



BEFORE THE COMMITTEE ON WATER AND LAND

March 15, 2017

Senate Bill No. 895 SD1
Relating to Criminal Trespass

Aloha Chair Yamane, Vice Chair Kong and Members of the Committee:

KPAC submits the following testimony in strong opposition to SB 895 SD1. This bill adds the offense of criminal trespass onto lands held by the State including agricultural lands to the penal code.

The Ka Lāhui Hawai‘i Political Action Committee (KPAC) affirms and defends the Kanaka Maoli (aka Native Hawaiian) peoples' right to over 1.8 million acres of the former Crown and government lands of the Kingdom of Hawaii which were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawaii to be held as a public trust. Much of the lands currently held by DOT are public trust lands where the traditional, customary, and subsistence access and gathering rights of the Kanaka Maoli are reserved and have been since the time of the Mahele (1848) and Kuleana Act of 1850.

Kanaka Maoli rights to access lands for traditional, customary, and subsistence purposes are recognized in the Hawaii State Constitution (1978) Article XII Section 7 which gives the government a duty to “protect all rights customarily and traditionally exercised for subsistence, cultural and religious purposes.” The right to access lands was reconfirmed by the court in the *Kalipi vs. Hawaiian Trust* (1982) case. The cultural and customary access rights of Kanaka Maoli were further expanded in the courts in the *Paty vs. Pele Defense Fund* (1992) and in the *Public Access and Shoreline vs. Hawaii County Planning Commission* (1995) court decisions.

This bill criminalizes Kanaka Maoli rights to access public lands for traditional, customary, and subsistence purposes and provides no accommodations and protections for Kanaka Maoli and initially assumes guilt - putting the burden of legal protection of rights upon the Kanaka Maoli people. This coupled with the fact that Kanaka Maoli as a group are socio-economically challenged would give undue hardship and stress to the people of the ‘āina (land).

Respectfully Submitted,

Healani Sonoda-Pale
KPAC Chair