
4 it written, except today -- that the Office of Hawaiian
5 Affairs will develop, hopefully, some political leaders.

6 Now, that makes a lot of people frightened; that
7 frightens a lot of people.

8 Historically, we find that the native Hawaiian has
9 not participated in the voting process, because of many
10 reasons. And all of them, I'm sure this committee has heard
11 before.

12 But for the information of the staff, some of the
13 feelings, strong feelings that prevailed, even in some of
14 our large Hawaiian communities, is that: "What the heck? I
15 don't participate or vote, for they going to do what the hell
16 they like anyway."

17 Okay. So they're disenfranchised from the existing
18 political system. So we need to cultivate that. We need
19 not that disenfranchisement, but we need to cultivate the
20 Hawaiian community, so that they can get ma'a; they can go
21 out and participate and don't be frightened.

22 You see, because all of the other programs are Band-
23 Aids. I'm talking about from the na'au, that unless you
24 can impact on any political level, you are going to always
25 be subjected to somebody else's whim and interpretation.

1 I'm not saying: Take over the system. Because there
 2 are many, many native Hawaiians, and many nonnative Hawaiians,
 3 who are more Hawaiian than some of us with the blood; they
 4 have the Hawaiian essence, and they love us, and we love
 5 them. We love all people, you see.

6 But until we begin to develop some political clout,
 7 we are not going to impact at all; and that we will continu-
 8 ally have to demonstrate on the runways of our airports, on
 9 the different mokuainas: Makua Valley and Kahoolawe and in
 10 other areas.

11 So that the Office of Hawaiian Affairs, hopefully,
 12 will not be seen as the only solution, but certainly a major
 13 cog in the wheel that will turn for the betterment of our
 14 people.

15 So that they do have the choice. They can't continu-
 16 ally, for the next two hundred years, say, "The politicians
 17 did it all."

T-10

18 They didn't screw us. You have now the opportunity
 19 before the native Hawaiian to participate.

20 Because you can't take away the system. You can
 21 improve; you can impact; you can undermine. But you can't
 22 abolish the system.

23 But you do have a choice. So that when someone goes
 24 -- you know, the Legislature is a unique body of people, in
 25 that they are capable of doing this to Hawaiians -- because

1 I know firsthand. You go there with a proposal to implement
2 at the Legislature, and they tell you, "Do all you Hawaiians
3 agree on this?"

4 You know, that's kind of an unfair question; right?
5 Well, we agree, insofar as the rest of you people agree on
6 the issue of abortion.

7 Yeah, we are always asked to get our act together. We
8 must come in, you know, with one voice. And that's
9 ridiculous.

10 But I do need to inform this committee that the Office
11 of Hawaiian Affairs is not received with open arms by the
12 entire Hawaiian community. And that's because I have not
13 had the money to be on each island, after the ConCon, to be
14 able to answer any kind of question with respect to it.

15 We need to look at some of these symbolic things that
16 were done at the Constitutional Convention. Another one was
17 the adoption of a resolution calling for the return of
18 Kahoolawe. We were given notice that we had overstepped our
19 bounds. (Laughing.)

20 But the committee as a whole did pass the resolution,
21 calling for the return of Kahoolawe to the State of Hawaii,
22 for a cultural island, to be retained for cultural purposes.

23 I know I ramble, Pat.

24 MS. PUTMAN: Oh, no. We have gone a little bit over,
25 but it's not by any means that I'm sorry about it.

1 I just wanted to ask one question.

2 Is Ronald Albu here?

3 MR. ALBU: (Indicating.)

4 MS. PUTMAN: Do you mind waiting a little bit?

5 MR. ALBU: No, that's fine.

6 MS. PUTMAN: Thank you very much.

7 MS. DeSOTO: Thank you, Ron.

8 MS. PUTMAN: Frenchy, you have told us so many things,
9 I know there will be a few questions, but I wanted to say
10 just one thing:

11 In general, this committee from this State is an
12 advisory committee to the United States Commission on Civil
13 Rights, which is advisory to the President of the United
14 States and to the United States Congress.

15 We can make recommendations, both as they affect
16 State laws and State policies and administration, as well as
17 federal.

18 Now, at one point you expressed your apprehension
19 about calling too much attention to, for instance, Hawaiian
20 Homes Commission on the part of the Federal Government.

21 One of the previous witnesses did make some recommend-
22 ations that would affect the Federal Government. So I
23 thought maybe I should clarify this.

24 It was Winona who was saying perhaps we might want to
25 look and see what kind of assistance could be obtained under

1 the native American genus with respect to HUD, in housing and
2 assisting in maintenance as implementation of the residential
3 homesteads and such.

4 What I guess I'm asking you is: Would you object to
5 that kind of a recommendation coming from this committee, if
6 we were to decide that?

7 MS. DeSOTO: Pat, I think that I'm not really to say
8 yea or nay, because I don't know the substance of that
9 recommendation.

10 MS. PUTMAN: Yeah.

11 MS. DeSOTO: However, I would like just to give a
12 little bit more mana'o, in that I hope that this committee,
13 whatever issues derive out of what has been gleaned from this
14 consultation, that because it impacts on Hawaiians, that it
15 be taken to the Hawaiian communities, where the people would
16 have an opportunity, so that you are not hearing only Winona
17 and Frenchy and my other sister, Georgiana.

18 MS. PUTMAN: And Charles.

19 MS. DeSOTO: Yeah, whatever. That it be taken --

20 MS. PUTMAN: And then this is --

21 MS. DeSOTO: -- out to the communities, so that before,
22 you know, you make your final recommendation, that you would
23 have had as much input as possible.

24 There are a lot of people who would like to come
25 today, but were not invited.

1 MS. PUTMAN: Could you explain that a little more?

2 MS. DeSOTO: Okay.

3 MS. PUTMAN: For instance, I can see taking it to
4 Oahu, but when you say to take it to the entire Hawaiian
5 community, that looks to me like a --

6 MS. DeSOTO: Unwieldy?

7 MS. PUTMAN: Well, I'm not quite sure what the
8 dimensions are.

9 MS. DeSOTO: Okay. I'm assuming that this committee
10 will develop a single issue -- or, glean everything, and
11 then identify a particular problem; hmmm?

12 MS. PUTMAN: Uh-hmm.

13 MS. DeSOTO: So that you will identify the problem,
14 and then perhaps come up with some recommendations; is that
15 correct --

16 MS. PUTMAN: Yes.

17 MS. DeSOTO: -- as an assumption?

18 Okay. Now, that problem and those recommendations
19 for correcting the problem, could we not take it to -- once
20 in Maui? Twice on the Big Island, Kona and Hilo, because of
21 the geographic size of that island? Once on Molokai?

22 MS. PUTMAN: Waianae? Waimanalo?

23 MS. DeSOTO: Yeah, that's what I am saying. So that
24 we could say here: We have identified this as the problem,
25 and these are the recommendations for the solution.

1 MS. PUTMAN: I would point out that the composition
2 of this committee does include people from -- certainly from
3 Maui, from Hilo and from Kauai; but not from every island.

4 Well, we have your recommendation on that. I can't
5 say that, necessarily, we will be able to, because we don't
6 necessarily have that kind of funding and resource facility.
7 But we will think about it.

8 I just wanted to get your general feeling about this
9 relationship to the Federal Government.

10 I have some more questions, but I am going to defer
11 to the other members of the committee first.

12 Charles?

13 MR. MAXWELL: Yes. I think -- which I am in favor of
14 her recommendation -- what actually she means is: The
15 recommendations we as a body make, before those recommenda-
16 tions are acted upon, that we go to basically the Hawaiian
17 community to get their feelings, if they are in agreement
18 with the recommendations.

19 Now, maybe some of the staff members can clarify that,
20 because my concern was going to be her concern that she
21 voiced earlier, is also my concern, about this process that
22 we have.

23 MS. PUTMAN: No, I think our recommendations will be
24 based on the background work that we have done in reading,
25 and from what we hear here; and it's not only Winona. We

1 have had a number of very knowledgeable people who have been
2 and will continue to testify today.

3 But I think we -- maybe you can help me, Phil, but --

4 MR. MONTEZ: No.

5 MS. PUTMAN: -- but our recommendations are made on
6 the basis of this consultation, with an indication of where
7 more work needs to be done.

8 MR. MONTEZ: I don't think you have to put yourself
9 in a box of having to make any recommendations, if it isn't
10 necessary. If there's such diversification among the com-
11 munity, maybe it is better for the committee not to make any
12 recommendations, and just go on the record to assist the
13 community in doing what they have to do with the record.

14 So it's not necessary to make recommendations.

15 MS. DeSOTO: The only thing that I tried to express
16 is that, too often, federal bodies sit and make all kinds
17 of recommendations, with no input --

18 MR. MAXWELL: No maka ai nana.

19 MS. DeSOTO: Yeah. So consequently, we are always
20 going to have the problem, you know. So I -- I don't know
21 where the direction is for you folks right now. But I just
22 wanted to show you mana'o, Pat, and the committee, so that
23 if you -- you know, if you are going to take it over some-
24 where, let the people have a whack at it.

25 MS. PUTMAN: Well, I think one thing that could be

1 very specific, in staying away from the Federal Government
2 for this purpose, is the result of your committee's work at
3 ConCon, and the amendments to our State Constitution.

4 This last session of our State Legislature, the
5 implementing legislation was begun. It is not completed yet.

6 MS. DeSOTO: Yeah.

7 MS. PUTMAN: We would like to know: What are your
8 recommendations, as chairperson of that ConCon committee, of
9 what further implementing legislation we need in the State,
10 to carry out the direction that came from the ConCon
11 proposals?

12 MS. DeSOTO: Okay. The committee was not -- is not
13 thoroughly satisfied with the legislation that was enacted
14 and is being implemented. The voting -- or the process for
15 registration and voting -- is okay. But we felt -- some of
16 us in the Hawaiian community felt -- that it may be premature
17 to start taking an uku comb and looking at the words, and
18 start messing with the words; that it is there; OHA is there.

19 We need to now focus on developing the political
20 clout that may change the words later down. That is, to
21 register the Hawaiians for voting for OHA.

22 Incidentally, for your information purposes, Peola
23 Sylva is in the back to register people from Oahu County,
24 Honolulu County.

25 And we need to look at the next step, which is setting

1 forth, identifying that percent of the trust corpus that
2 would be used by OHA for native Hawaiians, as defined by
3 the Act. So this is where we should be focusing, I think.

4 Now, the community has not been able to secure any
5 funds -- like yourself -- to do this statewide; to go out
6 and ask people, "What do you think about that?" or, "What
7 would you like to see happen? How much -- what do you think
8 is a fair share of those monies?" and things like that.

9 But it's just that I -- you know, Pat, I have seen so
10 many government agencies and representatives of them come in
11 and -- what it ends up is that they interpret what we need.
12 They tell us what's the best thing for us.

13 And then, twenty years later on, we're still screwed.
14 You know. So that's all I'm saying.

15 MS. PUTMAN: Frenchy, not by me.

16 (Laughter.)

17 Frenchy, you were talking about emphasis on your
18 religious rights and your educational --

19 MS. DeSOTO: Right.

20 MS. PUTMAN: -- rights.

21 MS. DeSOTO: Right. I think that has to be explored.
22 And I think some of your committee members will agree with
23 me that -- you know, Pat, as a girl growing up, I went to
24 what was commonly called, in those days, an English-standard
25 school. Would you believe?

1 Do you remember that, Mrs. Morinaga?

2 MRS. MORINAGA: I do.

3 MS. DeSOTO: And where the English language was
4 stressed. And I was forbidden to speak the Hawaiian
5 language.

6 And for those who did, the stigma of being indolent,
7 stupid, and nonconforming, et cetera, et cetera -- all of
8 those negative labels were placed on our people.

9 And what you see today is probably with our opio pio,
10 some of the byproducts of that kind of attitude.

11 So if we are looking towards the broader community
12 in Hawaii, I think that I don't need to tell you about --
13 sometimes the feelings are quite emotional, about the things
14 that have happened to us as native Hawaiians, throughout
15 history -- and that still occur in Hawaii today.

16 Give us a chance to learn our language and our school
17 systems. Make those systems workable for us.

18 In Waianae the kids are being graduated out of high
19 school with a piece of paper saying that they graduated; and
20 you know, they can't even fill out a job application.

21 We're talking about not quantity of education; we're
22 talking about quality. We're talking about the rights of
23 one -- anyone, any human being in the face of the world --
24 that wants to go to Halemaumau and practice a religious form
25 of worship; that they should be allowed that.

1 I think our Constitution grants us religious freedom,
2 and the Hawaiian people have -- who practice their ancient
3 religions, insofar as they're able to determine what those
4 religions are today, because there's indeed some confusion --
5 but that they be allowed access to the aina.

6 Now, a lot of people read kauona into that.

7 I'm saying: "Let them go, if they want to, to
8 Kahoolawe, if that's where they want to." But Kahoolawe is
9 not the only place.

10 In our National Park systems, we are not allowed to
11 go in and take some of the material there for our medicinal
12 purposes that is being practiced today. That's a federal
13 offense.

14 So, some of the recommendations perhaps that come out
15 of this committee is, you know, that somebody better start
16 looking, looking at us, and recognize some of our needs.

17 MS. PUTMAN: Charles, you have a question?

18 MR. MAXWELL: Yeah. I might be out of order, but all
19 I want to -- I want to say is that I want to praise Frenchy
20 for taking the bull by the horns, even though she said she
21 compromised. But in compromising, I think we got to the
22 root of the problem, and some of the problems will be solved.

23 So don't feel that you have compromised. And I
24 commend you.

25 MS. DeSOTO: Thank you.

1 MS. PUTMAN: Okay, Frenzy. I have two rather specific
2 questions.

3 One, you mentioned that in the recommendations on
4 changes to the Hawaiian Homes Act, that you first thought
5 about it, and then changed your mind, and did want to main-
6 tain a relationship with the Secretary of the Interior.

7 I would like you to amplify on that a little bit.

8 And the other one is: Will there be a regular work-
9 ing relationship between the Office of Hawaiian Affairs and
10 the Hawaiian Homes Commission?

11 MS. DeSOTO: Okay. I'll answer your last question
12 first, in that that's relatively easy to answer.

13 Yes, indeed. That was our intent. If you read the
14 legislation, you'll find that we have made provisions to
15 encompass or take over lands.

16 Now, the committee felt that, pretty soon, in Hawaii,
17 there's going to be a large hue and cry about so-called tax
18 monies being used for a specific ethnic group; okay?

19 I think that's clear. So the committee -- remember,
20 we are not made up of all Hawaiians; I think there were
21 three or four of us there; the rest were of every racial
22 extraction -- felt that we better start developing a vehicle
23 to retain those lands for the use of Hawaiians, to -- also,
24 to become a receptacle in the event that the pie-in-the-sky
25 lands, which is reparations -- okay? -- and because we spoke

1 to congressional members, and they said that one of the
2 problems is that there's no vehicle in this State to do that.

3 So, the Office of Hawaiian Affairs certainly -- which,
4 incidentally, I don't think I need to tell you, the entire
5 congressional committee agreed with the concept of OHA, of
6 the Office of Hawaiian Affairs.

7 And they encouraged us to pursue it. And we saw, as
8 a committee, the necessity to work very closely with Hawaiian
9 Homes, because of the trust corpus within the 5f Section,
10 that identifies the native Hawaiian by blood quantum.

11 So there has to be that relationship.

12 Now, with the first question, what was the first
13 question?

14 MS. PUTMAN: It related to the relationship with the
15 Secretary of the Interior.

16 MS. DeSOTO: Okay. Originally, we thought -- the
17 committee thought, on representation by the staff, that we
18 ought to take away all those -- all those things, because it
19 has been cumbersome in the past, where lands have been
20 exchanged for fire departments, health -- comprehensive
21 health clinics, et cetera, and the consummation of that swap
22 of lands has not occurred.

23 Oh, some land has been "exchanged," some 25 years ago.
24 But in reality, it was never consummated. The department
25 gave out the lands, but never received the swap.

1 So, because it's stuck up there at this time, the
2 department is saying that it's stuck up there at the federal
3 level.

4 So the committee says, "Well, why do we need to con-
5 tinue that process? And why do we need the approval of the
6 Governor?" and all this and that.

7 So we said, in proposed amendment, that we would
8 eliminate those two processes. And the homesteaders them-
9 selves pointed out to us that, "We need a check and balance
10 through the Secretary of the Interior," even though that
11 process was slow, so that an unscrupulous commission may not
12 readily start swapping out lands, and never getting any re-
13 turn, and that kind of thing.

14 So the committee agreed with the position of the -- I
15 think it was the Papakolea homesteaders -- that that process
16 was needed.

17 MS. PUTMAN: All right. Do you have any questions,
18 staff?

19 Again, thanks very much.

20 MS. DeSOTO: I want to thank each and every one of you,
21 especially Jeff. And I haven't met the young lady yet --

22 MS. PUTMAN: Sally.

23 MS. DeSOTO: Yeah. But I want to thank you very much
24 for the opportunity to share with you -- I certainly think
25 this is what I have been doing, is sharing with you. Some

1 of it was nana'o'io, and some of it palapala. But I'm grate-
2 ful for this opportunity, Pat, and to your committee members.

3 Mahalo. And if I have offended anyone, please forgive
4 me, because that was not my intent. Mahalo.

5 MS. PUTMAN: Our next speaker will be Ronald Albu,
6 staff attorney for the Legal Aid Society of Hawaii.

7 Ronnie, I think you've been sitting here for some time,
8 but I'll go through our proceedings again with you.

9 The general policy has been for each scheduled witness
10 to speak for approximately a half an hour -- or, as long as
11 they wished -- and then the committee members to ask ques-
12 tions.

13 MR. ALBU: Okay. Fine. I'm sorry I couldn't be here
14 this morning, but I have been in court, so -- I'm also going
15 to be speaking somewhat extemporaneously. I didn't prepare
16 any specific notes, because I didn't know what you would have
17 heard already.

18 But let me tell you something of my involvement with
19 the Hawaiian Homes Commission program, which I understood to
20 be the primary inquiry here.

21 I and some other attorneys that I work with represent
22 the Keokelopana or community association over on the Big
23 Island. And we got involved when the homesteaders over there
24 discovered that 25 acres of their prime farm land was going
25 to be dug up and covered with concrete for a flood control

1 channel being constructed by the County of Hawaii.

2 The homesteaders were understandably upset, because
3 they had been trying for years to get that land surveyed out
4 and parceled out to them, so they could go ahead and farm it
5 under the provisions of the Act.

6 Upon investigation into the transfer of land, we found
7 out a number of things: Number one, back in 1962, the County
8 of Hawaii had gone to the commission and asked them if they
9 could have 12 acres of Hawaiian Home Lands, for which an
10 equivalent amount of land in value would be made available to
11 the commission from State lands -- not Hawaiian Home Lands.

12 But that land in exchange had never been obtained.
13 There wasn't even any paper work that had been started on an
14 exchange, and no land had been identified.

15 Well, the Hawaiian Home Lands are held in trust by
16 the State of Hawaii. One of the conditions of statehood
17 imposed by the United States was that the State accept the
18 program and administer it as a trust for the people of native
19 Hawaiian ancestry.

20 Now, a legal trust is a very severe legal standard.
21 A trustee has to take care of property as strictly as he
22 would care for his own. He can't give it away; he has to
23 maximize the benefits of that property for the beneficiaries.
24 And he can't let anybody else use it.

25 If anybody else does use it, it has to be legal, and

1 they have to get income for that use.

2 What we had here, however, was the land was given to
3 the County; no land was even in the foreseeable future to
4 come back in exchange. And County had already started rip-
5 ping it up.

6 They had asked for 12 acres, and we found out by the
7 time they were through, they would take 25 acres.

8 So, the Chairman of the commission was asked to do
9 something about it, and her response was, "We have more
10 important things to do. We have some houses with mildew on
11 them that need repainting," and so on.

12 So, we brought suit in the United States District
13 Court. The judge was Judge Dick Yin Wong, who passed away
14 about a year ago. The suit was brought in 1975, and Judge
15 Wong found that the Hawaiian Homes Commission and the State
16 had breeched their trust obligations to native Hawaiians in
17 four different ways:

18 They had failed to hold the trust property for the
19 benefit of the native Hawaiians;

20 They had failed to obtain any income from it;

21 They had failed to obtain the approval of the Governor
22 and the Secretary of the Interior; and

23 They had failed to hold that property for the
24 beneficiaries.

25 Okay. Well and good. The Hawaiian Homes Commission

1 took an appeal to the Ninth Circuit Court of Appeal, and the
2 Ninth Circuit held that Judge Wong did not have the power to
3 hear that case, because, it said, native Hawaiians do not
4 have the right to bring suit to protect the Hawaiian Home
5 Lands; that only the United States of America can bring that
6 suit.

7 So now, the beneficiaries' hands are tied behind their
8 backs.

9 We learned some other interesting things in that law-
10 suit. Number one, not only was the .25 acres involved here
11 not following the land exchange process, but since 1962, more
12 than 1700 acres of Hawaiian Home Lands were being used by
13 State and County agencies, for which no land exchange had
14 ever been consummated.

15 Since Judge Wong issued his decree in 1976, as far as
16 I know, no lands have yet been exchanged in return for the
17 lands being used.

18 I brought with me an annual report from the Department
19 of Hawaiian Home Lands for 1976-77, because it's somewhat
20 complete, in terms of accounting for the lands.

21 And the figures there I find a little bit disturbing.
22 We find that, first of all, the Hawaiian Homes Commission
23 Act says there are 203,000 acres; only about 190,000 are
24 accounted for.

25 One example, Waimanalo, there's supposed to be 4,000

1 acres of Hawaiian Home Lands, but the State only shows on
2 its books 2,000, about half of what's supposed to be there.

3 Where did the other half go? Okay.

4 Of that approximately, let's say, 200,000 acres of
5 Hawaiian Home Lands, native Hawaiians are presently occupy-
6 ing as homesteaders 25,000 acres, about an eighth of the
7 total lands.

8 About 125,000 acres of those lands are being used by
9 non-Hawaiians: Federal, State, County government, private
10 individuals under leases, licenses, and permits, under public
11 utilities, under right-of-way easements.

12 Let's look at the income. The Federal Government pays
13 an average rental per acre in '76-'77 of 45 cents; the State
14 pays 12 cents; and the Counties pay \$3.10.

15 Now, I think that the current land prices in Hawaii
16 will bear out that this is ridiculous. This is supposed to
17 be a trust created by the Congress, administered by the
18 State; and the trustees are ripping it off.

19 The native Hawaiians are not getting fair market value
20 for these lands that their trustees are supposed to be hold-
21 ing for their benefit.

22 And the native Hawaiians cannot even bring suit to
23 protect their own trust lands.

24 What can this commission do? It can recommend that
25 the United States bring that suit.

1 It might be able to do one other thing, although
2 timing is short. We have asked the United States Supreme
3 Court to review the decision of the Ninth Circuit, saying
4 that native Hawaiians cannot bring suit.

5 MS. PUTMAN: Do you have the citation for that
6 decision?

7 MR. ALBU: I have given copies to your staff. It's
8 all available. That petition for certiorari, it's called,
9 will be ruled on by the U. S. Supreme Court, we believe,
10 around October 1st.

11 The United States Attorney's Office took a position,
12 in the Ninth Circuit, that native Hawaiians should be allowed
13 to bring suit in their own behalf, simply because there are
14 just too many cases for the United States to bring all of
15 them.

16 Okay. Now, having given you some of the gory details,
17 let's back up a little bit and look at what this Hawaiian
18 Homes program is and what its historical basis is.

19 Sometimes people talk about Hawaiians getting a free
20 handout. And Frenchy was concerned about the concerns of
21 taxpayers, that their money is being used for a special group.

22 Well, it just so happens that whenever, in the history
23 of our country, we have taken away the land of a native
24 people, we have tried -- and I say "tried" -- to be fair
25 about it.

1 When Indian lands were taken, they were often taken
2 by treaties. When the land was negotiated for, certain lands
3 were retained; others were given up.

4 In other cases where there were no treaties, there was
5 an act of Congress creating the Indian Claims Commission,
6 where the groups of native Americans could go before the
7 commission and prove their damages, and be paid for what was
8 taken from them.

9 In the case of native Hawaiians, about two-thirds of
10 these islands were taken at the time of the overthrow, and
11 they were given by the revolutionary government to the United
12 States for free. Native Hawaiians received nothing.

13 Out of the lands that were received by the United
14 States, which were about two and a half million acres, the
15 Hawaiian Home Lands were carved out, about 200,000 acres.
16 And so that's the beginning of repayment of the obligation
17 of the United States to the native Hawaiian people.

18 And you asked the question a little bit earlier:
19 Shouldn't the Secretary of the Interior be involved here?
20 What's his role?

21 Well, we find the United States, even though this
22 program has gone to the State for administration, has retained
23 several powers to insure that the Hawaiian Homes Commission
24 Act is faithfully carried out.

25 By the way, that's another condition of statehood.

1 Our State Constitution is required, in Article XI, to state
2 that the Hawaiian Homes Commission accept this program as a
3 trust; and that the people of the State promise to faith-
4 fully carry it out.

5 To insure that, the United States did four things.
6 Number one, they said that in turning this program over, you
7 have to accept the trust;

8 And number two, you can't change any of the substan-
9 tive provisions of this Act without the approval of Congress;

10 Number three, Congress itself reserves the right to
11 alter or amend that Act;

12 Number four, the -- well, it slips my mind right now.

13 Well, the fourth one is that the United States reserves
14 the right to bring suits to enforce the trust.

15 So with -- I think it's a mistaken assumption that
16 some people have, that this is only a State obligation. It
17 is a federal obligation which the State has agreed to help
18 carry out, merely because of the distances involved and the
19 ease of local administration.

20 But what we have is a State government that really is
21 using many of these lands for its own benefit. And if we
22 look at the lands involved, the federal government uses
23 14,000 acres; the State government uses 29,000 acres, more
24 than native Hawaiians themselves use.

25 And the Counties use 259 acres.

1 We have talked about their using the lands, but we
2 haven't talked about its legality. We haven't -- we have a
3 device called the Governor's executive order.

4 Now, with the normal State lands, rather than Hawaiian
5 Home Lands -- unencumbered lands, they're called -- the
6 Governor has the right, with the stroke of a pen, to take
7 some State lands and give it to a government agency for a
8 public use.

9 The Hawaiian Homes Commission Act specifically states
10 the Governor does not have that power over the Hawaiian Home
11 Lands.

12 Nevertheless, the State of Hawaii has, by Governor's
13 executive order, transferred Hawaiian Home Lands for use for
14 airports, schools, parks, forest reserves, game reserves,
15 public services, and rights-of-way totaling about 16,862
16 acres.

T-11 17 Now, about three years ago, the Attorney General for
18 the State of Hawaii wrote an opinion that said: "This prac-
19 tice is illegal."

20 We filed another action on the Island of Kauai, over
21 the Anahola Beach Park there. That park was given to the
22 County of Kauai to use as a public park. Again, not a nickel
23 was paid to the Hawaiian Homes Commission.

24 And then, it was supposed to expand that park by
25 giving another 12 acres of prime beachfront lands to the

1 County of Kauai to expand this park, so they could use some
2 federal revenue-sharing money to develop it.

3 There was no proposal to pay the Hawaiian Homes
4 Commission, or to give them any land in exchange for that.

5 We were told, "Well, the Hawaiians use that park, too,
6 so why should they complain?"

7 I guess the answer is: "If you owned beachfront prop-
8 erty in the Kahala area, and the County wants it for a park,
9 they condemn it and pay for it, and you still get to use it.
10 Why should Hawaiians be treated any differently?"

11 If it's a public park, then let the public pay for it.
12 If it's not a public park, then reserve it for the native
13 Hawaiians, because they've got little enough.

14 Well, we brought that suit in Federal Court, and that
15 again come in front of Judge Wong, and he again ruled in our
16 favor.

17 And now, that case is subject for dismissal; because
18 again, the Ninth Circuit has said: "Native Hawaiians don't
19 have the right to bring a lawsuit to protect their own land."

20 So if you want to know what you can do to help, the
21 answer is: You can recommend to the Congress either that
22 they recognize our right to bring suit, even on behalf of
23 native Hawaiians; or, two, you can ask the Supreme Court to
24 hear an appeal; or, three, you can ask the United States
25 Attorney to bring that suit to clean this mess up.

1 This practice has been going on for years. Even
2 though the illegality has been admitted by everyone concerned,
3 it still hasn't been cleaned up. And the very land exchanges
4 that Judge Wong ordered in the Keaukaha-Panaewa case, today
5 the Department of Lands and Natural Resources still hasn't
6 identified land suitable for an exchange.

7 And they say these things all have to be surveyed;
8 they have to be appraised; these things take years. But
9 while we wait, native Hawaiians are deprived of the use of
10 their lands; and they're deprived of the fair rental value.

11 In the case of the Hilo Airport, we are talking about
12 an appraisal of over half a million dollars a year -- which
13 brings us to another problem, and that is: At least, up to
14 now, the Hawaiian Homes Department has been forced to finance
15 itself by leasing out the Hawaiian Home Lands to non-Hawaiians.

16 Now, that wouldn't be so objectionable, except the
17 leases -- and they do a lot better than with government use
18 -- the leases for 122,000 acres generated \$994,000 of revenue,
19 a little over \$8 per acre per year.

20 That money is not enough to run the administration of
21 the department alone, let alone the costs of developing the
22 Home Lands for use by homesteaders.

23 Now, the ConCon helped with that a little bit, because
24 it passed an amendment -- or, it proposed an amendment which
25 the voters ratified, which required the State to fund the

1 department's administrative costs, as well as the programs to
2 develop the Home Lands for native Hawaiian use.

3 Unfortunately, I haven't seen the implementation out
4 of the Legislature yet, and I'm concerned that it will be
5 interpreted in a way that we are really not going to see much
6 of an increase.

7 But I think this commission could at least maybe put
8 a little heat on the government to carry out its responsibil-
9 ity, not only in that.

10 MS. PUTMAN: Georgiana testified that they were pre-
11 paring legislation in the form of a supplemental appropria-
12 tion for next year, but --

13 MR. ALBU: Okay. Well, I would hope that the State
14 Legislature will honor that and will come up with a lot more
15 support than we have seen in the past.

16 And that's even aside from all the claims native
17 Hawaiians have against the State for trespass -- really, all
18 this constant illegal use, practically from the beginning of
19 this program. There's just been a tremendous amount of
20 abuses. And they're ones that I think people now, with good
21 faith, admit them.

22 But they have gone on for so long, they don't know
23 what to do about it. And I think they got a little bit of
24 a push.

25 Thank you. I would be happy to answer any questions.

1 MS. PUTMAN: Are there any questions? Charles?

2 MR. MAXWELL: Yes, I have one, Ron.

3 Ron, there are some fears that if this committee
4 pursues the whole idea of looking into the Hawaiian Homes
5 Act, that -- and it gets to the Supreme Court, that that
6 would in effect put the whole program up for toss. In other
7 words, the constitutionality of the Act itself.

8 What is your remarks on that?

9 MR. ALBU: Well, I think that has been a very effective
10 tool to keep Hawaiians from raising any questions. Every
11 time the Hawaiians say, "We are not getting what we are
12 entitled to," they are told, "Well, you better not raise any
13 questions, because you might not get anything."

14 And I think it's a shibai.

15 The Constitution of the United States empowers Congress
16 to legislate on behalf of native Americans -- they're called
17 Indians, but the courts have said that means aboriginal
18 people, the people who were there first.

19 And we have a very fundamental concept. It's called
20 the Fifth Amendment due process clause. When the government
21 takes your land, it pays for it.

22 It still hasn't paid for the land it took from native
23 Hawaiians. The Hawaiian Homes Lands are the only thing
24 they've got. They fit that qualification of native Americans
25 in every way.

1 They're -- in my mind, there's just no question
2 whatsoever about the legality. As a matter of fact, I believe
3 it is illegal to not include native Hawaiians in the programs
4 that Congress has adopted for all other native Americans.

5 A while ago, we had a committee of Congress come
6 through here looking at whether or not native Hawaiians
7 should be included in the Indian education programs, and
8 that was chaired by Senator Inouye. And we submitted an
9 opinion at that time, and the time before when they came
10 through, showing the legality of it.

11 People raise claims, for instance, that the aborigi-
12 nies in Alaska -- meaning Eskimos -- aren't Indians. And
13 the Court held that they were native Americans, and that
14 Congress has full power to legislate for them.

15 And if anything, it's overdue and unconstitutional to
16 exclude them. It is not a racial distinction. It is a dis-
17 tinction based on history.

18 It is a distinction that says: When the United States
19 and their people take something from someone, and they bene-
20 fit from it, they have -- they have taken upon themselves
21 the obligation to make it right.

22 And to exclude Hawaiians because they're not racially
23 Indians is unconstitutional, and not the other way around.

24 MR. MAXWELL: So you think this committee could help
25 a whole lot by forcing the United States Interior Department

1 to file suit; right?

2 MR. ALBU: Yes, I do.

3 MR. MAXWELL: Okay. Thank you.

4 MS. PUTMAN: Thank you very much, Ron.

5 We are going to have a short break, and when we re-
6 convene, we will move to the open agenda.

7 As I announced at the beginning of our consultation,
8 anyone, or anyone who has any information, will be given a
9 chance to speak to the committee. Each will be given five
10 minutes.

11 If your position takes longer than five minutes, you
12 can submit anything else in writing. That will be taken into
13 consideration and become a part of the official record.

14 Now, so far, I have only two organizations and their
15 spokespersons listed: Ho'ola Kanawai, with Mits Uyehara,
16 and the Ohana, by Peggy Ross.

17 Is there anyone else who wanted to address us? If so,
18 at the break, let Jeff (indicating) know.

19 So we will take a break for ten minutes right now.

20 (Mid-afternoon recess.)

21 MS. PUTMAN: The State Advisory Committee to the
22 United States Commission on Civil Rights is reconvened.

23 We are now in open session again, and there are a few
24 people who have some messages for us. You recall, this is
25 to be limited to a five-minute presentation. So if you can

1 try and observe that, you will be a part of the official
2 record.

3 Dawn Wasson.

4 Incidentally, if you are speaking on behalf of an
5 organization, will you identify it? If you are speaking just
6 for yourself, that's fine, too.

7 Okay, Dawn.

8 MS. WASSON: Well, my name is Dawn Wasson. I'm a
9 resident of Nanakuli, a new resident. I have there about
10 three months.

11 I'm speaking today not because I volunteered. I was
12 pressured by Mr. Maxwell.

13 (Laughter.)

14 But I speak this afternoon very proudly, because I'm
15 a Hawaiian. And I do have strong feelings about rights of
16 Hawaiians, and rights that I have personally experienced that
17 have been violated.

18 Number one, I would like to clarify that. I'm a
19 lessee under the Department of Hawaiian Home Lands. I have
20 been on the waiting list for nine years.

21 I lived in a community of substandard houses for a
22 number of years; and when I was given the opportunity to get
23 a new home, we were very happy about it.

24 I'm quite sure all of you know that whenever you have
25 a new home, you don't realize what it can do to a family, and

1 especially to kids who are trying to struggle through the
2 educational system of the State of Hawaii, and Hawaiians that
3 are trying to uplift themselves.

4 We were what you call makokiauakau. I would like to
5 call myself a very common person, but people don't consider
6 me common, because they say I have a White Man's brain and a
7 Polynesian body.

8 I don't know what that means, because they said I
9 don't think like a Hawaiian. I don't know what a Hawaiian
10 is supposed to think like.

11 All I know is that I'm fighting for something I believe
12 I'm entitled to: respect; a good education; and a good job.

13 But I live on Hawaiian Home Lands. I live in the
14 community of Nanakuli; and in the short space of time that
15 I've lived there, I really love that place. And I love the
16 place because of the people.

17 No matter what I've heard or you may have heard about
18 Nanakuli, or whatever the area is, it's part and -- that it
19 has a high crime rate, whatever it is, as long as I have been
20 there, I have never experienced any kind of adverse action
21 taken against me or my children -- except it's been just the
22 opposite.

23 I don't think it's just because I'm Hawaiian, but it's
24 because people are people in that area, that if you do good
25 to them, they will do good to you.

1 And as long as I live in that community, or wherever
2 I go, I can always say and I would always say that it is the
3 most beautiful place and the closest thing to heaven.

4 Another thing, too, I would like to speak about is
5 being a Hawaiian and living in a community like Laie, where
6 6,000 acres of land was bought by the Mormon Church in 1865
7 for \$14,000.

8 There were a group of Hawaiian people who owned small
9 parcels that totaled up to 300 acres. A lot of these lands
10 were being adverse possessed by the Mormon Church against
11 Hawaiians who were also members of the church.

12 A lot of times, when Hawaiians tried to go and see the
13 manager or anyone in charge, to see if they could get their
14 land back, or to see if they could get access to their land,
15 they were told that that land was no longer theirs; or that
16 if they'd -- would take the church to court, it would make
17 them look really bad.

18 So what the Hawaiian people did was just let it go.
19 And quite a few of our people have lost their land that way.

20 So what we did was, we formed a group, called Kuleana
21 Landowners, or the hui o malama Laie.

22 And what we did was, we went and got some legal advice.
23 -- namely, Ron Albu -- some legal aid, to let people have
24 some knowledge of their rights, and to take cases to court;
25 to help them preserve this land.

1 And some of the things that happened was that -- again,
2 the people would not take the case to court, because they
3 didn't want the church to look bad, or they were afraid their
4 memberships would be in jeopardy.

5 And another thing that we had was some courageous
6 people that did take the chance, and didn't even have to go
7 as far as to court. They were just given rights to the land.

8 But the problems as -- that Hawaiians have, especially
9 kuleana landowners, is that they have to survey the land.

10 And again, we were right back to the same problem.
11 "You show us where your land is, and you survey it, and we
12 will let you get to your land."

13 But what they have done is, when the land was given to
14 them, all the metes and bounds was destroyed, so the Hawaiians
15 would have to go and survey from the main highway, and bring
16 it all the way in, and then find their property, where they
17 think it might be.

18 And that would cost them money. And so they couldn't
19 afford it, and they lost it that way.

20 But we still -- again, we would have the problem, if
21 someone doesn't come and help us protect our rights.

22 And if there's any way your committee can sort of
23 express that the problems are here, to help other people
24 regarding lands.

25 And like you said, and a lot of people said, that --

1 well, you tried to go down and meet the people, and get them
2 now. And that's what's really happening, is that all the
3 different organizations that are -- that say they're repre-
4 senting Hawaiian rights and Hawaiian people are not really
5 reaching the people.

6 So that's all I have to say. Thank you very much.

7 MS. PUTMAN: Does anyone have any questions?

8 Thank you very much, Dawn.

9 Wailani Bell?

10 MS. BELL: My presence here today is strictly by
11 accident. I happened to be in a training program next door
12 and heard about it, and I came out of curiosity.

13 However, I am part-Hawaiian, and I am concerned about
14 what is happening to the Hawaiians.

15 What I'm going to talk about is not directly related
16 to the Hawaiian Homes, but it is a problem within our com-
17 munity: under-education.

18 I graduated from the university with a BA in sociology,
19 and in order to get that BA, I had to work eight years as a
20 hula dancer, supporting myself through school.

21 Many of us, as Hawaiians who dance hula, go into the
22 entertainment field, because that's our one way into the
23 corridor to get other things. And this became my support.

24 And it was a drawn-out process. After getting my BA,
25 a year later, I -- well, it was more than a year later -- I

1 decided to go back and get my fifth-year education.

2 At that time, it was very difficult to get a teaching
3 job here in Hawaii and all over the United States; I'm sure
4 all of you are aware of this. And there were many times I
5 thought, "Well, maybe I should just look into another area."
6 Most of the professional fields right now are very saturated.
7 And I thought of -- you know, going into law. And I thought
8 about going into other areas.

9 But I have a -- my child was two years old at the
10 time, and it was very difficult to pursue these other areas.

11 So I continued to go on for my fifth year. At that
12 time, also, a few of the professors was sincerely encouraging
13 me to stay on, because of the problems that we are having
14 within our Hawaiian community. They felt that we needed more
15 part-Hawaiian teachers, so the children within the community
16 could identify with us.

17 And being kanaka makua at heart and faith, I got this
18 fifth year.

19 I was over 4,000 in the waiting list. Recently, I
20 just got a letter -- and this is about six years ago -- that
21 there are just no jobs available, and they sent me back my
22 transcripts, saying that I'll probably need it to look for
23 another job.

24 What I guess I'm trying to say is that if there is a
25 need for part-Hawaiian teachers in the community, and we

1 struggle to work for the certificate, isn't there some avenue
2 that can be touched upon to -- to get over this hump?

3 Even when principals wants to hire part-Hawaiian
4 teachers, they are still stuck, because of the unions. I
5 don't know what can be done about it. I'm just sharing my
6 mana'o and letting you know that this is a definite concern
7 on my part, and I'm sure on the part of a lot of other part-
8 Hawaiians, too, that are going through the college of
9 education.

10 Thank you.

11 MS. PUTMAN: Thank you. Are there any other questions?

12 Thank you very much, Wailani.

13 We are now going to hear from Ohana. Is Peggy Ross
14 here? Or someone on behalf of Ohana?

15 Does anyone know about Ohana?

16 A SPECTATOR: No, Ohana is not here.

17 MS. PUTMAN: How about Ho'ola Kanawai? Is Mits
18 Uyehara here?

19 A SPECTATOR: Is it 3:30? He said he would be here
20 at 3:30.

21 MS. PUTMAN: 3:30? Okay.

22 Was there someone else who wanted to speak?

23 This is Maui Loa, a chief of the Whole-Hawaiians.

24 Did you want to --

25 MR. LOA: -- yes.

1 MS. PUTMAN: -- speak to us? Yes.

2 MR. LOA: Hello, ladies and gentlemen, people from
3 homestead, people from the Civil Rights, Mr. Maxwell, and
4 my fellow Hawaiians:

5 I'm chief of the Whole-Hawaiians. This is my father,
6 Kamuela Price, who is our talking chief. And I mainly came
7 down today, because this is regarding an issue that the whole-
8 Hawaiians have been involved with for many years, and that's
9 the native Hawaiians that are defined under the Hawaiian
10 Homestead Act of 1920, which are those that are 50% Hawaiian
11 blood, to pure.

12 My father ran for the Senate, to express the grievances
13 of these people who have waited so patiently for their prom-
14 ised homestead land. And to this day, they haven't received
15 this land.

16 And I'm mainly down here to express my mana'o as an
17 indigenous Hawaiian, who is underneath this Act, the
18 Homestead Act.

19 And my father, he could better put it in words, I
20 guess. This is Kamuela Price, for the Whole-Hawaiians.

21 MR. PRICE: Mr. Chairman -- Madam Chairman, ladies
22 and gentlemen: My name is Kamuela Price. I'm the advisor
23 to the Whole-Hawaiians.

24 I did bring down some stuff that's been sort of on
25 the shelf for a while, so you could see what the attitude of

1 the Whole-Hawaiians has been towards the failure of the State
2 and the Federal Government to carry out the promises of the
3 Homestead Act, for whatever reasons.

4 And our concern is that the -- and I think Senator
5 Inouye expressed it one time in a letter to me very clearly,
6 that those of less than 50% Hawaiian naturally would like to
7 be entitled to the same benefits as those of us with more
8 than 50%.

9 But I think we have to realize that any legislation
10 that deals with native Hawaiians is really being done in the
11 name of the indigenous people. I don't think there's a
12 native Hawaiian in the world who wouldn't want to see his
13 people of less blood benefit.

14 I have grandchildren, many of them of less blood.
15 But I think I believe that legislation, that things that deal
16 with native Hawaiians, that it always must be made clear to
17 everybody that the native Hawaiians as defined in the
18 Homestead Act has priority, because you will see there's a
19 new office, the Office of Hawaiian Affairs, that's coming
20 into existence; there's a Native Hawaiian Educational Act --
21 this is Public Law 9644.

22 All of these acts have diluted the blood of native
23 Hawaiians, for I read: Anybody with any amount of Hawaiian
24 blood is entitled to benefit under these acts.

25 Now, speaking for the Wholes, we are not against

1 these people receiving benefits under these acts. But we
2 don't want these benefits to be at the expense of indigenous
3 people who are over 50%. They will soon be dying out; they
4 will be gone.

5 And when we talk about the lands which -- the trust
6 lands which were given to the native Hawaiians, we must first
7 be certain that all of these people -- because it's been made
8 a treaty, and we believe that as far as the Wholes are con-
9 cerned, we teach our people who are all indigenous people to
10 be loyal citizens of the United States.

11 When we think of sovereignty, we think of our own
12 people being able to speak for themselves, within the frame-
13 work of the laws of our country, because we look to the
14 United States to protect our rights; we look to the Federal
15 Government, naturally. The State government can't do this.

16 It would be like going to the State of Arizona and
17 asking them to protect the American Indians. How could they
18 do that, when the private interests in the State of Arizona
19 are the ones that want the lands of the Indians?

20 It takes the Federal Government to come in and say,
21 "We have made a deal."

22 And as part of the Admissions Act, Hawaii is a State,
23 based on the promise -- this is why Hawaii is a State,
24 because it's based on the promise that the native Hawaiians,
25 as defined in that act, will be rehabilitated and placed

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back on the land.

Now, the failure of the State to do that, and the failure of the Federal Government to come in behind that and make sure that it is done, is a blot upon the heart of our country.

We don't feel that it's done purposely in any way. We recognize the difficulties in the United States being way over there, and we're way over here, and there's so many interests here, for one reason or another, that they would like to have the lands and the rights of the native Hawaiians, it's a difficult thing.

But now that you're down here from the Federal Government to look into this, I believe that the simplicity of the matter is that your position should be, "That we are going to carry out the Homestead Act as it is written; we are not going to make any changes in it, whether they be for the better or for the worse."

Because the law -- the Act is already perfect. It says that the State of Hawaii can make any changes in the Act that it wants to, as long as it doesn't dilute the right of those people who have already been covered by the Act.

So any changes that the Federal Government would make would be for the worse. You can't do anything more for us than that. Don't dilute our rights.

Don't put things in there that will confuse the issue.

1 Because if the thing goes back to the Federal Government, for
2 them to make some additions, why, we could find the whole
3 Homestead Act just done away with.

4 You can't control what the Congress of the United
5 States might do with that Act. We don't want any changes
6 made in that treaty.

7 And this is the position of the Wholes: You have made
8 a treaty with us. Until you have lived up to that treaty,
9 and given our people the lands that they're entitled to, and
10 been rehabilitated on that land, we feel that you haven't
11 carried out that treaty.

12 And to do anything less than that would just jeopardize
13 the entire reputation of our country, insofar as when it made
14 its word with its own people. And I don't think the United
15 States Government wants to do that.

16 I would be willing -- and I would hope that this group
17 would keep in touch with us; we will leave you some letters
18 for you with our addresses.

19 We have native Hawaiian people who will go back to
20 the Congress and explain our position. That's what has made
21 it so difficult in the past. We have never been able to go
22 there, so that the Congress really doesn't know how the
23 native Hawaiian feels about it.

24 But now, we have a whole group of people that are 50%
25 Hawaiian or more, who are ready to go at their own expense,

1 if necessary, at any time this issue comes up before Congress,
2 and make it clear to Congress what the attitude is of many of
3 the people who are 50% Hawaiian or more.

4 And since the treaty was made with these people, as
5 long as there's even one of them who wants the United States
6 Government to live up to the treaty, I don't think there's
7 any moral way that it can be abrogated, because that was a
8 promise, and you can't change a promise later on down the
9 line.

10 Until the promise is carried out, there are no changes
11 that should be made in it. And anyway, that's what the posi-
12 tion of the Whole-Hawaiians are. And we are really honored
13 that you allow us to come in here and speak to you today.

14 And I hope that you will take back the message that
15 there is a group of indigenous Hawaiian people down here who
16 want to stand pat on the Homestead Act; and that they do not
17 object to other legislation that deals with helping Hawaiian
18 people.

19 One thing that we do object to -- and I think you
20 should carry this message back -- I do not believe that the
21 Hawaiians should be referred to as native Hawaiians, in
22 other legislation, unless it's the same as the Homestead
23 definition.

24 It's all right to deal with them as part-Hawaiian, or
25 people of Hawaiian ancestry; but when you use the word

1 "native Hawaiian," it is reflective upon the integrity of
2 the United States Government, to use it differently in two
3 acts.

4 And we are asking that -- we are for a lawsuit now;
5 we are trying to -- we have people in Washington, and we are
6 going to ask for a lawsuit to clarify this definition, so
7 that it is very clear to the Congress and the people of the
8 United States that when we use the term "native Hawaiian,"
9 you're talking about 50% Hawaiian blood or more.

10 And when you talk about people with Hawaiian ancestry,
11 you're talking about people with any amount of Hawaiian blood.
12 And we are not asking you -- or suggesting to you, once more,
13 that all of these people are not entitled to certain benefits.
14 But not the Homestead benefits. They are set aside for our
15 people.

16 But I want to thank you again on behalf of the Whole
17 group for allowing us to make this presentation.

18 MS. PUTMAN: Thank you. Are there any questions?

19 MS. JAMES: I just want to get the brochure.

20 MS. PUTMAN: Oh, yes. We would appreciate having
21 your material, and it will become a part of the record.

22 Is there anyone else who wants to make a presentation?

23 A SPECTATOR: When the people of the audience make a
24 presentation, do we have to --

25 MS. PUTMAN: Well, just so we have a correct record.

1 A SPECTATOR: No, I don't want to make no statement.
2 I would just like to ask something.

3 Could you delete the word "rehabilitation"? I heard
4 that damn word all day long, and we are not nuts; we are
5 human beings. We are Hawaiians.

6 MS. PUTMAN: Well, that's part of the Hawaiian Homes
7 Act language. You know, it's not anything that we have
8 dreamed up.

9 A SPECTATOR: I mean, this is the only thing that I
10 have gotten up to say. I hate the word "rehabilitation" or
11 "rehabilitate."

12 MS. DeSOTO: (An inaudible comment.)

13 A SPECTATOR: Excuse me, Frenchy. But, hey, I don't
14 like the word. I don't like the use of the damn word.

15 So please, in your committee -- or, in your statement
16 -- could you leave the word out? Thank you.

17 MS. PUTMAN: Thank you very much.

18 It's Tom Manapua?

19 MR. MANAPUA: Manapua.

20 Aloha kakou.

21 MR. MAXWELL: Aloha.

22 MR. MANAPUA: I would like to say that a lot of times,
23 when -- as I -- a lot of us go to hearings of this nature,
24 when we see a lot of faces that are familiar, and people
25 make statements giving us a negative statistic about -- oh,

1 illustrating that Hawaiians fill our jails.

2 Well, what these people do not make an accurate study,
3 what they have not told you, is that when the U. S. came in,
4 they not only stole our land, they destroyed our pride in
5 ourselves.

6 They took our soul. And they planted -- and gave us
7 their values, their history, their culture.

8 If we are in disarray today, it comes from this back-
9 ground. And it's not only the physical loss, the material
10 loss, it's a spiritual and the self, the soul.

11 We Hawaiians today, many people -- what you don't
12 know -- that most of the Hawaiians have taken very little
13 from our past. If one knows his past -- and I don't know
14 it thoroughly -- but I know the Hawaiians had a lot of love
15 and respect for each other. They respected their land. They
16 had their own gods.

17 But what makes me mad today, we see that the religions
18 in Hawaii tolerate every kind of religion, yet when our --
19 they only tell us what is bad about the Hawaiian and his
20 religion; and everything that was Hawaiian was negative.

21 I feel personally that if we Hawaiians are to go any-
22 where, we have to look into ourselves and listen to our own
23 voice. Let's find our answers.

24 Too long, we have listened to everybody else coming
25 here, bringing their values to make judgment on us. At

1 least, I think so.

2 Many Hawaiian parents tell their kids, "Get educated.
3 Join them." They end up, they've lost their souls; they have
4 achieved, but they've lost their soul.

5 I think that's very important. I try not to -- we
6 Hawaiians have to realize, too, that if we are to keep things
7 in perspective, Hawaiians are by nature gentle people. Our
8 kupunas weren't violent people.

9 The violence that you see today among the youth, this
10 is not Hawaiian. Pakalolo and drugs and rape, that's -- and
11 underworld is not Hawaiian.

12 This is the influence from the United States upon us,
13 and the outside influence upon our shores. To me, I think
14 for me, speaking for myself, trying to look into myself,
15 into my Hawaiianness, look into my rich past, and maybe
16 there's some negative areas; but look into them and retain
17 and perpetuate the beauty of my culture. It's about time
18 we Hawaiians got a sense of pride.

19 I think personally our parents failed us by telling
20 us to assimilate in the process. And we lost ourselves, I
21 think.

22 So one more important thing I have to say. How many
23 statements, in which everybody commenced to tell us how
24 badly we are doing in schools. One of the -- what a lot
25 of you, you folks don't know, that we Hawaiians -- well,

1 Frenchy, in that community center, that relationship, we are
2 humanistically oriented. We love others. We love -- if we
3 are bitter today, it is because we love the world, but we
4 found out that they are not like us; they only came to take.

5 Study our history. Everybody came in to take. We
6 are the only ones who are giving out.

7 And as the statements show you, even the churches are
8 involved in that. They come in, and they downgrade us,
9 everything Hawaiian; they downgrade our religion.

10 Today, they go and tell the big wide world, "Give us
11 moral support."

12 Well, we are the ones who are the strongest backers
13 in the churches in Hawaii today, and we are -- I don't think
14 they should be telling us to give them any more support.

15 More important than that -- and I'm closing now -- I
16 say this to our poor people: Be proud of what you are. And
17 search, because there's much riches that we as Hawaiians
18 knew of.

19 Even a feeling of love and aloha, I like to keep. I
20 mean, I'm not -- I say this sincerely, not out of a hate to
21 anybody.

22 If we are going to go any place, we have to find out
23 who we are. Talk to your brothers. Function thoroughly as
24 Hawaiians.

25 If you don't, that's not Hawaiian. Maybe sometimes

1 I don't either, but I'm aware. And that's a step in some
2 direction.,

3 So, if we come on strong sometimes, you can't blame
4 us.

5 Personally, my deep feeling is that the U. S. sees us
6 as animals, because our way of life was based on harmony with
7 each other, with the sea, with the sky, with the environment.

8 Today, we live on a way of life that is -- we don't
9 live life; everything is pressure. Everything is -- we just
10 live to exist. We are constantly under pressure.

11 I'm sure more of you might agree with me. And like I
12 say, that's my thought. I hope you can go along with me.

13 MS. PUTMAN: All right. Thank you very much. Thank
14 you for sharing that with us.

15 Is there anyone else who wanted to make a statement
16 to the committee? Apparently we're still waiting for Mits.

17 Who knew that he was coming?

18 A SPECTATOR: He told me. I called him up. He must
19 have left, because I just called his office and he is not
20 there.

21 MS. PUTMAN: Well, I saw him earlier in the hallway.

22 A SPECTATOR: He went to court this morning.

23 MS. PUTMAN: I see. Yes.

24 MR. PRICE: I would like to make a simple statement
25 here. And this is on a question that we hear all of the

1 time, and it's been raised here today, trying to raise the
2 question about the word "rehabilitate" and the meaning of it
3 in the Homestead Act.

4 In the Homestead Act, "rehabilitate" was meant to
5 mean "reinstate on the land." It wasn't meant to cast any
6 aspersion on the Hawaiian.

7 And I think that when the Hawaiian people object, that
8 they don't want to hear the word "rehabilitate," it's in the
9 sense that they're decent people; they don't need rehabili-
10 tating.

11 But I think the Homestead Act used that word in the
12 sense that they need to be reinstated on the land, in that
13 sense.

14 MS. PUTMAN: Yes. I think the legislative history of
15 the law indicates that.

16 Whoever knows Mits, since there's no one -- no one
17 else, and I don't see why everyone should wait, tell him, if
18 he would submit a written statement to the commission, or if
19 he wants to do it through me or any member of the committee,
20 that it will be made a part of the record.

21 A SPECTATOR: Okay.

22 MS. PUTMAN: And other than that, I don't think we
23 have anyone else who is scheduled to appear here.

24 The obvious focus of today's proceedings has been
25 primarily, but not exclusively, on the administration and

1 management of the Hawaiian Home Lands, with a lot of atten-
2 tion to the Federal and State responsibility to the trust
3 that was established almost 60 years ago.

4 As a first step in this effort, by your committee from
5 Hawaii, we have heard from several individuals who work on
6 the Home Land issues daily.

7 We all will be reviewing the transcript of this meet-
8 ing. We will meet and talk with additional individuals and
9 groups concerned with assuring a fair Home Lands program.

10 And we will submit whatever our findings are to the
11 commission in Washington, D.C., and to our State leaders for
12 their consideration.

13 I think you have been a very supportive audience, and
14 each of us would like to thank you --

15 A SPECTATOR: There's Mits.

16 MS. PUTMAN: -- for your participation today.

17 Oh, you just made it, Mits. I was giving the closing
18 statement.

19 Do you have a statement in writing, Mits?

20 MR. UYEHARA: Right, I do.

21 MS. PUTMAN: Well, if you'll submit that to the staff,
22 it will be made a part of our official proceedings.

23 A SPECTATOR: We want to hear what he has to say.

24 A SPECTATOR: Yeah, we want to hear.

25 MS. PUTMAN: All right. I have just been overruled.

1 So, whatever it is, if you'll just -- these statements
2 are supposedly limited to five minutes, but the entire
3 written --

4 MR. UYEHARA: Oh, I think I can do it.

5 MS. PUTMAN: -- the entire written statement will
6 become a part of the record. Following your presentation,
7 we will adjourn. Okay.

8 MR. UYEHARA: Thank you.

9 MS. PUTMAN: Will you give the reporter your name and
10 organization?

11 MR. UYEHARA: Mitsuo Uyehara; U-y-e-h-a-r-a.

12 Madam Chairman and members of the Hawaii Advisory
13 Committee to the U. S. Civil Rights Commission.

14 A SPECTATOR: Mits, will you talk into the mike,
15 please? Mahalo.

16 MR. UYEHARA: My name is Mitsuo Uyehara. I am the
17 attorney for Ho'ola Kanawai, Inc. (awakening the law).
18 Ho'ola Kanawai, Inc., is a native Hawaiian organization
19 created and existing for the specific purpose to insure that
20 native Hawaiians, as defined in the Hawaiian Homes Commission
21 Act, 1920, shall secure their vested rights under Section 5f
22 of the Admission Act.

23 Under the Hawaiian Homes Commission Act, 1920, a
24 native Hawaiian is defined to be "any descendent of not less
25 than one-half part of the blood of the races inhabiting the

1 Hawaiian Islands prior to 1778."

2 This specific definition is quite important and shall
3 be noted in the remarks following.

4 The interest native Hawaiians have in the Hawaiian
5 Homes Commission Act, 1920, and the Section 5f trust, are
6 based upon their traditional vested interests in the communal
7 lands of the Hawaiian people.

8 All lands in Hawaii were held as communal lands until
9 the Great Mahele of 1848, when these lands were partitioned
10 amongst the classes of people with interests therein: the
11 king, the chiefs, and the common people.

12 These interests as specified were set forth in the
13 Bill of Rights of 1839, which bill of rights were incorporated
14 almost intact in the first Constitution of the State of
15 Hawaii -- the Territory of Hawaii, in 1848.

16 The king and the chiefs obtained their respective one-
17 third interests under the partition. The commoners were
18 literally kept from obtaining their interests. The interests
19 of the commoners became the government lands of the kingdom.

20 After the overthrow of the monarchy in 1893, the
21 government lands and the crown lands (that which the king
22 obtained in the Mahele), were merged to become the public
23 lands of the Republic of Hawaii, the Territory of Hawaii,
24 and the present State of Hawaii.

25 The public land is the corpus from which the Hawaiian

1 Home Lands was carved out of in 1950, 1951. Prince Kuhio
2 set forth the above history in the congressional record for
3 1920, which exhibit is attached as Exhibit A. The Section 5f
4 land trust is composed of the remainder of the public lands.

5 The fundamental perspective which emerges from this
6 analysis of the history of the two land trusts in Hawaii for
7 native Hawaiians is that their interest is based upon vested
8 rights, otherwise known as aboriginal rights, recognized by
9 all modern nations as a fundamental aspect of international
10 law.

11 This aspect of international law was first set forth
12 by a professor of archeology at the University of Salamanca
13 in Spain; and about four years thereafter, this enunciation
14 by this professor at Salamanca, at the university, was set
15 forth as papal bull. So that there is a fundamental aspect
16 of that, and whatever has transpired since then, any claims
17 made under that aspect of international law are based on
18 that writing set forth by Professor Vittorio.

19 And this is what I am indicating, insofar as history
20 of rights happen to be.

21 The rights of native Hawaiians is not based upon a
22 compassionate interest to rehabilitate native Hawaiians by
23 the United States or the State of Hawaii. The history of
24 the ruling classes in Hawaii throughout the history concern-
25 ing the lands in question has been the lack of compassion to

1 rehabilitate the native Hawaiians. Only suppression has
2 continued to today.

3 The two land trusts are today in the process of being
4 further partitioned so that the native Hawaiians of today,
5 who were essentially the commoners of 1848, may not even have
6 the undistributed remainder of the lands held in common up
7 to 1848.

8 The classes of people who obtained their respective
9 one-third share, and their present heirs, assigns and repre-
10 sentatives, now seek to add onto what they obtained in 1848,
11 that part which is in the two trusts.

12 The process of encroachment has occurred in three
13 stages: First, in the creation and administration of the
14 Hawaiian Home Lands program, native Hawaiians were given the
15 lands the government, sugar and pineapple plantations, and
16 ranches did not want. Native Hawaiians were given the use
17 of the unwanted remainder.

18 The Hawaiian Home Lands program was not designed to
19 rehabilitate native Hawaiians, but designed to provide lands
20 which would have gone to so rehabilitate native Hawaiians to
21 the sugar plantations, after the leases made during the
22 period Kalakaua was on the throne to finance the construction
23 of Iolani Palace expired.

24 The second stage occurred after the creation of the
25 Section 5f land trust, which provided the possibility to

1 rehabilitate the great number of native Hawaiians in need of
2 such assistance from resources which belongs to them, under
3 the doctrine of aboriginal rights.

4 The Governor of the State, in his first report to the
5 Legislature, acknowledged the trust; then buried it to today.
6 This process was executed by taking all money in the public
7 land trust fund and allocating it to the Department of
8 Education in the General Budget for the State of Hawaii, then
9 taking an identical sum out of the Department of Education
10 budget in the General Budget, so that the Department of
11 Education ended with the same amount allocated in the General
12 Budget.

13 Today, on the date of this consultation, the public
14 land trust fund is totally committed to the Department of
15 Education, as set forth above, as it has been for the past
16 20 years in the State Biennium budget for the period 1979 to
17 1981, as provided in the said budget set forth and attached
18 hereto as Exhibit B.

19 The stage is the present. This stage began as a
20 matter of public record in the halls of Congress in 1974.
21 Then, Congresswoman Patsy Mink from Hawaii introduced an
22 amendment to the Native American Programs Act of 1974,
23 HR 14449, Title VIII, to include native Hawaiians as defined
24 in the Hawaiian Homes Commission Act, 1920; that is, those
25 with 50% or more blood.

T-13

1 In the Senate, Senator Fong from Hawaii amended the
2 amended HR 14449 definition of native Hawaiians to mean "any
3 individual any of whose ancestors were natives of the area
4 which consists of the Hawaiian Islands prior to 1978."

5 What Senator Fong did was to say that a person who
6 has one full-blood Hawaiian ancestor -- and 16,384, who is
7 not assuming a 16-year generation cycle; or 8,192, assuming
8 an 18-year generation cycle; or 4,096, assuming a 20-year
9 generation cycle -- has an interest in the trust lands, just
10 as a full-blood Hawaiian does.

11 Senator Fong's position was that Hawaiians should be
12 treated the same as the Indians. The monumental treatise by
13 Felix S. Cohen entitled, "Handbook of Federal Indian Law,"
14 which is attached hereto relating to definition of "Indian"
15 as Exhibit C shows that such was not the case among the
16 Indians. Senator Fong's position was erroneous.

17 The position expressed by Congresswoman Mink and
18 supported by Matsunaga was closer to reality, as may be seen
19 in Exhibit D, which documented their respective remarks in
20 the congressional record for May 29th, 1974; and of Senator
21 Fong, which is attached hereto as Exhibit D.

22 Senator Fong touched upon an issue of extreme sensi-
23 tivity. He states that there should be no difference in
24 blood quantum when dealing with Hawaiian ancestry. I agree,
25 for social, geneological and many other reasons. But we are

1 here dealing with property rights based upon ethnic heritage,
2 and the effect of such heritage upon the lives of such people.

3 In Hawaii, blood quantum has a great bearing upon the
4 evolution of interests in the two land trust being considered
5 here. The consideration of blood quantum has always been of
6 importance in the Kingdom of Hawaii. Throughout its history,
7 persons of less than full blood were identified as "half-
8 caste" or "half native." Such treatment is universal among
9 aboriginal people, tribal people, even today.

10 Only after the overthrow of the monarchy and the
11 commencement of full-scale Americanization of Hawaii were the
12 terms "half-caste" or "half native" abandoned and replaced by
13 the term "part-Hawaiian."

14 The reason given was as follows: "It --" meaning
15 half-caste -- "does not cover all admixture of blood, and
16 it is a term which is regarded as an aspersion by many. The
17 term 'part-Hawaiian' has no such objection from the senti-
18 mental or practical side." Report of the General Superintend-
19 ent of the Census, 1896, at Page 33.

20 The change commenced by Senator Fong has been carried
21 forward in the Comprehensive Employment and Training Act of
22 1973, the Constitutional Convention in Hawaii in 1978, and
23 in the past legislative session in 1979.

24 Step by step, the Hawaiian Homes Commission Act, 1920,
25 definition is being enclosed. The intent to change the

1 Hawaiian Homes Commission Act, 1920, definition to the
2 native American definition is more than just an imagined
3 possibility.

4 Such intent is expressed in the Committee Report No.
5 59, at Page 8, accompanying the Office of Hawaiian Affairs
6 Constitutional Convention proposal which is attached here as
7 Exhibit E.

8 We have here in process a wholesale abandonment of
9 native Hawaiians who are more than one-half or more, who
10 historically and in terms of needs for assistance have never
11 been assisted.

12 Many supporters of the lowering of the blood quantum
13 are of the belief that by so doing the general welfare of
14 the Hawaiian community will be so uplifted. Such fact is
15 to the contrary.

16 There is today on the waiting list for a Hawaiian
17 Home Lands lease more than double actually on the Home Land.
18 What the expanded number of eligible would do would merely
19 increase the number on the waiting list.

20 More important, however, is the fact that control and
21 benefits would not go to people who act and think Hawaiian
22 in the traditional sense, but to people whose ancestry is
23 Hawaiian to a minute degree, but whose thinking and acting
24 are non-Hawaiian, in the sense of the common people.

25 As an example, Ho'ola Kanawai has been engaged in a

1 concerted effort to preclude the State of Hawaii from giving
2 to Campbell Estate 32.5 million dollars worth of coral which
3 as present belongs to the Section 5f trust in the Barbers
4 Point Deep-Draft Harbor Project.

5 Should the definition of native Hawaiian be changed
6 to the definition as set forth in the Native American Act of
7 1974, the Campbell beneficiaries would become native
8 Hawaiians; and as such, they would be beneficiaries to the
9 coral -- which they're really not entitled to.

10 Such examples can be set forth almost endlessly,
11 relating to other aspects, private property interests.

12 Going back to 1848, the Great Mahele, what was in
13 effect then, what the Mahele was was a partition of the sur-
14 face of the land, two-dimensional. Within every deed made
15 pursuant to the Mahele, there is a reservation of the
16 minerals, which means that is a third dimension, and retained
17 to the government. This aspect is part of the land trust.

18 By creating the Office of Hawaiian Affairs, it is
19 assumed that native Hawaiians would be in control of their
20 destiny. The example relating to coral clearly indicates
21 who shall control the Hawaiian community.

22 Thus, the directors of the Office of Hawaiian Affairs
23 is structured so that representatives of the large estates,
24 large corporations, and labor unions shall control it. Thus
25 the filing fee is \$250 for an unlimited campaign spending.

1 If a person seeks to abide by the limit, it is \$25.
2 The limit is \$600 if the Alu Like election is any measure of
3 participation -- therefore setting the limits as to campaign
4 spendings, which I think is \$600, as I indicated a second
5 ago.

6 The Office of Hawaiian Affairs Act also provides a
7 means to shortchange native Hawaiians in two ways. First,
8 trust funds specifically limited to those over 50% shall be
9 used for all persons with Hawaiian ancestry. Such numbers
10 exceed those of 50% by about two times.

11 Secondly, whereas Section 5f under the Admission Act
12 includes all lands which were administered by the Territory
13 of Hawaii under Section 5a, and in addition those retained
14 by the Federal Government under Sections 5c and 5d, and then
15 granted to the State under Section 5e, the Office of Hawaiian
16 Affairs limits the trust funds to only trust funds ceded to
17 the United States in 1898, or lands in exchange for such
18 ceded lands, but excluding the Hawaiian Home Lands and
19 Section 5e lands.

20 These limitations, expressly set forth, as noted
21 above, would exclude some of the most valuable parcels of
22 land in Hawaii, such as a large portion of the Honolulu
23 International Airport and the harbor in Honolulu, right
24 beside this building.

25 These citations of wilful failure and deliberate

1 effort to sidestep the legally entrusted responsibility to
2 carry out the land trusts has been remarkable in the effort
3 to sidestep this wrongdoing.

4 During the past Legislature a House Resolution No. 740
5 was introduced to request the Federal Government to investi-
6 gate the alleged wrongdoing. This resolution which is
7 attached hereto as Exhibit F was sidetracked.

8 So was a bill to provide funding for a native Hawaiian
9 conference, so that the Hawaiian community could determine
10 what its interests should be in the future -- such as the
11 Office of Hawaiian Affairs, as a structure. This was never
12 done.

13 And even as to the Hawaiian Affairs Committee went
14 statewide. Its position was merely, for the record, an
15 indication that it went around statewide, as part of the
16 books show, funded pursuant to the Hawaiian community.

17 The delegate from Maui was quite emphatic, to indi-
18 cate that he did not know and was misinformed as to what
19 the interests of the Hawaiian community happened to be.

20 This political bill was HB 2631-78, which is
21 attached as Exhibit G.

22 The State of Hawaii has thus failed to conform to its
23 responsibility toward native Hawaiians and is involved in a
24 course to insure that its effort is successful by creating
25 agencies it can control directly and indirectly. The Federal

1 Government, being legally charged with the enforcement, has
2 similarly failed to fulfil its obligations and responsibilities.

3 This concludes my testimony.

4 MS. PUTMAN: I think it fills a very good five minutes.

5 Does anyone have any questions of Mits Uyebara?

6 A SPECTATOR: You know that part about Senator Fong
7 and Patsy Mink?

8 MR. UYEHARA: Yeah.

9 A SPECTATOR: Was that for real? I mean, was it
10 passed?

11 MR. UYEHARA: Well, it's attached here as an exhibit.

12 A SPECTATOR: Well, did it pass, like go through all
13 that? Is that for real?

14 MR. UYEHARA: Representative Mink's position was
15 carried forward, in the House; and then the Native Americans
16 Bill of 1974, the bill went over to the Senate, and Senator
17 Fong then amended that particular bill, so it became as it
18 appears today.

19 A SPECTATOR: Do you remember, you said it didn't
20 pass?

21 MR. MAXWELL: Well --

22 MS. PUTMAN: Yes. I think --

23 MR. UYEHARA: No, it passed. It is in effect now.

24 MS. PUTMAN: And we will have that for the record?

25 MR. UYEHARA: Right. This congressional record is

1 attached.

2 MS. PUTMAN: It is attached.

3 A SPECTATOR: Mits, going over word for word in the
4 Admission Act, only an admission can be changed; right?

5 Nothing else in the Admission Act can be changed?

6 MR. UYEHARA: Correct, just admission of --

7 A SPECTATOR: Word for word? For sure.

8 MS. PUTMAN: Wait a minute. I think this is getting
9 a little bit out of hand. I think we can all --

10 A VOICE: No, no. I'm in doubt right now.

11 MS. PUTMAN: I think it is absolutely clear that
12 nothing in the Act can be changed that will dilute the bene-
13 fits to the beneficiaries; but it is not crystal clear
14 whether certain kinds of actions will in fact dilute those
15 benefits. And this has been a matter from time to time of
16 several Attorney Generals' opinions, and other decisions.

17 MR. UYEHARA: Right. What she said is correct.

18 A SPECTATOR: Okay.

19 MR. UYEHARA: Administrative changes could in fact
20 impinge upon the substantive rights. It could be.

21 A SPECTATOR: Okay. I was just wondering.

22 MR. UYEHARA: It could very well. Like I indicated
23 in the testimony, the process of administration is going to
24 sidestep -- it is going toward dilution of rights.

25 MS. PUTMAN: Thank you very much, Mits. We are glad

1 that you could join us.

2 And thank you very much for waiting.

3 And as announced previously, this consultation is
4 adjourned.

5 And again, I thank you all very much.

6 MRS. LEE: May I say a word, a few words about this
7 "rehabilitation"?

8 MS. PUTMAN: Oh, certainly. Certainly.

9 MRS. LEE: Like this gentleman said, he's tired of
10 hearing about rehabilitation. I'm one of those that asked
11 for Kapakoli Homestead, 1933, and we had Princess Kanakoa
12 was one of the commissioners, and we didn't understand --
13 well, then, we were just talking about trying to get this
14 homestead in the program, in that area, Palakulea.

15 So because we didn't understand what is rehabilitation,
16 so she being Hawaiian, she stood up, and she said, "I'm
17 going to give you some --" well, she used the word "lessons,"
18 because the Hawaiians of those days didn't understand.

19 So she said, "Rehabilitation is this way. Now, if
20 I lived on a land, and I married a haole, my children are
21 half-Hawaiian; right?

22 "Okay. She lives on the land; she marries a
23 Japanese. Her children are half Japanese. So, when my half
24 married into her half, that's rehabilitation."

25 (Laughter.)

1 MRS. LEE: Isn't that true?

2 Then you go -- and, you know, I have contested all of
3 the directors, except Georgiana -- oh, she's not here. I
4 have contested all the directors in that Hawaiian Home Lands.
5 And this is what's told to us in 1933, by Princess Kanakoa.

6 MS. PUTMAN: That's the best story I've heard today.

7 MRS. LEE: And you know, I don't like to hear the
8 people say, "I don't like the word 'rehabilitation,'" because
9 they defined the language, that word, in a different sense.
10 But Princess Kanakoa at that time, because we were just
11 starting to have this Homestead of Palakulea there, and
12 that's the way she told us. That's Princess Kanakoa. Thank
13 you.

14 MS. JAMES: Could you identify yourself?

15 MRS. LEE: Oh, my name is Malaka Lee, from Palakulea.

16 So don't feel that "rehabilitation" is -- they don't
17 like that. It is a fine word. But you must understand what
18 it means.

19 MS. PUTMAN: Okay. Thank you very much again.

20 And you will be hearing from us later.

21 (At 3:55 o'clock p.m., the hearing was concluded.)

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