

Pili‘ōlelo:
E Ahona Kānaka I Ke O‘a Kānāwai

Sabrina Rose Kamakakaulani Gramberg

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* Juris Doctor, Kula Kānāwai ‘o William S. Richardson; Kēkelē Laepua, Ke‘ena No‘eau Ho‘okele Waiwai, Ke Kulanui o Hawai‘i i Mānoa.

Ke hā‘awi nei au i ko‘u mahalo ki‘eki‘e iā R. Lalepa Koga lāua ‘o K. Laiana Wong a me ka makamaka ho‘oponopono, ‘o Ka‘ano‘i Walk no ke kōkua i loa‘a mai no kekahi mea e pono ai kēia wahi pepa nei. Pēlā nō ho‘i iā Brian Wild, ka Luna Ho‘oponopono a APLPJ a me nā lālā o ka Papa APLPJ i kā lākou waele ‘ana mai i ke alahahele e ho‘olaha a‘e ai i kēia papahana. I ku‘u ‘ohana, he aloha kaulele a mahalo palena ‘ole i ke ahonui a me ka pu‘uwai hāmama i kēia mau makahiki pā‘umi a‘u i huaka‘i ai e ho‘iho‘i mai i ka ‘ōlelo makuahine i ko kākou iwikuamo‘o.

Ke lana māhiehie nei ka mana‘o, e lilo ana kēia pepa i wahi kōkua a i wahi mea ho‘oulu mana‘o i ka po‘e haumāna loio, nā loio, a me nā po‘e ake ‘ike kānāwai a pau e ho‘iho‘i hou mai i ka ‘ōlelo Hawai‘i i ke kama‘ilio kānāwai. “Ke ho‘i a‘ela ka ‘ōpua i ‘Awalau.” He leo mahalo ho‘i i ka po‘e a pau i ho‘oikaika me ka paupauaho ‘ole e ho‘omau, e hi‘ipoi, a e aloha palena ‘ole i kā kākou ‘ōlelo lāhui ma nā aheahe lau makani o Hawai‘i ‘āina. “Mai pa‘a i ka leo.” ‘O nā leo ‘ōlelo Hawai‘i e kiliwehi ana i nā pilikana mua a i nā pilikana hope. Aia i loko o ko kākou mau lima ke ola, ne‘e mua, a laupa‘i o kā kākou ‘ōlelo makua e ake ‘ia aku nei.

Ma na mea i ikeia ua hiki aku ka lilo o ka Ahaolelo o ka Teritori o Hawaii o ka makahiki 1903 he huina dala nui ma kahi o ka \$20,000 i loko o ke ku-e pu i ke kanawai.

O ka huina i hoikeia ae la oia ka helu i aneane aku i ka piha pono o na dala i hooliloia ma na hana unuhi a mahele i ka olelo o na hana ahaolelo i hanaia mai ka olelo haole ae a i ka olelo Hawaii, ka ninau nui hoi i kamailio nui ia, i ka hiki i ka olelo Hawaii ke hoohanaia i loko o na lawelawe hana ana apau o ka Ahaolelo mawaho ae o ka olelo haole, ka olelo hoi i aeia e ke kanawai Panalaa no ka hoohana ia i loko o ka Ahaolelo.

–Nui ka Hoolilo a ka Ahaolelo me ke Kue i ke Kanawai¹

[E] ola mau aku auanei ke o ana o kela olelo keha a ka moi puuwai hamama o Hawaii ka Moi Kaleiopapa Kauikeaouli, Kamehameha III, “Ua mau ke ea o ka aina i ka pono.” Oiai ua makemake oia e mau ka paa ana o kona lahui a o ka lahui Hawaii hoi i ka pono; a o kekahi keia o na pono.

O ka pulama ana a ka lahui Hawaii i na ki uwila o ka olelo Hawaii me ka hoohemahema ole ia oia kekahi o na hana pono a ka lahui Hawaii e hana ai i na la o ke ola ana o na Hawaii a pela auanei e mau ai ke ea o Hawaii aina, Hawaii lahui ame Hawaii aupuni i ka pono elike me na olelo keha a ia lani alii a kakou i moe i haia ae nei.

–Kalihiwai o Lanihome²

¹ *Nui ka Hoolilo a ka Ahaolelo me ke Kue i ke Kanawai*, KA NUPEPA KUOKOA, Dekemaba 18, 1903.

² Kalihiwai o Lanihome, *Ka Kakou Olelo Makua*, KE ALAKAI O HAWAII, June 14, 1928.

I. KA 'ŌLELO MUA³

Ho'okahi hanele makahiki aku nei, 1920, ma ka nūpepa i kauleo laulā ai ke kaiāulu 'ōlelo Hawai'i i ka lilo loa 'ana o kā lākou 'ōlelo makuahine.⁴ Aia ma *Ka Nupepa Kuokoa* i pihaku'i i ka mana'o make'e, aloha, a minamina i ka 'ōlelo Hawai'i, kona nalowale 'ana a me kona ko'iko'i i ka lāhui kanaka.⁵ 'O kekahi hanana i 'ike 'ia e ka luna ho'oponopono a me kekahi Senatoa,⁶ 'o ia ke koho 'ana o ka po'e Hawai'i e 'ōlelo Beretania.⁷ 'Ike 'ia ho'i, e hemahema ana ke 'ano o ka 'ōlelo Hawai'i e ho'opuka 'ia aku ana e nā 'ōpiopio.⁸ I nā kula, ka hana aupuni, a me ka ho'okele waiwai o ia wā, paipai 'ia a pa'a ke kūlana keha o ka 'ōlelo

³ E ho'ohana ana nēia pepa i nā māka, ka 'okina a me ke kahakō. Inā e ho'okomo 'ia ka puana'i, ua mālama 'ia e like me ka pepa kumu. He mana'o paio ka ho'okomo 'ana i ka 'okina a me ke kahakō. 'O ke 'ano o ka pela 'ana i hō'ike 'ia e Pila mā ka mea i hahai 'ia ma kēia 'atikala. William H. Wilson and Emily A. Hawkins, *Recommendations of the 'Ahahui 'Ōlelo Hawai'i 1978 Hawaiian Spelling Project*, (1978); cf. KATRINA-ANN ROSE-MARIE KAPĀANAOKALĀOKEOLA OLIVEIRA, ANCESTRAL PLACES UNDERSTANDING KANAKA GEOGRAPHIES xviii-xix (2014) (ua ho'okomo ka mea kākau i ka 'okina a me ke kahakō i mea e kōkua aku ai i ka po'e 'ōlelo Hawai'i 'ole i ko lākou puana 'ana i nā hua'ōlelo Hawai'i.).

Ma ka manawa i kākau 'ia ai nēia pepa, 'a'ole koho ke kaiāulu 'ōlelo Hawai'i i 'ōnaehana kākau pili 'oihana no ke kākau 'ana i ka 'ōlelo Hawai'i. 'O kekahi hapa, hahai 'ia ke kākau 'ana ma ka nūpepa 'ōlelo Hawai'i a 'o kekahi hapa a'e, ho'okomo 'ia ka 'okina a me ke kahakō. *E nānā i kā Suzanne Romaine, Signs of Identity, Signs of Discord: Glottal Goofs and the Green Grocer's Glottal in Debates on Hawaiian Orthography*. J. LING. ANTH. 189 (2002) (e wehewehe 'ia ana, na ke 'ano kākau e hō'ike i ka mana o ka po'e e ho'oholo i ke 'ano e ho'ohana 'ia ma mua o kekahi hō'ano 'ē a'e. Wehewehe ho'i 'o ia i nā 'ōnaehana 'elua no ka 'ōlelo Hawai'i, ke kākau hou 'ana me nā māka a me ke kākau mua 'ana i hō'ike 'ia ma ka nūpepa 'ōlelo Hawai'i). Ua ho'okomo 'ia nā māka 'elua no ke kōkua 'ana i ka ho'opuka 'ōlelo a ka po'e kama'āina 'ole i ka 'ōlelo Hawai'i. *E nānā laulā i kā J. SCHÜTZ, THE VOICES OF EDEN: A HISTORY OF HAWAIIAN LANGUAGE STUDIES 134-49* (1994) (e hā'awi mai ana ka mea kākau i ka mo'olelo o ka ho'okomo mua 'ia 'ana o nā māka 'elua a ma kona kūlana, he mea kālai'ōlelo, paipai 'o ia i ka pōmaika'i e loa'a mai ana, ke ho'ohana 'ia.).

⁴ *E nānā i nā la'ana* W. J. Coelho, *Ka Olelo Hawaii*, KA NUPEPA KUOKOA, Mei 20, 1920; William K. Kaleihuaia, *No Ka Olelo Hawaii*, KA NUPEPA KUOKOA, Iune 4, 1920; Z. P. K. Kawaikaumaiikamakaokaopua, *Ka Olelo Hawaii*, KA NUPEPA KUOKOA, Iune 18, 1920; *e nānā ho'i i kā M. PUAKEA NOGELMEIER, MAI PA'A I KA LEO: HISTORICAL VOICE IN HAWAIIAN PRIMARY MATERIALS, LOOKING FORWARD AND LISTENING BACK 96-98* (2010) (e hō'ike 'ia mai ana, he mea ma'amau nā kama'ilio 'eu'eu 'ana o nā mea kākau Hawai'i, kekahi i kekahi, i loko o ka nūpepa 'ōlelo Hawai'i).

⁵ *E nānā i nā la'ana* Coelho, *supra*, note 4; Kaleihuaia, *supra* note 4; Kawaikaumaiikamakaokaopua, *supra*, note 4.

⁶ 'O Senatoa Coelho kēlā. Nāna i ho'okomo i ka bila kānāwai no ke kūkulu 'ana i ke Kula Nui 'o Hawai'i i ka makahiki 1907. *E nānā i "An Act to Establish the College of Agriculture and Mechanic Arts of Hawaii, and to Provide for the Government Support thereof," S. Journal, 4th Terr. Leg., S. B. No. 38 p. 299-300* (Haw. 1907). I kona ola honua, komo 'o Senatoa Coelho i ka 'oihana Luna Ho'oponopono no ka nūpepa Kuokoa, he kumu a'o 'ōlelo Hawai'i, he māhele 'ōlelo kānāwai, he hoa 'aha 'ōlelo a he mea kākau puke kekahi o kāna mau hana.

⁷ Coelho, *supra* note 4.

⁸ *Id.*; *e nānā ho'i i ka la'ana Ka Olelo Makuahine a ka Lahui Hawaii*, HAWAII HOLOMUA, Apelila 10, 1912.

Beretania a me nā alaha holomua o ka po‘e nāna ia ‘ōlelo.⁹ E like me nā mana‘o kū ka‘awale ma luna a‘e nei, he wā ia no ka ho‘oikaika ‘ana e ho‘olilo ‘ia ka ‘ōlelo Hawai‘i i mea ‘ōmilu wale akā i ka po‘e Hawai‘i, maopopo iā lākou, aia ke ea o ka lāhui Hawai‘i i ka ‘ōlelo Hawai‘i.¹⁰

I kēia lā, ‘ike mau ‘ia kēia kaulike ‘ole ma waena o ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania, nā ‘ōlelo pili ‘oihana ‘elua o ka Moku‘āina ‘o Hawai‘i. Ua hala nā makahiki he kanahā kūmālua a ho‘omākaukau ‘ole ‘ia nā mea e pono ai ka ‘ike ‘ana i ka ‘ōlelo Hawai‘i, he ‘ōlelo pili ‘oihana. ‘O ka ‘oia‘i‘o, hana kū‘oko‘a nā ke‘ena aupuni pākahi e like me ko lākou makemake. ‘A‘ole i alaka‘i ‘ia ua mau ke‘ena e ka Mana Ho‘okō a ‘a‘ole ho‘i i ho‘olaha ‘ia ma ke ākea i kulekele moku‘āina e pili ana i ka unuhi a māhele ‘ōlelo Hawai‘i. E ‘āpu‘epu‘e mau nā mea ‘ōlelo Hawai‘i ke ‘ōlelo Hawai‘i lākou ma nā hana aupuni like ‘ole.¹¹ ‘O ke kūkulu ‘ia o ke o‘a¹² kānāwai a pa‘a ka mana‘o kumu o nēia pepa. ‘Elua kumu ko‘iko‘i e ho‘olaha ‘ia ai nēia pepa no ke kūkulu ‘ana i o‘a kānāwai no ka ‘ōlelo Hawai‘i. ‘O ka mua, ma ia o‘a e ho‘okō ‘ia mai ai ka ‘ōlelo kauoha o ke kumukānāwai o ka Moku‘āina, e ho‘olako ‘ia mai ka po‘e ‘ōlelo Hawai‘i i nā māhele a unuhi ‘ōlelo ma ka lawelawe a ho‘okele aupuni.¹³ ‘Alua, e kāko‘o ‘ia ana ke ku‘upau o ke kaiāulu ‘ōlelo Hawai‘i i ka ho‘ōla ‘ōlelo.¹⁴

E hākiu ka mokuna ‘elua i ka māhele a unuhi ‘ōlelo Hawai‘i a hō‘ike ho‘i kēia mokuna i ka pilina o ka ‘ōlelo, ke kanaka, a me ka lāhui kanaka. I ka mokuna ‘ekolu, e nānā ‘ia mai nā kānāwai, hihia, a kulekele ‘ōlelo Hawai‘i mai ka noho aupuni o ka mō‘ī Kauikeaouli a i ka lilo ‘ana o ke aupuni Hawai‘i i moku‘āina. ‘Ike ‘ia nā pi‘ina a me nā ihona o ka paipai a me ka hō‘ole ‘ana i ka ‘ōlelo kumu o ka pae ‘āina nei. I ka mokuna ‘ehā, ka hapa hope, he leo ho‘olalale ia no ka hi‘a ‘ana i ke o‘a kānāwai i mea e ho‘okō ‘ia ai ke kumu o ka paukū XV, māhele 4 o ke Kumukānāwai Hawai‘i. ‘O ka mana‘olana ke kaulike ‘ana i nā ‘ōlelo pālua o ka moku‘āina a me ka ho‘opau ‘ana i nā mea ‘ino o mua e ili mai ana i kēia hanauna.

⁹ E nānā i kā Breann Nu‘uhiwa, “*Language is Never About Language*”: *Eliminating Language Bias in Federal Education Policy*, 37 U. HAW. L. REV. 381, 383 (2016) (i kona paio na‘auao ‘ana i ke kaulike ‘ole o nā ‘ōlelo pili ‘oihana ‘elua ma Hawai‘i, wehewehe ‘o ia, “*In reality, when the establishment promotes English language dominance and continuously reconstitutes structural and cultural inequalities between English and other languages, it “legitimate[s], effectuate[s] and reproduce[s] an unequal division of power and resources (both material and immaterial) between groups that are defined on the basis of language.”*) (e nānā ‘ia ana ke kumu STEPHEN MAY, LANGUAGE AND MINORITY RIGHTS: ETHNICITY, NATIONALISM AND THE POLITICS OF LANGUAGE (2012)).

¹⁰ E nānā *Ka Olelo Makuahine a ka Lahui Hawaii*, *supra* note 8.

¹¹ E nānā *infra*, Mokuna III.A-B.

¹² Ua ho‘ohālikelike ka ho‘okumu ‘ana i ke kumukānāwai mua loa o Hawai‘i me ke kūkulu hale. He mana‘o ho‘okūkū i ho‘okomo ‘ia mai i kēia papahana nei. KAMAKAU, *infra* note 50, at 197.

¹³ E nānā *infra*, Mokuna IV.

¹⁴ *Id.*

II. HIALA‘AI I KA ‘ŌLELO HAWAI‘I¹⁵

Aole loa he mea na kekahi mea, a mau mea paha, e hauoli ai, ma lalo iho o ka malamalama o ka la a maluna ae hoi o ka ili o ka honua, o kana olelo kumu a makuahine; ma ia ano wale iho no e maopopo ke ano o kela ame keia lahui, aole loa hoi ma kekahi ano e ae.¹⁶

Waiwai ka ‘ōlelo a kekahi kaiāulu no nā kumu like ‘ole.¹⁷ ‘O ka ‘ōlelo Hawai‘i, ka ‘ōlelo kumu ho‘i o ka lāhui Hawai‘i, ‘o ia kekahi o nā waiwai po‘okela loa i pili pa‘a i kēia lāhui mai kahiko loa mai, a e like me ka lō‘ihi o ka puana ‘ia ‘ana o kā kākou ‘ōlelo ma nā pāpālina o ka ‘ili honua pēlā auane‘i ka mau ‘ana o ka ho‘omana‘o ‘ia o ka lāhui Hawai‘i.¹⁸

A. *I ka Unuhi ke Ola, i ka Unuhi ka Make*¹⁹

I loko o ka ‘ōlelo Hawai‘i, mālama ‘ia ke kuana‘ike, ka pilina i ka ‘āina, a me ka mo‘omeheu²⁰ no nā Hawai‘i.²¹ Ho‘opa‘a ‘ia ho‘i ua mau mea nei i ka

¹⁵ *Hialaai i ka Olelo Hawaii*, KA HOKU O HAWAII, Iulai 21, 1943 (ua kapa ‘ia kēia mokuna ma ia inoa ho‘okahi i kapa ‘ia ai ke po‘omana‘o o ka ‘atikala nūpepa e hō‘ike ‘ia a‘e nei).

¹⁶ *Ua like ka hanauna Hawaii o keia nee ana aku me na pua nani i nele i ke ala*, KE ALOHA AINA, Dekemaba 1, 1916 [ma hope iho *Ua like ka hanauna Hawaii*].

¹⁷ NGŪGĪ WA THIONG‘O, DECOLONISING THE MIND: THE POLITICS OF LANGUAGE IN AFRICAN LITERATURE 4 (6th ed. 2004) (“*The choice of language and the use to which language is put is central to a people’s definition of themselves in relation to their natural and social environment, indeed in relation to the entire universe*”).

¹⁸ Kalihuiwai o Lanihome, *Ka Kakou Olelo Makua*, KE ALAKAI O HAWAII, June 14, 1928.

¹⁹ No ka paio mana‘o a na‘auao hohonu e pili ana i ka mo‘olelo unuhi ma Hawai‘i nei e nānā laulā i kā Bryan Kuwada, *Ka Mana Unuhi: An Examination of Hawaiian Translation* (2018). I ka mokuna ‘elua i kālaimana‘o ‘ia ai ka unuhi a me ke kānāwai. Nānā pono ‘o ia i nā hopena o ka unuhi i ke kaiāulu Hawai‘i a me kona pilina i ka ‘āina, i ka hana, a i ke aupuni.

²⁰ Laulaha ka ‘ōlelo no‘eau, “i ka ‘ōlelo nō ke ola, i ka ‘ōlelo nō ka make.” He ‘ōlelo kēia e hō‘ike mai ai i ka maopopo a me ke ko‘iko‘i o ka ‘ōlelo a nā kūpuna. ‘O kekahi mau mana‘o o ia ‘ōlelo no‘eau, he mana ko ka ‘ōlelo. Mālama ‘ia ho‘i ia mana‘o i nā ‘ōlelo no‘eau kekahi, “E ao, o kā i ka waha.” MARY KAWENA PUKUI, ‘ŌLELO NO‘EAU: HAWAIIAN PROVERBS AND POETICAL SAYINGS 33 (Bishop Museum Press, 1997). He a‘o ia i ke kanaka, mai ‘ōlelo kū iā ha‘i o loa‘a auane‘i i ia hopena ‘ino nō. Like ka mana‘o o ka ‘ōlelo no‘eau 270, “Eha ana ‘oe la i ka makani ku‘i o ka Ulumano.” ‘O ka ‘ōlelo a‘o o ia kāleo, e ‘eha ana kekahi kanaka i ka “lehe ‘oi.” Mai nā kūpuna mai i a‘o ‘ia mai ai ke kuleana a hopena o ka ‘ōlelo, ka ho‘opuka ‘ana a me ke kaiāmū.

²¹ Native Hawaiians Study Commission: Report on the Culture, Needs and Concerns of Native Hawaiians, Pub. L. 96-565, Title III. Final Report. V. I., 173 (1983) (uku komikina ‘ia ‘o Larry Kimura e kākau i palapala hō‘ike i ka ‘Aha ‘Ōlelo Nui e pili ana i ka ‘ōlelo Hawai‘i. Penei kekahi mana‘o ona: “*Language demonstrates the uniqueness of a people, carrying with it centuries of shared experience, literature, history, traditions and reinforcing these through daily use.*”) [ma hope iho Native Hawaiians Study Commission].

*E nānā i kēia mau la‘ana i kā Frantz Fanon, BLACK SKIN, WHITE MASKS 25 (1994) (“To speak a language is to appropriate its world, a culture.”); e nānā ho‘i i kā OLIVEIRA, supra note 3, at 109-11 (2014) (e wehewehe ‘ia ana aia ke kuana‘ike Hawai‘i ma loko o nā hua‘ōlelo a me nā ‘ōlelo no‘eau); DANIEL NETTLE LĀUA ‘O SUZANNE ROMAINE, VANISHING VOICES: THE EXTINCTION OF THE WORLD’S LANGUAGES, 11 (2000) (“*Linguistic diversity gives us unique perspectives into the mind because it reveals the many creative ways in which humans organize**

ho‘opuka ‘ia ‘ana a‘e o ka ‘ōlelo Hawai‘i i kēlā me kēia lā.²² Eia na‘e, i ka unuhi ‘ana, nalohia kekahi mau mana‘o a ho‘okomo ‘ia kekahi mea ‘ike ‘ole ‘ia i ka ‘ōlelo ho‘opuka kumu.²³ Kā‘oko‘a ka ‘ōlelo Hawai‘i i ka ‘ōlelo Beretania, a ‘o kekahi mea i nalowale, ‘o ia ka hohonu o ka mana‘o, ka mana,²⁴ a me ke kaona o nā hua‘ōlelo a me nā māmalā‘ōlelo. Ua hō‘ike ‘ia kēia ‘oko‘a e kekahi mea kākau kolamu nūpepa penei, “E hoohalike ana ka ipō me he pua ala a pela wale aku, aka ma lalo o [ka] olelo Beretania, he “Sweetheart” ka ipō a i ka pau ana o ka unuhia ana o na mana, ua hele a olohelohe.”²⁵ Kāko‘o ‘ia kēia mana‘o e kekahi mau loea ‘ōlelo Hawai‘i a kālāi‘ōlelo, paio lāua, he wahi “pukaaniani” ka unuhina e kōkua mai ana i ka po‘e ‘ōlelo Hawai‘i ‘ole, eia na‘e ‘a‘ole kohu like ka ‘ōlelo kumu me ka unuhina.²⁶

Ma ka ‘ōlelo Hawai‘i, hō‘ike ‘ia ma ka hua‘ōlelo a me ka māmalā‘ōlelo ke kama‘āina o ke kanaka i kēlā me kēia mea o ka ‘āina e la‘a me nā hua‘ōlelo “maka‘āinana” me “kua‘āina”.²⁷ He hiki ‘ole ke hō‘ike pono i nā mo‘omeheu a pau o ka ‘ōlelo Hawai‘i e ‘oki ‘ia nei ma ka unuhi ‘ana a‘e i ka ‘ōlelo Beretania a ‘a‘ole ho‘i e hiki ke ‘alo a‘e i ka ho‘opāku‘i ‘ana i nā mo‘omeheu o ia ‘ōlelo.²⁸ He la‘ana ka hua‘ōlelo ‘o “pono,” he kini he lau nā mana‘o o “pono,” e like me “good; appropriate; balance; well-being,” a pēlā aku paha.²⁹

and categorize their experience.”).

²² Native Hawaiians Study Commission, *supra* note 21, at 173.

²³ *E nānā i kā* NOENOE SILVA, ALOHA BETRAYED: NATIVE HAWAIIAN RESISTANCE TO AMERICAN COLONIALISM 12 (2004).

²⁴ Native Hawaiians Study Commission, *supra* note 21, at 176.

²⁵ *E Limalau Mai*, KE ALAKAI O HAWAII, Nowemaba 26, 1936. *Nānā laulā i kā* DANIEL NETTLE, LINGUISTIC DIVERSITY, 1 (1999); e *nānā ho‘i i kā* Vanessa Pupavac, LANGUAGE RIGHTS: FROM FREE SPEECH TO LINGUISTIC GOVERNANCE. 103 (2012) (e nūnē mai ana ka mea kākau no ka hana unuhi ma waena o nā ‘ōlelo a me nā mana‘o paha i nalowale).

²⁶ Kerry Laiana Wong lāua ‘o Ron D. Kekeha Solis, *Ka unuhi a me ka ho‘okē: A Critique of Translation in a Language Revitalization Context*, HBK. INDIG. EDU. 2 (Kep. 15, 2017) (“[A translation] is merely some individual’s interpretation of the original text. Although this interpretation can provide a window through which nonspeakers of Hawaiian might make sense of the original, it only does so because of a fabricated connection between the two languages.”).

²⁷ NETTLE & ROMAINE, *supra* note 21, at 60-61. “The vocabulary of a language is an inventory of the items a culture talks about and has categorized in order to make sense of the world and to survive in a local ecosystem. Thus, [for example,] the economic and cultural importance of fish is reflected in the Oceanic languages of the Pacific.” *Id.* Wehewehe nā mea kākau, aia i loko o ka ‘ōlelo nā mea a pau i ho‘ohana ‘ia no ke ola pono ‘ana o ke kaiāulu nāna ia ‘ōlelo. *Id.*

²⁸ SILVA, *supra* note 23, at 12.

No kekahi mana‘o ‘ē a‘e i ‘oko‘a ai ka ‘ōlelo Hawai‘i a ‘oko‘a ho‘i ka ‘ōlelo Beretania, e nānā i ke kaona. Wahi a ka mea ‘imi na‘auao, a mea kākau ‘o Mary Kawena Pukui, pālūa nā mana‘o o ka hua‘ōlelo, ‘o ia ka mana‘o ‘i‘o a me ke kaona. He kino ka mana‘o ‘i‘o a he ‘uhane ke kaona. SAMUEL H. ELBERT LĀUA ‘O NOELANI K. MAHOE, NĀ MELE O HAWAII‘I NEI, 17 (Bishop Museum Press, 1970).

²⁹ SILVA, *supra* note 23, at 12.

I kekahi manawa, he mau mana‘o pono‘ī ko ka mea kākau i kona kākau ‘ana, a he ho‘olalau ‘ino ke koho ho‘okahi i hua‘ōlelo Beretania ma ka unuhi.³⁰ ‘O ka unuhi a me ka māhele ‘ōlelo, he māhele wale nō ia o ka mana‘o ma waena o nā ‘ōlelo a ‘elua. No ka hiki ‘ole i nā hua‘ōlelo Beretania ke wehewehe pono a‘e i nā mana‘o Hawai‘i, he ko‘iko‘i nō ka ‘ae ‘ia ‘ana e ho‘opuka ‘ōlelo Hawai‘i me ke ke‘ake‘a ‘ole ‘ia i mua o ka ‘aha ‘ōlelo, ka ‘aha ho‘okolokolo, a me nā ke‘ena aupuni like ‘ole.

B. ‘O ka ‘ōlelo a me ka Lāhui he mau Māhoe Lāua³¹

Ma loko o ka mo‘olelo o ka ‘aha ‘ōlelo mua o ka Teritori, ‘ike ‘ia ka ho‘okae ‘ili i laha ma ka hana pili ‘oihana, nā kula aupuni, a me ka nūpepa ‘ōlelo Beretania. Ho‘ohālikelike ‘ia ka lālā Hawai‘i me ke keko a ua like ka ‘ōlelo Hawai‘i me ka hīkapalalē.³² Eia ho‘i, ma nā kula aupuni, ua mo‘olelo kekahi mau kūpuna, i ko lākou wā kamali‘i, ua nuku ‘ia e nā kumu kula ke ‘ōlelo Hawai‘i lākou.³³ Ma muli o ia mana‘o ho‘okae ‘ili a me ka hana a kekahi po‘e kumu, ua ho‘ohilahila ‘ia a ho‘oka‘awale ‘ia ka po‘e ‘ōlelo Hawai‘i i kā lākou ‘ōlelo, ko lākou ‘ike kupuna, a me ko lākou mo‘olelo pono‘ī. Ua hopohopo ho‘i kekahi o ua mau kūpuna nei no ka pono o kā lākou mau keiki inā e hānai ‘ia a‘e nā keiki ma ka ‘ōlelo Hawai‘i.³⁴ ‘O kēia “kīnā” kekahi o nā kumu i “koho” ai nā mākua e ‘ōlelo Beretania ka ‘ohana ma ka hale. I ka makahiki 1901, e emi nui a‘e ana ka po‘e ‘ōlelo Hawai‘i i nā ma‘i ahulua a ‘a‘ohe o kana mai ka ho‘okae ‘ili a me ka

³⁰ *Id.*; e nānā ho‘i Native Hawaiians Study Commission, *supra* note 21, at 175-77 (e hō‘ike ‘ia ana kekahi la‘ana ‘ē a‘e i mea e wehewehe pono ai i ka like ‘ole o ka ‘ōlelo Hawai‘i a me ka unuhina ma ka ‘ōlelo Beretania).

³¹ William Jarrett Sheldon, *O ka hooneleia ana o kekahi lahui me kona olelo kupuna he karaima ia ma na kanawai o ka manao*, KA NUPEPA KUOKOA, Nowemaba 24, 1916. (“O ka olelo ame ka lahui he mau mahoe laua i kupu, i ulu a i hanaiahuhua maluna o na huna lepa [*sic*] o ka aina o ko laua hoohanau ia ana.”).

³² Ronald Williams Jr., *Race, Power, and the Dilemma of Democracy: Hawai‘i’s First Territorial Legislature, 1901*, HAW’N. J. HIST., vol. 3, 49 (2015) (ka hō‘ike ‘ia ‘ana o ka nema, a me ka ‘ino o ka po‘e ‘ilipuakea, ka po‘e i kū‘ē i ka pono koho balota no ka Hawai‘i a i ho‘ohalahala ‘ino ho‘i i ka hana a ka Hawai‘i ma ka ‘aha ‘ōlelo kūloko. Wahi a lākou, ‘a‘ole mākaukau nā lālā Hawai‘i e hana i kēlā me kēia mea o ke aupuni demokarata. ‘O ia ho‘okae ‘ili i ka Hawai‘i ka mea i ili mai ai ma luna o ka ‘ōlelo Hawai‘i).

No ka hua‘ōlelo hīkapalalē, ua ho‘okomo ‘ia i loko o ka mo‘olelo no ka hiki ‘ana mai o Kāpena Kuke. He hua‘ōlelo ‘o hīkapalalē nāna e wehewehe i ke ‘ano o ka ‘ōlelo i ho‘opuka ‘ia e kekahi kaiāulu ho‘omaopopo ‘ole i ka ‘ōlelo Hawai‘i, pēlā i hō‘ike mai ai ka Hawai‘i i ke ‘ano o ka ‘ōlelo a Kāpena Kuke mā. S.M. Kamakau, *Ka Moolelo O Kamehameha I.*, KA NUPEPA KUOKOA, Ianuali 26, 1867.

³³ *E nānā i nā la‘ana HV24_017*, Ka Leo Hawai‘i 017, 12:40-13:45 (ma ka nīnauele ‘o Larry Kimura lāua ‘o Mary Kaleikoa, e ho‘omana‘o iho ana ‘o Mary Kaleikoa i ka ho‘opa‘i ‘ana ke kumu iā ia no kona ho‘opuka ‘ana i ka ‘ōlelo Hawai‘i ma ke kula. ‘O kona ho‘opa‘i ke kākau ‘ana i ‘elima haneli laina ma luna o ka papa ‘ele‘ele me ka mana‘o, “mai ‘ōlelo Hawai‘i ‘oe” ma ka ‘ōlelo Beretania); Ka‘ano‘i Walk, “*Officially*” *What? The Legal Rights and Implications of ‘ōlelo Hawai‘i*, 30 U. HAW. L. REV. 243, 249 (2007) (e hō‘ike ‘ia ana ka nīnauele ma waena o Clinton Kanahale lāua ‘o Rose Manu).

³⁴ Nu‘uhiwa, *supra* note 9, at 392.

lilo ‘ana o ke aupuni o Hawai‘i i ke aupuni ‘Amelika. I ka helu kanaka, i ka makahiki 1935, he 21,000 kānaka Hawai‘i ka heluna kanaka.³⁵

Ma ka nūpepa ‘ōlelo Hawai‘i, kama‘ilio mau ‘ia ka hilahila a me ka hemahema o kekahi i ka ‘ōlelo makua.³⁶ Kauleo nā mea kākau no ka mālama ‘ana i ka ‘ōlelo Hawai‘i ma kauhale, nā kula aupuni, nā ‘ahahui, a pēlā aku.³⁷ Mana‘o iho kekahi mea kākau, “ua like ka hanauna Hawaii o keia nee ana aku me na pua nani i nele i ke ala.”³⁸ Wehewehe mau ‘o ia, “[k]e hoolohe aku i na keiki Hawaii o keia mau la, ua nele maoli lakou i ka ike ana i ka lakou olelo makuahine, oki loa aku hoi ma ke kakau a heluhelu ana, he oki loa no ma na ano apau, a he mea hilahila maoli no.”³⁹ Eia na‘e, no kekahi, ‘ike ‘ia ka ‘ōlelo Beretania, he ‘ōlelo alaka‘i a ua paipai ‘ia ka lehulehu e ‘a‘apo i kēia ‘ōlelo malihini no ka mea, “ua lilo [o Hawaii] malalo o Amerika, a o ka olelo Beretania ka olelo o Amerika, a oiai ma ke kanawai kumu ua makemake ia e hana ia na hana o ka Ahaolelo ma ka olelo Beretania wale no, ua hiki loa [i ka Hawaii] ke ike i ka waiwai nui o keia olelo ma keia mua aku.”⁴⁰ “O ka ike i keia olelo kekahi mea nana e hapai ae [i ka Hawaii] a oiai aole keia o ka kakou olelo makua me ka hooikaika wale no e ike ai.”⁴¹

I kēlā wā, ‘ike ‘ia ka ho‘ohalahala ‘ana i ka waiho a me ka ha‘alele ‘ana paha i ka ‘ōlelo kumu o Hawai‘i. He kini, he nu‘a nā kolamu nūpepa e wehewehe ‘ia ana ke ko‘iko‘i o ka pilina o ka ‘ōlelo i ke kanaka a me kona lāhui.⁴² Penei kekahi:

Ma ka olelo e ikeia ai kela ame keia lahui kanaka, oiai o kana olelo, o ia iho la ka mole, ka i‘o, ka iwi ame ke koko i hanau pu ia mai me ia ma luna o kona aina makuahine, a he mea nui loa ka olelo, ma ka moololo o na

³⁵ *Ka Olelo Hawaii*, KE ALAKAI O HAWAII, Aukake 8, 1935; e nānā ho‘i i kā Amanda Lokelani Donlin Furman & Scott K. D. Shishido, Native Hawaiian Health in NATIVE HAWAIIAN LAW; A TREATISE 1313 (Melody Kapilialoha MacKenzie ed., 2015) (“By the early 1800s, the Native Hawaiian population had declined by more than 50 percent from the conservative estimate of four hundred thousand in 1778 to a mere one hundred eighty thousand. . . . By the time of the overthrow, it was estimated that the Hawaiian population had plummeted to just over thirty-one thousand and comprised only 25 percent of the islands’ entire population.”).

³⁶ *Ua like ka hanauna Hawaii*, *supra* note 16

³⁷ *E nānā i ka la‘ana id.*; Coelho, *supra* note 4; Sheldon, *supra* note 31.

³⁸ *Ua like ka hanauna Hawaii*, *supra* note 16 (he ho‘opuka mana‘o e pili ana i ka nalowale loa o ka ‘ōlelo Hawai‘i a me ka hopena e ‘ike maka ‘ia ana e ka mea kākau o ka ‘ōpiopio e hānai ‘ole ‘ia ana i ka ‘ōlelo Hawai‘i). He pane a ‘aelike kēia kolamu nūpepa i ko Sheldon mana‘o no ka nele ‘ana o ka lāhui kanaka ke ‘ōlelo ‘ole i ka ‘ōlelo a nā kūpuna, *supra* note 31.

³⁹ *Id.*

⁴⁰ *Ka Olelo Beretania*, KA NUPEPA KUOKOA, Okakopa 25, 1901.

⁴¹ *Id.*

⁴² *E nānā i ka la‘ana Pehea kakou i ka kakou lelo [sic] pono?*, KE ALOHA AINA, Ianuali 18, 1913; *Ka Olelo Makuahine a ka Lahui Hawaii*, *supra* note 8; *Ke Kanawai E Hopau [sic] I Ke Pa‘iia Ana O Na Kanawai O Ga [sic] Ahaolelo Ma ka Olelo Hawaii*, KE ALAKAI O HAWAII, Apelila 27, 1933 [ma hope iho *Ke Kanawai E Hopau I Ke Pa‘iia Ana*].

lahui naauao a pau o ke ao nei, aohe lahui i hooneleia i kana olelo pono mai kona hookumuia ana mai.⁴³

I ka wā i ho‘olaha ‘ia aku ai ia mana‘o, ua ho‘omaopopo ka po‘e o kēlā wā, i ka pilina ma waena o ke kāmāwai a me ka make ‘ana o ka ‘ōlelo Hawai‘i, ke ho‘ololi ‘ia aku ke kāmāwai a paipai ‘ia ho‘i ka ‘ōlelo Beretania.⁴⁴ ‘Ōlelo hou kekahi mea kākau ‘ē a‘e, he hō‘ailona ia mau loli, e make loa pū aku ana ka ‘ōlelo makuahine o ka ‘āina, a ‘o ka hopena aku he ‘ike ‘ole ‘ia ‘o ka Lāhui Hawai‘i, no ka mea, i ‘ike ‘ia nō ka lāhui ma kāmā ‘ōlelo, a inā ‘a‘ole he ‘ōlelo, ‘a‘ole nō he lāhui.⁴⁵

III. HE ‘ŌLELO MANA MA KE KĀNĀWAI

Pili pū mai ka mo‘olelo o ka ho‘ēmi ‘ia ‘ana mai o ka ‘ōlelo Hawai‘i i ka mo‘olelo o ka ho‘okahuli ‘ia ‘ana o ke aupuni Hawai‘i. ‘Iliwai like kēia ho‘olilo ‘ana i ka ‘ōlelo o nā lāhui o nā po‘e ‘ōiwi like ‘ole a puni ka honua nei.⁴⁶ Wahi a kekahi mea ‘imi na‘auao, he hanana ka pau ‘ana o ka ‘ōlelo a me ke aupuni o kekahi lāhui i puka mai ma muli o ke kūlike ‘ole o ka mana aupuni o nā kaiāulu.⁴⁷ I ka lilo ‘ana o ka mana aupuni o ka Hawai‘i i ka malihini, pio ‘ia ka ‘ōlelo Hawai‘i i ka ‘ōlelo Beretania no nā mea pili ‘oihana aupuni. Ma loko o kēia mokuna, e hō‘ike pōkole ‘ia ana ka mo‘olelo o ke kūlana o ka ‘ōlelo Hawai‘i ma loko nā kāmāwai a me nā kulekele mai ka wā mai o ke kākau kāmāwai mua ‘ana a hiki mai i kēia au nei. Mai ka manawa mua i kūkulu ‘ia ai nā ‘ano kāmāwai hou o ko Hawai‘i pae ‘āina, lilo kēia ‘ano kāmāwai i mea Hawai‘i.⁴⁸ ‘O ka ‘ōlelo Hawai‘i ka ‘ōlelo kumu o ke kāmāwai. I ka ho‘ohana ‘ana i ka ‘ōlelo Hawai‘i ma ke ‘ano he ‘ōlelo kāmāwai a pili ‘oihana paha, ua nui a‘ela ka mana‘o o kekahi mau

⁴³ J. W. H. I. Kihe, *Ka Olelo Hawaii*, KA NUPEPA KUOKOA, Iune 18, 1920. Ua hō‘ike ‘ia ho‘i he ‘ōlelo ikaika loa no ka nalowale ‘ana o ka ‘ōlelo a ke kanaka, penei: “Aole oe e ike ia mai he lahui kanaka Hawaii oe ina he namu kau olelo ana aole! Aole loa!! Aka, o kau olelo pono no a make no oe me ia i ka make hookahi ana.” *E nānā ho‘i i kā* Samuel K. Kamakaia, *E a‘o ia na keiki Hawaii i ka lakou olelo makuahine*, KA NUPEPA KUOKOA, Okakopa 15, 1915 (like ka ikaika o ko ka mea kākau mana‘o me ko Kihe, “He hookano o ka haakei kiekie loa o ke aloha ole i na hanauna hou o ka lahui Hawaii o keia mua aku, ka hana ole ia mai o keia pono nui no ka lakou olelo makuahine pono, a, he hoonaupo maopopo loa hōi mai ka lakou olelo makuahine pono mai.”). He loio ‘o Samuel Kamakaia. Oliver P. Poniaulani, *Minamina Wale ka Olelo Makuahine o ka Aina Aloha o Hawaii Kuauli*, KA NUPEPA KUOKOA, Nowemaba 12, 1915 (“Maloko o kou mau kolamu lahilahi o na helu o ka kakou milimili hopo ole, “Ke Kilohana Pookela o ka Lahui Hawaii,” i ike iho ai au i na kalaimanao naauao a kuu hoa uhaiaholo o ka makapeni o “Ka Ua Kukalahale o ke One Alii o Kakuhihewa,” Samuel K. Kamakaia, Esq.”).

⁴⁴ Ua maopopo kēia pilina o ka ‘ōlelo a me ka lāhui a no ia kumu i ho‘oholo mua ai ka po‘e mikionali e a‘o ‘ia aku nā Hawai‘i i kā lākou ‘ōlelo kupuna. Native Hawaiians Study Commission, *supra* note 21, at 124.

⁴⁵ *Ke Kanawai E Hopau I Ke Pa‘iia Ana*, *supra* note 42.

⁴⁶ STEPHEN MAY, LANGUAGE AND MINORITY RIGHTS: ETHNICITY, NATIONALISM AND THE POLITICS OF LANGUAGE 35 (2nd ed. 2012).

⁴⁷ *Id.* at 35 (“Acknowledging the centrality of power relations also shifts the emphasis from examining the merits of languages in the abstract-as repositories of cultural knowledge, for example – to the actual predicaments of their speakers.”). *E nānā ho‘i i kā* JULIA SALLABANK, ATTITUDES TO ENDANGERED LANGUAGES: IDENTITIES AND POLICIES 68 (2013) (“[E]ndangered languages are not spoken in isolation: language shift is a response to a situation which involves contact with at least one other language community, in an unequal power relationship.”).

māmala‘ōlelo a hua‘ōlelo Hawai‘i i lilo a‘e i mau mana‘o kāmāwai.⁴⁹ Ma kahi o ho‘okahi hanele makahiki, ua kākau, paio, polo‘ai, a mālama ‘ia ka ‘ōlelo Hawai‘i ma nā nūpepa a me nā palapala aupuni.

A. *Ka ‘Ōlelo Maoli o ka Lāhui*

Ma ka noho ali‘i ‘ana o Kaleiopapa Kauikeaouli, ka wā kumukāmāwai a a‘o palapala, ‘o ka ‘ōlelo makuahine a ka mō‘ī ka ‘ōlelo kumu o nā hana pili ‘oihana a me ke kāmāwai.⁵⁰ Ma ka ‘ōlelo ho‘ākaaka o ka palapala kāmāwai 1841 i hō‘ike ‘ia mai ai, na Kamehameha III e ‘ōlelo o ke aupuni a ‘o nā palapala a pau āna i kākau ai, ‘o ia wale nō nā palapala o ke aupuni.⁵¹ Pa‘i ‘ia a laha nā kāmāwai ma ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania i loko o nā nūpepa.⁵² I loko o kekahi o ka unuhi kāmāwai mua loa mai ka ‘ōlelo Hawai‘i a‘e a i ka ‘ōlelo Beretania, ho‘okomo ka mea unuhi i nā ‘ōlelo ho‘ākaaka i mea ho‘i e hō‘ike aku ai ho‘i, aia ma ka mana ‘ōlelo Hawai‘i kona kauka‘i ‘ia.

The following is a translation of the constitution of the Hawaiian Government, and all the laws which have been enacted or revised since its adoption so far as they are known to the translator. The translation is not designed to be a perfectly literal one, but where ever there is a variation from the letter of the original it is always made with the design of giving the sense more clearly. For these variations the translator is responsible. The original will of course be the basis of all judicial proceedings.⁵³

He unuhi kēia o ke kumukāmāwai o ke aupuni Hawai‘i a me nā kāmāwai a pau i kau ‘ia a i ‘ole i ho‘oponopono ‘ia a hiki i kona ‘āpono ‘ia ‘ana me

⁴⁸ *E nānā i kā KAMANAMAICALANI BEAMER, NO MĀKOU KA MANA LIBERATING THE NATION 251 (2014) (wehewehe ka mea kākau i kāna noi‘i, penei: “display[ing] how, and to what extent Native Hawaiian rulers engaged with the outside world on their own terms[:] document[ing] the ways in which ali‘i engaged with Euro-American protocol, governance, and legal systems while modifying existing indigenous structures to establish the Hawaiian Kingdom as a nation-state with a coalescing national identity.”)* (pāku‘i ‘ia ke ko‘iko‘i); *e nānā laulā i kā NOELANI ARISTA, THE KINGDOM AND THE REPUBLIC 191-239 (2019) (“In Hawai‘i, kāmāwai, published law emerged as an extension of the continued exercise of chiefly governance and was not simply a colonial imposition.”)*.

⁴⁹ NETTLE & ROMAINE, *supra* note 21, at 64 (e hō‘ike ‘ia mai ana, ua māhuhua a‘ela ke komo ‘ana mai o nā hua‘ōlelo hou me nā mana‘o o nā lāhui ‘ē i ‘ike ‘ole ‘ia ma mua, i loko o ia ‘ōlelo).

⁵⁰ *E nānā i ke Kanawai i Kauia e ka Moi, E Kamehameha III. 3-5 (1845-1846) (e mo‘olelo ‘ia ana ka ho‘okumu ‘ana i nā kāmāwai mua loa o ke aupuni a me ka unuhi ‘ana i nā kāmāwai mai ka ‘ōlelo maoli a i ka ‘ōlelo Beretania); e nānā laulā i kā SAMUEL MĀNAIAKALANI KAMAKAU, KE AUPUNI MŌ‘Ī 190-213 (2001) (e hō‘ike ‘ia mai ana ka ho‘okumu ‘ana a me ka lilo ‘ana o ka Pae ‘āina Hawai‘i, he Aupuni kumukāmāwai).*

Eia kekahi, ‘o nā palapala ku‘ikahi ma waena o nā aupuni mana like ‘ole, ua ho‘olaha pālua ‘ia ma nā ‘ōlelo Hawai‘i a me ka ‘ōlelo nona ka aupuni e ‘aelike ana.

⁵¹ KUM. KAN. & NA KAN. HAW. 3 (1841).

⁵² *E nānā i ka la‘ana KAN. H. KAR., Mok. LV. § 3 (Au. Moi 1850).*

⁵³ Translation of the Constitution and Laws of the Hawaiian Islands, Established in the Reign of Kamehameha III, Lahainaluna 3 (1842).

ka mea i 'ike 'ia e ka mea unuhi. 'A'ole kūlike loa a pili pono ka unuhi akā na'e ke loli mai ka mana'o mai ka palapala kumu mai, ua unuhi 'ia pēlā no ka mōakaaka. No ia mau loli na ka mea unuhi ka hewa. 'O ka palapala kumu ke kahua ia no nā hana 'aha ho'okolokolo a pau.

Mai ka makahiki 1848 mai, 'o ia ka manawa mua i lawe 'ia mai ai ka nīnau, 'o ka 'ōlelo hea ka 'ōlelo kumu i mua o ka 'aha ho'okolokolo Hawai'i. Ua ho'oholo 'ia 'o ka 'ōlelo Hawai'i ke ho'olohe 'ia e ka 'aha ke kū'ē nā 'ao'ao 'elua i kahi kauoha o ke kāmāwai.⁵⁴ Ua 'ōlelo maila ka Hope Lunakāmāwai Kaulike, 'o George M. Robertson, 'o ka hahai 'ana i ka 'ōlelo Hawai'i ka hana kūmau o ka 'aha a no ia kumu 'o ke kauoha o ke kāmāwai ma ka 'ōlelo Hawai'i ka mea e holo mua i nā hihia.⁵⁵ Ua 'aelike 'ia kēia mana'o e ka Lunakāmāwai Ki'eki'e a Kaulike 'o William Little Lee.⁵⁶ 'Ōlelo maila 'o ia, 'o ka 'ōlelo Hawai'i ka 'ōlelo a nā lālā o ka 'aha 'ōlelo, a ma muli o ia kumu, 'o ka palapala 'ōlelo Hawai'i ka mea e kauka'i a ho'olohe 'ia e ka 'aha ho'okolokolo.⁵⁷ 'A'ole na'e i pa'a loa ia 'ōlelo ho'oholo a ka Lunakāmāwai Lee ma ia kūlana. I ka makahiki 1859, ho'okahuli 'ia kā Lee 'ōlelo ho'oholo e ke kāmāwai hou a lilo koke ka 'ōlelo Beretania 'o ia ka 'ōlelo e hilina'i 'ia e ka 'aha ho'okolokolo ma ke kāmāwai.⁵⁸ Kauoha maila ke kāmāwai, "Ina i ikeia i kekahi manawa, ua kua loa ka olelo Beritania a me ka olelo Hawaii, i loko o keia kanawai, a laila, e paa no ka olelo Beritania."⁵⁹ 'Ōlelo maila kekahi mea kākau no ia ho'opa'a 'ia 'ana o ka 'ōlelo Beretania, "Ma keia kanawai i kapae ia ai ka olelo Hawaii, ka olelo kumu o ka lahui, mai ia Papa laua o Wakea a hiki ia kakou i keia manawa."⁶⁰ 'Ike 'ia ma ia ho'opa'a 'ana i ka 'ōlelo Beretania ma luna a'e o ka 'ōlelo maoli ma Hawai'i nei, he hō'ailona ia o ka ho'ololi mua 'ana i ka mana kāmāwai o nā kaiāulu.

'O kekahi mea ko'iko'i e kuhikuhi aku ai, 'oko'a ke kauoha o ka mana 'ōlelo Hawai'i, 'oko'a ke kauoha o ka mana 'ōlelo Beretania. Eia kekahi la'ana mai ka hihia 'o *Metcalf kū'ē iā Kahai* i ka makahiki 1856. Ua kauoha 'ia e ka mana 'ōlelo Hawai'i e ho'ouku 'ia ka mea holoholona e like me ka mea kūpono no ka pohō a me ka pō'ino i loa'a, a ma ka mana 'ōlelo Beretania ho'i, kauoha 'ia e ho'ouku 'ia ka pā-hā o ka pohō, a pō'ino paha.⁶¹ 'A'ole like lāua ma ke kauoha,

⁵⁴ *E nānā iā Hardy kū'ē iā Ruggles et als.*, 1st Haw. Rep., p. 255, 258-50 (1856); *Metcalf kū'ē iā Kahai*, 1st Haw. Rep., p. 225, 227 (1856).

⁵⁵ *Metcalf*, 1st Haw. Rep., p. 227.

⁵⁶ *Hardy*, 1st Haw. Rep., p. 258-59.

⁵⁷ *Id.*

⁵⁸ Kan. Kiv., Mok. XLI, P. 1493 (1859); *e nānā i kā Paul F. Nahoia Lucas, E Ola Mau Kākou I Ka 'Ōlelo Makuahine: Hawaiian Language Policy and the Courts*, 34 HAW. J. HIST. 4 (2000) (e wehewehe ana i ka mahalo 'ole o ka po'e 'ōlelo Beretania i kēia mau 'ōlelo ho'oholo o ka 'aha ho'okolokolo a na lākou i ho'olalelale i ka 'aha 'ōlelo e ho'oholo i kāmāwai e ho'opa'a 'ia kā lākou 'ōlelo).

⁵⁹ Kan. Kiv., Mok. XLI, P. 1493 (1859).

⁶⁰ Hawaii Oiaio, *Ka Olelo Hawaii a me Ka Olelo Enelani*, KA OIAIO, Apelila 27, 1894.

⁶¹ *Metcalf*, 1st Haw. Rep., p. 227.

a ‘a‘ole ho‘i e ‘ōlelo paio aku ana nā ‘ao‘ao kekahi i kekahi i ka ho‘omaopopo ‘ana i ka unuhi ‘ōlelo.⁶²

‘Oiai ho‘opa‘a ‘ia ka ‘ōlelo Beretania ma luna o ka ‘ōlelo Hawai‘i i ke kū‘ē ‘ana i kekahi kāmāwai, mau nō ke ko‘iko‘i o ka ‘ōlelo Hawai‘i i ka hana pili ‘oihana i ke aupuni mō‘ī. I ka noho mō‘ī ‘ana o David Kalākaua⁶³ i loko o ka mokuna kāmāwai e pili ana i ka ‘aha ho‘okolokolo ki‘eki‘e a me ka ‘aha ho‘okolokolo ka‘apuni, ua koi ‘ia inā he haole ke ho‘onoho ‘ia ana, e pono ‘o ia e mākaukau ma ka ‘ōlelo Hawai‘i.⁶⁴ Eia ho‘i, ua ho‘oikaika kekahi hoa ‘aha ‘ōlelo i lawe a‘e i kekahi bila kāmāwai i loko o ka ‘aha ‘ōlelo i ka makahiki 1882 e ho‘olilo ‘ia ka ‘ōlelo Hawai‘i i ‘ōlelo kumu a mana ma ke kāmāwai no ke aupuni.⁶⁵

C. *Ho‘opa‘a ‘ia ka ‘ōlelo Beretania ma ke Kāmāwai*

E kuu lahui aloha, eia ka‘u ia oe: O ka okomo ana, paku‘i ana, hoololi ana a hoopau ana i ka kakou olelo kumu, ka olelo mailalo loa mai ko kakou mau kupuna mai, he ino, he hewa a he karaima ia ma na kanawai o ka manao o ko kakou noho‘na lahui ana.⁶⁶

Ma ka makahiki ma hope o ke kā‘ili aupuni o ka Mō‘ī Lili‘uokalani i ka makahiki 1893, “noho mana [ka] olelo Enelani malihini ma luna o ka aina a me ka lahui kanaka.”⁶⁷ Hō‘ike mai kekahi mea kākau i kona mana‘o no ke ko‘iko‘i o ka pilina ma waena o ka ‘ōlelo maoli o kekahi lāhui a me ka noho pa‘a mau ‘ana o ia aupuni.⁶⁸ Kākau maila ‘o ia,

Ma ka nana ana a makaikai ana i ka noho ana o na aupuni mana nui a kaulana o ke ao nei, ko lakou noho ana lahui hooponopono ana i ko lakou aina e ike ia no me ka moakaka lea a ponalonalo ole, aia ma luna o ka olelo lahui pono i kela a me keia aupuni pakahi o lakou e hooponopono ia la ko lakou mau aupuni pakahi malalo o na kanawai ma na ano no a pau. A o na olelo e ae, he mau mea kokua wale no ia ma muli o kekahi mau

⁶² *Na Kanawai Civila*, KA HAE HAWAII, Aukake 31, 1859 (hō‘ike ‘ia ka hemahema maoli o ka like ‘ole o nā kāmāwai civila ma ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania. Hā‘awi ho‘i ka mea kākau i kekahu mau la‘ana o ia like ‘ole.); O Na Kanawai Kivila O Ko Hawaii Pae Aina, Hooholoia I Ka Makahiki 1859 3 (Au. Moi 1859) (ua koho ‘ia kekahi mau lālā o ke Kōmite Pa‘i Kāmāwai e nānā i ka like ‘ana o ka ‘ōlelo maoli me ka ‘ōlelo Beretania ma ke Kāmāwai Kivila).

⁶³ ‘O David Laamea Kamananakapu Mahinulaninal[a]iahuokalani Lumialani Kalakaua kona inoa piha ma ka hānau ‘ana. JOSEPH M. POEPOE, KA MO‘OLELO O KA MOI KALAKAU 4 (1891).

⁶⁴ Na Kanawai o ke Kau o 1887, Mokuna XXI, He Kanawai E Hoololi Ai i na Pauku 913 a me 922 o ke Kanawai Kivila i Hoololi ia e ka Mokuna XXVI o ke Kanawai o ka M. H. 1882 a kau ‘ia penei: Kan. Kiv. Mok. XXVI, P 913 (1888).

⁶⁵ *Ka Olelo Hawaii a me ka Olelo Enelani*, *supra* note 60.

⁶⁶ Sheldon, *supra* note 31.

⁶⁷ *Id.* No ka mo‘olelo o ka ho‘okahuli ‘ana i ka noho ali‘i ‘ana o Lili‘uokalani e nānā laulā i kā HAWAII’S QUEEN LILIUOKALANI, HAWAII’S STORY 226-95 (1898).

⁶⁸ *Id.* (e hō‘ike ana i ka laulaha o ka ‘ōlelo Beretania i ka makahiki ma hope o ka ho‘okahuli lāhui kū ‘ole i ke kāmāwai).

wehewehe naauao ana a kekahi poe loa kalaiaina a wehewehe kanawai no ka pono o ko lakou mau aupuni pakahi.⁶⁹

Ua ho‘ohālikelike ua mea kākau lā i ke aupuni Hawai‘i me nā aupuni mana o ka honua.⁷⁰ Kuhikuhi maila ‘o ia, ‘a‘ole loa i ho‘olilo ‘ia ka ‘ōlelo Farani i ‘ōlelo kumu ma ke kānāwai no ke aupuni.⁷¹ Wahi āna, ‘o Hawai‘i wale nō ke aupuni ma lalo iho o ka lā, a ma lalo iho ho‘i o nā lani, i loko o kēia ao mālamalama loa o ke ao nei, i kā‘ili kū ‘ia kona kuleana a pono pili pa‘a o ka noho ‘ana lāhui mai ke alo pono‘ī aku o ka lāhui kanaka Hawai‘i pono‘ī nona ka ‘āina.⁷² Paio ia mea kākau, ma ke kāpae ‘ana i ka ‘ōlelo Hawai‘i mai nā kānāwai mai, pēlā nō i lilo ai nā ho‘oponopono ‘ana o ke aupuni mai ka lāhui aku nona ka ‘āina.⁷³

1. Nā Kula Aupuni

I ka makahiki 1896 i kau a‘e ai ka Repubalika o Hawai‘i i kekahi kānāwai i koi i nā kula aupuni e ho‘ona‘auao i nā haumāna ma ka ‘ōlelo Beretania.⁷⁴ Ma muli o ia kānāwai, nalo koke nā kula aupuni ‘ōlelo Hawai‘i.⁷⁵ He mea ko‘iko‘i ke a‘o ‘ana i nā ‘ōpiopio Hawai‘i ma ka ‘ōlelo Beretania i ka ho‘ohui ‘ana i ke aupuni Hawai‘i me ‘Amelika.⁷⁶ I kekahi palapala komikina Hawai‘i i ho‘omākaukau ‘ia e ke aupuni ‘Amelika, ‘āpono ‘ia ka mana‘o e lilo ‘o Hawai‘i iā ‘Amelika ma muli o ka ho‘ona‘auao ‘ana o nā kula Hawai‘i ma ka ‘ōlelo Beretania a kū ka po‘e haumāna i ke ‘ano ‘Amelika.⁷⁷ No ia kumu paha e hō‘ole

⁶⁹ *Ka Olelo Hawaii a me ka Olelo Enelani, supra* note 60.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Act of June 18, 1896, ch. 57, § 30 (codified at 1897 Haw. Comp. Laws § 123 (1897)).

I ka makahiki 1854, ua kau ‘ia he kānāwai no nā kula ‘ōlelo Beretania i mea e loa‘a ai iā lākou i ke kōkua o ke aupuni. He Kanawai E Hooulu Ai E Kokua I Na Kula Beretania No Ko Hawaii Poe Opiopio, Aponoia Iulai 20, 1854, ma ka ‘ao‘ao 10, Kanawai o ka Moī, Kamehameha III. (1854). Penei kahi kumu i hā‘awi ‘ia ai no ka ho‘onohonoho i ia kānāwai: “o ka ike ana, i ka olelo Beretania ka mea e pono nui ai na kanaka Hawaii i ko lakou imi ana i ka waiwai a me ka imi noeau.” *Id.* ‘Oiaī, ‘o ka ‘ōlelo Hawai‘i ka ‘ōlelo maoli o ke aupuni, ho‘omaopopo ‘ia ka waiwai o ka ‘ōlelo Beretania e lilo ia ‘ōlelo i ‘ōlelo e kāko‘o ai ka ‘ōlelo Hawai‘i e kekahi mea kākau kolamu nūpepa. *Ka Olelo Hawaii a me ka Olelo Enelani, supra* note 60.

⁷⁵ SILVA, *supra* note 23, at 144. I nā makahiki he ‘ewalu ma hope o ia kānāwai, ‘a‘ohe kula aupuni ‘ōlelo Hawai‘i i ‘ike ‘ia i koe. *Id.* I ho‘okahi makahiki ma hope o ia kau ‘ana i ua kānāwai lā, ho‘olaupa‘i ‘ia nā kula ‘ōlelo Beretania a ma ka makahiki 1902, he 203 kula ‘ōlelo Beretania.; e nānā ho‘i i kā Lucas, *supra* note 58, at 8-9.

⁷⁶ Kamanaonāpalikūhonua Souza lāua ‘o K. Ka‘ano‘i Walk, ‘*Ōlelo Hawai‘i and Native Hawaiian Education, in* NATIVE HAWAIIAN LAW: A TREATISE 1271 (Melody Kapilialoha MacKenzie et al. eds., 2015) (e nānā ana i ke kumu U.S. HAWAIIAN COMM’N., S. DOC. NO. 16-55, at 10 (1898)).

⁷⁷ *Id.*; e nānā ho‘i Native Hawaiians Study Commission, *supra* note 21, at 124-26 (e hō‘ike ‘ia mai ana ka mo‘olelo o ke a‘o kula i ka wā Teritori).

mau ana i nā bila kānāwai i hāpai 'ia e kahi 'ōiwi, e kauoha ana i ka Papa Ho'ona'auao e a'o 'ia ka 'ōlelo Hawai'i ma nā kula aupuni o ka Teritori.⁷⁸

2. Nā Hana 'Aha 'Ōlelo

I ka makahiki 1898, ma ka 'Ōlelo Ho'oholo Hui, ua ho'ohui 'āina 'ia 'o Hawai'i me 'Amelika a hala 'elua makahiki ma hope mai, ua lilo koke ka Repubalika o Hawai'i i Teritori o Hawai'i.⁷⁹ I loko o ke Kānāwai 'Okana 'Āina o 1900, ma ka paukū 44 o ka Mokuna II, kauoha 'ia nā lālā o ka 'aha 'ōlelo e 'ōlelo Beretania wale nō ma kā lākou hana.⁸⁰ Eia na'e, ma nā paukū 34, 40, a me 60, hiki ke lilo ke kāne 'ōlelo Hawai'i i hoa 'aha 'ōlelo.⁸¹ 'Ae 'ia ka mana koho balota i nā kāne 'ōlelo Hawai'i a 'ae ho'i 'ia i nā kāne mana koho balota ke lilo i moho lunamaka 'āinana a senatoa paha.⁸² 'Oiai he mau lālā ho'omaopopo 'ole i ka 'ōlelo Beretania, 'o ka 'oia'i'o, ua 'ōlelo Hawai'i mau lākou.⁸³ Wahi a kekahi mea kākau kolamu nūpepa, kama'ilio 'ia ka 'ōlelo Hawai'i ma ka 'aha 'ōlelo, ma ke 'ano he mau 'ōlelo unuhi.⁸⁴ Eia na'e, ua ho'okina 'ia ke kipaku 'ana i ka 'ōlelo Hawai'i mai ka hana 'aha 'ōlelo aku. 'Ōlelo paio a ho'oikaika kekahi mau lālā no ka 'ae 'ana i ka 'ōlelo Hawai'i ma ka lawelawe i nā hana o ka 'aha 'ōlelo. 'O ka pono o kekahi mau lālā 'ōlelo Beretania 'ole kekahi kumu i holo a'e ai ka bila kānāwai no ka 'ae hou 'ana mai i ka 'ōlelo Hawai'i.⁸⁵ Wehewehe 'o Senatoa Dickey i ka pono o ka 'ae 'ana i ka 'ōlelo Hawai'i, "O na Hawaii i hiki ole ke heluhelu a kakau i ka olelo haole ua loa ia lakou ka mana piha o ke koho balota ana, a no ia mea, he mea pono ole ka hoole ana i mahele olelo i hiki pono ai ia lakou ke

⁷⁸ *E nānā i ka H. Journal, 1st Terr. Leg., on H. B. No. 55* "An Act to Amend Section 123 of the Civil Laws, as compiled in 1897, relating to the teaching of the English and Hawaiian languages in public and private schools." p. 415-16 (Haw. 1903); *Ka Olelo Hawaii, Kanawai Hoola i ka Olelo Makua*, KA NUPEPA KUOKOA, Pepeluali 15, 1901.

⁷⁹ Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States, July 7, 1898; Enrolled Acts and Resolutions of Congress; General Records of the United States Government, 1778-1992; Record Group 11; National Archives. 'Oiai 'a'ole i kū i ke kānāwai ka ho'okahuli 'ana a ka Repubalika 'o Hawai'i i ke aupuni mō'i o Lili'uokalani a me ka 'ae 'ana o 'Amelika i ka wā e noho pelekikena 'o William McKinley (1897-1901), ua ho'onohonoho 'ia nō ka po'e nāna ia hewa e alaka'i i ka Teritori hou. Ma kāna leka iā 'Amelika, ua kū'e ka Mō'i Lili'uokalani i ka ho'ohui 'ia 'ana o Hawai'i me ia. Letter from Liliuokalani, Queen of Hawaii to U.S. House of Representatives protesting U.S. assertion of ownership of Hawaii, December 19, 1898. Recent Group 233, Record of the U.S. House of Representatives, HR 55A-H28.3.

⁸⁰ Kanawai Okana Aina o Aperila 30, 1900, Mokuna II, Pauku 44 (1900) ("E lawelaweia na hana Ahaolelo apau ma ka Olelo Beretania."); Organic Act of April 30, 1900 ch. 339, § 44, 31 Stat. 141 (1900) ("All legislative proceedings shall be conducted in the English language").

Ua pau ka mana unuhi o ke Kānāwai 'Okana 'Āina iā J. M. Poepoe, he loio lāua 'o W. J. Coelho, he Senatoa. *E nānā i kā J. M. Poepoe lāua 'o W. J. Coelho, He Kanawai o ka Panalaaui*, Ka Nupepa Kuokoa, Aukake 10, 1900.

⁸¹ Kanawai Okana Aina o Aperila 30, 1900, Mokuna II, Pauku 34, 40, 60 (1900).

⁸² *Id.*

⁸³ *Pololei o Kahiliaulani*, KUOKOA HOME RULA, Dekemaba 24, 1909.

⁸⁴ *Id.*

⁸⁵ C. H. Dickey, *I Elua Olelo no ka Hale Ahaolelo*, KA NUPEPA KUOKOA, Ianuali 31, 1903.

maopopo a hoohana aku me ka maikai.”⁸⁶ Ua hō‘ike aku ia Senatoa i ka like ‘ole o nā paukū i alaka‘i mai i ke aupuni i nā ‘ōlelo o kēlā me kēia hana.⁸⁷ ‘Ae ‘ia ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania i kekahi manawa, a ‘ae ‘ia ka ‘ōlelo Beretania wale nō i kekahi manawa ‘ē a‘e.⁸⁸ Ma o ke Kānāwai ‘Okana ‘Āina i ‘ae ‘ia mai ai ka po‘e mākaukau i ka ‘ōlelo Hawai‘i a mākaukau ‘ole i ka ‘ōlelo Beretania no ka lilo ‘ana i po‘e hoa ‘aha ‘ōlelo.⁸⁹ Mana‘o ‘o Senatoa Dickey, “Ina aole lakou kupono a i makemake ole ia ina ua waihoia na huaolelo “a i ole ka Hawaii.””⁹⁰

‘A‘ole ho‘āpono ‘ia ka ‘ae hou ‘ana mai i ka ‘ōlelo Hawai‘i ma nā mo‘olelo o ka ‘aha ‘ōlelo e ke kia‘āina. ‘O Sandford B. Dole ke kia‘āina mua o ka Teritori Hawai‘i, noho kia‘āina ‘o ia mai ka makahiki 1900 a hiki i ka makahiki 1903.⁹¹ I kona noho kia‘āina ‘ana, ua vito a kū‘ē ‘ia ka ho‘ohana ‘ia o ka ‘ōlelo Hawai‘i ma nā hana o ka ‘aha ‘ōlelo.⁹² Waiho ‘o Dole i ‘ekolu mana‘o nui no kāna vito ‘ana i ka bila nāna e ho‘olilo ana i ka ‘ōlelo Hawai‘i he ‘ōlelo ‘aha kau kānāwai.⁹³ ‘O ka mua, “o ka mana‘o o ka poe nana i hana ke Kanawai Panalaa o ka olelo Enelani ka lakou i makemake [ai] e hoohanaia maanei ma na hana e pili ana i ka Ahaolelo a Aha Hookolokolo paha.”⁹⁴ ‘Alua, “ua loa ole ka pono mokuaina i na Panalaa o Okalahoma, Arizona a me Nu Mekiko no ka holomua ole o na hana no ka papalua o ka olelo e pili ana i na hana aupuni, olelo Enelani a me ka olelo Paniolo. Ina e hookomoia aku ana keia olelo hooholo e aeia na olelo Enelani a me Hawaii ma na hana hookele aupuni, e hoohalikeia mai ana no kakou me keia mau panalaa i hooleia ka pono mokuaina.”⁹⁵ ‘O ka mana‘o hope o ke kia‘āina, “e nui ino ana na hoolilo, no ka mahele a unuhi ana i na olelo elua, a he

⁸⁶ *Id.* He loio ‘o Dickey i ka wā o ka Mō‘ī Kalākaua. *C. H. Dickey, (Kale Kika.) Loio!*, KA LAHUI HAWAII, Aukake 2, 1877 (he ‘ōlelo ho‘olaha ia no kāna ‘oihana loio. Kono maila ‘o ia: “E hele nui mai ka poe a pau i loohia ia me na pilikia Kanawai o ka “Ua-ukiu” nei a na ko oukou makamaka oiaio no e kokua a e hooikaika e hoopau i na pilikia ma na ano a pau o ke Kanawai.”).

⁸⁷ Dickey, *supra* note 85.

⁸⁸ *Id.* Ma ke Kānāwai ‘Okana ‘Āina, Mokuna II, Paukū 60.5, ‘ae ‘ia ka mana koho balota i ka po‘e ‘ōlelo Hawai‘i a i ‘ole ‘ōlelo Beretania. Ma ka Mokuna II, Paukū 44, ‘ae ‘ia nā mo‘olelo o ka ‘aha ‘ōlelo ma ka ‘ōlelo Beretania wale nō.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ ‘O Sandford Ballard Dole ka “pelekikena” o ke aupuni kūikawā ka mea i ho‘okahuli i ka noho ali‘i ‘ana o ka Mō‘ī Lili‘uokalani. He loio ‘o Dole i ka noho aupuni ‘ana o ka Mō‘ī Kalākaua a mākaukau ‘o ia ma ka ‘ōlelo Hawai‘i a Beretania. *S.B. Dole, Ka Lahui Hawaii*, Aukake 2, 1877 (he ‘ōlelo ho‘olaha no kā Dole ‘oihana loio). I ka lā 4 o Mei, i ka makahiki 1900, ua ho‘okomo ‘ia maila, e ka Pelekikena William McKinley, ‘o Dole i ke kūlana kia‘āina no ka Teritori. Ua waiho inoa ‘ia ‘o Dole e lilo i kia‘āina o ka Teritori e ka Pelekikena William McKinley i Mei 4, 1900. Records of the U.S. Senate, RG 46, National Archives, Washington, DC, <https://www.archives.gov/legislative/features/hawaii/mckinley-dole.html>.

⁹² *Vitoia e ke Kiaaina*, KA NUPEPA KUOKOA, Apelila 10, 1903.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

mea hoi e hookauluaia ai na hana me ka hoonui ole ana ae i ka pono o ka lehulehu.”⁹⁶ Mau‘a‘e ka ‘aha ‘ōlelo i ka vito a ke Kia‘āina, eia na‘e, ‘a‘ole i ‘ae ‘ia kēia noi a ka ‘aha kūloko e ka ‘Aha ‘Ōlelo Nui.⁹⁷

3. Nā ‘Ōlelo Ho‘oholo ‘Aha Ho‘okolokolo

‘A‘ole ma ka ‘aha ‘ōlelo wale nō i ke‘ake‘a ‘ia ai ka ‘ōlelo Hawai‘i i ka wā Teritori. I ka makahiki 1901, ua kipaku ‘ia ka ‘ōlelo Hawai‘i mai nā hihia aku i loko o ka lumi ho‘okolokolo.⁹⁸ Ho‘olaha ‘ia ma ka nūpepa, “Ma ka Aha Hookolokolo, Aole Mana o ka Hoopii ma ka Olelo Hawaii.”⁹⁹ Ho‘opuka ka Lunakānāwai nāna i hō‘ole i ka ho‘opi‘i ‘ōlelo Hawai‘i, “O ka olelo Beretania wale no ka olelo hiki ke lawe ia ma na lumi hookolokolo[,] i malama ia ma kekahi olelo okoa aku ua nana ole i ka manao o ke kanawai.”¹⁰⁰ E ho‘okolokolo ana ka ‘aha i ka hihia a kekahi mea ho‘opi‘i i ho‘āhewa ‘ia no ka moe kolohe.¹⁰¹ Noi ‘ia a‘e ka ‘aha e ka loio o ka mea ho‘opi‘i ‘ia e ho‘oku‘u wale i kēia hihia ma muli o ke kākau ‘ia ‘ana o ka palapala ho‘opi‘i ma kekahi ‘ōlelo malihini i ka ‘aha, ‘o ia

⁹⁶ *Id.*

⁹⁷ S. Journal, 2nd Terr. Leg., on House Joint Resolution No. 2, p. 321, 501 (Haw. 1903).

No nā Teritori o ‘Amelika Huipū‘ia, e ho‘ouna aku i nā kānāwai a ka ‘aha ‘ōlelo kūloko i ka ‘aha ‘ōlelo nui a na lākou e ‘āpono a i ‘ole e hō‘ole i kēlā me kēia kānāwai i ho‘oholo mua ‘ia. Cornell Law School, *Territories: Powers of Congress Thereover*, <https://www.law.cornell.edu/constitution-conan/article-4/section-3/clause-2/territories-powers-of-congress-thereover> (ua kipa iho nei ma Dek. 28, 2019) (e papa kuhi ‘ia mai ana nā hihia like ‘ole o ka ‘Aha Ho‘okolokolo Ki‘eki‘e o ‘Amelike Huipū‘ia i mōakaaka ka mana o ka ‘aha ‘ōlelo nui).

‘A‘ole i pau ka ho‘oikaika o ka Hawai‘i e ho‘omau i kā lākou ‘ōlelo ma nā mo‘olelo ‘aha ‘ōlelo. I kona wā noho ‘elele, noke ‘o Kūhiō e ho‘opa‘apa‘a ‘ia ana ka ‘ōlelo Hawai‘i ma nā mo‘olelo ‘aha ‘ōlelo. ‘Onou ia mea hanohano i ka bila, “e hoolilo ana i na olelo Enelani me Hawaii i mau olelo pili oihana me na hana Ahaolelo o ke Teritore o Hawaii no ka manawa o umi makahiki.” *Ma ka Lehelehe Wale no ke Aloha*, KE ALOHA AINA, Mei 14, 1910. Ma ka bila, ua wehewehe ‘ia “he lehulehu na kupa o Hawaii o loko o ka lahui Hawaii i hoonauaouia ma ka olelo Hawaii.” *Id.*

⁹⁸ *Ma ka Aha Hookolokolo Aole Mana o ka Hoopii ma ka Olelo Hawaii*, KA NUPEPA KUOKOA, Kepakemapa, 11, 1901 (“Hookuu ia kekahi Iapana no ka Moe Kolohe no ka Hopu ole ia o na Poe Hanohano e Hana Like Nei ia Hana”). E kipaku ‘ia ana ka ‘ōlelo Hawai‘i mai ka ‘aha ho‘okolokolo aku ma mua o ia hihia. Ua ‘ōlelo maila kekahi mea kākau kolamu, na ka lunakānāwai ki‘eki‘e Albert Francis Judd i ‘ōlelo ho‘okano, ‘a‘ole he waiwai o ka ‘ōlelo Hawai‘i, a e nalohia loa aku ana ia ‘ōlelo. *Ka Olelo Hawaii a me ka Olelo Enelani*, *supra* note 60.

⁹⁹ *Id.* Aia ma nā kānāwai o ka Mō‘ī Alexander Liholiho, Kamehameha IV i ka makahiki 1859 ka Mok. 25, P. 1173 e kauoha ‘ia ana nā ho‘opi‘i e hā‘awi ‘ia i ka mea ‘ofeni ma ka ‘ōlelo Hawai‘i.

¹⁰⁰ *Id.* ‘O ka Lunakānāwai Geo. D. Gear ka inoa o ia Lunakānāwai. Ua noho lunakānāwai ‘o ia i nā makahiki he ‘ehā, mai Malaki 2, 1901 a hiki i Malaki 2, 1905 ma ka ‘aha ho‘okolokolo ka‘apuni ‘ekahi. *E nānā iā Territory of Hawaii vs. Cotton Bros. & Co.*, 17 Haw. 374, 376 (Haw. Terr. 1906).

¹⁰¹ *Id.* Ua pāpā ‘ia a‘e ka Moe Kolohe i nā kānāwai mua loa o Kauikeaouli i ka makahiki 1827. “Eia ke kolu; ke papa aku nei makou i ka moe kolohe o ke kane me wahine, a me ka moe kolohe o ka wahine me kane; o ka mea e moe kolohe, e uku ia oia i ka hao.” He Olelo No Ke Kanawai (Haw. Dek. 8, 1827).

ho‘i ka ‘ōlelo Hawai‘i.¹⁰² “[H]oike pu ae oia ua mana ole keia aha e noonoo i kekahi hihia i kakau ia ma ka olelo Hawaii.”¹⁰³ Pane ka loio o ka mea nāna ka hoopi‘i, “he nui loa na Aha Hookolokolo ma keia mokupuni ame kekahi mau mokupuni e aku o kakou nei e lawelawe nei i ka hana ma ka olelo Hawaii.”¹⁰⁴ ‘A‘ole ‘aelike ka ‘aha i ia paio no ka lawelawe ‘ōlelo Hawai‘i a ho‘okō ‘ia ke noi a ka loio o ka mea i ho‘opi‘i ‘ia.¹⁰⁵ Ma waho a‘e o kēia la‘ana, ua hō‘ole ‘ia nā loio ‘ōlelo Hawai‘i e ho‘opuka i kā lākou mau ‘ōlelo paio a ‘ōlelo hō‘ike ma kā lākou ‘ōlelo makuahine.¹⁰⁶ Ma muli o ka ‘ae ‘ole ‘ana i ka ‘ōlelo Hawai‘i e kekahi mau ‘aha ho‘okolokolo, ua ha‘alele loa kekahi mau loio ‘ōlelo Hawai‘i i ka ‘oihana loio.¹⁰⁷ ‘A‘ole na‘e i kauoha ‘ia ka ‘āpono ‘ana i ka ‘ōlelo Beretania wale nō ma ka hana o ka ‘aha ho‘okolokolo. Ma ke Kānāwai ‘Okana ‘Āina, ‘o ka mokuna ho‘okahi wale nō i hō‘ike i kahi rula ‘ōlelo i pili i ke ke‘ena ho‘okolokolo, ‘o ia ka paukū 83 no nā kiure.¹⁰⁸ Ho‘ākaaka maila ia paukū i kēlā me kēia mea no ka ho‘onohonoho ‘ana i nā kiure a me nā ‘ano a kūlana paha o ke kanaka i hiki ke ho‘onohonoho ‘ia ma nā kiure.¹⁰⁹ Ma ka paukū 83, “aole kekahi mea e kupono i Kiure a i Kiure Nui paha no ka Panalaa o Hawaii ke ole oia he kane kupa no Amerika Huipuia a he iwakaluakumamakahi makahiki, a i hiki ole ke kamailio, heluhelu, a kakau i ka Olelo Beretania me ka hoomaopopo.”¹¹⁰

‘A‘ole i kūnānā a ho‘omanawanui wale kekahi o nā lunamaka‘āinana i ka ho‘olilo ‘ana i ke kūlana o ka ‘ōlelo maoli o Hawai‘i ma nā hana pili ‘oihana. He ‘elua makahiki ma hope o ka hihia i hō‘ole ‘ia ai ka palapala ho‘opi‘i ‘ōlelo Hawai‘i, ua ho‘okomo ‘ia he bila kānāwai no ka ‘ae hou ‘ana i ka ‘ōlelo Hawai‘i

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* “Ua lawelawe mua ia keia hihia ma ka aha hookolokolo [. . .] ma Koolaupoko, a ua kakau ia na mea apau ma ka olelo Hawaii oia iho ahohe ike o keia Lunakanawai i ka olelo Beretania.” *Id.*

¹⁰⁶ *Aole [E] Ninau I Na Hoike Ma Ka Olelo Hawaii Ma Ka Aha Kaapuni*, KA NUPEPA KUOKOA, Dekemaba 13, 1901; Third Charge: Evidence of J. L. Kaulukou, *The Bar Association Reaffirms Serious Charges Against Judge A. S. Humphreys*, The Pacific Commercial Advertiser, November 7, 1901 (“[Judge Humphreys] refused to permit [Attorney Kaulukou] or any other Hawaiian attorney, to address the court or witnesses, or otherwise take part in any proceedings in court, in the Hawaiian language; that thereupon [Attorney Kaulukou] was compelled to give up his profession or speak in English as best he could, and therefore [Attorney Kaulukou] has since said date conducted his cases in English, getting along as best he could. [Attorney Kaulukou] knows of some Hawaiian attorneys who, by reason of their inability to speak English at all, have been compelled to abandon the practice of law altogether.”) [ma hope iho Evidence of J. L. Kaulukou].

¹⁰⁷ Evidence of J. L. Kaulukou, *supra* note 106.

¹⁰⁸ Kanawai Okana Aina, Mokuna IV, Pauku 83.

¹⁰⁹ *Id.* Kanawai Okana Aina o Aperila 30, 1900, Mokuna IV, Pauku 83 (1900); Organic Act of April 30, 1900 ch. 339, § 83, 31 Stat. 141 (1900) (“no person who is not a male citizen of the United States and twenty-one years of age and who cannot understandingly speak, read, and write the English language shall be a qualified juror or grand juror in the Territory of Hawaii.”).

¹¹⁰ *Id.*

ma ka lumi ho‘okolokolo o ka ‘aha ka‘apuni.¹¹¹ Ua ho‘ā‘o ho‘i ka ‘aha ‘ōlelo e ho‘ololi i ke Kānāwai ‘Okana ‘Āina, mokuna IV, paukū 83 i mea e hiki ai i nā kāne kupa ‘Amelika a mākaukau ma ka ‘ōlelo Hawai‘i ke noho ma ke kiure a i ‘ole ke kiure ki‘eki‘e.¹¹²

4. Ka Mana Koho Balota

No ke kānāwai i ‘āpono ‘ia ka po‘e ‘ōlelo Hawai‘i i ka mana koho balota, ua moepo‘o ‘ia, e ho‘opau i ia mana koho balota o nā kānaka Hawai‘i.¹¹³ Ho‘ouna ‘ia aku kekahi noi i ka ‘aha ‘ōlelo e ‘ae ‘ia ka pono koho balota i nā kānaka Hawai‘i ma ke ana waiwai mai ka \$600 a pi‘i aku a ka \$3,000, a ma ka waiwai pa‘a hihia ‘ole ho‘i.¹¹⁴ Ua hopohopo loa kekahi mau Hawai‘i i ka hiki mai o ka manawa e ho‘okō ‘ia ana ua makemake nei.¹¹⁵ ‘O ia makemake a ka po‘e ‘ōlelo Beretania e ho‘ouna a‘e ana kekahi ‘elele i loko o ka ‘Aha ‘Ōlelo Nui no ka ho‘opau ‘ana i nā hua‘ōlelo “a me ka ‘ōlelo Hawai‘i” ma kēlā Māhele 5, Paukū 60 o ke Kānāwai Panalā‘au o Hawai‘i nei, a koe wale nō nā hua‘ōlelo, “5. Hiki ke kama‘ilio me ka maopopo, heluhelu, a kākau i ka ‘ōlelo Beretania.”¹¹⁶

I nā kau ‘aha ‘ōlelo a i nā hana aupuni like ‘ole o ia manawa, ‘a‘ohe o kana mai ka ho‘oikaika e ho‘okō ‘ia ai ka makemake e ho‘olilo loa ‘ia aku ka ‘ōlelo Hawai‘i. I ka nūpepa, *Ke Aloha Aina*, ua mana‘o kekahi mea kākau kolamu i nā hopena pō‘ino i ‘ike ‘ia ma loko o ke kaiāulu Hawai‘i, ‘ōlelo ‘o ia “ua hiki mai no keia mau hemahema i na Hawaii o keia mau la, ma muli o ka hoohemahema o na poe e hana ana i na kanawai, ma ko kakou Ahaolelo kau kanawai i na makahiki lehulehu i aui aku la, a i oi loa aku hoi i ke kaa pono ana mai o ka hookele aupuni ana ia lakou ma nei.”¹¹⁷

¹¹¹ H. Journal, 2nd Terr. Leg., on H. B. No. 70 “An Act to provide the use of the English or Hawaiian language in the practice of the Circuit Courts of the Territory of Hawaii,” p. 275 (Haw. 1903). Ho‘okomo ‘ia maila kēia bila Hale e kekahi lālā ‘o ia ho‘i ‘o Kaniho. Holomua ua bila nei i nā heluhelu ‘ana he ‘ekolu ma ka Hale.

¹¹² S. Journal, 2nd Terr. Leg., on House Joint Resolution No. 3, p. 364 (Haw. 1903) (e noi aku ana ka ‘aha ‘ōlelo kūloko i ka ‘Aha ‘Ōlelo Nui e ho‘oponopono i ka Paukū 83 o ke Kānāwai ‘Okana ‘Āina e ‘āpono ai i ke kāne kupa ‘Amelika i piha iā ia he iwakālua kūmākahi makahiki a he ho‘omaopopo i ka ‘ōlelo Hawai‘i i hiki ke ho‘onoho ‘ia ma nā kiure o ka Teritori o Hawai‘i).

¹¹³ *Hoopau Ana i ka Mana Koho Balota o na Hawaii*, KUOKOA HOME RULA, Malaki 20, 1908; e nānā laulā i kā Williams, *supra* note 32, at 8-10 (e hō‘ike ‘ia ana ka ‘i‘ini o ka po‘e nāna i kā‘ili i ke aupuni mō‘ī o Lili‘uokalani e ho‘onele i nā Hawai‘i i ka mana koho balota). Penei kekahi mea kipi ‘o William Richards Castle,

The terms upon which the annexation shall be made, we are perfectly willing to leave to the United States Government to determine. There is one condition that we very much desire shall be contained in any agreement that may be determined upon, and that is that the right of suffrage shall be restricted. We want no universal suffrage on the islands. We don’t want a territorial government in which there shall be a Legislature elected by the votes of all the people.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Ma Kana Olelo Makuahine Wale No E Hoomaopopo Ia Ai Ke Ano Oia Lahui*, KE ALOHA AINA, Kepakemapa 25, 1915.

5. Ke Pa‘i Kānāwai

‘Oiai ma ke kānāwai, hō‘ole ‘ia ka ‘ōlelo Hawai‘i e kū mau i kona kūlana ma ka ho‘ona‘auao aupuni, ka hana ‘aha ‘ōlelo a me ka hana ‘aha ho‘okolokolo, eia na‘e, unuhi mau ‘ia nā kānāwai ma ka ‘ōlelo Hawai‘i a ho‘olaha ‘ia ma ka nūpepa ‘ōlelo Hawai‘i. I ka makahiki 1923, paipai ‘ia ka lehulehu e heluhelu mau i nā kānāwai ma ka ‘ōlelo Hawai‘i.¹¹⁸ Mana‘o maila kekahi mea kākau kolamu,

Ua pomaikai kakou na Hawaii, i ka aeia ana, ma ka olelo Hawaii kekahi e hoolahaia ai o na kanawai o ka ahaolelo, oiai nae, o ka olelo Beritania, ka olelo alakai ma Hawaii nei, ma na hana pili oihana. [*sic*] a pili kanawai apau; a oiai e hamama ana ka ipuka no na Hawaii, e heluhelu ai ma ka lakou olelo pono, i na kanawai, mai hoao kakou e hoowahawaha i keia pono nui; aka e olelo iho kakou, i ka laki, a me ka pomaikai, *o ka haawiia ana mai o keia pono nui, i loa ole i na lahui e ae.* (pāku‘i ‘ia ke ko‘iko‘i)¹¹⁹

Ma kahi o ‘umi makahiki ma hope o ke pa‘i ‘ana i kēia mana‘o, ho‘olaha ‘ia ma ka nūpepa ka ‘i‘ini o kekahi po‘e kau kānāwai e ho‘opau loa i ke pa‘i ‘ia ‘ana o nā kānāwai o ka ‘aha ‘ōlelo ma ka ‘ōlelo Hawai‘i.¹²⁰ ‘Ōlelo kekahi, “Eha makahiki i hala ae nei hookomoia ae he kanawai e hoopau loa ana i ka hoolahaia ana o na kanawai a ka ahaolelo kuloko e hoooho ai a i kakauinoia e ke kiaaina.”¹²¹

Wehewehe ‘o ia ala, “E hiki mai ana no ka wa e pau ai ka hoolaha ia ana o na kanawai o kakou ma ka olelo Hawaii, no ka mea ke emi loa aku nei ka nui o na kanaka Hawaii.”¹²² “[M]aopopo loa ka pau aku o ka hoolahaia ana o na kanawai o kakou ma ka olelo Hawaii, a e make loa pu aku ai me ka olelo makuahine o ka aina, a o ka hopena aku he ike oleia o ka Lahui Hawaii, no ka mea, i ikeia no ka lahui ma kana olelo a ina aole he olelo, aole no he lahui.”¹²³

IV. KAI EMI, KAI HO‘I, KAI EA

I ka makahiki 1978, ka wā o ka Moku‘āina o Hawai‘i, ua ‘i‘ini kekahi mau ‘elele haku kumukānāwai e ahona nō i ka ‘eha‘eha i kau ‘ia ma luna o ka Lāhui Hawai‘i.¹²⁴ ‘O ia ‘eha‘eha kekahi kumu i kau ‘ia ai nā ho‘ololi ‘ōlelo pāku‘i o ka

¹¹⁸ *E heluhelu I Na Kanawai Ahaolelo*, KA NUPEPA KUOKOA, Apelila 12, 1923.

¹¹⁹ *Id.* No nā makahiki lehulehu, ua unuhi ‘ia, pa‘i ‘ia, a laha ho‘i nā ‘ōlelo ho‘oholo ‘aha ho‘okolokolo i loko o nā nūpepa ‘ōlelo Hawai‘i. *Na olelo hoooho a ka Aha Kiekie*, KA NUPEPA KUOKOA, Nowemaba 3, 1877.

¹²⁰ *Ke Kanawai E Hopau I Ke Pa‘iia Ana*, *supra* note 42 (e ho‘omā‘ike‘ike ‘ia ana nā ho‘ā‘o mau ‘ana o kekahi po‘e kau kānāwai e ho‘opau i ka pa‘i ‘ana i nā kānāwai ma ka ‘ōlelo Hawai‘i i loko o ka nūpepa ‘ōlelo Hawai‘i. Hō‘ike ‘ia ho‘i ka po‘e kau kānāwai me ke kaiāulu i kū‘ē i ia bila ‘umi a pū‘ā‘ā i ka ‘ōlelo Hawai‘i); *Unfair To Hawaiians*, KA HOKU O HAWAII, Malaki 8, 1939 (ma ka ‘ōlelo Beretania, hō‘ike ‘ia kekahi mea kākau mana‘o e pili ana i ka ‘i‘ini o ke kākau ‘ōlelo Teritori e ho‘opau i ka pa‘i ‘ana i nā kānāwai ma ka ‘ōlelo Hawai‘i).

¹²¹ *I Ke Kanawai E Hopau I Ke Pa‘iia Ana*, *supra* note 42

¹²² *Id.*

¹²³ *Id.*

‘aha ‘elele haku kumukānāwai 1978 i pili i ka ‘ōlelo Hawai‘i.¹²⁵ Ua ‘āpono ‘ia ‘elua paukū no ka ‘ōlelo Hawai‘i, ‘o ia ho‘i ka Paukū X, Māhele 4 no ke a‘o kula a me ka Paukū XV, Māhele 4 no nā ‘ōlelo pili ‘oihana.¹²⁶

A. *Paukū XV, Māhele 4*

*English and Hawaiian shall be the official languages of Hawai‘i, except that Hawaiian shall be required for public acts and transactions only as provided by law.*¹²⁷

‘O ka ‘ōlelo Beretania a me ka ‘ōlelo Hawai‘i nā ‘ōlelo pili ‘oihana o Hawai‘i, eia nō na‘e e koi ‘ia ka ‘ōlelo Hawai‘i ma nā ‘oihana kaiāulu a me nā hana kālepa ma nā ‘oihana ma muli o ka ho‘oholo ‘ia ‘ana e ka ‘aha ‘ōlelo.

I ka mo‘olelo o ka ‘aha kumukānāwai, wehewehe nā ‘elele i ke kumu o ka ho‘okomo ‘ana i ka ‘ōlelo pāku‘i no ka ‘ōlelo Hawai‘i. Wahi a lākou, i kēlā manawa, ‘a‘ole paha e loa‘a i ke aupuni nā mea a pau e pono ai ka unuhi a me ka māhele ‘ōlelo Hawai‘i.¹²⁸ ‘Ōlelo lākou e aho paha nā lālā o ka ‘aha ‘ōlelo e ho‘oholo i kēlā mea a me kēia mea kūpono no ka ho‘ohana ‘ana i ka ‘ōlelo Hawai‘i ma ke aupuni. Aia, i ka ‘aha ‘ōlelo ka mana a me ke kuleana e ‘ōlelo kuhikuhi ai i ka ho‘ohana ‘ana i ka ‘ōlelo Hawai‘i ma ka hana aupuni. I nā kānāwai o ka Moku‘āina ‘o Hawai‘i, kau ‘ia a ho‘āpono hou ‘ia ho‘i kēia ‘ōlelo

¹²⁴ HAW. AFF. COMM., STAND. COMM. REP. NO. 57, *pa‘i hou ‘ia i 1* Proceedings of the Constitutional Convention of 1978 at 638 (Haw. 1980) (“*Your committee wanted to overcome certain insults of the past where the speaking of Hawaiian was forbidden in the public school system, and of today where Hawaiian is listed as a foreign language in the language department at the University of Hawaii*”).

¹²⁵ *Id.*

¹²⁶ HAW. CONST. art. X, §4; HAW. CONST. art. XV, § 4. Paio mana‘o kekahi loea ‘ike kānāwai no ka ho‘ākea ‘ana i ka malu o ka paukū XII, § 7. Wahi āna, ma ia paukū, ‘ae pū ‘ia mai ka ho‘opuka ‘ōlelo Hawai‘i, ‘o ia he “hana maoli” nō ia ma lalo o ke kānāwai. I kēia manawa, ‘a‘ole na‘e i ho‘āpono kekahi ‘aha ho‘okolokolo i ka ho‘ohana ‘ia ‘ana o ka paukū XII, māhele 7 ma ke ‘ano he pono ‘ōlelo Hawai‘i. Ma *Clarabal*, ua hō‘ike ‘ia aku kēia nīnau i mua o ka ‘aha ka‘apuni a me ka ‘aha ki‘eki‘e. Hō‘ole ka ‘aha ka‘apuni i ka ho‘ākea ‘ana i ia paukū kumukānāwai. Wahi a ia ‘aha, no ka ‘ohi‘ohi ‘ana i kēlā me kēia mea o ka ‘āina a ‘a‘ole ia no ka mālama ‘ana i nā kula aupuni ma ka ‘ōlelo Hawai‘i. Ma ka ‘aha ki‘ekie, ua ho‘oholo ‘ia ia hihia me ka ‘ole o ka pane ‘ana o nā lunaki‘eki‘e i ia nīnau. No nā ‘ōlelo ho‘oholo nui o ka ‘aha ho‘okolokolo i ‘āpono ‘ē ‘ia ai e nānā laulā i kā David M. Forman lāua ‘o Susan K. Serrano, *Ho‘ohana Aku, a Ho‘ōla Aku: A Legal Primer for Traditional and Customary Rights in Hawai‘i* (2012).

¹²⁷ HAW. CONST. art. XV, § 4.

¹²⁸ Proceedings of the Constitutional Convention of 1978, *supra* note 124, at 638. “*However, your committee was cognizant of certain practical problems that might exist if Hawaiian was declared an official language without any proviso. The committee feared that all official acts and transactions might have to be in Hawaiian, such as statutes, proceedings of the legislature and judicial decisions. At this point in history, it might be too expensive and impractical to require both languages in these situations. The committee decided that it would be more sensible to delegate discretion to the legislature in determining the appropriate documents and acts to be in both languages.*” *Id.*

kauoha o ke kumukānāwai ma ke kānāwai §1-13.¹²⁹ ‘Ae kēia paukū kānāwai i ka ho‘okomo ‘ia ‘ana mai o ka ‘okina a me ke kahakō akā ‘a‘ole i koi ‘ia kēia mau mea a ‘a‘ole ho‘i koi ‘ia ka pela like ‘ana i nā hua‘ōlelo Hawai‘i ma ke ‘ano ho‘okahi wale nō. ‘O ka hopena, ho‘okomo kekahi mau ke‘ena aupuni i ia mau māka, ho‘okomo ‘ole kekahi, a ho‘okomo hemahema ho‘i kekahi.

Eia kākou ma kahi o nā makahiki he kanahā i ka‘ahope aku nei, mau nō ka ho‘oka‘ulua ‘ana o ka po‘e koho balota ‘ia i ka hana kīkīko‘ele i nā kānāwai e ho‘iho‘i hou mai i ka ‘ōlelo Hawai‘i ma ka hana pili ‘oihana e like me ke ‘ano mālama i no‘ono‘o ‘ia a i ho‘okumu ‘ia e ka po‘e ‘elele haku kumukānāwai. Ku‘ia pinepine ke kaiāulu ‘ōlelo Hawai‘i i kēia kōā ma loko o nā lawelawe aupuni ‘ōlelo Hawai‘i.¹³⁰

1. “*Defendant not present*”¹³¹

I ka mahina ‘o Ianuari, i ka makahiki 2018, ua ho‘opa‘i ‘ia kekahi mea pale ‘ōlelo Hawai‘i ma ka ‘aha ho‘okolokolo no kona ‘ōlelo Hawai‘i ‘ana.¹³² Aia ia hihia ma kekahi lumi ho‘okolokolo i Maui. Ua hopu ‘ia ka mea pale i kona kūpa‘a ‘ana i ke alanui i mea e ho‘opau ai i ka hana ma luna o ka mauna ‘o Haleakalā.¹³³ I nā mahina ma mua o ka ho‘olohe ‘ana o ka ‘aha ho‘okolokolo i kēia hihia, ‘o ia ka wā i noi aku ai ka mea pale i māhele ‘ōlelo.¹³⁴ ‘Oiai ua ‘ae mua ka ‘aha i ke noi a ka mea pale, ua noi pū ho‘i ka loio ho‘opi‘i o ka moku‘āina e mālama i ua hihia nei ma ka ‘ōlelo Beretania.¹³⁵ Ma ke noi a ka loio ho‘opi‘i o ka

¹²⁹ HAW. REV. STAT. § 1-13 (2019).

¹³⁰ ‘O ka nele o nā mea unuhi a māhele ‘ōlelo Hawai‘i mākaukau ma ia hana aupuni kekahi kumu e pilikia mau ana ka po‘e ‘ōlelo Hawai‘i. *E nānā i kā* Colleen Uechi, *Courts: Finding Hawaiian interpreters a ‘challenge* (Oka. 17, 2018), <https://www.mauinews.com/news/local-news/2018/10/courts-finding-hawaiian-interpreters-a-challenge/> (e ho‘olaha ‘ia mai ana ka pilikia o kekahi wahine i nonoi pinepine i māhele ‘ōlelo. ‘A‘ohe māhele ‘ōlelo ke hele i ka ho‘opa‘a manawa o kona hihia a no laila ua ho‘oka‘ulua ‘ia ka hihia.).

¹³¹ Aia kēia ‘ōlelo o ka hele ‘ole ‘ana mai o ka mea pale ma nā minute o ka ‘aha ho‘okolokolo. *Hawai‘i v. Kaeo*, No. 2DCW-17-0002038, Docket 1/24/18 (Dist. Ct. 2d Cir. Ct. Wailuku Div., Haw.).

¹³² *Id.* Hele ‘o Samuel Kaeo i ka ‘aha ho‘okolokolo no ka hopu ‘ia ‘ana ona e ka māka‘i i ke kū ‘ana ma nā alalua Kula Highway a me ke alalua Old Haleakalā Highway i ke ke‘ake‘a ‘ana i kekahi kūka‘awe nui e halihali ana i nā lako like ‘ole e pono ai ke kūkulu ‘ana i ‘ohe nānā ma luna o ka wēkiu o Haleakalā. Lila Fujimoto, *Use of Hawaiian in court leads to warrant*, The Maui News, (Jan. 25, 2018).

¹³³ *6 arrested in protests over construction of telescope atop Haleakala*, Hawaii News Now (Auk. 10, 2017, 3:38 AM) <https://www.hawaiinewsnow.com/story/36022915/officials-gear-up-for-potential-protests-ahead-of-telescope-construction-atop-haleakala/>.

¹³⁴ *Hawai‘i v. Kaeo*, No. 2DCW-17-0002038, Docket 09/28/2017 (Dist. Ct. 2d Cir. Ct. Wailuku Div., Haw.); *e nānā i ka la‘ana* Fujimoto, *supra* note 132; Timothy Hurley, *Maui judge issues arrest warrant over refusal to speak English*, Jan. 24, 2018.

¹³⁵ Mot. to Conduct Proceedings in English, *Hawai‘i v. Kaeo*, No. 2DCW-17-0002038 (Dist. Ct. 2d Cir. Ct. Wailuku Div., Haw.) [ma hope iho, Mot. to Conduct Proceedings in English]. ‘O ka hihia ‘o *Tagupa v. Odo* ke kahua o ka loio ho‘opi‘i i kūkulu a‘e ai i kona mana‘o paio e ho‘okele i nā mo‘olelo o ka ‘aha ho‘okolokolo ma ka ‘ōlelo Beretania. *Id.*; *e nānā iā*

mokua‘āina, paio mana‘o ‘ia ‘ehā kumu no ka lawelawe ‘ana i ka hihia ma ka ‘ōlelo Beretania.¹³⁶ Penei kekahi o nā kumu: ‘Oiai, ‘āpono ‘ia ma ke kumukānāwai moku‘āina, he ‘ōlelo pili ‘oihana ka ‘ōlelo Hawai‘i, no ka ‘aha ‘ōlelo ke kuleana a me ka mana e ho‘okumu ai i ke alaha e ho‘okō ai nā ‘oihana aupuni i kēia kūlana.¹³⁷ Paio ho‘i ka loio ho‘opi‘i o ka moku‘āina, e ho‘opupū wale ‘ia ana ka hana o kēia ‘aha ho‘okolokolo, ke ‘ae i ke noi māhele ‘ōlelo Hawai‘i.¹³⁸ Wahi a ua loio lā, ma muli o ko ka mea pale poeko i ka ‘ōlelo Beretania, he ho‘opohō wale ka uku mau ‘ana o ka ‘aha ho‘okolokolo i ke kumu kū‘ai o kekahi māhele ‘ōlelo.¹³⁹ ‘Āpono ka lunakānāwai i ke noi a ka moku‘āina a kauoha ‘o ia i ka mea pale e ‘ōlelo Beretania.¹⁴⁰ Kūpa‘a nō na‘e ua mea pale nei i ka ‘ōlelo Hawai‘i. ‘Ōlelo kauoha ka lunakānāwai i palapala ki‘i no ia mea pale ma muli o ka hiki ‘ole o ka ‘aha ke ‘āpono i kona hele ‘ana.¹⁴¹ Ho‘omeamea ka lunakānāwai a me ka po‘e limahana o ka lumi ho‘okolokolo i ka ‘ike ‘ole i ka hele kino mai o ka mea pale i mua o ka ‘aha.

Mai Hawai‘i a i Ni‘ihau, ha‘ilono ‘ia kēia hana ma ka ‘aha ho‘okolokolo o Maui. ‘A‘ole i ‘emo a hikilele ka na‘au o ke kaiāulu ‘ōlelo Hawai‘i ka lohe i kēia kinai ‘ana i kēia pono ‘ōlelo Hawai‘i. Ua lilo ia ho‘opuka ‘ana i mea nāna e hakuko‘i ke kaiāulu e like me nā ‘ale i hakuko‘i a kūpikipiki‘ō nā wai hālana

Tagupa v. Odo, 843 F.Supp. 630 (1994). I ka makahiki 1994, ua hō‘ole ‘ia kekahi mea ho‘opi‘i i kona ‘i‘ini e ‘ōlelo Hawai‘i ma ka mo‘opane. *Tagupa*, 843 F.Supp. at 632-33. Ma kēlā hihia, ua ho‘oholo iho ka mana‘o o ka lunakānāwai, ‘a‘ole i ho‘omākaukau ‘ia nā pono ‘ōlelo Hawai‘i ma lalo o ka Paukū XV, Māhele 4 o ke kumukānāwai moku‘āina. *Id.* Ma muli o ke o‘a kānāwai ‘ole a me nā hihia mua no nā pono ‘ōlelo Hawai‘i ma kānāwai ka moku‘āina, kauoha ‘ia ka mea ho‘opi‘i e ‘ōlelo Beretania ma nā mo‘olelo o ka ‘aha. ‘Oiai he hihia ‘o *Tagupa* i loko o ka ‘aha ho‘okolokolo federala, ua ho‘ohana ‘ia i loko o ka ‘aha ho‘okolokolo moku‘āina i mea e hō‘ole ‘ia ai ka ho‘opuka ‘ia ‘ana o ka ‘ōlelo Hawai‘i.

¹³⁶ Mot. to Conduct Proceedings in English, *supra* note 135, at 3-8.

¹³⁷ *Id.* at 3-5.

¹³⁸ *Id.* at 7.

¹³⁹ *Id.*

¹⁴⁰ State v. Kaeo, No. 2DCW-17-0002038, Docket (Dist. Ct. 2d Cir. Ct. Wailuku Div., Haw.). *E nānā ho‘i i kā Fujimoto*, *supra* note 132.

¹⁴¹ *Id.*

mālie o nā moana wai a me nā moana hohonu.¹⁴² Ua ‘ī mai ke po‘o, ka pouhana o Ke Ke‘ena o Nā Kuleana Hawai‘i (“OHA”) o ia manawa,

*Punishing Native Hawaiians for speaking our native language invokes a disturbing era in Hawai‘i’s history when ‘Olelo Hawai‘i [sic] was prohibited in schools, a form of cultural suppression that substantially contributed to the near extinction of the Hawaiian language.*¹⁴³

He wā ‘eha‘eha ka wā i pāpā ‘ia ai ka ‘ōlelo Hawai‘i ma nā kula aupuni a ua ho‘opa‘i ‘ino ‘ia ko kākou mau kūpuna ke ‘ōlelo lākou i kā lākou ‘ōlelo makuahine. He hana kinai mo‘omeheu ia a mai make loa ka ‘ōlelo Hawai‘i.

Ma muli o ka hō‘ike uluhua a ke kaiāulu, ua kāpae ‘ia ka palapala ki‘i. Ho‘olaha ‘ia ho‘i, e ho‘ololi mai ana ka ‘Aha Ho‘okolokolo i ko lākou kulekele no ka māhele a unuhi ‘ōlelo Hawai‘i.¹⁴⁴ E like me ke kūpono, e ‘ae a e hai mai ke Ke‘ena Ho‘okolokolo i ka po‘e māhele ‘ōlelo Hawai‘i no nā mo‘olelo ho‘okolokolo ke noi kekahi ‘ao‘ao e ho‘opuka i ka ‘ōlelo Hawai‘i.¹⁴⁵ ‘O ka mea ‘ino loa i ‘ike ‘ia ma muli o kēia hihia, ‘o ia nō ke kinai hou ‘ia ‘ana o ka ‘ōlelo Hawai‘i a me ke kau hou ‘ana i ka pō‘ino i luna o ke kanaka. E like me ka mana‘o o ka pouhana o OHA, ua like kēia pō‘ino me ka hana a ka po‘e i pāniki i nā kūpuna i ka wā ma mua.

¹⁴² *E nānā i ka la‘ana* Chelsea Davis, *State says it will provide Hawaiian interpreters in courts to those who request them*, HAWAII NEWS NOW, (Auk. 14, 2018, 4:25 AM) <https://www.hawaiinewsnow.com/story/37344278/state-says-it-will-provide-hawaiian-interpreters-in-courts-to-those-who-request-them/>; Moanike‘ala Nabarro, *Arrest warrant recalled for man who refused to address Maui judge in English*, KITV (Jan. 25, 2018, 7:45 PM), <https://www.kitv.com/story/37344220/arrest-warrant-recalled-for-man-who-refused-to-address-maui-judge-in-english>. “*Protestors in favor of Kaeo filled the court’s hallways and exterior with signs and songs. Keiki who attend Hawaiian language immersion program Punana Leo lined the hallways, as well. Some of the children’s parents who were there were in shock.*” *Id.* Ua hō‘ike ‘ia ho‘i ka mana‘o o ka loio Eric Seitz, he loea ‘o ia no ka pono kiwila. ‘Olelo ‘o ia ala penei: “*There’s absolutely no reason I can think of that the judge should not have allowed that. I just think that it sets a terrible toll and sets a terrible precedent for a representative of the judiciary to tell a Hawaiian speaker that you can’t speak in your language.*” *Id.*

No ka mana‘o ho‘okūkū, e nānā i kā KAMAKAU, *supra* note 50, at 291.

¹⁴³ Nabarro, *supra* note 142.

‘Ike ‘ia ma ke po‘omana‘o o kēia ho‘olaha nūhou ka “*framing*” e ho‘okau ‘ia ana ka ‘ōlelo Beretania ma ka piko. Me he mea lā ‘a‘ole e koi ‘ia ana ka mea pale e ‘ī mai ma ka ‘ōlelo Beretania e like me hana a ka po‘e i ho‘opa‘i i nā kūpuna i ko lākou ho‘opuka ‘ana i ka ‘ōlelo Hawai‘i ma ke kula. E hō‘ike mai ana, na ka mea pale ka hewa i kona ho‘ōle ‘ana e ‘ōlelo Beretania.

¹⁴⁴ *Id.*

¹⁴⁵ “*The judiciary will provide or permit qualified Hawaiian language interpreters to the extent reasonably possible when parties in courtroom proceedings choose to express themselves through the Hawaiian language.*” Hawai‘i State Judiciary, *Judiciary Announces Hawaiian Language Interpreter Policy*, Jan. 26, 2018.

D. *Paukū X, Māhele 4*

I ka wā ma hope o ka pāpā ‘ia ‘ana o ka ‘ōlelo Hawai‘i i nā kula aupuni, ho‘olaha mana‘o kekahi mea kākau i ka nalohia o ka ‘ōlelo a me ka hopena o ia kāmāwai: “Ua maopopo loa mamuli o ka hoopauia ana o na kula aupuni olelo Hawaii, ua hoopau maoli ia na poo-wai nui e loa mai ai na auwai o ka ike ma ia olelo i na opio o Hawaii nei.”¹⁴⁶ E hō‘ike mai ana ua mea kākau nei i ke ko‘iko‘i o ka ho‘ona‘auao ‘ia ‘ana o nā keiki Hawai‘i ma kā lākou ‘ōlelo makua.

No kēia ho‘omaopopo pono ‘ana, ua ho‘olale, ho‘oikaika, a paipai nō ho‘i ka po‘e ‘ōlelo Hawai‘i e ho‘okomo a ‘āpono i nā bila kāmāwai no ke kūkulu a a‘o hou i ka ‘ōlelo Hawai‘i ma ke kula aupuni. Penei kekahi paipai a William Jarrett Sheldon, Esq.,

E na Hawaii oiwi o ka ahaolelo o keia kau ae e hoea mai e hoomanao no oukou a no kakou apau. . . . I ka wa o ka oukou hana e hiki mai ana ke noi nei au ia oukou pakahi a ia oukou huiia e hana aku a e lawelawe naauao aku me ka hooholo loa ana i ka bila kanawai a ka mea e kakau nei i hooikaika ai no na kau ekolu e lilo i kanawai: “E a’oia ka kakou olelo kupuna iloko o na kula o Hawaii Teritore.”¹⁴⁷

I ia wā Teritori, “[h]e pinepine na manawa i hapai ia mai ai kekahi kanawai iloko o ko kakou mau hale ahaolelo o na wa i hala no ka pono e a’o ia na hanauna Hawaii hou i ka lakou olelo pono, o ka hopena nae o ia mea, ua umiapuaa ia a make me ke kaakaa aku no o na maka o ka lahui Hawaii.”¹⁴⁸

Ma ka ‘aha ‘elele haku kāmāwai 1978, ua kau ‘ia he paukū no ka polokalama ho‘ona‘auao Hawai‘i o ka Moku‘āina Hawai‘i. Penei ka Paukū X, Māhele 4 o ke Kumukāmāwai Hawai‘i,

The State shall promote the study of Hawaiian culture, history and language.

*The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.*¹⁴⁹

E paipai ka Moku‘āina i ke a‘o ‘ia ‘ana aku o ka mo‘omeheu Hawai‘i, ka mo‘olelo Hawai‘i, a me ka ‘ōlelo Hawai‘i.

E ho‘okumu ka Moku‘āina i papahana ho‘ona‘auao Hawai‘i i ho‘okomo pū ‘ia ai ka ‘ōlelo, ka mo‘omeheu, a me ka mo‘olelo i nā kula aupuni. E paipai ‘ia ka loea o ke kaiāulu e kāko‘o mai ma ke ‘ano he kūpono a he ko‘iko‘i i ka ho‘omau ‘ia ‘ana o ka papahana ho‘ona‘auao Hawai‘i.

¹⁴⁶ *Mai Haalele i Kau Olelo Makuahine*, KA NAI AUPUNI, Ianuali 4, 1906.

¹⁴⁷ Sheldon, *supra* note 31.

¹⁴⁸ Kamakaia, *supra* note 43; *e nānā i ka la‘ana Ka Olelo Hawaii*, KA NUPEPA KUOKOA, Pepeluali 15, 1901.

¹⁴⁹ HAW. CONST. art. X, § 4.

I nā makahiki ma hope o kēia kau kānāwai ‘ana, ua ho‘omākaukau ‘ia a‘ela ke o‘a kānāwai, §302H i mea e ho‘okō ‘ia mai ai ke kauoha o ia paukū kumukānāwai. Ma lalo o ke kānāwai §302H, ‘āpono ‘ia nā kula aupuni ‘ōlelo Hawai‘i.¹⁵⁰ Hiki ke ho‘okumu ‘ia ka papahana kaiapuni ma ke ‘ano he papahana ho‘ona‘auao holo‘oko‘a, ‘o ia nō he papahana i a‘o ‘ia mai ai nā haumāna ma ka ‘ōlelo Hawai‘i.¹⁵¹ Ma kēia ‘ano ‘ōlelo ‘ōlewa, e hāmama ana ka ‘īpuka e ho‘okumu ‘ole ai ka Moku‘āina i kēia ‘ano kula inā e ho‘oholo ‘ia, ‘a‘ohe loa‘a ka waihona kālā e pono ai kēia ‘ano kula.¹⁵² Eia na‘e, ua ho‘okumu ‘ia nā Papahana Kaiapuni ma lalo o ke Ke‘ena Ho‘ona‘auao o ka Moku‘āina.¹⁵³ Mai kinohi mai o ka ho‘onoho ‘ia ‘ana, pilikia ka Papahana Kula Kaiapuni i ka nele i ka lawa ‘ole o ke kālā a me nā lako kula e pono ai ka holo maika‘i o ke a‘o kula.¹⁵⁴ ‘Oiai kaukoe mau ka papahana i ka hana, i kēia wā ‘o ka huina helu o ka po‘e kumu ‘ōlelo Hawai‘i ka pilikia ‘oi loa.¹⁵⁵ ‘O ka nele i ke kumu ‘ōlelo Hawai‘i ‘ole ka pilikia i ‘ike mau ‘ia e ke kaiāulu ma Lāna‘i i ko lākou noi ‘ana i ka Moku‘āina e ho‘okumu i Papahana Kaiapuni ma laila.¹⁵⁶

¹⁵⁰ HAW. REV. STAT. § 302H-1 (2019). ‘Oiai aia ma waho o ke po‘omana‘o o kēia ‘atikala ka mo‘olelo holo‘oko‘a o ka ho‘okumu ‘ana i nā kula kaiapuni ‘ōlelo Hawai‘i, he ko‘iko‘i na‘e ke kuhikuhī ‘ana, ua ‘āpu‘epu‘e mau nā kākāka paipai ‘ōlelo Hawai‘i o ia manawa i ke kānāwai ‘ole a me kekahi kākā‘o ‘ole mai ka Moku‘āina. ‘A‘ole ‘ae wale a kōkua mai ka Moku‘āina i kēia ‘ano kula a ua ho‘oikaika nui ia po‘e paipai ‘ōlelo Hawai‘i i ka ho‘okumu kula. No nā mea kiko‘ī e pili ana i ka mo‘olelo o ka ho‘okumu hou ‘ana i nā kula aupuni ‘ōlelo Hawai‘i e nānā i ka la‘ana i kā Walk, *supra* note 33 at 250-52.

¹⁵¹ HAW. REV. STAT. § 302H-1. “*The Hawaiian language medium education program may be established as a complete educational program or schooling experience provided to students in the medium of the Hawaiian language.*” (pāku‘i ‘ia ke ko‘iko‘i).

¹⁵² *E nānā id.*

¹⁵³ *E nānā laulā* i Hawaii State Department of Education, Hawaiian Education <http://www.hawaiipublicschools.org/TeachingAndLearning/StudentLearning/HawaiianEducation/Pages/home.aspx> (ua kipa iho nei ma Dek. 28, 2019).

¹⁵⁴ No ka mo‘olelo piha o ka ho‘ona‘auao ‘ana i Hawai‘i mai ka noho ali‘i ‘ana o Kauikeaouli a i kēia mau lā, e nānā i kā Souza & Walk, *supra* note 76, at 1276-79; e nānā ho‘i i kā Nu‘uhiwa, *supra* note 9, at 418 (ua mo‘olelo ka mea kākā no nā kānāwai a me nā kulekele ho‘ona‘auao i kaulike ‘ole ke a‘o ‘ana ma o ka ‘ōlelo Hawai‘i me ke a‘o ‘ana ma o ka ‘ōlelo Beretania. Hō‘ike ho‘i ‘o ia ala i ke ‘ano o ka papahana kaiapuni, he “*pilot project*” ho‘i a ma muli o ia kūlana pa‘a ‘ole, ‘a‘ole i ho‘oka‘awale kūpono ‘ia nā ha‘awina kālā e ka Moku‘āina); L. Kaipoleimanu Ka‘awaloa, *Translation v. Tradition: Fighting for Equal Standardized Testing ma ka ‘Ōlelo Hawa‘i*, 36 U. HAW. L. REV. 487 (2014) (e hō‘ike ‘ia mai ana ke kaulike ‘ole o ka hō‘ike koina i kauoha ‘ia e ke kānāwai federala, *No Child Left Behind*).

¹⁵⁵ *Teacher shortage crisis forces principals to hire Hawaiian immersion teachers who don’t speak Hawaiian*, HAWAII‘I STATE TEACHERS ASSOCIATION, (Now. 14, 2019) <https://www.hsta.org/News/Recent-Stories/teacher-shortage-crisis-forces-principals-to-hire-hawaiian-immersion-teachers-who-dont-speak-hawaiian>.

¹⁵⁶ Plaintiff’s Opening Brief at 6-8, *Clarabal v. Dep’t of Educ. of the State of Hawai‘i*, SCAP-16-0000475 (Haw. Ct. App. 2016).

1. Ho‘opa‘apa‘a ‘ia ka Mana‘o “Papahana Kaiapuni”

E like me ka mana‘o i hō‘ike ‘ia ma ka mokuna ‘elua, he kahua ka ‘ōlelo Hawai‘i e mālama ‘ia mai ai ke kuana‘ike o ke kanaka. Mai kēia kahua mai, ua ‘i‘ini maoli ‘o Chelsea-Marie Kealohalani Clarabal e a‘o ‘ia mai kāna mau kaikamāhine ma ka ‘ōlelo a ko lāua mau kūpuna, ‘o ia nō ka ‘ōlelo Hawai‘i.¹⁵⁷ No kēia kumu kalalea a ko‘iko‘i, ho‘okomo ‘ia nā kaikamāhine ‘elua āna i ka Papahana Kaiapuni ma Maui.¹⁵⁸ No laila, i ko ka ‘ohana Clarabal ne‘e ‘ana aku i Lāna‘i, mākaukau ua mau kaikamāhine lā i ka ‘ōlelo, heluhelu, kākau, a ho‘omaopopo i ka ‘ōlelo Hawai‘i.¹⁵⁹ ‘A‘ole lāua mākaukau ma ka ‘ōlelo Beretania i ia wā.¹⁶⁰

‘O ka mākaukau ‘ole i ka ‘ōlelo Beretania ka mea i pilikia ai ka ‘ohana Clarabal mai kinohi mai o ka makahiki kula 2013-2014.¹⁶¹ Hele a ‘āpu‘epu‘e iho nō nā kaikamāhine i ka ha‘awina Beretania.¹⁶² ‘O ka mea mua i ho‘ohalahala ‘ia, ua nuku ‘ia kekahi o lāua i kona kākau ‘ana aku ma ka ‘ōlelo Hawai‘i i ka ha‘awina.¹⁶³ Eia kekahi, kāohi ‘ia a ho‘olale ‘ia ke kaikamahine a‘e o lāua e ho‘i hou paha i ke kula kamali‘i.¹⁶⁴ I ka makahiki kula 2014-2015, ho‘okomo ‘ia ia mau kaikamāhine i loko o nā papa me nā kumu hana kūikawā.¹⁶⁵ Na ka hope po‘okumu a me kekahi kumu pani hakahaka i a‘o aku i nā papa a lāua.¹⁶⁶

Ma muli o ke kākō‘o kāwala a me ka hehikū i helu papa ‘ia ma luna iho nei, ‘oni akula ‘o Clarabal ma ka ‘aha ho‘okoloko i ka pono ‘ōlelo.¹⁶⁷ I ka makahiki 2014, ua ho‘okomo ‘o Clarabal i ka ho‘opi‘i i loko o ka ‘Aha Ho‘okolokolo Ka‘apuni o ka ‘Āpana Ka‘apuni ‘Ekahi no kona pono ‘ōlelo a me nā pono ‘ōlelo o kāna mau kaikamāhine.¹⁶⁸ He kū‘ē ia ho‘opi‘i i ka ‘Oihana Ho‘ona‘auao, a me nā lālā o ka Papa ma ko lākou ‘ano kūlana pili aupuni.¹⁶⁹ I

¹⁵⁷ *E nānā iā Clarabal v. Dep’t of Educ.*, 446 P.3d 986, 994 (2019) (“*Because Clarabal viewed it as fundamental to her cultural identity that her daughters learn their ancestors’ language, the two daughters had been enrolled in the Kaiapuni Educational Program at Pā‘ia Elementary School on the island of Maui prior to moving to Lāna‘i.*”).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.* Wahi a ke kumu ho‘opi‘i a Clarabal, ua noi aku ke po‘okumu kūikawā iā Clarabal a me kāna kaikamahine e hālāwai pū paha me ke kauka o ka waihona no‘ono‘o, ‘o ia ho‘i he “*psychologist*”. *E nānā ho‘i i kā Plaintiff’s Opening Brief, supra* note 156, at 2.

¹⁶⁴ Plaintiff’s Opening Brief, *supra* note 156, at 2.

¹⁶⁵ *Clarabal*, 446 P.3d at 994.

¹⁶⁶ *Id.*

¹⁶⁷ *E nānā id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

loko o kā Clarabal kumu ho‘opi‘i, noi akula ‘o ia i ka ‘Aha Ho‘okolokolo e ho‘oholo i ke kāmāwai, ua ho‘okō ‘ole ka ‘Oihana Ho‘ona‘auao i ko lākou kuleana ma lalo o ke Kumukāmāwai Hawai‘i a ‘o ka ‘a‘e ihola nō ia ma luna o ko lākou pono ‘ōlelo.¹⁷⁰ ‘O ka helu ‘elua o kāna kumu ho‘opi‘i, ua ho‘āhewa ‘o Clarabal, ‘o ko ka Moku‘āina ho‘okumu ‘ole i Papahana Kaiapuni ma Lāna‘i he hō‘alo ia i ko lākou kuleana i ho‘omākaukau ‘ia ma ke kāmāwai, paukū X, māhele 4 o ke Kumukāmāwai Hawai‘i.¹⁷¹

I ka mahina ‘o Pepeluāli, makahiki 2016, lawe ka Moku‘āina i ke noi e ho‘oholo koke ia hihia i mua o ka ‘aha ka‘apuni. Mana‘o ka Moku‘āina, ua ho‘okō nō na‘e lākou i ko lākou kuleana ma lalo o ke kāmāwai.¹⁷² No kā Clarabal kumu ho‘opi‘i helu ‘elua, paio mana‘o ka Moku‘āina, ma ka hi‘ohi‘ona o ka paukū X, māhele 4, ‘a‘ole kīko‘o ka malu i ko ke kanaka kuleana pono‘ī.¹⁷³ I ka mana‘o o ka Moku‘āina, ua kau ‘ia kēia kāmāwai e ka po‘e ‘elele i mea e mālama ai a e ho‘omau ai i ka ‘ōlelo Hawai‘i a pokepoke ‘ia a laha ma o ka ha‘awina ma‘amau o nā kula aupuni.¹⁷⁴ Ua hana ka Moku‘āina a kō iki kekahi hapa o nā koina kumukāmāwai.¹⁷⁵ Eia na‘e, ma lalo o ka paukū X, māhele 4 o ke Kumukāmāwai Hawai‘i, i ka Moku‘āina ke kuleana a me ka mana e ho‘onoho a e ho‘oka‘awale ana i ka ha‘awina kālā a me nā mea a pau e pono ai ka holo pono ‘ana o ka ‘ōlelo Hawai‘i i ka hana a ke aupuni.¹⁷⁶

Ma hope o ka paio ‘ōlelo o nā ‘ao‘ao ‘elua, ‘āpono akula ka ‘aha ho‘okolokolo ka‘apuni i ke noi a ka Moku‘āina i ho‘oholo koke ai. Ua hō‘ole ‘ia kā Clarabal noi e ka ‘aha.¹⁷⁷ No ka helu ‘elua o ke kumu ho‘opi‘i a Clarabal, ho‘oholo ‘ia, ‘a‘ole i ho‘āmana ‘ia aku he pono kumukāmāwai i kēia mea he Papahana Kaiapuni e ka paukū X, māhele 4.¹⁷⁸ Ua ho‘oholo ho‘i ka lunakāmāwai, ma o ka mo‘olelo o ka ‘aha ‘elele haku kāmāwai o ka makahiki 1978, ‘ike le‘a ‘ia, ‘o ka papahana ho‘ona‘auao Hawai‘i ka mea i koi ‘ia ma lalo o ke kāmāwai.¹⁷⁹ No laila, i ka mana‘o o ia ‘aha ho‘okolokolo, lawa nō ka hana ho‘ona‘auao o ke kula ‘o Lāna‘i, lawa ho‘i ka ho‘ā‘o o ka Moku‘āina e ho‘okumu i papahana ‘ōlelo Hawai‘i ma ia kula.¹⁸⁰ I ka mana‘o o ka ‘aha ho‘okolokolo, ma o ia hana a ho‘ā‘o ‘ana paha i ho‘okō kumukāmāwai ai ka Moku‘āina.¹⁸¹ I ka wā kūpono ma hope o

¹⁷⁰ *Id.*

¹⁷¹ *Id.* at 994-95.

¹⁷² *E nānā id.* at 995.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at 996.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

ke kūkala ‘ia ‘ana o ka ‘ōlelo ho‘oholo o ia ‘aha ha‘aha‘a, ua noi ‘ia aku ka ‘Aha Ho‘oki‘eki‘e e kau‘eli‘eli a ho‘okolokolo hou i ka ‘ōlelo ho‘oholo o ka ‘aha ka‘apuni.¹⁸²

2. Ho‘okahe hou ‘ia nā po‘owai nui

*The State’s position--that any exposure to Hawaiian language, history, and culture is sufficient to satisfy its constitutional obligations, and that the specific manner of exposure is left to the State’s discretion--is fundamentally incompatible with the framers’ intention. (Emphasis added)*¹⁸³

‘O ke ke‘ehina o ka Moku‘āina--lawa wale iho nō ka lihi hō‘ike i ka ‘ōlelo, ka mo‘olelo, a i ka mo‘omeheu Hawai‘i i mea e ho‘okō ‘ia ai kona kuleana ma lalo o ke kumukānāwai, aia i ka Moku‘āina ka mana e ho‘oholo ai i ke ‘ano o ia hō‘ike ‘ana--he kū ‘ole nō i ke kumu ‘i‘o a ka po‘e kākau kumukānāwai. (Pāku‘i ‘ia ke ko‘iko‘i)

‘Ike ‘ia i kēlā mau māmala ‘ōlelo ma luna a‘e, ‘o ka pōhaku kihi o ka ‘ōlelo ho‘oholo hope loa o ka ‘Aha Ki‘eki‘e, ‘o ia nō ka ‘i‘ini o ka po‘e i kākau i ka ‘ōlelo pāku‘i kumukānāwai o ka makahiki 1978.¹⁸⁴ Ma ke noi ‘ana a‘e a Clarabal i ka ‘Aha Ki‘eki‘e e ho‘okolokolo hou i nā nīnau, e kū‘ē ana ‘o ia i loko o ka ‘ōlelo ho‘oholo o ka ‘aha ha‘aha‘a.¹⁸⁵ Ua ho‘ohuli iholā ka ‘Aha Ki‘eki‘e i kahi hapa o ia ‘ōlelo ho‘oholo.¹⁸⁶ I ka ho‘omaopopo ‘ana o ka ‘Aha Ki‘eki‘e, ua kau ‘ia ma ke kumukānāwai ma luna o ka ‘Oihana Ho‘ona‘auao he māhele hana nāna e ho‘onohono i mau Papahana Kaiapuni i nā kula aupuni a puni ka pae‘āina.¹⁸⁷ ‘ōlelo ho‘oholo ‘ia ho‘i, ma o ka Papahana Kaiapuni e ho‘ōla hou ai i ka ‘ōlelo ‘ane make loa.¹⁸⁸ ‘O ke kumu ‘i‘o o ia mau papahana ka ho‘ōla hou ‘ana i ka ‘ōlelo Hawai‘i.¹⁸⁹

Ho‘omaka ‘ia ka ‘ōlelo ho‘oholo ma ka ho‘omā‘ike‘ike ‘ana o ka ‘Aha Ki‘eki‘e i ka hua‘ōlelo o ka paukū X, māhele 4, nānā ‘ia ma ka hi‘ohi‘ona o ke Kumukānāwai.¹⁹⁰ Mai ia mana‘o mai, ua wehewehe ka ‘aha, he koi ‘ia ka Moku‘āina ma ia mau paukū kumukānāwai (1) e ho‘okupu i ka mo‘omeheu, ka mo‘olelo, a me ka ‘ōlelo Hawai‘i a (2) e ho‘onoho i papahana ho‘ona‘auao Hawai‘i ma nā kula aupuni no ka ho‘olako ‘ana i ka po‘e haumāna i nā ha‘awina

¹⁸² *Id.*

¹⁸³ *Id.* at 1000.

¹⁸⁴ *Id.* at 988 (“*We hold that the Hawaiian education provision was intended to require the State to institute a program that is reasonably calculated to revive the Hawaiian language.*”) (pāku‘i ‘ia ke ko‘iko‘i).

¹⁸⁵ *Id.* at 1004.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 998.

¹⁸⁸ *Id.* Ua paio ‘ole ‘ia kēia mana‘o ko‘iko‘i o ke kālai‘ōlelo e ka Moku‘āina.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

a‘o ‘ōlelo, mo‘omeheu, a me ka mo‘olelo Hawai‘i.¹⁹¹ ‘A‘ole ka po‘e ‘elele i hā‘awi ‘oko‘a i kēlā a me kēia mea no ka ho‘opuka ‘ana i ka ‘ōlelo Hawai‘i ma ka hana aupuni.¹⁹² Wahi a ka ‘aha, ‘ākuleana ‘ia ka ‘aha ‘ōlelo moku‘āina i ia mau ho‘oholo ‘ana.¹⁹³ I ka ‘imi ‘ia ‘ana aku o ka ‘i‘ini i loko o ka mo‘olelo ‘aha ‘elele haku kāmāwai, loa‘a ka mana‘o o ka ho‘ōla ‘ōlelo Hawai‘i.¹⁹⁴ Ha‘i aku ka ‘aha ki‘eki‘e i kekahi loina kāmāwai nāna e hō‘oia i ka mana o nā ‘aha ho‘okolokolo e ho‘omālamalama aku i ke Kumukāmāwai, ‘a‘ole na ka ‘aha ‘ōlelo.¹⁹⁵ Eia ho‘i, i ia wehewehe pono ‘ana a‘e, he mea nui ka nānā pono ‘ia ‘ana o ke kumu i kau ‘ia ai ia paukū e ka po‘e kākau kumukāmāwai.¹⁹⁶ Wahi a ka ‘Aha Ki‘eki‘e, ‘o ka ho‘ōla ‘ana i ka ‘ōlelo Hawai‘i ke kumu ko‘iko‘i i kau ‘ia ai ka paukū X, māhele 4.¹⁹⁷

No laila, ‘o ke ‘ano o ka papahana ho‘ona‘auao Hawai‘i e ho‘okō ai i ke kauoha o ke kumukāmāwai ‘o ia nō ka nīnau nui a ka ‘Aha Ki‘eki‘e e ho‘oholo mai ai.¹⁹⁸ Ho‘opa‘apa‘a ‘o Clarabal, ‘o ka Papahana Kaiapuni ka papahana i no‘ono‘o ‘ia e ka po‘e kākau kāmāwai, ‘a‘ole ‘o ka papa nāna e hā‘awi pākalikali mai i ka ha‘awina Hawai‘i a me ke a‘o ‘ōlelo.¹⁹⁹ He papahana nō ia e mālama ‘ia ma ka ‘ōlelo Hawai‘i a a‘o piha ‘ia aku ka ‘ike, ka mo‘omeheu, a me ka mo‘olelo Hawai‘i.²⁰⁰ Paio na‘e ka Moku‘āina, lawa nō nā papa Hawai‘i like ‘ole i a‘o ‘ia ma ka ‘ōlelo Beretania a me kekahi mau papa ‘ē a‘e i pāku‘i ‘ia i ka ha‘awina ma‘amau.²⁰¹ Mai ia ke‘ehina mai ‘a‘ole koi ‘ia ka Moku‘āina e ho‘onohono i Papahana Kaiapuni e ke Kumukāmāwai. I ko ka ‘Aha Ki‘eki‘e nānā pono ‘ana i ke Kumukāmāwai, ‘o ka ‘i‘ini i ho‘okomo ‘ia ma ka Paukū X, Māhele 4, ‘o ia ka ho‘oponopono ‘ana i nā kāmāwai a me nā hana aupuni o mua i kinai ‘ia ai ka ‘ōlelo kumu o Hawai‘i.²⁰² Kāko‘o ‘ole kēia ke‘ehina o ka Moku‘āina i nā mea i ho‘okomo ‘ia i loko o ka mo‘olelo o ka hihia, e like me kekahi kāmāwai‘ōlelo.²⁰³ Wehewehe ‘ia, he kuleana ko‘iko‘i ko ka Moku‘āina e ho‘onoho i Papahana Kaiapuni, no ka mea, ‘o ia papahana kekahi o nā ala kākā‘ikahi e ho‘onui a‘e ai i

¹⁹¹ *Id.*

¹⁹² *Id.* at 1001 (i ka ho‘omaopopo ‘ana o ka ‘Aha Ki‘eki‘e, “*the delegates did not draft the provision to allow legislative enactments to alter or qualify the central requirement that the State provide a Hawaiian education program that is constitutionally adequate.*”).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 1001.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.* at 1001-02.

²⁰² *Id.*

²⁰³ *Id.* at 1003.

ka nui o nā nui manu ‘ōlelo Hawai‘i.²⁰⁴ ‘O ka ho‘omau ‘ana i ka ‘ōlelo Hawai‘i a ‘o ka laulaha ‘ana a‘e o ia ‘ōlelo ka ho‘okō ‘ana i ke Kumukānāwai.²⁰⁵ Ma muli o ka ‘ōlelo ho‘oholo i ho‘opuka ‘ia mai nei ‘o *Clarabal*, ua ‘āpono a paipai ‘ia ka ho‘okahe hou ‘ia ‘ana o nā po‘owai e loa‘a mai ai nā ‘auwai o ka ‘ike ma ia ‘ōlelo i nā ‘ōpiopio o Hawai‘i nei.²⁰⁶

V. E KŪKULU ‘IA A PA‘A KE O‘A KĀNĀWAI NO KA ‘ŌLELO HAWAI‘I²⁰⁷

‘A‘ole wale nō ma ka lumi papa o nā kula aupuni kahi i ola māhūnehune ai ka ‘ōlelo Hawai‘i i kēia au e ne‘e nei. Ma waho a‘e o nā kula aupuni, ke‘ake‘a mau ‘ia ka ‘ōlelo Hawai‘i ma ka hana pili ‘oihana. Hāiki loa ka ‘ae a me ka ho‘ohana ‘ia ‘ana o ka ‘ōlelo Hawai‘i ma ka ho‘okele aupuni ‘ana. Loa‘a iki ka ‘ōlelo Hawai‘i no nā ‘ōlelo ho‘olauna, nā inoa ke‘ena, nā mākia, nā ‘ōlelo pahuhopu, a me kekahi mau māmalā‘ōlelo ‘ē a‘e ma nā hō‘ailona aupuni.²⁰⁸ No ka mālama ‘ana i nā hālāwai, nā kūkala, a me nā nūhou o nā ke‘ena aupuni, mālama ‘ia na‘e ma ka ‘ōlelo Beretania a ‘a‘ole e unuhi ‘ia i ka ‘ōlelo Hawai‘i. He la‘ana kēia o ka pono kū pa‘a i ke kōnāwai me ka ho‘okō maoli ‘ole ‘ia o ia pono.²⁰⁹ Ma o ia mau mana‘o e ho‘olalelale ana kēia pepa e kūkulu a pa‘a ke o‘a kōnāwai no nā pono ‘ōlelo Hawai‘i no ke ola mau ‘ana o ka ‘ōlelo Hawai‘i i nā ho‘okele aupuni. Eia kekahi, loa‘a ‘ē ka hapanui o nā hua‘ōlelo loio a kōnāwai paha. “Ua kupa a kama‘alua” ka ‘ōlelo Hawai‘i i ka ‘oihana loio a me ka ‘oihana aupuni like ‘ole. E like me ka mana‘o i hō‘ike ‘ia, ‘o ia ka ‘ōlelo mua o ke aupuni, ka ‘aha ‘ōlelo, ka ‘aha ho‘okolokolo, ka ‘oihana aupuni, ka ho‘okele waiwai aupuni, a pēlā aku. Ma ka waihona palapala kahiko o ke aupuni, e moe mai ana ka palapala aupuni mai ka wā o ke kākau mua ‘ana a hiki aku i ka pāpā ‘ana i ka ‘ōlelo Hawai‘i ma ka ho‘okele aupuni.²¹⁰ ‘Ae, he waihona i pihaku‘i i ka palapala nona ka hua‘ōlelo no kēlā mea kēia mea i pili i ke kōnāwai a me ka ho‘okele aupuni. No laila, hiki i ka po‘e māhele a unuhi ‘ōlelo ke ho‘āla mai i ia mau palapala

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 1004.

²⁰⁶ *E nānā supra* Mokuna III.B.1.

²⁰⁷ Loa‘a ka mana‘o “kūkulu kōnāwai” mai KAMAKAU e nānā *infra* note 236 a me nā ‘ōlelo e hahai ana. Eia ho‘i, ua hō‘ike i ka mana‘o like mai loko o ke Kumukānāwai o 1905, penei: “ke hoolaa a ke kuku nei i keia Kumukānāwai no na Mokuaina Huiia o Amerika.” Kum. Kan., Kan. Ok. Ai., (Haw. 1905).

²⁰⁸ *Cf. Department of Labor and Industrial Relations, STATE OF HAWAI‘I*, <https://labor.hawaii.gov/> (ua kipa iho nei ma Dek. 29, 2019). Ma ko ke Ke‘ena o Nā Limahana kaha pūnaewehe, hiki i kekahi kanaka ‘ōlelo malihini ke loa‘a ka ‘ike kūpono ma kā lākou ‘ōlelo. ‘O ka Pilipino (*Ilocano* a me *Tagalog*), Kiuka (*Chuukese*), Mākala (*Marshallese*), Sepania (*Español*), Wiekana (*Viêt*), Kina (*Chinese*), Kōlea (*Korean*), Kepanī (*Japanese*), a me Beretania (*English*) nā ‘ōlelo i unuhi ‘ia.).

²⁰⁹ Jon Reyhner, *Rationale and Needs for Stabilizing Indigenous Languages, Stabilizing Indigenous Languages*, G. CANTONI (ED.) 3 (1996).

²¹⁰ *Description of Collections, HAWAI‘I STATE ARCHIVES*, <https://ags.hawaii.gov/archives/about-us/description-of-collections/> (ua kipa iho nei ma Dek. 15, 2019).

aupuni i mea e ho‘opuka hou mai ai i ka ‘ōlelo Hawai‘i ma ia mau hana pili ‘oihana.

A. *Ka Unuhi a Māhele ‘Ōlelo Hawai‘i i ke Aupuni*

He ‘oihana kūmau ka unuhi a māhele ‘ōlelo i ka mo‘olelo Hawai‘i ma ka hana o ke aupuni. Ua ho‘oka‘awale ‘ia ka pu‘u kālā no ke komo ‘ana o ka mea unuhi i ka hana ‘aha ‘ōlelo ma ka ‘ōlelo Hawai‘i mai ka wā mua i ho‘onohono ‘ia ai nā ‘aha ‘ōlelo mua o ka lāhui Hawai‘i.²¹¹ I ka wā Teritori i kauoha ‘ia ai ka ho‘olaha ‘ia ‘ana o nā kāmāhāwai ma ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania.²¹² No ka ‘aha ho‘okolokolo o ka makahiki 1901, ho‘oka‘awale ‘ia e ka ‘aha ‘ōlelo he \$7,200 kālā i uku na ka unuhi ‘ōlelo Hawai‘i.²¹³ ‘O ia ka uku ‘oi loa ma ka papa kuhikuhi uku o kēlā makahiki.²¹⁴ I ka makahiki 1908 ho‘i, ua uku ‘ia ka unuhi ‘ōlelo he \$10 kālā i kēlā lā me kēia lā, a he 60 lā o ke kau ‘aha ‘ōlelo, no laila inā hana ua unuhi ‘ōlelo lā i nā lā a pau o ke kau ‘aha ‘ōlelo he \$600 ka huina ona i uku ‘ia ai.²¹⁵

‘Oiai, ho‘okumu ‘ia a pa‘a ke kūlana o ka ‘ōlelo Hawai‘i ma ke kumukāmāhāwai o ka Moku‘āina no nā makahiki he 42, i ka nānā aku, ‘a‘ole hana ‘ia pēlā. I kēlā me kēia ke‘ena aupuni, hana lākou me ko lākou makemake a ‘a‘ole i alaka‘i pono ‘ia e ke kia‘āina no ka hai ‘ana i ka po‘e unuhi ‘ōlelo. ‘O ke koi ‘ana i ke kanaka ‘ōlelo Hawai‘i e ‘ōlelo Beretania ka hopena o ke o‘a kāmāhāwai ‘ole. I ka makahiki 1994, e like me ka hihia o ka makahiki 2018 ma Maui i hō‘ike ‘ia ma luna a‘e nei, ‘a‘ole i mālama ‘ia ho‘i e kekahi lunakāmāhāwai ke kauoha o ke kumukāmāhāwai no ka mana a me ke kūlana o ka ‘ōlelo Hawai‘i.²¹⁶ I ke kauoha ‘ana i ka mea ho‘opi‘i e ‘ōlelo Beretania, ua ho‘āpono ka ‘aha ho‘okolokolo i kāna ‘ōlelo ho‘oholo penei,

²¹¹ *E nānā i kā KAMAKAU*, *supra* note 50, at 291 (e hō‘ike ‘ia ana ke ko‘iko‘i o ka ho‘onohono ‘ana i ka unuhi ‘ōlelo i ke kūkulu ‘ia ‘ana o ka ‘aha ‘ōlelo i ka makahiki 1850).

²¹² Act 13 Haw. Sess. Laws (1901) (papa helu ‘ia ka uku hana o ka mea unuhi ‘ōlelo Hawai‘i) (“*It shall be the duty of the Secretary of the Territory to promulgate every law enacted by the Legislature by publishing the same in newspapers published in Honolulu in the English and Hawaiian languages as soon as practicable after its enactment.*”) (pāku‘i ‘ia ke ko‘iko‘i).

²¹³ An Act Making Appropriations For Salaries and Pay Rolls During the Two Years which will End with the Thirtieth Day of June, 1903, 1901 Haw. Sess. Laws 43 § 3.

²¹⁴ *Id.*

²¹⁵ *E Hoike i ka Mea Pololei Aole o Ka Hoopuiwa i ka Lahui*, KA NUPEPA KUOKOA, Mei 1, 1908. ‘O ke kālā, he \$10 ma ka makahiki 1908, kūlike me ke kālā, he \$280.56 i ka makahiki 2020. CPI INFLATION CALCULATOR, <https://www.officialdata.org/us/inflation/1908?amount=10> (ua kipa iho nei ma Ian. 05, 2020). I ia manawa ho‘i, ho‘oholo ‘ia kekahi bila kāmāhāwai no ka ho‘oka‘awale ‘ana i ka pu‘u kālā, \$15,000 no kekahi kalana i mea e unuhi mai ai i nā kāmāhāwai o ‘elua kau ‘aha ‘ōlelo ma ka ‘ōlelo Hawai‘i. *Ahaolelo Kaukanawai Kuloko o ke Teritori*, KA NUPEPA KUOKOA, Apelila 12, 1907; *Ahaolelo Kaukanawai Kuloko o ke Teritori Hawaii*, KA NUPEPA KUOKOA, Apelila 19, 1907 (ua waiho ‘ia ia bila kāmāhāwai i ke Komite Ho‘olilo, ‘a‘ole na‘e i holo mua a lilo i kāmāhāwai ma ia makahiki).

²¹⁶ *E nānā laulā iā Tagupa v. Odo*, 843 F. Supp. 630, 631 (1994) (wehewehe ka ‘aha, ‘oiiai he ‘ōlelo pili ‘oihana ka ‘ōlelo Hawai‘i, ‘a‘ole kēia kūlana e koi ‘ia mai ana ka ‘aha ho‘okolokolo e nānā ‘ole ma nā hana ‘ē a‘e (“*practical realities*”) o kēia hihia).

*The Hawaii Constitution, and the subsequent case law interpreting it, provides little guidance regarding whether an American citizen of Hawaiian ancestry residing in Hawaii can assert, as a matter of right, the privilege of giving oral deposition testimony in the Hawaiian language when he or she is fluent in the English language.*²¹⁷

‘A‘ohe kōkua a alaka‘i ke kumukānāwai Hawai‘i, a me nā ho‘oholo kānāwai nāna i wehewehe i ia kumukānāwai, i ka ho‘oholo ‘ana inā hiki i ke kanaka ‘Amerila a me ke kanaka koko Hawai‘i e noho ana i Hawai‘i, ke paio ma ke ‘ano he pono a he kuleana ka ho‘opuka i kona ha‘i mana‘o ma ka ‘ōlelo Hawai‘i, ‘oiai hiki i ia kanaka ke ‘ōlelo Beretania.

Ua hō‘ole ka ‘aha ho‘okolokolo i ka ‘ōlelo Hawai‘i ‘ana, no ka mea, ua hiki i ia kanaka ke ‘ōlelo Beretania.²¹⁸ Ma ke kālaimana‘o ‘ana o ka ‘aha ho‘okolokolo, e ‘ike ‘ia ka ho‘ohālikelike ‘ia ‘ana o ka ‘ōlelo Hawai‘i me nā ‘ōlelo malihini ma Hawai‘i.²¹⁹

He ‘ōlelo ho‘oholo ka hihia ‘o *Tagupa* nāna e ‘umi a pū‘ā‘ā i ka ‘ōlelo Hawai‘i. Ua ho‘okolokolo kāholo ka ‘aha federala a ‘a‘ohe lihi ‘ike o ia ‘aha i ka mo‘olelo Hawai‘i i pili i ka hana a ke aupuni i ke kinai i ka ‘ōlelo Hawai‘i.²²⁰ Ma ka mo‘olelo o Hawai‘i, loa‘a nā kumu a me nā hanana i lilo ai ka po‘e Hawai‘i a me ka hapanui o ka lehulehu e noho ana ma ka pae ‘āina i po‘e ‘ōlelo Beretania.²²¹ I ke ao nei, ‘o nā mana‘o paio o ka loio Moku‘āina i hō‘ike ‘ia i ka mokuna III o nēia pepa, ua loa‘a ia mau mana‘o mai *Tagupa* mai. He ‘ōlelo ho‘oholo e ho‘opa‘apa‘a mau ana ke ku‘ia ‘ana o ka po‘e ‘ōlelo Hawai‘i. Ke ‘ole ke o‘a kānāwai e mau ana nō kēia ‘ano ‘ōlelo ho‘oholo, no ka mea, he loina kānāwai a nā ‘aha ho‘okolokolo e kauka‘i ai i ka hihia i ho‘olaha mua ‘ia e la‘a me *Tagupa*.²²²

²¹⁷ *Id.* Ua ‘ōlelo ho‘oholo ho‘i ka ‘aha, i ka moku‘āina ka mana e ho‘oholo a pa‘a kēlā a me kēia no ka hana unuhi a māhele ‘ōlelo Hawai‘i.

Eia kekahi, e wehewehe ‘ia ana nā ho‘ololi o ke ke‘ena o ka ‘aha ho‘okolokolo. Ua ho‘okumu ia ke‘ena i kekahi kulekele hou no ka ho‘opuka ‘ana i ka ‘ōlelo Hawai‘i i loko o ka hana ‘aha ho‘okolokolo. ‘Oiai, he ho‘ololi maika‘i kēia, mau nō na‘e ka hāmama ‘ana o ka ‘īpuka no kekahi lunakānāwai e hō‘ole i ka mea ‘ōlelo Hawai‘i e ‘ōlelo Hawai‘i i loko o ka lumi ho‘okolokolo.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.* No ke kālaimana‘o ‘ana i ka ho‘ohana ‘ole a me ka ho‘ohana kūpono ‘ole ‘ana i ka mo‘olelo Hawai‘i e ka ‘aha ho‘okolokolo e nānā laulā i kā Troy J.H. Andrade, *(Re)Righting History: Deconstructing the Court’s Narrative of Hawai‘i’s Past*, 39 U. HAW. L. REV. 631 (2017) (e wehewehe ‘ia mai ana ke ko‘iko‘i o nā mo‘olelo ‘oia‘i‘o e ho‘okomo a ha‘i ‘ia ana i loko o ka ‘ōlelo ho‘oholo o nā ‘aha ho‘okolokolo).

²²¹ *E nānā i ka la‘ana Nu‘uhiwa*, *supra* note 9, at 396-416; SCHÜTZ, *supra* note 3, at 340.

²²² No ka wehewehe ‘ana i ka loina kānāwai ‘o *stare decisis* e nānā i ka hihia ‘o *In re ‘Iao Ground Water Mgmt. Area High-Level Source Water Use Permit Applications*, 287 P.3d 129, 177 (2012); *State v. Garcia*, 29 P.3d 919, 925 (2001) (e nānā ana iā *Hilton v. South Carolina Pub. Ry. Comm’n*, 502 U.S. 197, 202 (1991)).

Aia i nā luna maka‘āinana a me nā senatoa ka mana ma ke kumukānāwai e ho‘okumu i nā kānāwai e pili ana i nā pono ‘ōlelo Hawai‘i ma ka ‘aha ‘ōlelo.²²³ Ua wehewehe ‘ia kēia kuleana o ka ‘aha ‘ōlelo e ka mo‘olelo o ka ‘aha ‘elele haku kānāwai 1978 a hō‘oia ‘ia ho‘i e ka hihia *Clarabal*.²²⁴ ‘Ōlelo maila nā ‘elele, e aho e ‘ākuleana ‘ia ka ‘aha ‘ōlelo e ho‘okumu i kēlā me kēia mea li‘ili‘i kiko‘ī.²²⁵ Ua ‘alaneo kahi o ka ‘aha ‘ōlelo e ka‘a hope ai e ho‘oholo i alanui e hiki ai i ka po‘e ‘ōlelo Hawai‘i ke ho‘okomo i ka ‘ōlelo Hawai‘i ma ka ho‘okele aupuni.

E. *Ke O‘a Kānāwai E Pōmaika‘i Ai nā ‘Ōlelo Malihini ma Hawai‘i*

Aia ‘elua kānāwai no ka unuhi a māhele ‘ōlelo i nā Kānāwai i Ho‘oponopono ‘ia o ka Moku‘āina. ‘O kekahi o lāua, ‘o ia ka ‘ae ‘ana i ka unuhi ‘ana i mau palapala ‘ōlelo Hawai‘i a i ka ‘ōlelo Beretania. ‘Alua, he o‘a kānāwai e kāko‘o a kōkua i ka po‘e ‘ōlelo malihini, ke noi lākou i ka unuhi a māhele ‘ōlelo ma nā hana aupuni like ‘ole.

I ka makahiki 1945 i kau mai ai ka ‘aha ‘ōlelo i ke kānāwai no ka māhele a unuhi mai ka ‘ōlelo Hawai‘i a‘e a i ka ‘ōlelo Beretania.²²⁶ ‘O kēia kānāwai, he alahahe ia no ka po‘e ‘ōlelo Hawai‘i ‘ole e holo mua ai i ke noi a loa‘a mai ka unuhina o nā palapala ‘ōlelo Hawai‘i. Ho‘onohonoho ‘ia ke kānāwai § 502-94, *Translation of Hawaiian documents, recording*.²²⁷ Ma lalo o ke Ke‘ena Palapala Lilo, ‘o ka mea kākau kope ke kuleana e hai ai i kekahi māhele ‘ōlelo e pono ai ka unuhi palapala ho‘olilo.²²⁸ Ma ke kānāwai, koi ‘ia ka loa ‘ike a mākaukau i ka ‘ōlelo Hawai‘i a me ka ‘ōlelo Beretania.²²⁹ Na ke Ke‘ena Palapala Lilo e mālama ia mau unuhina a i palapala.²³⁰ I pōmaika‘i ka po‘e ‘ōlelo Hawai‘i ‘ole i kēia kānāwai. ‘A‘ole ho‘i i ‘ae ‘ia mai ka unuhi ‘ana i nā palapala ‘ōlelo Beretania i ka ‘ōlelo Hawai‘i.²³¹

No nā pono ‘ōlelo o nā lāhui kūwaho, he o‘a kānāwai ko lākou, ‘o ia ho‘i, ‘o *Office of Language Access*, a kapa ‘ia ‘o *OLA*.²³² Ho‘oka‘awale ‘ia nā waiwai aupuni i nā pono ‘ōlelo no nā po‘e ‘ōlelo malihini ‘ē a‘e. Loa‘a ia mau pono

²²³ HAW. CONST. art. XV, §4; *Clarabal*, 446 P. 3d at 1000 (ka ‘oko‘a o ke kuleana o ka ‘aha ‘ōlelo nona ka mana e ho‘okō ai i ka paukū XV, §4 a ‘o ka ‘aha ho‘okolokolo ka mana e ho‘okolokolo ai i ka paukū X, 4.).

²²⁴ Proceedings of the Constitutional Convention of 1978, *supra* note 124, at 638; *Clarabal*, 446 P.3d at 1000.

²²⁵ *Id.*

²²⁶ Act 54, 1945 Haw. Sess. Laws 332 codified as HAW. REV. STAT. § 502-94 (2019).

²²⁷ *Id.*

²²⁸ *Id.* Ua loa‘a ka hua‘ōlelo no “*Bureau of Conveyances*” mai ka puke a PAUL F. NAHOA LUCAS, A DICTIONARY OF HAWAIIAN LEGAL LAND-TERMS 51 (1995). Ma ka ‘ao‘ao ho‘okahi, hō‘ike ‘ia ka hua‘ōlelo, “ke ke‘ena hana kope,” kekahi hua‘ōlelo ‘ē a‘e i kapa ‘ia ai ua ke‘ena lā.

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *E nānā id.*

²³² HAW. REV. STAT. § 321C-1 (2019).

‘ōlelo mai ke Kānāwai Pono Kīwila o ka makahiki 1964.²³³ He alahēle ia kānāwai i ‘āpono ‘ia ma muli o ka hiki ‘ole i kēia po‘e ke ‘ōlelo Beretania.²³⁴ ‘O ke o‘a kānāwai, §321C, ua kūkulu ‘ia no ka ho‘omalū ‘ia a mālama ‘ia ‘ana o nā pono ‘ōlelo o ka po‘e nāwaliwali i ka ‘ōlelo Beretania, “limited English proficient.”²³⁵

F. *Ke O‘a Kānāwai ‘Ōlelo Hawai‘i*

O ka pouhana mua keia i kūkulu ia no ke aupuni Hawaii, a ma luna o keia mau pouhana i kauia iho ai kauhuhu, hia ke oa, kau kuaiōle, hele ka pueo, paa i ka hoaho, holo ke pili, paa i kaupaku, koli ka hale. He aupuni kumukanawai ke aupuni Hawaii.²³⁶

Pēlā i hō‘ike kehakeha ai ka mea kākau ‘o Samuel Kamakau i ke kākau a me kūkala ‘ana i ka lilo ‘ana o ke aupuni Hawai‘i he aupuni kumukānāwai. Na ia mana‘o a Kamakau i alaka‘i mai i kēia ‘atikala i ka mana‘o e kūkulu ‘ia a pa‘a ke o‘a kānāwai e ho‘omalū a ho‘opaipai ai i nā pono ‘ōlelo Hawai‘i.

‘O ka ‘ōlelo pāku‘i mua e ho‘olale nei, ‘o ia ka ho‘ololi i ke kānāwai §1-13.5 i pili i ka pela ‘ia ‘ana o ka ‘ōlelo Hawai‘i.²³⁷

[Kanawai 1-13.5] olelo Hawaii. E ae a e paipai na keena a pau o ka mokuaina i ka olelo Hawaii.²³⁸

²³³ “The legal obligation to provide language access stems from our landmark Civil Rights Act of 1964. Title VI of the Act states: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”” Jennifer J. Lee, *Operationalizing Language Access Rights for Limited English Proficient Taxpayers*, 91 TEMP. L. REV. 791, 793 (2019). Mai kēia o‘a federala mai, ua ho‘okomo ‘ia i loko o nā kānāwai o ka Moku‘āina ‘o Hawai‘i ma lalo o ke kānāwai §321C.

²³⁴ HAW. REV. STAT. § 321C-1 (2012) (“The purpose of this chapter is to affirmatively address, on account of national origin, the language access needs of limited English proficient persons. It is the intent of the legislature that these services be guided by Executive Order No. 13166 and succeeding provisions of federal law, regulation, or guidance.”).

²³⁵ *Id.*

²³⁶ S. M. Kamakau, *Ka Moolelo Hawaii*, KE AU OKOA, Apelila 29, 1869; KAMAKAU, *supra* note 50, at 197.

²³⁷ HAW. REV. STAT. § 1-13.5 (2019). “Hawaiian language; Spelling. Macrons and glottal stops may be used in the spelling of words or terms in the Hawaiian language in documents prepared by or for state or county agencies or officials. Any rule, order, policy, or other act, official or otherwise, that prohibits or discourages the use of these symbols shall be void.”

²³⁸ No nā ‘ōlelo ho‘ololi e hō‘ike ‘ia mai ana ma kēia ‘atikala, ‘a‘ole i ho‘okomo ‘ia nā māka, ka ‘okina a me ke kahakō. Ua ho‘oholo ka mea kākau e ho‘okomo ‘ole i ia mau māka e like me nā kānāwai i kākau mua ‘ia ma ke aupuni o Hawai‘i. *E nānā laulā* Kum. Kan. & Kan. H. Wai., (Au. Moi 1840). Eia ho‘i, ma ke kau ‘aha ‘ōlelo o ka makahiki 2019, ua komo nui maila nā ha‘i mana‘o o ke kaiāulu Ni‘ihau a me kekahi po‘e ‘ē a‘e i kā lākou hō‘ole i ia mau māka. Mana‘o paio ‘ia ma ia ha‘i mana‘o, ma o ka ‘okina a me ke kahakō e ho‘ololi ‘ia a‘e ai ka mana‘o o ka ‘ōlelo Hawai‘i. Wahi a lākou, “Hoole a kue i na huaolelo hou i haku ia a hoopuka ia maloko o ka puke wehewehe olelo, o *Mamaka Kaiāo* na ka Lexicon Committee. Manao ke kaiāulu Niihau he mau huaolelo ia no kahi olelo e a aole maopopo i ka poe hanai ia ai ma ka olelo Hawaii.” S.B. No. 701, Relating to the Hawaiian Language, Hearing Before House Committee on Water, Land, and Hawaiian Affairs, 30 Haw. Leg. (2019) (Statement of the Niihau Community).

‘O ka ‘ōlelo pāku‘i ‘elua ka ho‘okumu ‘ana i ke‘ena ‘ōlelo Hawai‘i ma lalo o kekahi o nā ke‘ena moku‘āina. Na nā lālā o ka ‘aha ‘ōlelo i ho‘oholo no ke ‘ano ke‘ena kūpono ma hope o ka ho‘olohe ‘ana i ka mana‘o o ke kaiāulu.²³⁹

[Kānāwai xx-xx] Ke Keena Olelo Hawaii. E hookumu ia keia keena no ka loa ana o ka lawelawe a me ka palapala o ke aupuni ma ka olelo Hawaii. O ka iini o ka ahaolelo e hooko i ke Kumukanawai o ka Mokuaina o Hawaii. He olelo pili oihana ka olelo Hawaii a no ia kumu, ke hoopuka ia ua olelo nei ma na hana aupuni like ole e ae a apono ia mai. Na ke keena olelo Hawaii e hooholo i kela me keia mea no ka hoopuka ana i ka olelo Hawaii ma ka mokuaina; e laa me ke ano o ka pela ana, ka hoopuka ana i ka olelo Hawaii ma luna o ke kanawai, a me ka hoolako ana i ka poe olelo me ka mahele a unuhi olelo. E malama keia keena i papainoa no nā mea mahele a unuhi olelo.

‘O ka pahuhopu o ia ke‘ena ka loa‘a mai o ka māhele a unuhi ‘ōlelo i ke kanaka ‘ōlelo Hawai‘i. Na ia ke‘ena e ho‘okō a e ho‘oia‘i‘o, e mālama ‘ia ana ka liolio o ke kānāwai, ka paukū XV, §4 o ke kumukānāwai, no ka pono o ke kaiāulu ‘ōlelo Hawai‘i. E pono ke kaiāulu ‘ōlelo Hawai‘i i ia ke‘ena. E ho‘oponopono a ho‘omākaukau ‘ia ho‘i ka nele o nā lawelawe aupuni ma ka ‘ōlelo Hawai‘i ma waho o ka ‘Oihana Ho‘ona‘auao o ka Moku‘āina. I ka manawa ho‘okahi o ka ho‘okumu ‘ia ‘ana o ua ke‘ena nei, e ho‘olālā ke kia‘āina, ka Mana Ho‘okō, i mau kulekele ‘ōlelo Hawai‘i no ka hana aupuni mai Hawai‘i a Kaua‘i, ma ke kauoha ho‘okō. Ma lalo o kekahi kauoha ho‘okō, e nīnau aku a nīnau mai nā ke‘ena aupuni ma waena o lākou i kekahi mau nīnau no ka ho‘onohonoho ‘ana i nā mea a pau e pono ai ka unuhi a māhele ‘ōlelo Hawai‘i. Penei kekahi:

- E ho‘okumu i hui no‘ono‘o no ke alahele e loa‘a ai ka māhele a unuhi ‘ōlelo.
- E ana a ho‘opuka hou i kona pane ‘ana i ke noi unuhi a māhele ‘ōlelo.
- E ho‘okumu i papa kuhikuhi manawa no ke ana ‘ana a me ka ho‘opuka hou ‘ana i nā lawelawe a me nā kulekele ‘ōlelo Hawai‘i.
- E hō‘oia i ke kōkua ‘ana o nā limahana i ka po‘e ‘ōlelo Hawai‘i.
- E ho‘olaha ‘ia aku i mua o ka lehulehu nā kulekele, nā ho‘olālā, a me ke alahele e loa‘a ai ka māhele a unuhi ‘ōlelo iā lākou.²⁴⁰

Ma ka ho‘okumu ‘ia ‘ana o ke Ke‘ena ‘Ōlelo Hawai‘i i loko o kahi ke‘ena moku‘āina e holomua ana ka ‘i‘ini o nā ‘elele haku kānāwai 1978. Eia kekahi, he hale ia kahi e wāwahi ‘ia ai ko mua kauhuhu e kū mau ana i kēia lā. ‘O ia ka mana‘o, ‘o ka ‘ōlelo Beretania wale nō ka ‘ōlelo kānāwai pili ‘oihana. Ke kū pa‘a kēia ke‘ena ‘ōlelo, e lana ka mana‘o e ho‘omaika‘i ana i ka ho‘omaopopo

²³⁹ Na ke kaiāulu ‘ōlelo Hawai‘i e ho‘oholo a i ‘ole e ‘āpono i ke ke‘ena aupuni kūpono no ka mālama ‘ana i nā mea e pono ai ka ho‘okele ‘ana i ia hana aupuni. E la‘a me ke ke‘ena ‘o *Office of Language Access*; aia ‘o *OLA* ma lalo o ke Ke‘ena Ola no nā kumu lawelawe hana.

²⁴⁰ Lee, *supra* note 233, at 796 (e hō‘ike mai ana i ke kuleana a ka Mana Ho‘okō (“*executive branch*”) e alaka‘i a ho‘omōhala i kēia mea kēia mea no ka loa‘a ‘ana o nā lawelawe aupuni ‘ōlelo ‘ē a‘e iā ha‘i).

laulā ‘ana i nā pono ‘ōlelo Hawai‘i a me ka nele o nā unuhi a māhele ‘ōlelo Hawai‘i.

VI. KA PANINA

Ma kona ‘ano he ‘ōlelo ‘ane make loa ka ‘ōlelo Hawai‘i, e lohe hou ‘ia ana a laha ka ‘ōlelo Hawai‘i ma ka honua nei.²⁴¹ E ho‘olaupa‘i ‘ia ana ho‘i ka po‘e maopopo a mākaukau i ka ‘ōlelo Hawai‘i a puni ka pae ‘āina nei. He kū‘ono‘ono a ko‘iko‘i ke kani ‘ana a ka leo o ke kaiāulu ‘ōlelo Hawai‘i e puana mai ana i ka ‘ōlelo Hawai‘i ma ka hō‘ike‘ike ‘eppekema,²⁴² ka lekiō,²⁴³ ka ho‘okūkū hula,²⁴⁴ ka ‘atikala nūpepa,²⁴⁵ a me kekahi mau hana ‘ē a‘e mai Hawai‘i a Ni‘ihau.²⁴⁶ Ma ka ‘Aha Ki‘eki‘e o ka Moku‘āina ‘o Hawai‘i, e ho‘omaka ‘ia kēlā me kēia paio ‘ōlelo ma ka ‘ōlelo Hawai‘i.²⁴⁷ I ka ‘aha ‘ōlelo e unuhi mai ana ke Kōmike Kuleana Hawai‘i i nā ho‘olaha hālāwai.²⁴⁸ E pōmaika‘i ana ka ho‘oulu ‘ōlelo Hawai‘i i kēia mau ho‘okomo ‘ia ‘ana o ia ‘ōlelo i ka ho‘okele aupuni. He mau

²⁴¹ UNESCO Atlas of the World’s Languages in Danger, United Nations, (ua kipa iho nei ma Dek. 30, 2019) <http://www.unesco.org/languages-atlas/index.php?hl=en&page=atlasmap> (wahi a ka UN, he 1,000 ka nui o nā po‘e ‘ōlelo Hawai‘i i ka makahiki 2000, ‘o ia ke kumu o kona kūlana he ‘ōlelo ‘ane make loa). I ka makahiki 2019 i hō‘ike‘ike aku ai kekahi hana keaka ‘ōlelo Hawai‘i ma Nūioka, ‘Amelika. Moanike‘ala Nabarro, Hawaiian language play invited to perform ‘Off Broadway,’ <https://www.hawaii.edu/news/2019/12/10/aua-ia-in-new-york-city/> (Dekemaba 10, 2019).

²⁴² *OHA recognizes four Hawaiian immersion students at the state science fair*, Office of Hawaiian Affairs, <https://www.oha.org/news/oha-recognizes-four-hawaiian-language-immersion-students-at-the-state-science-fair/> (‘Apelila 10, 2019) (ka paipai a ho‘omaika‘i ‘ia ‘ana o ka po‘e haumāna i hō‘ike aku i kā lākou papahana ma kekahi hō‘ike‘ike ‘eppekema).

²⁴³ Brad Dell, *KTUH DJ broadcasts Hawaiian language commentary and music*, KA LEO, http://www.manoanow.org/kaleo/features/ktuh-dj-broadcasts-hawaiian-language-commentary-and-music/article_8f82a8ec-e4af-11e5-8b73-af69807a0a1d.html (Malaki 7, 2016).

²⁴⁴ *Merrie Monarch to broadcast in ‘Ōlelo Hawai‘i*, Office of Hawaiian Affairs, <https://www.oha.org/news/merrie-monarch-to-broadcast-in-olelo-hawaii/> (Malaki 30, 2015) (ma mua, aia ma ka wikiō, DVD ke koho no ka ‘ōlelo Hawai‘i. I ka makahiki 2014 i ho‘omaka ‘ia ai ka ho‘olele leo ‘ana ma ka ‘ōlelo Hawai‘i i ka manawa kū‘ānō o ka ho‘okūkū hula.).

²⁴⁵ Pa‘i ‘ia ke kolamu nūpepa ‘o Kauakulahale i kēlā me kēia Pō‘aono ma ka nūpepa *StarAdvertiser*. Ma kēia ha‘i mana‘o nūpepa, kama‘ilio ‘ia nā mo‘omeheu, nā nūhou kaiāulu ‘ōlelo, nūhou kūloko, nūhou kūwaho a pēlā aku. ‘Ae pinepine ‘ia ho‘i nā hoa mea kākau e ho‘okomo i ko lākou mau mana‘o no nā po‘omana‘o like ‘ole. Mālama ‘ia e nā polopeka o ke Kula Nui o Hawai‘i i Mānoa, ‘o Laiana Wong lāua ‘o Kekeha Solis. Kauakulahale, STAR ADVERTISER (ua kipa iho nei ma Dek. 18, 2019) <https://www.staradvertiser.com/category/editorial/kauakulahale/>; e nānā i kā Wong & Solis, *supra* note 26, at 3-4 (e wehewehe ‘ia ana ka ho‘owaiwai ‘ia ‘ana o ka ‘ōlelo Hawai‘i ma ke ana kālā a me kā lākou ho‘oikaikai e ho‘olaha i kolamu nūpepa ‘ōlelo Hawai‘i i loko o nā nūpepa nui ‘elua ma Hawai‘i, ‘o The StarBulletin lāua ‘o The Honolulu Advertiser).

²⁴⁶ *E nānā i ka la‘ana Ka Mo‘olelo O ka ‘ōlelo a me ka Hale Keaka o Kennedy*, University of Hawai‘i at Mānoa, <https://www.hawaii.edu/news/2019/09/23/aua-ia-kennedy/> (Dek. 10, 2019).

²⁴⁷ Email Interview with Andrew Laurence, Communications & Community Relations Office, Hawai‘i State Judiciary (Feb. 13, 2020) (“*The Hawaii Supreme Court and the Hawaii Intermediate Court of Appeals (ICA) implemented the practice of calling all cases in Hawaiian and English in January 2019.*”).

hua kēia o nā ‘ano‘ano a ke kaiāulu ‘ōlelo Hawai‘i o mua i kanu iho ai. ‘O lākou nō ka po‘e i ho‘oikaika pauaho ‘ole i ka ho‘iho‘i i ka ‘ōlelo Hawai‘i ma ka lumi papa o nā keiki a me ka lawelawe aupuni.

Ma waho o ia hana ho‘ōla a ho‘opa‘a ‘ōlelo, “pa‘a i ka ‘ūkele” ka po‘e ‘ōlelo Hawai‘i i ka loa‘a ‘ole he alahahele e pa‘a mai ai kekahi kūlana unuhi a māhele ‘ōlelo Hawai‘i. Aia i ka ‘aha ‘ōlelo ka mana a me ke kuleana e kīpapa ai i ia alahahele i ‘ole ai e mau auane‘i ka hihia o ke kaiāulu ‘ōlelo Hawai‘i e nele ana i ka papahana kāko‘o ‘ōlelo Hawai‘i ‘ole. Maopopo le‘a i nā kupa a maka‘āinana Hawai‘i ka pilina o ka ‘ōlelo a me ka mana aupuni. Ua maopopo ia pilina i nā hope po‘o o nā aupuni kūikawā i kā‘ili aku i ke aupuni mō‘ī Hawai‘i. ‘O ia kekahi o nā kumu i kipaku ‘ia ai ka ‘ōlelo Hawai‘i mai kona kūlana a hō‘ole ‘ia ho‘i he ‘ōlelo pili ‘oihana a a‘o kula.²⁴⁹

E kuu lahui aloha e hoomanao mau. O kakou apau ame ka kakou olelo kupuna, ua poniia laua ma ke kuahu-laa o ko kakou hookumu noho‘na lahui ana. O ua olelo la oia ka uhane ola no ka hoolaupa‘i lahui ana o Hawaii; oia ke kahua o ko kakou hoopulapula alii a hookumu makaainana ana. O keia na kua ame na kaola mua o ka hooponopono aupuni a ka Na‘i Aina Paiea Kamehameha I, no ka houluulu ana i na moku kawalawala o Hawaii a lilo malalo o kona malu. . . .Ke hoike moakaka le‘a mai nei ka olelo i ke ano o ka lahui, ke kulana o ke ea ma na kau o ka makahiki ame na meaulu o ka aina. Na ka olelo i a‘o-paka a i hoonaauao mai i ke kanaka i na kanawai o ka lani, ka noho‘na lahui ana o na holoholona, ma ka aina a maloko o na wai ame ko laua mau mea i piha ai.²⁵⁰

²⁴⁸ Eia ho‘i kekahi hana o ka ‘aha ‘ōlelo, HAW. REV. STAT. § 8-24 (2019). I ka makahiki 2013, komo ‘ia maila ka bila kānāwai e lilo a‘e ‘o Pepeluali i mahina ‘ōlelo Hawai‘i ma ka Moku‘āina. *Id.*

²⁴⁹ *E nānā Vitoia e ke Kiaaina*, *supra* note 92 a me nā ‘ōlelo e hahai ana.

²⁵⁰ Sheldon, *supra* note 31.

HŌ'ULU'ULU PŌKOLE

Enshrined in Hawai'i's constitution, the legal foundation for Hawaiian language rights awaits statutory implementation. In the gap between legal justification and practical operation, speakers of Hawai'i's indigenous language are once again being compelled to express themselves in English to access essential government programs. The State of Hawai'i has a role and responsibility in redressing the government actions that forced Hawai'i's language shift. The reluctance of elected officials to develop a comprehensive plan to operationalize the constitution stands in direct contravention to the intent and mandate of Article XV, Section 4 of the Hawai'i State Constitution. As an official but critically endangered language, a statutory infrastructure for Hawaiian language access would support revitalization efforts and provide long-awaited mechanisms to obtain translation and interpretation services statewide.

Kamakakaulani
‘ŌLELO PĀKU‘I HOU

Papa wehewehe ‘ōlelo. Ua ho‘okomo ‘ia ma kēia papa wehewehe, kekahi mau hua‘ōlelo i mea e ho‘ākaaka ai i ka mana‘o o ka ho‘ohana ‘ia ‘ana o ia mau hua‘ōlelo. Ho‘okomo pū ‘ia kekahi o nā hua‘ōlelo pili i ke kāmāwai, ka ‘oihana loio, a me kekahi mau hana pili ‘oihana ‘ē a‘e. ‘A‘ole hana a kīkīko‘ele kēia wahi papa wehewehe ‘ōlelo i kēlā me kēia hua‘ōlelo kāmāwai a ‘oihana loio paha. He wahi ho‘omaka kēia no ka hō‘ike ākea a hō‘oia ‘ana aku i ka lehulehu e mākaukau nō ka ‘ōlelo Hawai‘i i ka hana kāmāwai. Huli ‘ia a loa‘a kekahi o nā hua‘ōlelo ma loko o ka puke wehewehe a Pukui lāua ‘o Elbert, loa‘a kekahi ma ka unuhi kāmāwai a J. M. Poepoe, a ‘o kekahi, nā nūpepa ‘ōlelo Hawai‘i.

trespass, willful trespassing or violation

‘ae like, *accord*

hewa, guilty.

‘aha ‘āpana, *district court*

hoa kuleana like, tenant in common

‘aha ‘elele haku kāmāwai,
constitutional convention

ho‘āhewa, to find guilty, to accuse

‘aha ho‘ohalahala, *appellate court*

ho‘āpono, found not guilty

‘aha ka‘apuni, *circuit court*

hō‘ike pa‘a, witness, one who confirms

‘aha kākau, *court of records*

hō‘ike pāku‘i, rebuttal

‘aha kaulike, *an 1854 name for the highest court*

ho‘oholo koke, summary judgment

‘Aha Ki‘eki‘e, *Supreme Court*

ho‘ohui ‘āina, annexation

‘aha kiule ki‘eki‘e, *grand jury*

ho‘okele waiwai, economy

‘aha ‘ōlelo nui, ‘aha ‘ōlelo lāhui,
congress

ho‘okolokolo hou, appeal

a me nā ‘ōlelo e hahai ana, *and accompanying text*

ho‘oku‘u, to dismiss a case, adjourn

ho‘olawehala, accusation, to accuse

ha‘awina, *article (section in a law)*

hō‘ole ‘ia, denied, as of a motion to the court

hana, *proceedings, to handle (as a court case)*

ho‘ololi ‘ōlelo pāku‘i, amendment

hehikū, *disregard the rights of others, trample on their rights,*

ho‘opau wale, nolle prosequi

ho'opau wale 'ia ma waho o ka 'Aha, <i>settled outside of court, settlement</i>	kauoha ho'okō, <i>executive order</i>
ho'opi'i, <i>to sue, bring suit, bring a complaint, accuse in court, prosecute, lawsuit, court case</i>	ke'ehina, <i>position, posture, stance, disposition.</i>
ho'opi'i hou, <i>appeal</i>	Ke'ena No'eau Ho'okele Waiwai, <i>economics</i>
ho'oponopono waiwai, <i>administrator or executor of an estate to administer an estate</i>	Kekahi mau kumu ma ke kōnāwai, <i>points of law</i>
ho'owahāwahā i ka 'aha, <i>contempt of court</i>	kiure, <i>jury</i>
hope loio kuhina, <i>deputy attorney general</i>	kiure ki'eki'e, kiure nui, <i>grand jury, grand juror</i>
'i'ini, <i>intent</i>	kōkua kumu, <i>assistant teacher, substitute teacher</i>
i mua o ka 'Aha, komo pono i loko o ka 'Aha, <i>rectus in curia</i>	kū ka hewa iā ia, <i>she/he/they is (are) guilty</i>
ka hehikū wale 'ia o kekahi 'ōlelo ho'oholo, <i>the breach of any regulation</i>	kula kamali'i, <i>kindergarten</i>
kāko'o, <i>to affirm a ruling of a lower court. "kakoo ka Aha Kiekie i ka Olelo Hooholo."</i>	kuleana koi waiwai, <i>in rem</i>
kāko'o kōnāwai, <i>authorities</i>	kulekele, <i>policy</i>
kōnāwai dute, <i>revenue laws</i>	kumukōnāwai, kumuk. pauk., <i>constitution</i>
kōnāwai ho'oponopono 'ia, <i>revised law</i>	kumu ho'opi'i, <i>complaint</i>
kōnāwai kivila, kōn. kiv., <i>civil law</i>	lawelawe hana, <i>function, administration</i>
Kōnāwai o ka Mana'o, <i>Common Law</i>	lawelawe ho'opi'i kalaima, <i>criminal procedure</i>
Kōnāwai 'Okana 'Āina, <i>Organic Act</i>	lawelawe 'oihana, <i>to conduct business. Eia he la'ana, ka loio nāna e lawelawe nei i ka hihia, the lawyer who is handling the case.</i>
	lawelua, <i>to study both sides of a question, to act impartially</i>

loea ‘ike k ā n ā wai, <i>legal scholar</i>	mo‘olelo, <i>record, minutes, as of a meeting, proceedings</i>
lumi kiure, <i>jury room</i>	n ā mea ‘aelike, <i>terms or conditions of agreement</i>
mai n ā k ū puna mai, <i>traditional</i>	n ā mea apau i ho‘ ā kaaka ‘ole ‘ia ma ke k ā n ā wai, <i>all things not expressly provided for by law</i>
loio, <i>lawyer, attorney, counselor</i>	n ā mo‘olelo o ka ‘aha ‘olelo, <i>legislative proceedings</i>
loio ho‘opi‘i moku‘ ā ina, <i>state prosecuting attorney</i>	n ī nau nui, <i>issue</i>
loio kalana, <i>county attorney</i>	noho ke‘e, <i>to sit in disagreement, opposition</i>
loio kuhina, <i>attorney general</i>	noi, <i>plea</i> ; ka mea noi, <i>the applicant, petitioner</i> . Ma ka noi a Mr. Mahelona, <i>on motion of Mr. Mahelona</i> ; also, <i>motion</i>
loio o ka ‘ao‘ao k ū ‘ ē , <i>lawyer for the opponent</i>	no ia w ā ihola, <i>pro hac vice</i>
m ā kaukau, ho‘om ā kaukau, <i>to provide for</i> . Aia k ē ia kumu alaka‘i ma ka puke wehewehe: “ho‘om ā kaukau ‘ia ma k ē ia k ā n ā wai, <i>provided for by this law</i> .”	notari no ka lehulehu, <i>notary public</i>
m ā kia, aim, motto, purpose; <i>to aim or strive for</i>	o‘a, <i>house rafter; timbers in the side of a ship; sides of a rock wall</i> . Ho‘ohana ‘ia ma loko o n ē ia pepa no ka mana‘o ‘olelo Beretania “ <i>framework</i> ”.
Mana Ho‘ok ō , <i>Executive Branch</i>	o‘a federala, <i>federal framework</i>
Mana Ho‘okolokolo, <i>Judiciary Branch</i>	o‘a k ā n ā wai, <i>statutory framework</i>
Mana Kaukanawai, <i>Legislative Branch</i>	ka ‘ofeni nui, <i>capital offence</i>
mana‘o ho‘ ā kaka alaka‘i, <i>reasons</i>	‘Oihana Ho‘ona‘auao, <i>Department of Education</i> , kapa ‘ia ho‘i ‘o Papa Ho‘ona‘auao
mau‘a‘e, <i>to override, as a veto, such action</i>	
mea ho‘opi‘i, <i>plaintiff</i>	
mea ho‘opi‘i ‘ia, <i>defendant</i>	
mea k ā kau loio, <i>legal scholar</i>	

‘ōlelo hō‘ike, <i>evidence, statement of facts, affidavit, testimony, as of witnesses</i>	‘ōlelo pili ‘oihana, <i>official language</i>
‘ōlelo ho‘oholo, <i>verdict (as of a jury), judgment, decision; resolution; conclusion. E nānā i ka la‘ana, “Olelo hooholo, aole hewa,” not guilty verdict; “Olelo ho‘oholo, hewa,” guilty verdict; “Olelo hooholo, hewa ma ke degere elua, o ka lawe ola,” guilty of second degree manslaughter or homicide</i>	pa‘i hou ‘ia, <i>reprinted in</i>
‘Ōlelo Ho‘oholo Hui, <i>Joint Resolution</i>	paio kānāwai, <i>legal argument, to make a legal argument</i>
‘ōlelo ho‘oholo ‘ia, <i>enacting clause</i>	paio ‘ōlelo, <i>oral arguments</i>
‘ōlelo ho‘okō, <i>judgment</i>	paio na‘auao, <i>assert, maintain, claim, argue, contend, argue. Ho‘ohana ‘ia kēia mamala ‘ōlelo ma ka nūpepa ‘ōlelo Hawai‘i mai ka makahiki 1870 a hiki i ka makahiki 1909.</i>
‘ōlelo ho‘ononono, <i>figurative language, obscure speech with puns and poetical references</i>	pāku‘i ‘ia ke ko‘iko‘i, <i>emphasis added</i>
‘ōlelo ho‘opa‘a, <i>stipulation</i>	palapala hō‘ike, <i>affidavit, report</i>
‘ōlelo ho‘opa‘i, <i>sentence, penalty</i>	palapala ho‘ohiki, <i>affidavit</i>
‘ōlelo kauoha, <i>decree, order, commandment, to order, decree</i>	palapala ho‘olilo, <i>conveyance, quitclaim, deed, as of transference sale, assignment, transfer</i>
‘ōlelo kūkā, <i>consultation, discussion; to discuss, consult</i>	palapala ho‘opi‘i, <i>warrant, as for arrest; claim, indictment, petition, application</i>
‘ōlelo kūpa‘a, <i>ordinance, legal decree, judgment, statute</i>	palapala ku‘ukino, <i>writ of habeas corpus</i>
‘ōlelo paio, <i>contend, assert, maintain, declare, state, proclaim</i>	pāoni, <i>disagreement, argument, contention; to argue, quarrel</i>
‘ōlelo pahuhopu, <i>mission statements</i>	pohō, <i>ad damnum</i>
‘ōlelo pāku‘i, <i>amendment</i>	waiwai i pāpā ‘ia e ke kānāwai, <i>contraband goods; lit., good forbidden by the law</i>
	waiho inoa, <i>nominate</i>