

Native Hawaiian Claims, 1974 - 1984: Background Information (2 of 3)

Senator Daniel K. Inouye Papers

Native Hawaiian Issues, Box NH11, Folder 5

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g to work or to train for employment. The Alu Like, funded under the Comprehensive Employment and Training Act of the U.S. Department of Labor, has a single purpose: to provide economic self-sufficiency amongst Native Hawaiians.

Youth of the world, the Employment and Training Administration will concentrate much of its efforts to provide job training and employment opportunities for young Hawaiians. The designation bestowed on 1979 by the United Nations on all of the needs of the younger citizens point "U.N. Declaration of the Rights of the Child."

Alu Like is a useful member of society and to develop the mission of Alu Like's E & T youth program. The program in April of last year. Initially limited to high school and out-of-school youth, aimed at providing job training and employment opportunities for economically disadvantaged Native American and Native Alaskan).

Continued the full 12 months. It will offer a program for school and out-of-school youth, aimed at providing job training and employment opportunities for economically disadvantaged Native American and Native Alaskan).

Employment Training Program (YETP) will provide members will work closely with school and their families in an on-going effort to keep them giving them an opportunity to earn wages and experience.

The Department of Labor, will provide wages or for eligible applicants. In the ages of 16 and 21, inclusive. Exceptions for older.

Needs of the individual youth also results in unity as a whole. The Youth Community Program (YCCIP), to be held during the summer employment and provision of jobs. Any training participant's job.

At participants will do constructive work in and benefits. Such employment may include the improvement of natural resources; and in other

Must be an Hawaiian, American Indian or of any race or age.

Is in operation during the summer of 1978, the 121 projects. There were eight on Oahu, eight on Hawaii. A total of 157 Native American earned wages, school credits or accumulated benefits.

service employment, work experience, on-the-job training and classroom training.

Public service employment provides jobs, funded by federal funds allotted to Alu Like, in county, state and private agencies that serve the public. The jobs are funded for a maximum of one year and are viewed as springboards into permanent positions with the employing agency or into similar jobs with other employees.

In addition to providing immediate employment to out-of-work Hawaiians, the jobs also sharpen the participant's work habits and skill.

At the same time they are earning and learning on the job, participants in public employment are serving the needs of the public. The program is, in effect, a federal grants-in-aid to county, state and other public agencies.

The work experience program provides short-term work assignments with public or nonprofit private employers for participants to learn basic work skills. The participants, under constant and close supervision, are given an opportunity to develop good work habits and to become motivated for further training or employment that will move them up the ladder in their climb toward social and economic self-sufficiency.

This program is beamed toward individuals who have never been employed or who have been chronically unemployed.

While there is a six-month limit on the time a person may spend in a work experience activity, the participant may be transferred to another Alu Like program for additional training and task-oriented experience.

The work experience assignment may be full or parttime, and the participant receives the same entry-level pay as other workers during similar tasks.

On-the-job training enables a participant to learn specific skills in an actual work situation. It may be likened to an apprenticeship that permits a worker hired at an unskilled level to move upward through a progression of job assignments, each involving small increments of skill.

Participants entering this program are more advanced in job readiness than those in work experience activities. They, too, receive the same rate of pay as other workers performing the same tasks.

Alu Like subsidizes the full cost of participant wages, fringe benefits and training expenses for individuals placed with nonprofit organizations. Profit-making employers may be reimbursed for the costs of training.

On-the-job training reimbursements are designed to encourage employers to hire individuals they might not otherwise consider by helping the employers to cover the extraordinary costs of hiring, training and retaining disadvantaged persons as workers.

The program is especially well suited for disadvantaged persons who may be disenfranchised with classroom training. Many disadvantaged clients need extra help and effort to overcome work-oriented obstacles and become meaningfully employed.

Successful completion of on-the-job training should lead to permanent unsubsidized employment.

Continued on Page 7

Alu Like looks at Kaua'i history

Heritage is lost and forgotten, but of the ones that to preserve and interpret them. If we are to our heritage is lost forever. Few attempts have been made to preserve our sites, and all too often the sites that have been interpreted incorrectly. Unfortunately, no one is interpreting these locations. Truly, such work people.

Initiated by the County and the State have been the past. Ha'ena, Polihale, Koke'e, and Lydgate are natural and cultural sites, although, with improper and inadequate interpretive resident caretakers and interpreters, the visitor sees. How then can we pass on our heritage? Through the physical remains of a temple. Heritage is word of mouth or in writing, and it must be a

On Kaua'i, the wahi pana a Kaua'i, how restricted to only a few. Have you seen and salt pans with the red salt once were so famous that no person could not claim to have seen Kaua'i. Near the '76 Service Station was once called Kite of 'Aikanaka fell with such a thud that it gave the notch its name. The hero who was Kamehameha, a famous chief and hero in Kaua'i is the mountain at Anahola. There are two stories that create the hole. But what also of a Kaua'i bird that have pecked out the hole so that he could look down the artifact collection at Kukuilono Park stones can be found there. One of these is a heiau to Kaua'i, another is a large dish out of stone. This boulder gave the place name Wahiawa. A fish god now stands in this high location, is respected and worshipped for its powers of

Old heiau or temples are now mere shadows of these houses of worship all too often were seen as convenient piles of rock.

Remains of Kaua'i were stripped, degraded and do not exist as to be found on private lands and in the ones along the shores have been stripped to rubble, Hau'ola, Poliahu, Kapinao and Lohiau's tradition. In contrast the smaller fishing shrines

along the shores are still used and revered by both native and non-native peoples of Kaua'i. Mochi, unopened Coca Cola bottles, fruit, Ti-leaves and coins commonly can be seen on fishing shrines. Fishermen still respect the whims of the sea as they seek good fortunes from the gods. This respect can still be observed also when Kaua'i people put New Year's mochi on ti-leaves on their boats, tractors, and cars and even on their work equipment and tools.

Within a short time span of 200 years, the combined cultures of both west and east have tremendously changed Kaua'i's landscape, tapped its mighty rivers and altered the shape of its coastline as they scattered their houses and temples everywhere. What did these cultures contribute to the totality of Kaua'i's heritage? Usually one thinks of only gross material things, such as historic buildings, bridges, churches, and graveyards. However, one must not overlook the famous 88 shrines of Lawa'i Valley, the botanical garden of Lawa'ikali, the forts of Alexander at Hanalei and Elizabeth at Waimea. Look at the sleepy facades of Hanapepe, Waimea, Koloa and Hanalei towns, the architecture of the County Buildings and the Kaua'i Museum in Lihue. Unforgettable is the goose-bump producing whistle of the Wainiha, the reconstructed engine at Puhi that once proudly hauled sugarcane for Grove Farm. Walk the swinging bridges of Waimea and Hanapepe, fish from the piers of Ahukini, Hanalei and Port Allen, and pass under the cathedral cover of Eucalyptus trees at the Koloa Junction. These are but a few of the historical treasures of Kaua'i.

When we speak about preserving the heritage of Kaua'i, we face several areas of concern. All too often, preservation, protecting the environment and historical society activities are thought of as "haole" middle class endeavors. The general public on Kaua'i must also be convinced of the worth of preservation and they, themselves, are really history-in-action, or heritage-in-the-making. Another problem deals with access to the artifacts of our heritage. Numerous private property owners prohibit access to sites. Every Hawaiian site, in effect is a religious site and should be accessible to its worshippers and admirers. Lack of respect is all too visible as we see our artifacts vandalized and destroyed. Surely, each person should become a konohiki, a land steward who has the duty and responsibility to keep things right. When you have to face your ancestors one day, what will your answer be to their question: "Did you take care to respect and honor us, the past?"

Bishop Yoshiaki Fujitani of Honpa Hongwanji Mission designated nine new "Living Treasures of Hawaii" in temple ceremonies recently. The honorees included Kumuhula Edith Kanakaole, Gabby Pahinui, Eddie Kamae, John Dominis Holt IV, Rev. Mr. Abraham Akaka, Kahuna nui Emma DeFries, Kupunawahine Alice Namakaelua, Aldyth Morris and Clorinda Lucas.

NATIVE HAWAIIAN-1

Senator

DANIEL K. INOUE



NATIVE HAWAIIAN LAND CLAIMS

In 1971, the U.S. Congress passed the Alaska Native Claims Settlement Act.

Under this act, the United States sought to inscribe in law a land and monetary settlement to compensate the natives of Alaska for their aboriginal—or native—rights.

At the end of 1971, the President signed this act into law. As a result, our nation officially recognized certain entitlements retained by Alaska's native Indian Aleut and Eskimo population as natives of the land. The act also was designed to settle claims by these natives of title to lands on which they had fished, hunted, and dwelled for countless generations, but whose clear-title ownership had been left open to dispute.

Since the law's enactment, much interest has been shown both by persons of Hawaiian ancestry and by others for a similar law to settle land claims by native Hawaiians in Hawaii. That law would seek settlement to compensate the Hawaiians for their "native rights."

Even before the Alaska Native Claims Settlement Act was born, I devoted much thought and study to this complex problem. Now I would like to share with you some of my thoughts and conclusions.

A PROPOSAL

I feel that the Hawaiians have as much right as the Alaskans to some form of compensation for loss of lands.

The basis lies in Hawaii's history. Although most missionaries and business concerns had the best interests of

the Islands at heart, the Hawaiians lost much acreage without having received fair financial reparation or the benefits of due process under the law. I have detailed my history findings for you on page two.

To provide some restitution, I propose that the U.S. Congress establish a special corporation for Hawaii citizens of at least one-fourth Hawaiian blood. This corporation would pay its expenses and draw profits by owning and administering all present and future Hawaiian Home lands. The membership, through its elected board of directors, could lease or develop the lands for recreational, residential, or commercial use—however it saw fit.

Under my proposal, the corporation's lands would include the following:

- Lands currently owned by the State government but which are being leased to private concerns and are not being used for governmental purposes;
- Lands now administered by the Hawaiian Homes Commission;
- Lands presently owned by the Federal government, to be turned over to the corporation as they become surplus to Federal government needs.

Members would hold shares of stock—initially, perhaps 100 shares per person—and profits would be apportioned among members through dividends. To provide a measure of stability, shareholders would not be able to sell, transfer, or alienate their stock for the first 20 years. In event of death or divorce, stock could be transferred only to qualified beneficiaries.

The Federal government would appropriate about \$500 million for the Hawaiian corporation. (The Alaska Native Claims Settlement Act appropriated \$462 million.) Corporate membership would elect its board of directors for staggered four-year terms. This board, which would report annually to stockholders, would have to make full public disclosure of its activities.

Briefly, other provisions are:

- Present lessees may continue to reside on Home lands, but dividends to these lessees would be less the amount of the annual appraised value of their leased property.
- The board could sell land parcels only if the stockholders approved by a 2/3 referendum vote.
- Corporate profits would be subject to applicable Federal, State, and local taxes, and stockholders would pay applicable income tax on dividends.



THE ISLANDS' HISTORY

In many ways, Hawaii's history is one of contradictions.

It is marked with events that signified both pride and honor, deception and disgrace. Hawaii's history is glorious and noble; at the same time, it is stained by injustice. Essentially, during the process of blending the Islands' Polynesian culture with that of the Mainland Anglo-Europeans, much of what was uniquely Hawaiian was lost.

Historically, the Hawaiians' basic land tenure system was a monarchical, semifeudal one. The land belonged to the king or principal chief of each island. He not only "owned" all of the land and property, but also held power of life and death over his people. He divided his holdings among lesser chiefs into large estates called ahupuaas, lands usually extending from the shores to the mountains. These were further subdivided into ilis to be operated by lesser chiefs. Finally, smaller plots were provided for the commoners in exchange for a certain share of their crops, labor, and military service. An elaborate system of religious "kapus" existed to reinforce this structure—thus providing the Hawaiian society with a certain stability.

In 1820, the first missionaries arrived in Hawaii from the Mainland. This opened what is perhaps the most controversial era in Hawaii's history.

There can be no question that most of these Americans were extremely religious and acted sincerely in a manner that they thought was best for the Hawaiians. However, the combination of their undermining the traditional "kapu" system and the tremendously increasing participation of these new residents in the Hawaiian



U.S. President Grover Cleveland requested investigation into collapse of the Hawaiian monarchy, then concluded Americans had illegally overthrown the Queen's Government. He did not support annexation of Hawaii by the United States.



Queen Liliuokalani was a key figure in Hawaiians' attempt to regain control over Island concerns. With her ouster and imprisonment at the close of 19th century, this movement lost much of its momentum.

government led to the situation where, in 1850, the *Honolulu Times* stated that: (to obtain land) "Go to Boston and be appointed a missionary." Records show that, by 1852, 16 missionaries held title to 7,886 acres of Island land. Similarly, the first census, conducted in 1853, indicated that there were only 71,000 Hawaiians, in contrast to estimates of up to 300,000 when Captain Cook originally arrived. Undoubtedly, the "Great Mahele" of 1848 represented the climax of these developments.

Interwoven with these developments is a clear picture of increasing foreigner dominance in both financial and political affairs. They, particularly the sugar interests, felt it was extremely important to obtain the security which comes with direct land ownership. They acted accordingly.

The antecedents of "land reform" appeared as early as 1825 when 12-year-old Kamehameha III ascended the throne. A national council of chiefs was organized to confirm the new king and to establish policy. Their recommendations resulted in the "Law of 1825," which essentially demolished the traditional custom of land redistribution and replaced it with the Western practice of inheritance. The new constitution further declared that the chiefs and the people were to be joint owners of the land. In 1848, King Kamehameha III signed the "Great Mahele," a declaration in which he officially divided his lands among his chiefs and set aside certain lands for the government.

It was around 1850 that a fee simple title system for the common tenants and for foreigners evolved. A Land Commission was established, and until its termination in 1855, it was the vehicle by which land titles were awarded and conflicting claims were resolved. However, a great many commoners never received titles to their land. Because many did not understand the importance of the new law, many failed to file any claims at all.

HOW ARE THE ALASKAN AND HAWAIIAN LAND CLAIMS CASES DIFFERENT?

Alaska

Hawaii

TOTAL LAND AREA

571,065 sq. mi. (1960)

6,415 sq. mi. (1960)

FEDERAL-OWNED LAND AREA

353,000,000 acres, most of which remain unsigned for usage.

396,000 acres, most of which have been assigned usage. (For example: National Park lands and military installations such as Fort Shafter and Pearl Harbor.)

U.S. GOVERNMENT ATTITUDE

Native Alaskans generally have been considered in terms of distinct tribal units, similar to the American Indian. Accordingly, the U.S. government has viewed and treated these Alaskan native groups as "wards" of the State.

Native Hawaiians, on the other hand, have not been grouped on any particular basis. For the most part, contemporary Hawaiians are broadly assimilated in society. Consequently, the IMAGE retained by the native Hawaiian is less distinct than that of the native Alaskan, and for many Americans, the term "Hawaiian" most readily suggests a resident of Hawaii, not a member of a specific native grouping.

NATIVE RIGHTS TO OWN LAND

Alaska's land tenure system did not allow natives to own land. So, when Alaska achieved Statehood, Congress indicated that the U.S. should assume responsibility for the natives' land rights, and guaranteed to them some form of future settlement.

Because of the "Great Mahele," by the time of annexation (1898), Hawaii had a highly developed system of fee simple land ownership. Hence, Congress provided no similar guarantee of natives' land rights in the Hawaii Organic Act.

TRADITIONAL NATIVE RIGHTS TO PUBLIC LANDS

The Alaska Statehood Act drew a clear distinction between the historical right of Alaskan natives and the general right of the State to lay claim to lands in the public domain in Alaska.

The Hawaii Statehood Act made no such distinction. No consideration was made for any special native rights to lay claim to lands in the public domain in Hawaii.

PRIOR LITIGATION EFFORTS

Alaskan native groups previously had initiated litigation to legally perfect title to these lands which they historically had used.

To date, no such comparable effort has been made by Hawaiian native groups to similarly reclaim their lands. Thus, judicial history is nonexistent.

NATIONAL VS. LOCAL INTEREST

Legislatively, the Alaska Native Claims Settlement Act attracted national interest because of the potential widespread ramifications of any determination of land rights. (For example: the effect of a land right settlement on mineral extraction or oil drilling.)

Because Hawaii has no similar natural resource deposits, a similar legislative proposal for native Hawaiians would probably be construed as a localized issue.

HOW ARE THE ALASKAN AND HAWAIIAN LAND CLAIMS CASES SIMILAR?

In a special report conducted by the Library of Congress in April, 1973, at my request, a very important argument in support of a special claim by native Hawaiian people is found in a section entitled, "Hawaii Became an American Territory Under Foreign Influence and Without the Consent of the Native Hawaiian People." I wish to quote this section for you:

"The U.S. acquired Alaska from Russia without the consent of the Alaska natives who lived there. Thus the assumption of title to public domain in Alaska by the U.S. Government left the natives without compensation for any of Alaska's 365 million acres, which they had used and occupied for centuries, and to which, on the basis of use and occupancy, they claimed aboriginal title. The Alaska settlement vested title in the natives to 40 million acres and provided a cash settlement totaling nearly one billion dollars as payment for extinguishment of aboriginal title to the rest of the land.

"It has been argued ever since the 1893 Revolution in Hawaii that Annexation to the U.S. was not the will of most of Hawaii's native population.

"President Grover Cleveland appointed a special commissioner to Hawaii, James H. Blount, who investigated the circumstances relating to the overthrow of the Hawaiian monarchy in January, 1893, and flatly concluded that the revolution was the result of a conspiracy between the U.S. Minister to Hawaii, John L. Stevens, and revolutionary leaders in Hawaii.

"President Cleveland's Secretary of State, Walter Q. Gresham, wrote the President in October of 1893:

'Mr. Blount states that while at Honolulu he did not meet a single annexationist who expressed willingness to submit the question to a vote of the people, nor did he talk with one on that subject who did not insist that if the Islands were annexed suffrage should be so restricted as to give complete control to foreigners or whites. Representative annexationists have repeatedly made similar statements to the undersigned.'

"It was the President's conclusion, based on the reports, that: 'The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

'But for the notorious predilections of the United States Minister for Annexation, the Committee of Safety, which should be called the Committee of Annexation, would never have existed.

'But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

'But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

'And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Stevens' recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States.'

"On the basis of these conclusions, President Cleveland refused to resubmit to the Senate a Treaty of Annexation which had been drawn up in 1893.

"The Republic which governed Hawaii between 1894 and 1898 served as a kind of 'interim government' between the Monarchy and Annexation, and, in the opinion of many scholars, did not truly represent the Hawaiian people:

'The new government was considerably more 'republican' than democratic. The president was to be elected by the legislature for a single term of six years, although (the first and only President, Sanford B. Dole) was named by the Constitution as president until the end of the year 1900. Property qualifications were imposed upon members of the two-house legislature, as well as on voters eligible to elect senators. . . .'

"The President, Sanford B. Dole, was a white man.

"Thus it can be argued that the Annexation Treaty, approved by the Hawaiian Senate and signed by President Dole on September 10, 1897, was sanctioned by a legislature and government that arose from an act that, in the opinion of the President's special emissary, was contrary to the will of the Hawaiian people.

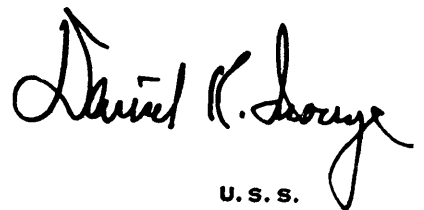
"It could thus be argued that when Hawaii joined the U.S. and ceded the government and crown lands of the Hawaiian people to the U.S., it did so without consent (and possibly against the will) of the native population, who, as in Alaska, found themselves without title to the ancestral lands on which they had lived and which they had used from time immemorial. Although the Statehood Act retroceded these lands to the State of Hawaii, nearly 400,000 acres of what was originally Hawaiian government lands are still owned by the U.S. government. While it would not seem feasible to redistribute this land to the people (the bulk being either assigned to the Interior Department, as part of the National Park System or the military), a cash compensation for extinguishment of aboriginal title, similar to that provided in the Alaska settlement, would seem to be justified in light of the Alaska precedent."

The Library of Congress report cites two other important arguments in support of native Hawaiian claims. For one thing, according to the study, the U.S. government paid no compensation to the native population for Federal lands in either Hawaii or Alaska before the Alaskan settlement. For another thing, the study reports that as written, the Hawaii Organic Act of 1900, like the Alaska Organic Act of 1884, left open the possibility for some future legislative settlement of native land claims.

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GLOSSARY OF HAWAIIAN LAND TERMS

(Source: Terminology of Hawaiian Land Divisions,
Arranged by R.D. King from Real Property Manual,
Dated January 1, 1942)

Ahupuaa The islands were each divided into districts called *Mokus*, which seem to have been geographical subdivisions only, for there were no administrators over these *Mokus*, as districts.

Each *Moku* was divided, for landholding purposes, into smaller divisions called *Ahupuaas*, varying in size and shape. The typical form of an *Ahupuaa* was a strip running from the sea to the mountains and containing a sea fishery and sea beach, a stretch of *Kula* or open cultivatable land and, higher up, its forest. All *Ahupuaas* had definite boundaries, usually of natural features, such as gulches, ridges and streams, and each had its specific name. A chief held it, not owned it, for he owed allegiance to a higher chief or the sovereign.

Ili Many of the *Ahupuaas* were subdivided into smaller lands called *Ilis*. Each had its own individual title and was carefully marked as to boundary.

Ili
Kupono There were two kinds of *Ilis*, one, the *Ili Kupono*, known also as *Ili Ku*, being a portion of land, the "ownership" of which is fixed, for the chief holding an *Ili Kupono* continued to hold, whatever the change in the *Ahupuaa* chief. In other words, the transfer of an *Ahupuaa* to a new chief did not carry with it the transfer of any *Ili Kupono* contained within its limits.

Ili of the
Ahupuaa The other *Ili* was the *Ili* of the *Ahupuaa*. *Ilis* of the *Ahupuaa* were subdivisions for the convenience of the chief holding the *Ahupuaa*.

Kuleana The small areas of an *Ahupuaa*, which the tenants, or common people, had improved or cultivated and used for their own purposes and to which they substantiated their claims and perfected their rights, securing from the Land Commission an Award of Title in Fee Simple, were known as *Kuleanas*. The word itself means "rights"--a right of property which pertains to an individual--and was applied uniformly during the existence of the Land Commission to the Fee Simple holdings awarded by it to the common people.

Konohiki The head man of an *Ahupuaa* or a person who had charge of a land with others under him was called a *konohiki*. He was an agent who managed a chief's lands. The word *Konohiki* in time came to be applied to the land under such an agent's care, thus the land held by a chief, an *Ahupuaa* or *Ili*, was known as *Konohiki* Land.

Table A-10. Ethnic-Sex Specific Rates (per 100) for Runaway Youths from January 1974-June 1975

	Hawaiian			Part-Hawaiian			All Ethnic Groups		
	Population*	No. of Runaways**	Specific Rate	Population*	No. of Runaways**	Specific Rate	Population*	No. of Runaways**	Specific Rate
<u>Male</u>	808	9	1.1	35,916	105	0.3	133,334	315	0.2
<u>Female</u>	658	4	0.6	34,262	210	0.6	124,383	569	0.5
<u>Both</u>	1,466	13	0.9	70,178	315	0.4	257,717	884	0.3

* Jedlicka, D. Children in Hawaii: An analysis of some sociodemographic characteristics from Health Surveillance data, 1972-1974. R & S Report, Issue No. 9, Research and Statistics Office, Hawaii State Department of Health, February 1976, p. 15 (under 17 years population).

**Social Welfare Development & Research Center. Study of Runaway Children & Youth in Hawaii - 1975. Report prepared for Conference on Runaway Children & Youth in Hawaii, September 24, 1975, Honolulu, Hawaii, p. 33.

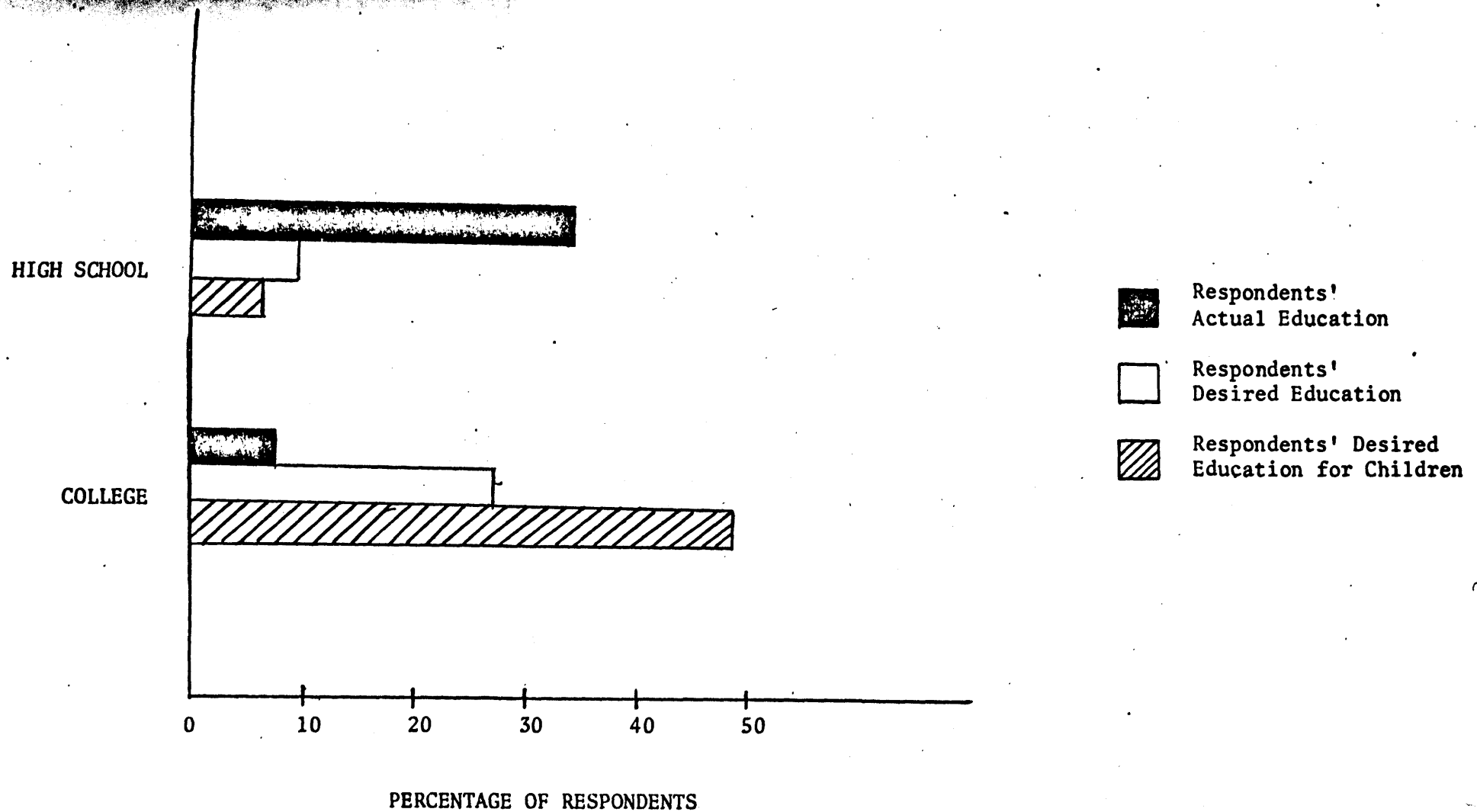


Chart 1. Gaps Between Actual and Desired Education and Desired Education for Children

STATEMENT BY SENATOR DANIEL K. INOUE FOR HEARINGS BEFORE
THE HOUSE INTERIOR COMMITTEE ON HAWAIIAN NATIVE LAND CLAIMS
STUDY COMMISSION; DECEMBER 22, 1979

Mr. Chairman, I wish to thank you for taking time from your busy schedule to come to Hawaii for this hearing on H.R. 5791, legislation introduced in the House by Congressmen Akaka and Heftel establishing a Hawaiian Native Land Claims Study Commission. While I realize that this is not an issue that ranks high on the national scene, it is one which has long concerned the people of this state and one which, I am convinced, merits the attention of the United States Congress and the American people. I know that any issue which involves Native Americans, especially those of Pacific Island descent, is a matter of interest to you and we appreciate this demonstration of that interest and having you with us today for this hearing.

As you are aware, Native Hawaiian Claims is a question which has received the Hawaii Congressional Delegation's attention for over five years. In 1975, I introduced S.J. Res. 155, a bill similar to that which is presently before you. Though that measure was favorably reported by the Senate Interior and Insular Affairs Committee, insufficient time remained in the 94th Congress to achieve full Senate approval. I again introduced it in the 95th Congress as S.J. Res. 4 which was favorably reported by the Senate Energy Committee and subsequently unanimously passed by the Senate in October of 1978. Unfortunately, the House of Representatives failed to act favorably.

The purpose of S.J. Res. 4 was simple and straightforward; it purported to accomplish three goals: First, it provided a clear statement by the Congress that, in 1893, a wrong was committed by representatives of the United States Government against the sovereign government of the Hawaiian Kingdom and her subjects; second, it set forth that this wrong has never been redressed; and, third, it provided a vehicle, the Hawaiian Native Claims Study Commission to study and recommend the extent of the Federal obligation, if any, which is outstanding and the means by which that obligation can be met.

H.R. 5791, which is before us here today, has similar goals. Like S.J. Res. 4 of the 95th Congress, the bill authorizes the establishment of a study commission directed to conduct a thorough investigation of the events surrounding the collapse of the indigenous government of the Hawaiian Kingdom and to make recommendations to the Congress based on its findings and conclusions. However, there are differences. Most obviously, H.R. 5791, eliminates any Congressional finding of improper or illegal conduct on the part of the United States and avoids mention of the federal government's obligation to endeavor to remedy the wrong represented by and resulting from its involvement in the affair. Also eliminated is the requirement that a majority of the commissioners be of some degree of Native Hawaiian blood. I realize that these and other modifications come in response to concerns expressed by opponents of S.J. Res. 4 during House floor debate and represent an earnest effort to avoid the barriers and pitfalls encountered last year. I believe that this is a responsible approach to achieving House approval of a study commission measure in the 96th Congress, and I applaud Rep. Akaka and Rep. Heftel for their careful and candid evaluation of the situation and their commitment to the acceptance by Congress of a Native claims bill.

After the defeat of S.J. Res. 4 in September of 1978, I continued to meet with the Hawaiian leaders, individually and in groups to discuss and consider alternatives to the Study Commission Act. However, out of these discussions has grown an even stronger conviction that this is a just cause. While legitimate disagreement exists over the extent and nature of the proper redress there can be few who investigate the relevant past who in all honesty can doubt that a genuine grievance exists. Mr. Chairman, I believe that the facts in this case are clear, that the United States Government should finally acknowledge its responsibility in this shameful affair, and should seriously seek a fair and equitable means of repairing the injury visited upon the Native Hawaiians. Accordingly, on December 13th, Senator Matsunaga and I reintroduced the Hawaiian Native Claims Study Commission Act as it passed the Senate in the 95th Congress. I sincerely hope that both the Senate and House versions of the Act achieve the swift approval of their respective bodies and that a strong and mutually acceptable compromise measure can be worked out in conference; one which accurately reflects the issues involved and adequately provides for the rights and concerns of the Hawaiian people.

Mr. Chairman, history sadly records that the United States did not choose a peaceful route to annexation of the Hawaiian Islands. Instead, by an act of war in January, 1893, official representatives of the United States participated significantly in the wrongful and illegal conspiracy and subsequent overthrow of an officially recognized and friendly government that had enjoyed amicable relations with the Government of the United States. That friendly government was the constitutional monarchy of Queen Liliuokalani of the independent and sovereign Kingdom of Hawaii which had prevailed for over 100 years and which was invested with a sophisticated social, economic, political and legal organization but which was militarily weak.

The coming of the white man, almost a century earlier, and the ravages of the diseases he brought, served to drastically weaken the Hawaiian people and their traditional laws and customs. By the late 1880's the increasing westernization of Hawaiian society and Government under pressure from Western religious and business interests was breaking down the traditional forms of the monarchy. Queen Liliuokalani's attempt to regain some of the powers and rights of the Hawaiian monarch in 1892 triggered a well-planned conspiracy by a small but influential foreign elite, many of whom were American citizens. Deeply involved in this conspiracy was the U.S. Representative to Hawaii, Mr. John L. Stevens, who arranged to have marines from the USS BOSTON, docked in Honolulu Harbor, to land and enforce the overthrow.

Queen Liliuokalani yielded her throne with a written protest on January 17, 1893. The Queen abdicated her sovereignty with the understanding that she would appeal her case to the United States Government and have the committed wrong rectified. This never occurred. Despite numerous attempts by the Queen and the loyal royalists to regain the throne the conspirators prevailed with continued U.S. protection. A provisional government was soon established. This government later transformed itself into the independent Republic of Hawaii and waited for annexation to the United States.

Such an action was proposed to Congress by outgoing President Harrison. However, the proposed annexation treaty was later withdrawn by President Grover Cleveland after he received a report from Mr. James Blount, a special commissioner appointed to investigate the circumstances surrounding the so-called revolution, condemning the action of the foreign conspirators and the United States involvement in their campaign. In a message to Congress delivered on December 18, 1893, the President stated:

It has been boasted of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality, that there is one law for a strong nation, and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.

By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard of our national character as well as the rights of the injured requires we should endeavor to repair.

However, though annexation was delayed for five years, a new administration supported the Republic of Hawaii's suit and annexation was finally consummated in 1898. The Constitution of the Republic expropriated the crown lands without compensation and made them available for purchase by private western interests. Lands held in the public domain were also appropriated and transferred to the United States Government upon annexation.

Perhaps the most tragic consequence of the overthrow has been the serious aggravation of a trend toward the demoralization and alienation of the Native Hawaiian people from their former national, cultural, and individual identity. Though they currently comprise 18 percent of the Hawaii State population, Native Hawaiians, almost across the board, occupy the bottom most rungs of every socio-economic indicator. In many ways they have become strangers in their own homeland and now face, what I consider to be, a severe crisis in economic, social, and cultural survival, a situation somewhat similar to that of the American Indian.

Mr. Chairman, the full repair of the injury suffered by the Hawaiian people is an unfinished business of this government. I realize that the legislation that is the subject of these hearings today is but one small step toward the final resolution of this issue. However, I believe it is a fair, reasonable, and perhaps the only currently feasible means of directing the Congress' attention to a serious consideration of the legitimate claims and the present needs of the Native Hawaiian people.

I obviously do not know specifically what this bill will do for the Hawaiian people. That will depend on the Study Commission's recommendations and on the disposition of such recommendations by the Congress of the United States. I very much want the recommendations of the Commission to honestly reflect the desires and aspirations of the Hawaiian people and I hope they will be recommendations which will assist present and future generations of Hawaiians to climb the economic, political, and social ladder to success in Hawaii. Not to consider and analyze the severe and pressing problems of the Hawaiian people and provide a long-range plan for the achievement of lasting solutions to these problems which will impact Hawaiian children not yet born would, I believe, be a severe injustice and a terrible denial.

Mr. Chairman, for the very tragic historical reasons which I have related, and which will be more fully discussed during the course of your Committee investigation, some in the Native Hawaiian community are understandably suspicious of placing their trust in the Federal Government for a fair resolution of their grievances.

Statement by Senator Daniel K. Inouye
December 22, 1979
Page 6

I can well understand their frustration with what must seem an endless process of bill introductions, hearings, and debate. As you well know, the wheels of Congress turn slowly. It is my fervent hope that the time is right; that the Congress will now respond affirmatively and provide that instrument which can help secure a just measure of redress for earlier wrongs which is the Hawaiians' due. I very much appreciate your interest as demonstrated by your presence here today.

Public Law 96-565
96th Congress

An Act

To establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes.

Dec. 22, 1980

[H.R. 7217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. In order to provide for the preservation of the unique nationally and internationally significant cultural, historic, educational, and scenic resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii, there is hereby established the Kalaupapa National Historical Park (hereinafter referred to as the "park").

Kalaupapa
National
Historical Park,
Hawaii.
Establishment.
16 USC 410jj.

SEC. 102. The Congress declares the following to constitute the principal purposes of the park:

Purposes.
16 USC 410jj-1.

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations;

(2) to provide a well-maintained community in which the Kalaupapa leprosy patients are guaranteed that they may remain at Kalaupapa as long as they wish; to protect the current lifestyle of these patients and their individual privacy; to research, preserve, and maintain the present character of the community; to research, preserve, and maintain important historic structures, traditional Hawaiian sites, cultural values, and natural features; and to provide for limited visitation by the general public; and

(3) to provide that the preservation and interpretation of the settlement be managed and performed by patients and Native Hawaiians to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

SEC. 103. The boundaries of the park shall include the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kalaupapa National Historical Park", numbered P07-80024, and dated May 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the park by publication of a revised boundary map or other description to that effect in the Federal Register.

Boundaries;
public
inspection.
16 USC 410jj-2.

SEC. 104. (a) Within the boundary of the park, the Secretary is authorized to acquire those lands owned by the State of Hawaii or any political subdivision thereof only by donation or exchange, and only with the consent of the owner. Any such exchange shall be accomplished in accordance with the provisions of sections 5 (b) and (c) of the Act approved July 15, 1968 (82 Stat. 354). Any property conveyed to the State or a political subdivision thereof in exchange for property within the park which is held in trust for the benefit of Native

Land
acquisition.
16 USC 410jj-3.

16 USC 460/-22.

48 USC 691.

48 USC 697.

48 USC 698.

Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920 shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and "available lands" defined in section 203 of the Hawaiian Homes Commission Act may be exchanged in accordance with section 204 of said Act. The vesting of title in the United States to property within the park shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the park.

(b) The Secretary is authorized to acquire privately-owned lands within the boundary of the park by donation, purchase with donated or appropriated funds, or exchange.

(c) The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the park and outside the boundaries of any other unit of the National Park System but within the State of Hawaii, and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the park owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in subsection (a) of this section.

Administration.
16 USC 410jj-4.
43 USC 1457, 16
USC 1, 2, 3, 4, 22,
43.
16 USC 461-467.

SEC. 105. (a) The Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and the provisions of this Act.

(b)(1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the park.

Cooperative
agreements.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the park pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance. Such agreements shall be of not less than twenty years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time for such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public.

Religious
structures.

SEC. 106. The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement—

Leprosy
patients.
16 USC 410jj-5.

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day.

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein.

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources without regard to Federal fish and game laws and regulations.

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

SEC. 107. The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term "Native Hawaiian" as used in this title, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)—

Employment
and training.
16 USC 410jj-6.
"Native
Hawaiian."

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred to in paragraph (1).

SEC. 108. (a) There is hereby established the Kalaupapa National Historical Park Advisory Commission (hereinafter referred to as the "Commission"), which shall consist of eleven members each appointed by the Secretary for a term of five years as follows:

Kalaupapa
National
Historical Park
Advisory
Commission.
Establishment.
Membership.
16 USC 410jj-7.

(1) seven members who shall be present or former patients, elected by the patient community; and

(2) four members appointed from recommendations submitted by the Governor of Hawaii, at least one of whom shall be a Native Hawaiian.

(b) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

Chairman.
Vacancies.

(c) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably

Compensation.
Expenses.

incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(d) The Secretary shall consult with and seek the advice of the Commission with respect to the development and operation of the park including training programs. The Commission shall, in addition, advise the Secretary concerning public visitation to the park, and such advice with respect to numbers of visitors shall be binding upon the Secretary if the Commission certifies to him that such advice is based on a referendum, held under the auspices of the Commission, of all patients on the official Kalaupapa Registry.

Expiration.

(e) The Commission shall expire twenty-five years from the date of enactment of this Act.

Reevaluation.
16 USC 410jj-8.

SEC. 109. At such time when there is no longer a resident patient community at Kalaupapa, the Secretary shall reevaluate the policies governing the management, administration, and public use of the park in order to identify any changes deemed to be appropriate.

Appropriation
authorization.
16 USC 410jj-9.

SEC. 110. Effective October 1, 1981, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title but not to exceed \$2,500,000 for acquisition of lands and interests in lands and \$1,000,000 for development.

TITLE II

Historic sailing
ship, financial
assistance.
49 Stat. 666, 16
USC 462.

SEC. 201. In furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 6666), the Secretary of the Interior is authorized to provide financial assistance for the operation, maintenance and protection of the historic sailing ship Falls of Clyde, located in Honolulu Harbor, Hawaii. Such authorization shall terminate at such time as the Falls of Clyde is no longer located in the State of Hawaii.

SEC. 202. Authority to enter into contracts or cooperative agreements, to incur obligations or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE III

Native
Hawaiians Study
Commission Act.
42 USC 2991a
note.

SEC. 301. This title may be cited as the "Native Hawaiians Study Commission Act".

NATIVE HAWAIIANS STUDY COMMISSION

Establishment.
42 USC 2991a
note.

SEC. 302. There is hereby established the Native Hawaiians Study Commission (hereinafter in this title referred to as the "Commission").

Membership.

(b) The Commission shall be composed of nine members appointed by the President. Not more than three of such members shall be residents of the State of Hawaii.

Chairman.

(c) The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of appointment.

Vacancies.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The President shall call the first meeting of the Commission not more than ninety days after the date of the enactment of this title.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) Each member of the Commission shall receive \$100 for each day such member is engaged in performing the duties of the Commission, except that members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their service on the Commission other than official travel expenses.

Pay.

(h) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission (including members who are fulltime officers or employees of the United States) shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Travel expenses.

(i) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and

Staff.

5 USC 5101,
5331.

45 FR 69201.

5 USC 5332

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals.

Temporary and
intermittent
services.

(j) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(k) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

SEC. 303. (a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.

Study.
42 USC 2991a

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

note.
Hearings; public
notice.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed.

Draft report.

Comments

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and

Final report.

Submittal to
President and
congressional
committees.

copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President and to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(e) The Commission shall make recommendations to the Congress based on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

42 USC 2991a
note.

SEC. 304. Except as provided in subsection (b) of section 307, upon the expiration of the sixty-day period following the submission of the report required by section 303, the Commission shall cease to exist.

DEFINITIONS

42 USC 2991a
note.

SEC. 305. For the purposes of this title, the term “Native Hawaiian” means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.

SAVINGS CLAUSES

42 USC 2991a
note.

SEC. 306. No provision of this title shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Native Hawaiians to sue the United States or any of its offices; or

(2) constituting a precedent for reopening, renegotiating, or legislating any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

42 USC 2991a
note.

SEC. 307. (a) There are hereby authorized to be appropriated for fiscal years 1982 and 1983 such sums as are necessary to carry out the provisions of this title. Until October 1, 1981, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 304.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1019 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1027 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
 May 19, considered and passed House.
 Dec. 4, considered and passed Senate, amended.
 Dec. 5, House concurred in Senate amendments.

TEXT OF A HISTORICAL PRESENTATION CONCERNING NATIVE HAWAIIANS
GIVEN BY LORRAINE AKIBA, OF SENATOR INOUE'S STAFF, AT THE
INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS MEETING ON SEPTEMBER
13, 1977.

The Hawaiian Kingdom prevailed from the time of King Kamehameha I, who put together by conquest in 1795, a kingdom composed of the six major islands. He reorganized the traditional social and political framework of these areas, combining the Hawaiian traditions of government with new innovations to consolidate his authority. Prior to this time, various chiefs ruled separately on each island. Although there were no tribes in the same sense as the American Indian nations, each chief had sovereign jurisdiction over his peoples.

The sovereign Hawaiian Kingdom and monarchy thus endured for nearly a century from 1795 until the overthrow of Queen Lilioukalani in 1893. This nation and government was not a mere collection of primitive tribes but consisted of a legislature, supreme court, cabinet, and constitution. It possessed contemporary institutions including a military force, although weak in comparison to American military strength.

The concepts of nationhood, sovereignty, and treaty negotiations can be found in the history of Native Hawaiians. As early as December 1826, the United States entered into commerce agreements with the Sovereign Hawaiian Kingdom. The first article of arrangement reads: "The peace and friendship subsisting between the United States and their Majesties, the Queen Regent, and

Kauikeaouli, King of the Sandwich Islands (Hawaiian Islands), and their subjects and people, are hereby confirmed, and declared to be perpetual." Also in December 1842, Secretary of State Daniel Webster acknowledged the independent status of the Hawaiian nation in a letter to the King's secretary Timothy Haalilio, which was reiterated by President John Tyler in a message to Congress later that same month. This relationship again was formalized in the Treaty of Friendship, Commerce, and Navigation of 1850. Later formal agreements were also consummated between the United States and the Hawaiian Kingdom including a declaration relating to accession by Hawaii to the convention of July 22, 1854 between the United States and Russia concerning the rights of neutrals at sea; a commercial reciprocity convention of September 1876; and a supplemental commercial convention of 1887. Beginning in 1846, the Hawaiian Kingdom completed and entered into treaty relations with other foreign powers which treaties recognized Hawaiian sovereignty and accepted the Kingdom into the family of nations of the world. The following chart lists the formal treaties of the Hawaiian Kingdom:

Denmark	1846
France	1846
Great Britain	1846
Hamburg	1848
United States	1850
Great Britain	1852
Bremen	1854
Sweden & Norway	1855
France	1858
Belgium	1862
Netherlands	1863
Spain	1863
Italy	1863
Swiss Confederation	1864
Russia	1869
Japan	1871

During this time, increasing westernization of Hawaiian society and government had been taking place as foreign countries sent their trading vessels and diplomatic ministers to Hawaii. The experiences of which parallel the American Indian, for with the coming of the whiteman and the ravages of the diseases he brought with him, the native population of an estimated 300,000 was reduced to a mere 40,000. In hand with physical destruction, the culture, tradition, and language of the Hawaiians were likewise slowly obliterated.

Queen Lilioukalani attempted to regain some of her monarchical powers in 1892 and thus triggered off a conspiracy by a small group of United States businessmen, in collusion with the United States diplomatic minister, John L. Stevens, to overthrow the monarchy. In fact, Stevens had written in 1892:

Destiny and the vast future interest of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a Territorial government, they could be as easily governed as any of the existing territories of the United States. Hawaii has reached the parting of the ways. She must now take the road...which outlets her in America, gives her an American civilization, and binds her to the care of American destiny... I cannot now refrain from expressing the opinion with emphasis that the golden hour is near at hand.

The success of the "Revolution of 1893" and the later establishment of a Provisional Government depended on the wrongful acts of Minister Stevens and illegal occupation of Honolulu Harbor by the U.S. Navy. Stevens ordered Captain Wiltse of the

steamship, the U.S.S. Boston, to land troops and munitions to march upon the Hawaiian Palace as a show of force under the guise of protecting American property and lives. In order to avoid unnecessary bloodshed, the Queen abdicated her throne, only on the understanding that she could appeal her case to the United States government and have the wrongs by the United States officials corrected. Furthermore, the Provisional Government acted and maintained itself without sanction of the electorate (namely the Native Hawaiians). No general elections were held to establish a new government.

All of this information is established fact admitted by President Cleveland in a special message to Congress on December 18, 1893. Queen Lilioukalani's formal protest and appeal to President Cleveland prompted him to investigate the events surrounding the so called "revolution". He appointed Commissioner James H. Blount to conduct an investigation, upon whose findings he formulated his report to Congress. In that speech he documented the entire series of events that occurred prior to, during, and subsequent to the overthrow. The facts in his speech were never in dispute. The treaty of annexation then before Congress was withdrawn. However, after a new administration was in office and a new membership in Congress, Hawaii was eventually annexed through joint resolution.

Because of the major involvement by the United States in internal affairs of the independent Hawaiian Kingdom, Native Hawaiians lost self government, rights to crown and government land, and

other important aspects of their civilization. President Cleveland clearly pointed out the need for redress:

....On that ground the United States cannot properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground that it cannot allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation....

Today, the Native Hawaiian population in the State of Hawaii still suffers the effects of the United States government's actions. A most tragic consequence being a serious trend toward demoralization and alienation of Native Hawaiians from former national, cultural, and individual identity; making them strangers in their own homeland, a situation similiar to that of the American Indian.

contamination. While the study is by no means a comprehensive look at the issue, it is presently the only information of this kind available, as EPA has not as yet conducted such a study.

The imposition of a rigid national pattern on States which possess varying regulatory systems, varying geology, and varying ages of wells, could prove unworkable. The Safe Drinking Water Act requires that EPA not unnecessarily interfere with existing State programs, and it is my belief that the issuance of underground injection regulations would undermine the responsible program of many States.

Consequently, the bill I am introducing today would clarify our intention not interfering with ongoing efforts the States to monitor underground actions, while insuring that States which do not have adequate programs be brought under the Federal monitoring system. Specifically, by bill does the following:

Within 90 days after EPA issues final regulations, any State may petition the Administrator to have a joint study undertaken to evaluate the existing State program. A State may only petition EPA if it has in place an entire system of permitting, review, surveillance, monitoring, and reporting of underground injections.

No later than 2 years after the State first petitions for the study, a final report must be submitted to the Congress by EPA. Unless the Administrator determines from that report that a State does not have laws and control programs to adequately protect underground drinking water, the Federal regulations will not be implemented in that State. Such a situation will encourage the continuation of strong programs, while weeding out those States where Federal control is needed.

I urge my colleagues consideration of this bill, and I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1421 of the Public Health Service Act is amended by redesignating subsection (d) as subsection (e) and by inserting the following new subsection after subsection (c):

"(d) (1) Within ninety days following the promulgation of final regulations under this section any State may petition the Administrator for a joint study by such State and the Agency of the existing State program for the regulation of—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production; or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas.

"(2) The Administrator shall grant any petition requested under paragraph (1), except that no State shall be eligible to petition for such a joint study unless on the date of enactment of this subsection it shall have in effect a program for the permitting, review, surveillance, monitoring and report-

ing of underground injections described in paragraph (1).

"(3) Except as provided in paragraph (5), the Administrator may not implement regulations with respect to such State relative to underground injections subject to paragraph (1) until completion of the joint study.

"(4) The study shall be a joint study by the State and the Agency which shall include—

"(A) an inventory of existing injection wells covered under subsection (d) (1) (A) and (B), accompanied by a review of the quality of construction and mechanical integrity of at least a representative sample of such wells;

"(B) data on instances of underground water contamination which may have resulted from the underground injection fluids;

"(C) a description and an evaluation of State law and the adequacy of control programs to protect underground sources of drinking water, including data on the adequacy of existing State monitoring, surveillance and enforcement efforts;

"(D) a comparison of the additional public benefits that would accrue from the imposition of additional Federal regulations of the injection of fluids for purposes covered under subsection (d) (1) (A) & (B) and the additional costs imposed on private and public parties, giving consideration to the disruption of ongoing State programs; and

"(E) such other data, information and scientific or statistical evidence as may be agreed upon between the State and the Administrator.

"(5) Pending the completion of the study, the Administrator may, after a hearing on the record, and an opportunity for public comment, implement such regulations for any State whose program he finds is clearly deficient in protecting underground sources of drinking water. Such a finding must be supported by a preponderance of the evidence found in the hearing record.

"(6) (A) Within eighteen months after the petition for a study by a State under paragraph (1), the Administrator shall publish a draft report containing the results of such study.

"(B) The Administrator shall conduct a public hearing with respect to the draft report, and shall provide an opportunity for public comment on the draft report.

"(C) After the hearing and period for public comment required under subparagraph (B), but not later than two years after the petition for the study was made by the State, the Administrator shall submit a final report on the study to the Congress.

"(7) (A) Unless the Administrator determines, on the basis of such study, that a State does not have laws and control programs adequate to provide reasonable protection of underground sources of drinking water, the Administrator shall not implement regulations relating to underground injections described in paragraph (1) with respect to such State. The Administrator may not make such a negative determination unless he shall concurrently find on the basis of such study that the regulations described in paragraph (1) provide public benefits exceeding their additional cost.

"(B) If the Administrator makes such a determination under subparagraph (A), he shall implement such regulations with respect to such State effective at the time he submits the final report on such study to the Congress.

"(C) A determination under subparagraph (A) shall be subject to judicial review in accordance with the provisions of section 1448.

"(8) The cost of any joint study under this subsection shall be paid by the Administrator out of funds otherwise available under section 1443(b)."

Sec. 2 Section 1443(b)(2) of the Safe Drinking Water Act is amended by striking out all that follows "determines that the State—" and inserting in lieu thereof the following:

"(A) (i) has established or will establish within two years from the date of such grant an underground water source protection; and

"(ii) will, within such two years, assume primary enforcement responsibility for underground water sources within the State or

"(B) will participate with the Administrator in a joint study or existing State programs as provided under section 1421 (d).

Except in the case of a State participating in a joint study as described in subparagraph (B), no grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State. In the case of a State which participates in such a joint study, no grant may be made to such State under paragraph (1) for any period beginning more than two years after the date on which the final report of such study was submitted to Congress unless such State has assumed and maintains primary enforcement responsibility for underground water sources within the State."●

By Mr. STEWART:

S. 2130. A bill to amend the Higher Education Act of 1965 to improve programs for developing institutions under title III of that act; to the Committee on Labor and Human Resources.

DEVELOPING INSTITUTIONS AMENDMENTS OF 1979

● Mr. STEWART. Mr. President, nearly 15 years ago the Congress enacted the Higher Education Act of 1965. At the time the Higher Education Act was the boldest Federal initiative in higher education since the passage of the Morrill Act more than 100 years earlier. Since the passage of the Higher Education Act millions of young people have benefited from it.

One of the key provisions of the act was the program for Strengthening Developing Institutions. This program was designed to provide assistance to those institutions of higher learnings which were isolated from the mainstream of academic life and struggling for survival. This group included the many small colleges and junior colleges throughout the country who were struggling to maintain minimal standards of academic excellence.

Since the programs inception in 1966, more than 800 institutions have participated and appropriations have been almost \$1 billion. The institutions which have received funds under the program have primarily served low income and minority students. Title III moneys have allowed many schools to maintain accreditation. At other institutions the moneys have been used to strengthen curriculum and develop faculty.

Since these institutions primarily severe low-income students, it is difficult if not impossible to pass on the full cost of providing a quality higher education to the student. I believe that over the years, title III has been an effective pro-

gram for addressing the needs of the smaller, less endowed institutions of higher education.

Today I am pleased to introduce legislation to extend and improve the program for assisting developing institutions. The legislation I am introducing today addresses many of the criticisms that has been raised over the last few months regarding the title III program. The legislation has the support of the administration as well as educators at both developed and developing institutions.

The legislation I am introducing today makes significant revisions in the title III program. The bill adopts the eligibility criteria recommended by the administration and currently used by the Office of Education in awarding grants. This formula bases eligibility for title III grants on an institution's average educational and general expenditures and average basic educational opportunity grant (BEOG) per full time equivalent student. This provision insures that funds will go to the most financially needy institutions.

The bill also establishes a new challenge grant program whereby title III funds would be provided to match assistance from other sources. The purpose of this new grant program is to encourage institutions to seek other sources of funds.

The overall intent of this bill is to strengthen the administrative integrity of the title III program. A number of new reporting requirements have been added and the requirement of the use of "assisting agencies" has been dropped.

The bill I am introducing strikes a careful balance between the need to provide assistance to our developing institutions and the need for program integrity in the multimillion dollar program. I urge my colleagues to support it.●

By Mr. MATSUNAGA (for himself and Mr. INOUE):

S. 2131. A bill to establish the Hawaiian Native Claims Settlement Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION ACT OF 1979

Mr. MATSUNAGA. Mr. President, I am reintroducing today the Hawaiian Native Claims Settlement Study Commission Act, with my colleague from Hawaii, Mr. INOUE. The provisions of our bill are identical to those of Senate Joint Resolution 4, which passed the Senate by unanimous consent during the 95th Congress. A similar measure was considered in the U.S. House of Representatives but not passed before adjournment of the 95th Congress.

Legislation relating to the historic claims of Native Hawaiians has been introduced in every Congress since 1974. In 1977, the four-member Hawaii congressional delegation agreed that it would be best to establish a Federal Commission to study the claims and to recommend to Congress whether or not any legislative action should be taken to address them. Public hearings on Senate Joint Resolu-

tion 4 and its House companion (H.J. 526) were held jointly in Hawaii by the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources and the Subcommittee on Indian Affairs and Public Lands of the House Interior and Insular Affairs Committee. Subsequently, the Senate joint resolution was favorably reported by the Committee on Energy and Natural Resources, and, as indicated, it passed the Senate without a single dissenting vote in October 1977.

The claims of the Native Hawaiian people stem from the overthrow of the legitimate government of Hawaii in 1893 by a small band of foreign residents of Hawaii, assisted by the U.S. Minister to Hawaii and a detachment of U.S. Marines from a visiting warship. This unwarranted intervention in the internal affairs of a friendly nation may have occurred without the knowledge and consent of Congress and the President of the United States; but the Government of the United States failed to correct the injustice even when fully informed.

In 1893, the Kingdom of Hawaii established by Kamehameha I, was nearly 100 years old. A constitutional monarchy, it was ruled by Queen Liliuokalani, who had been chosen by her brother, the childless King Kalakaua, to be his successor in accordance with the established constitutional procedure. As Crown Princess, Liliuokalani had cemented her ties to the common people of Hawaii through frequent royal visits to the neighbor islands and rural areas on the Island of Oahu where the national capital was located. Well educated in the Victorian fashion, she was also a talented composer and poet. "Aloha Oe," one of hundreds of songs and hymns which she composed, is well known today throughout the United States. A devout Christian, Liliuokalani was known throughout the islands for her generosity to many charities and for her devotion to children. She had traveled in the United States and in Europe and had met the rulers and elected leaders of many other nations, including Queen Victoria of Great Britain and the President of the United States. In 1893, she had been Queen for only 2 years, but she had already established a reputation for firm, sometimes tough, leadership.

Since the establishment of a United Kingdom of Hawaii in 1795, foreign residents and visitors had been hospitably received by the people of Hawaii and, in many cases, were the recipients of royal appointments, honors and gifts. During this period, the Hawaiian population of the islands declined sharply, and the non-Hawaiian population increased. In 1887, King Kalakaua was compelled to accept a new constitution—sometimes called the "Bayonet Constitution"—which restricted the authority of the monarch and which extended the franchise to some of these non-Hawaiian residents while denying it to others and imposing property ownership requirements on those who wished to vote for members of the upper house of the Kingdom's legislature. In short, the Constitution of 1887 was designed to protect the considerable economic interests

of non-Hawaiian residents of the islands and to limit the power of the Hawaiians. Almost from the day of its implementation, there were many pleas for a return to the previous system.

Liliuokalani, who wanted to be a strong ruler, no doubt welcomed the petitions and found the restrictions the 1887 constitution very frustrating. She was planning to call a constitutional convention in the near future to discuss the issue, and, reportedly, had already drafted the main provisions of a new constitution. Fear that they would be deprived of the advantages they gained led a small group of foreigners to launch their revolution in January 1893.

While Liliuokalani might have resisted the group of non-Hawaiian civilians, she realistically concluded the armed forces of the Kingdom of Hawaii could not resist the United States, and so surrendered, not to revolutionists but to the superior force of the United States in the belief that she would be restored to her throne soon as the facts were known.

Disquieting reports about the revolution in Hawaii did reach Washington, D.C. Annexation to the United States was requested by the provisional government established in Honolulu, and was proposed to Congress by outgoing President Harrison. However, the proposed treaty of annexation was withdrawn from Congress only a month later by the new President, Grover Cleveland. President Cleveland appointed a special commissioner, former Congressman James Blount of Georgia, to go to Hawaii and study the circumstances of the so-called revolution and to report back to him on what had actually happened.

Blount's subsequent report was a condemning one. Based on it, Secretary of State Walter Q. Gresham advised the President that the U.S. Minister to Hawaii had in fact aided the overthrow of the Hawaiian monarchy. He recommended that the treaty of annexation not be resubmitted to Congress, and urged that the monarchy be restored. President Cleveland's message to Congress in December 1893, based on the reports of his Special Commissioner and Secretary of State, stands as the best evidence of our country's regrettable involvement in an incident which was the single greatest cause of the overthrow of the Hawaiian monarchy. The President said:

*** by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the government of feeble, friendly and confiding people has been overthrown *** A substantial wrong has been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair *** the United States cannot fail to vindicate its sense of justice by an earnest effort to make all possible reparation.

President Cleveland's concern for justice and the American national character delayed annexation for 5 years, but, in 1898, with a new administration in office and in accordance with the manifest

destiny spirit of the times, Hawaii was annexed. Under the treaty, the Republic of Hawaii ceded to the United States the absolute fee and ownership of all public, government and crown lands belonging to the Government of the Hawaiian Islands. Thus, the lands of the Hawaiian monarch, and of the people of Hawaii, as vested in their Government, were obtained by the United States without any compensation to their rightful owners, the Hawaiian people.

Mr. President, the bill which I am introducing today with Senator INOUE would enable the U.S. Government to examine officially for the first time the events of January 1893. Our bill is not a settlement act. It does not authorize payment of any Federal moneys to the Native Hawaiian people. It does not authorize the transfer of any Federal lands to the Native Hawaiian people. It only provides for the long overdue investigation requested nearly 90 years ago by President Cleveland on the basis of the Blount report. The proposed Commission may find that no compensation should be paid to the Hawaiians, or it may recommend reparations. If the latter happens to be the case, the Commission could recommend several alternatives for consideration by Congress. Ultimately, it would be up to some future Congress to decide whether or not such reparations should be made.

The Commissioners would be appointed by the President of the United States and would be free to hold public hearings and study the historical record in an effort to develop their recommendations.

The people of Hawaii and their elected representatives are deeply grateful for the favorable action which the Senate took on this proposal in 1977, and I do hope that similar expeditious action will be taken by the 96th Congress.

● Mr. INOUE. Mr. President, I wish to take this opportunity to join my distinguished colleague, Mr. MATSUNAGA, in expressing my strongest personal support for the bill we are introducing today, the Hawaiian Native Claims Study Commission Act. While this is not a measure which ranks high on the national scene, it is an issue which has long concerned the people of Hawaii, both those of Native Hawaiian and non-Hawaiian blood, and it is one which I am convinced merits the attention and concern of the U.S. Congress and of the American people.

The bill is simple and straightforward; it purports to accomplish three goals: First, it will provide a clear statement by the Congress that, in 1893, a wrong was committed by representatives of the U.S. Government against the sovereign Government of the Hawaiian Kingdom and her subjects; second, it will clearly set forth that this wrong has never been redressed; third, it will provide a vehicle, the Hawaiian Native Claims Study Commission, which will recommend the extent of the Federal obligation which is outstanding and the means by which that obligation can be met.

These issues and goals are familiar to my colleagues in the Senate. Since be-

coming a Member of Congress, I, along with the other members of the Hawaii delegation, have worked with dedication to educate and sensitize our fellow Senators and Congressmen to the unique conditions and needs of this important constituency and to the Federal Government's moral and legal obligation to attempt to address these needs. It bodes well for this body that these efforts have, for the most part, been responded to with fairness and compassion.

The issue of native Hawaiian claims is one that has arrested the Hawaiian congressional delegation's attention for the past 5 years. In 1975, I introduced Senate Joint Resolution 155, legislation similar to that which is presently before you. Though Senate Joint Resolution 155 was favorably reported by the Senate Interior and Insular Affairs Committee, insufficient time remained in the 94th Congress to achieve full Senate approval. An effort was again launched during the 95th Congress and met with success when Senate Joint Resolution 4 was favorably reported to the floor by the Senate Energy Committee and was subsequently unanimously passed by the Senate in October of 1978. Unfortunately, the House of Representatives failed to act favorably.

Over the past months, I have continued to meet with Hawaiian leaders, individually and in groups, to discuss and consider alternatives to the Native Claims Study Commission bill. However, out of these discussions has grown an even stronger conviction that this is a just cause. While legitimate disagreement exists over the extent and nature of the proper redress there can be few who investigate the relevant past who in all honesty can doubt that a genuine grievance exists.

History sadly records that the United States did not choose a peaceful, and responsibly negotiated route to annexation of the Hawaiian Islands. Instead, by an act of war in January, 1893, official representatives of the United States participated significantly in wrongful and illegal conspiracy and subsequent overthrow of an officially recognized and friendly government that had enjoyed amicable relations with the Government of the United States. That friendly Government was the constitutional monarchy of Queen Liliuokalani of the independent and sovereign Kingdom of Hawaii which has prevailed for over 100 years and which was invested with a sophisticated social, cultural, economic, political, and legal organization but which was militarily weak.

The coming of the white man, almost a century earlier, and the ravages of the diseases he brought, served to drastically weaken the Hawaiian people and their traditional laws and customs. By the late 1880's, the increasing Westernization of Hawaiian society and Government under pressure from Western religious and business interests was breaking down the traditional forms of the monarchy. Queen Liliuokalani's attempt to regain some of the powers and rights of the Hawaiian monarchy and people in 1892 triggered a well-planned conspiracy by

a small but influential foreign elite, many of whom were American citizens. Deeply involved in this conspiracy was the U.S. Representative to Hawaii, Mr. John L. Stevens, who arranged to have marines from a U.S. ship docked in Honolulu Harbor land and enforce the overthrow.

Despite numerous attempts by the Queen and loyal royalists to regain the throne the conspirators prevailed with continued U.S. protection. A provisional government was soon established. This government later transformed itself into the independent Republic of Hawaii and waited for annexation to the United States, which was finally consummated in 1898. The Constitution of the Republic expropriated the crown lands without compensation and made them available for purchase by private Western interests. Lands held in the public domain were also appropriated and transferred to the U.S. Government upon annexation.

Perhaps the most tragic consequence of the overthrow has been the serious aggravation of a trend toward demoralization and alienation of the native Hawaiian people from their former national, cultural, and individual identity. Though they currently comprise 18 percent of the Hawaii state population, native Hawaiians almost across the board occupy the bottom most rungs of every possible socioeconomic indicator. In many ways, they have become strangers in their own homeland and now face what I consider to be a severe crisis in economic, social, and cultural survival, a situation somewhat similar to that of the American Indian.

The Senate Interior Committee report on the original Senate Native Hawaiian Claims Study Commission Act contained the following statement:

The Committee has examined the record of this historic, well-documented affair. The overthrow of the Hawaiian Kingdom is a dark chapter in American diplomatic and military history, made darker still by the long failure of the Congress to recognize the wrong that was done and to fashion a means for making reparation. The case for recognition of the validity of the Hawaiian Native Claims is compelling. It is time for the Congress to vindicate the honor and sense of justice of the United States.

Mr. President, the full repair of the injury suffered by the Hawaiian people is still unfinished business of this Government. Though the legislation we are introducing today represents but one small step toward the final resolution of this issue, I believe it is a fair and responsible approach. I do not know what the specific results of the Study Commission's investigation will be or what forms of compensation may be recommended.

However, I do believe that our Government has an obligation to objectively determine the validity of the Hawaiians' claim and to seek a responsible redress of our Nation's past transgressions. I urge my colleagues to once again recognize the longstanding relationships and the responsibilities attached to these relationships, existing between the U.S. Government and the native Hawaiian people and to also once again express

their commitment to seeking a just and equitable solution to this longstanding problem. I am most hopeful that this bill will meet the fast approval of the appropriate Senate committee, the full House of Representatives, the U.S. Senate, and the President.●

ADDITIONAL COSPONSORS

S. 1963

At the request of Mr. HELMS, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1963, a bill to require congressional approval before gold could be sold from U.S. stocks.

SENATE JOINT RESOLUTION 40

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New Jersey (Mr. BRADLEY), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. McGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from South Dakota (Mr. PRESSLER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of Senate Joint Resolution 40, a joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

NOTE.—In the RECORD of December 7, 1979, at page S18087, under "Additional Cosponsors," the cosponsors added to Senate Joint Resolution 140 is in error. The Permanent RECORD will be corrected to read as above.

SENATE RESOLUTION 305

At the request of Mr. HATFIELD, the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Resolution 305, relating to reimbursement for office accounts.

AMENDMENT NO. 791

At the request of Mr. BENTSEN, the Senator from Washington (Mr. MAGNUSON), the Senator from Louisiana (Mr. LONG), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of amendment No. 791 intended to be proposed to H.R. 919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 309—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. EAGLETON, from the Committee on Governmental Affairs, reported the

following original resolution, which was referred to the Committee on the Budget:

S. RES. 309

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5537, a bill to amend the District of Columbia Self-Government Reorganization Act with respect to the borrowing authority of the District of Columbia.

Such waiver is necessary because of unforeseen delay in implementation of a Financial Management System for the District of Columbia. Upon full implementation of such a system, the District of Columbia can enter the bond market rather than borrow from the United States Treasury for capital funds, as it now does. Until the District can issue bonds, its ability to continue uninterrupted borrowing from the Treasury is vital to the continuation of District building projects.

This waiver would not be disruptive to the budget process because of the inclusion of funds for capital projects in the District of Columbia's Fiscal Year 1980 budget appropriations.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5537, as reported by the Committee on Governmental Affairs.

SENATE RESOLUTION 310—ORIGINAL RESOLUTION REPORTED RELATING TO PAYMENT OF WITNESS FEES

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered to be placed on the calendar:

S. RES. 310

Resolved, That witnesses summoned to appear before the Senate or any of its committees shall be entitled to a witness fee rated at not to exceed \$50 for each full day spent in traveling to and from the place of examination and for each full day in attendance. A witness shall also be entitled to reimbursement of the actual and necessary transportation expenses incurred by him in traveling to and from the place of examination.

Sec. 2. Senate Resolution 178, 96th Congress, agreed to June 20, 1979, is repealed.

SENATE RESOLUTION 311—ORIGINAL RESOLUTION REPORTED RELATING TO PAYMENT OF PER DIEM AND SUBSISTENCE EXPENSES TO MEMBERS AND EMPLOYEES OF THE SENATE

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered to be placed on the calendar:

S. RES. 311

Resolved, That, until otherwise provided by law, per diem and subsistence expenses reimbursable to a Member or employee of the Senate in connection with travel within the United States shall be made on the basis of actual expenses incurred but not to exceed \$50 per day for each day or fraction thereof spent in a travel status.

SENATE RESOLUTION 312—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, submitted the following original resolution, which was ordered placed on the calendar:

S. RES. 312

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate, Bernice S. Zahn, widow of Nathan R. Zahn an employee of the Senate at the time of death, a sum equal to two months' compensation at the rate he was receiving by law the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 313—SUBMISSION OF A RESOLUTION RELATING TO GOVERNMENT FAILURE TO CURB ITS ENERGY USE

Mr. ROTH submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. RES. 313

Whereas the Federal government is the Nation's largest single energy user, and directly accounts for over 2 percent of U.S. energy consumption, representing the equivalent of 282 million barrels of oil a year worth \$4 billion, and

Whereas the Federal government also is indirectly responsible for 4 to 7 percent of total national energy consumption in support of its purchase of goods and services, and

Whereas the General Accounting Office has concluded the Federal government could reduce its overall energy use by about 15 to 30 percent, or the equivalent of 116,000 to 232,000 barrels of oil a day, with a comprehensive and aggressive energy conservation program, and

Whereas in the Energy Policy and Conservation Act of 1975 Congress mandated that the President develop and implement a 10 year plan to conserve energy in Federal government buildings and Federal government purchases of goods, materials and automobiles, and

Whereas 4 years later, the Department of Energy has still not developed a comprehensive energy conservation plan for the Federal government, and

Whereas, since 1975, the government's energy use has increased in 2 of the last 3 years, with gasoline use increasing 18 percent since 1974, and

Whereas the GAO has concluded the Federal government's program to conserve energy is fragmented and in disarray because the Department of Energy has failed to take an active leadership role.

Now, therefore, be it resolved by the Senate:

1. It is inexcusable and intolerable that the Federal government and the Department of Energy in particular have failed to comply with the 1975 Congressional mandate to develop a comprehensive and aggressive 10 year government energy conservation plan.

2. The Federal government should be the leader, not the follower in energy conservation, and should set the standard for the rest of the country.

3. At a time when the working people and taxpayers of America are being asked to reduce their gasoline consumption by 7

22 Land Claims of Eastern American Indians

A Matter of Congressional Concern

by RICHARD S. JONES

The issue of land claims of Indians in the eastern United States against States, municipalities and private landowners has received national attention.

In the last session, Congress passed a landmark act to settle claims of Indians in the State of Rhode Island, which may serve as a model for future settlements of claims in as many as six other States.

The matter of these claims has received widespread publicity and has become the focus of congressional concern because of the unprecedented legal issues they have raised and because of the unusual nature of the claims themselves. The claims are against States, municipalities, and/or individuals, rather than against the Federal Government, and are based solely on the allegation that the Federal Government did not give its approval to the conveyance of lands by Indians to non-Indians as allegedly required by a 1790 statute, the Indian Trade and Intercourse Act (1 Stat. 137), as amended.

The issue has generated concern because the Indian Claims Commission Act of 1946 was thought to have settled once and for all the matter of Indian claims by creating a Commission empowered to adjudicate all Indian land claims against the United States which had arisen before 1946 and which were based on allegedly unfair takings and/or inadequate compensation for takings of Indian lands by the U.S. Government. Such claims

were to be filed by 1951 or forever barred. Cases arising after 1946 were to be heard by the U.S. Court of Claims. The legislation, however, was not addressed to the possibility of claims against states, municipalities, or individuals based on the Indian Trade and Intercourse Act and involving land transfers long assumed to have been valid and not subject to question.

Six other states

At present, exclusive of Rhode Island, there are land claims suits either pending or being considered in at least six other States, based on the Indian Trade and Intercourse Act and seeking damages and the return of lands alleged to have been illegally conveyed without U.S. approval. The prospect could be protracted litigation involving the possible dispossession of landowners and disruption of State financing procedures occasioned by disputed land title. In Maine and Massachusetts, for example, the ability of the states to raise taxes and guarantee municipal bonds and of individuals to secure mortgages on their property, has been adversely affected. Alternatives to litigation, however, are settlement among parties and/or congressional action.

A case in point is Rhode Island. On

September 30, 1978, P.L. 95-395 was signed by President Carter, affecting settlement of the land claims of the Narragansett Indians based on the Trade and Intercourse Act. P.L. 95-395 implements, with certain modifications, a previously agreed upon settlement signed by representatives of the Narragansett Indians, the State of Rhode Island, the town of Charlestown, R.I. (where these land claims are located), and specified private landholders owning lands to which the Indians laid claims. Negotiations leading to the agreement were carried out in consultation with representatives of the Carter Administration.

In effect, P.L. 95-395 extinguishes all land claims of the Narragansett Indians in exchange for approximately 1,800 acres of land—approximately 900 acres to be donated by the State of Rhode Island and approximately 900 additional acres to be purchased for the Indians from specified landholders at Federal expense. The effect of the Act is contingent upon establishment by Rhode Island of the State Corporation to acquire, manage, and hold the lands for the Indians.

It is thought that this settlement may be the model for other such claims, most controversial of which, to

date, is that of the approximately 3,000 Passamaquoddy and Penobscot Indians in Maine to a vast amount of land totalling as much as 12.5 million acres. The Maine case has been defined by the Justice Department as "potentially the most complex litigation ever brought in the Federal courts with social and economic impacts without precedent and incredible potential litigation costs to all parties."¹

The Maine case was initiated in 1972 when the Passamaquoddy Tribe asked the Federal Government to sue the State of Maine on its behalf, contending that in 1794 the State of Massachusetts (Maine succeeded to the obligations of Massachusetts toward the Indians by the Act of Separation of 1820) had obtained much of the tribe's aboriginal territory by terms of a treaty which, they now allege, was in violation of the Indian Trade and Intercourse Act. That is, the treaty was not approved by the Federal Government.

Government declined

The Federal Government declined to sue on the grounds that these were not federally-recognized Indians and hence there was no Federal trust relationship with them. The Penobscots later joined the suit, and the District Court in Maine held that the United States could not *refuse* to sue on the Indians' behalf by claiming that there is no trust relationship between these Indians and United States.

The 1790 Act, said the Court, implicitly created such a relationship. On the other hand, the court did not *compel* the United States to sue on the Indians' behalf.

The Justice Department has been granted repeated extensions of time before advising the Court of its intention with respect to the case in order to allow time for an out-of-court settlement and for congressional action. The present extension runs until March 11, 1979. Justice has indicated that it believes "a valid cause of action

exists for possession and trespass damages for those lands actually used and occupied by the Penobscot and Passamaquoddy Tribes as of 1790"²

The State of Maine argues (1) that the Indian Trade and Intercourse Act was never intended to apply to the original New England colonies after they became states; (2) that, in any event, the Indians transferred the lands in question before the Revolution, thus obviating protection under the 1790 statute; and (3) that in ratifying the Articles of Separation, by which

gress providing for settlement of the Indians' claims against specified landholders, counties and municipalities to approximately 9.2 million acres (the Indians would relinquish their claim to these lands in exchange for a payment by the Federal Government of \$25 million); and (c) a proposed settlement of the tribes' remaining claims against the State of Maine and certain other landholders (to lands comprising approximately 3.3 million acres).

Part (c) of the proposal suggests relinquishment by the tribes of their land and damage claims against the State of Maine (involving 350,000 acres) and against certain large land-

A Model for Other Such Claims?

Maine was separated from Massachusetts and admitted to the Union in 1820, Congress implicitly approved all treaties concluded by Massachusetts up to that time.³

What are the prospects for solution of this unprecedented problem? In the first place, a negotiated, out-of-court settlement between the executive branch and the tribes (subject to approval by Congress) is being explored. Second, congressional action, independent of negotiation, is possible, and legislation was introduced toward this end in the 95th Congress. Third, resolution through the courts remains a potential alternative.

The White House announced in February 1978 that agreement to a settlement package had been reached by representatives of the Passamaquoddy and Penobscot Tribes and a special White House Work Group. This settlement package is comprised of three essential parts:

(a) a pledge by the Administration that the Passamaquoddies and Penobscots will be considered federally-recognized tribes and receive all "Federal services, benefits and entitlements" accorded other federally-recognized tribes; (b) an agreement that the Administration will recommend legislation to Con-

holders (involving 3 million acres). In exchange for relinquishing these claims, the Indians would receive payment of \$1.7 million annually from the State of Maine for 15 years, and 300,000 acres from the large landholders (with an option to purchase 200,000 additional acres). Under this plan, the U.S. would pay the large landholders \$1.5 million for their contributions to the settlement. Congressional legislation to implement this settlement was not introduced in the 95th Congress, since Congress was waiting to see whether all the concerned parties could come to an agreement of terms. The State of Maine has not agreed.⁴

Additional congressional action could embody several potential alternatives, including, for example, extinguishment of the aboriginal title claimed by the Indians and retroactive ratification of the allegedly illegal treaties and agreements by which the land was transferred. Legislation to do so (limiting potential compensation to monetary damages) was introduced but not acted upon in the 95th Congress (S. 842; H.R. 4169; S. 3130; H.R. 12834).

Other similar land claims of eastern

Indians include those of the Schaghticoke, Western Pequot, and Mohegan Indians in Connecticut; the Mashpee and Gay Head Wampanoag Indians in Massachusetts; the Oneida Indians in New York; the Catawba Indians in South Carolina; and the Chitimacha Indians in Louisiana. Legislation to extinguish specified alleged aboriginal title of Indians in Massachusetts (Mashpee Wampanoag Indians) and in New York (Oneida, Cayuga, St. Regis Mohawk, Seneca, and Onondaga Indians) was introduced in the 95th Congress, but no action was taken.⁵

With enactment of congressional legislation to confirm a negotiated settlement in Rhode Island having set a precedent, the prospect is for in-

creasing pressure toward a similar resolution of related claims in other States.

CRS

Further references include Indian Claims Under the Non-Intercourse Act, a CRS Report, Feb. 28, 1978, no. 78-47A, 29 p.; and Indians: Land Claims by Eastern Tribes, Issue Brief 77040.

Richard S. Jones is an analyst in American National Government, Government Division.

¹ U.S. Dept. of Justice, Memorandum in Support of Plaintiffs Motion for Further Extension of Time to Report to Court, in Congressional Record, Mar. 1, 1977, p. S.3209.

² Ibid., (2nd Memorandum), 1977.

³ CF. State of Maine, Dept. of the Attorney

General, Feb. 18, 1977, in Congressional Record, Mar. 1, 1977, p. S3206.

⁴ The office of Gov. James Longley of Maine confirmed that the state has agreed "in principle" to a new settlement proposed by the White House whereby the Administration would recommend to Congress an appropriation of \$37 million to the tribes "in complete payment of all land claims by all Indians in Maine."

The State of Maine would be credited for a payment of \$5 million to the settlement, which payment would be deemed as having been "fully satisfied by prior State support of the Tribes," and thus no other or further payments or support would be required of Maine. A total of \$10 million of the settlement funds would be used to purchase 100,000 acres for the tribes from certain large landowners at fair market value. No details have been worked out, however, and no formal agreement has been reached.

⁵ A hearing on the Mashpee legislation was held by the Senate Select Committee on Indian Affairs on October 21, 1977.

OCEAN POLICY: MAPPING THE FRONTIER

by JAMES MIELKE

Two years ago the first issue of the *Congressional Research Service Review* (formerly the Congressional Research Service Bulletin) carried a feature article entitled "Ocean Policy: A Critical National and International Frontier." The article described key issue areas related to ocean policy and highlighted their status at that time. During the term of the 95th Congress all of these issues were addressed and in some cases legislation was enacted which may facilitate their resolution. At the beginning of the 96th Congress, a review of this activity in the context of continued oceans policy development would be appropriate.

Policy may be defined as the process whereby a nation establishes long-term goals and provides incentives to accomplish those goals. Policy provides a map for or gives direction to the flexible activities of decision-makers. A statement of oceanic policy could encompass a number of objectives. While objectives provide the scope and framework of an ocean policy, their attainment may be accomplished, in part, through the legislative process on an issue-by-issue basis. The major issues through which Congress has fashioned and continues to shape

ocean policy include offshore oil and gas development, marine environmental protection, deep seabed hard minerals recovery, American merchant marine capability, transportation hazards, national security, fisheries conservation and management, oversight of international ocean treaty negotiations, and executive reorganization.

Oil and Gas

Considering their contribution to world income, the most important

ocean resources are oil and gas, with offshore production valued at about \$60 billion annually. At world prices domestic offshore oil and gas production is valued over \$13 billion annually. A substantial portion of the world's petroleum supply comes from the continental shelf areas, mostly from relatively shallow water. However, from geophysical surveys and deep sea scientific drilling, a body of evidence is accumulating that suggests that areas of continental rise, which are the areas that contain the thickest accumulation of sediments in the world, may also have good prospects for petroleum deposits.

Among the measures relating to offshore oil and gas resources development and policy that were passed by the 95th Congress was the Outer Continental Shelf Lands Act amendments of 1978, P.L. 95-372. This bill, the culmination of a four-year effort to reach agreement, was the first overhaul of offshore oil and gas leasing laws in

To: Sen. Inge

From: Sidney Michael Quinlan

Attn: Lorraine Akioa

Dr. Paul DeLeon

TREATIES AND OTHER
INTERNATIONAL AGREEMENTS
OF THE
UNITED STATES OF AMERICA
1776-1949

Compiled under the direction of

CHARLES I. BEVANS, LL.B.

Assistant Legal Adviser, Department of State

Treaties between the United States
and Hawaii

1826-1884 (5)

Volume 8

GERMANY-
IRAN

(Hawaiian Islands)

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Hawaiian Islands

COMMERCE

Articles of arrangement signed at Honolulu December 23, 1826

Entered into force December 23, 1826

Apparently superseded in effect by treaty of December 20, 1849¹

3 Miller 269

Articles of arrangement made and concluded at Oahu between Thomas ap Catesby Jones appointed by the United States, of the one part, and Kauikeaouli King of the Sandwich Islands, and his Guardians, on the other part.

ART: 1ST

The peace and friendship subsisting between the United States, and their Majesties, the Queen Regent, and Kauikeaouli, King of the Sandwich Islands, and their subjects and people, are hereby confirmed, and declared to be perpetual.

ART: 2ND

The ships and vessels of the United States (as well as their Consuls and all other citizens within the territorial jurisdiction of the Sandwich Islands, together with all their property), shall be inviolably protected against all Enemies of the United States in time of war.

ART: 3RD

The contracting parties being desirous to avail themselves of the bounties of Divine Providence, by promoting the commercial intercourse and friendship subsisting between the respective nations, for the better security of these desirable objects, Their Majesties bind themselves to receive into their Ports and Harbours all ships and vessels of the United States; and to protect, to the uttermost of their capacity, all such ships and vessels, their cargoes, officers and crews, so long as they shall behave themselves peacefully, and not infringe

¹ *For.*, p. 864.

the established laws of the land, the citizens of the United States being permitted to trade freely with the people of the Sandwich Islands.

ART: 4TH

Their Majesties do further agree to extend the fullest protection, within their control, to all ships and vessels of the United States which may be wrecked on their shores; and to render every assistance in their power to save the wreck and her apparel and cargo; and as a reward for the assistance and protection which the people of the Sandwich Islands shall afford to all such distressed vessels of the United States, they shall be entitled to a salvage, or a portion of the property so saved; but such salvage shall, in no case, exceed one third of the value saved; which valuation is to be fixed by a commission of disinterested persons who shall be chosen equally by the Parties.

ART: 5TH

Citizens of the United States, whether resident or transient, engaged in commerce, or trading to the Sandwich Islands, shall be inviolably protected in their lawful pursuits; and shall be allowed to sue for, and recover, by judgment, all claims against the subjects of His Majesty The King, according to strict principles of equity, and the acknowledged practice of civilized nations.

ART: 6TH

Their Majesties do further agree and bind themselves to discountenance and use all practicable means to prevent desertion from all American ships which visit the Sandwich Islands; and to that end it shall be made the duty of all Governors, Magistrates, Chiefs of Districts, and all others in authority, to apprehend all deserters; and to deliver them over to the master of the vessel from which they have deserted; and for the apprehension of every such deserter, who shall be delivered over as aforesaid, the master, owner, or agent, shall pay to the person or persons apprehending such deserter, the sum of six Dollars, if taken on the side of the Island near which the vessel is anchored; but if taken on the opposite side of the Island, the sum shall be twelve Dollars; and if taken on any other Island, the reward shall be twenty four Dollars, and shall be a just charge against the wages of every such deserter.

ART: 7TH

No tonnage dues or impost shall be exacted of any Citizen of the United States which is not paid by the Citizens or subjects of the nation most favoured in commerce with the Sandwich Islands; and the citizens or subjects of the Sandwich Islands shall be allowed to trade with the United States, and her territories, upon principles of equal advantage with the most favoured nation.

Done in council at Honolulu, Island of Woahoo, this 23rd day of December in the year of our Lord 1826.

THOS. AP CATESBY JONES	[SEAL]
ELISABETA KAAHUMANU	[SEAL]
KARAIMOKU	[SEAL]
POKI	[SEAL]
HOWAPILI	[SEAL]
LIDIA NAMAHANA	[SEAL]

FRIENDSHIP, COMMERCE, AND NAVIGATION

Treaty signed at Washington December 20, 1849

Senate advice and consent to ratification January 14, 1850

Ratified by the President of the United States February 4, 1850

Ratified by the Hawaiian Islands August 19, 1850

Ratifications exchanged at Honolulu August 24, 1850

Entered into force August 24, 1850

Proclaimed by the President of the United States November 9, 1850

Terminated August 12, 1898, upon annexation of Hawaii

9 Stat. 977; Treaty Series 160¹

The United States of America and His Majesty the King of the Hawaiian Islands, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective states, and consolidating the commercial intercourse between them, have agreed to enter into negotiations for the conclusion of a Treaty of Friendship, Commerce and Navigation, for which purpose they have appointed plenipotentiaries, that is to say:

The President of the United States of America, John M. Clayton, Secretary of State of the United States; and His Majesty the King of the Hawaiian Islands, James Jackson Jarves, accredited as his Special Commissioner to the Government of the United States; who, after having exchanged their full powers, found in good and due form, have concluded and signed the following articles:

ARTICLE I

There shall be perpetual peace and amity between the United States and the King of the Hawaiian Islands, his heirs and his successors.

ARTICLE II

There shall be reciprocal liberty of commerce and navigation between the United States of America and the Hawaiian Islands.

No duty of customs, or other impost, shall be charged upon any goods, the produce or manufacture of one country, upon importation from such country into the other, other or higher than the duty or impost charged upon

¹ For a detailed study of this treaty, see 5 Miller 591.

goods of the same kind, the produce or manufacture of, or imported from, any other country; and the United States of America and His Majesty the King of the Hawaiian Islands do hereby engage, that the subjects or citizens of any other state shall not enjoy any favor, privilege, or immunity, whatever, in matters of commerce and navigation, which shall not also, at the same time, be extended to the subjects or citizens of the other contracting party, gratuitously, if the concession in favor of that other State shall have been gratuitous, and in return for a compensation, as nearly as possible of proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE III

All articles the produce or manufacture of either country which can legally be imported into either country from the other, in ships of that other country, and thence coming, shall, when so imported, be subject to the same duties, and enjoy the same privileges, whether imported in ships of the one country, or in ships of the other; and in like manner, all goods which can legally be exported or reexported from either country to the other, in ships of that other country, shall, when so exported or re-exported, be subject to the same duties, and be entitled to the same privileges, drawbacks, bounties, and allowances, whether exported in ships of the one country, or in ships of the other: and all goods and articles, of whatever description, not being of the produce or manufacture of the United States, which can be legally imported into the Sandwich Islands, shall when so imported in vessels of the United States pay no other or higher duties, imposts, or charges than shall be payable upon the like goods, and articles, when imported in the vessels of the most favored foreign nation other than the nation of which the said goods and articles are the produce or manufacture.

ARTICLE IV

No duties of tonnage, harbor, light-houses, pilotage, quarantine, or other similar duties, of whatever nature, or under whatever denomination, shall be imposed in either country upon the vessels of the other, in respect of voyages between the United States of America and the Hawaiian Islands, if laden, or in respect of any voyage, if in ballast, which shall not be equally imposed in the like cases on national vessels.

ARTICLE V

It is hereby declared, that the stipulations of the present treaty are not to be understood as applying to the navigation and carrying trade between one port and another situated in the states of either contracting party, such navigation and trade being reserved exclusively to national vessels.

ARTICLE VI

Steam vessels of the United States which may be employed by the Government of the said States, in the carrying of their Public Mails across the Pacific Ocean, or from one port in that ocean to another, shall have free access to the ports of the Sandwich Islands, with the privilege of stopping therein to refit, to refresh, to land passengers and their baggage, and for the transaction of any business pertaining to the public Mail service of the United States, and shall be subject in such ports to no duties of tonnage, harbor, lighthouses, quarantine, or other similar duties of whatever nature or under whatever denomination.

ARTICLE VII

The Whaleships of the United States shall have access to the ports of Hilo, Kealahou and Hanalei in the Sandwich Islands, for the purposes of refitment and refreshment, as well as to the ports of Honolulu and Lahaina which only are ports of entry for all Merchant vessels, and in all the above named ports, they shall be permitted to trade or barter their supplies or goods, excepting spirituous liquors, to be amount of two hundred dollars *ad valorem* for each vessel, without paying any charge for tonnage or harbor dues of any description, or any duties or imposts whatever upon the goods or articles so traded or bartered. They shall also be permitted, with the like exemption from all charges for tonnage and harbor dues, further to trade or barter, with the same exception as to spirituous liquors, to the additional amount of one thousand dollars *ad valorem*, for each vessel, paying upon the additional goods, and articles so traded and bartered, no other or higher duties, than are payable on like goods, and articles, when imported in the vessels and by the citizens or subjects of the most favored foreign nation. They shall also be permitted to pass from port to port of the Sandwich Islands for the purpose of procuring refreshments, but they shall not discharge their seamen or land their passengers in the said Islands, except at Lahaina and Honolulu; and, in all the ports named in this article, the whaleships of the United States shall enjoy in all respects, whatsoever, all the rights, privileges and immunities, which are enjoyed by, or shall be granted to, the whaleships of the most favored foreign nation. The like privilege of frequenting the three ports of the Sandwich Islands, above named in this article, not being ports of entry for merchant vessels, is also guaranteed to all the public armed vessels of the United States. But nothing in this article shall be construed as authorizing any vessel of the United States, having on board any disease usually regarded as requiring quarantine, to enter, during the continuance of such disease on board, any port of the Sandwich Islands, other than Lahaina or Honolulu.

ARTICLE VIII

The contracting parties engage, in regard to the personal privileges that the citizens of the United States of America shall enjoy in the dominions of His Majesty the King of the Hawaiian Islands, and the subjects of his said Majesty in the United States of America, that they shall have free and undoubted right to travel and to reside in the states of the two high contracting parties, subject to the same precautions of police which are practiced towards the subjects or citizens of the most favored nations. They shall be entitled to occupy dwellings and warehouses, and to dispose of their personal property of every kind and description, by sale, gift, exchange, will, or in any other way whatever, without the smallest hinderance or obstacle; and their heirs or representatives, being subjects or citizens of the other contracting party, shall succeed to their personal goods, whether by testament or ab intestato; and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at will, paying to the profit of the respective governments such dues only as the inhabitants of the country wherein the said goods are, shall be subject to pay in like cases. And in case of the absence of the heir and representative, such care shall be taken of the said goods as would be taken of the goods of a native of the same country in like case, until the lawful owner may take measures for receiving them. And if a question should arise among several claimants as to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. Where on the decease of any person holding real estate within the territories of one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the government of the respective States. The citizens or subjects of the contracting parties shall not be obliged to pay, under any pretence whatever, any taxes or impositions, other or greater than those which are paid, or may hereafter be paid, by the subjects or citizens of the most favored nations, in the respective states of the high contracting parties. They shall be exempt from all military service, whether by land or by sea; from forced loans, and from every extraordinary contribution not general and by law established. Their dwellings, warehouses, and all premises appertaining thereto, destined for the purposes of commerce or residence, shall be respected. No arbitrary search of, or visit to, their houses, and no arbitrary examination or inspection whatever of the books, papers, or accounts of their trade, shall be made; but such measures shall be executed only in conformity with the legal sentence of a competent tribunal; and each of the two contracting parties engages that the citizens or subjects of the other residing in their respective states shall enjoy their property and personal security, in as full and ample manner as their own citizens

or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries respectively.

ARTICLE IX

The citizens and subjects of each of the two contracting parties shall be free in the states of the other to manage their own affairs themselves, or to commit these affairs to the management of any persons whom they may appoint as their broker, factor or agent; nor shall the citizens and subjects of the two contracting parties be restrained in their choice of persons to act in such capacities, nor shall they be called upon to pay any salary or remuneration to any person whom they shall not choose to employ.

Absolute freedom shall be given in all cases to the buyer and seller to bargain together and to fix the price of any goods or merchandize imported into, or to be exported from the states and dominions of the two contracting parties; save and except generally such cases wherein the laws and usages of the country may require the intervention of any special agents in the states and dominions of the contracting parties. But nothing contained in this or any other article of the present Treaty shall be construed to authorize the sale of spirituous liquors to the natives of the Sandwich Islands farther than such sale may be allowed by the Hawaiian laws.

ARTICLE X

Each of the two contracting parties may have, in the ports of the other, consuls, vice consuls, and commercial agents, of their own appointment, who shall enjoy the same privileges and powers with those of the most favored nations; but if any such consuls shall exercise commerce, they shall be subject to the same laws and usages to which the private individuals of their nation are subject in the same place. The said Consuls, vice consuls, and commercial agents are authorized to require the assistance of the local authorities for the search, arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country. For this purpose, they shall apply to the competent tribunals, judges and officers, and shall in writing demand the said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews; and this reclamation being thus substantiated, the surrender shall not be refused. Such deserters, when arrested shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be detained until the time when they shall be restored to the vessel to which they belonged, or sent back to their own country by a vessel of the same nation or any other vessel whatsoever. The agents, owners or masters of vessels on account of whom the deserters have been apprehended, upon requisition of the local authorities shall be required

to take or send away such deserters from the states and dominions of the contracting parties, or give such security for their good conduct as the law may require. But if not sent back nor reclaimed within six months from the day of their arrest, or if all the expenses of such imprisonment are not defrayed by the party causing such arrest and imprisonment, they shall be set at liberty and shall not be again arrested for the same cause. However, if the deserters should be found to have committed any crime or offence, their surrender may be delayed until the tribunal before which their case shall be depending, shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE XI

It is agreed that perfect and entire liberty of conscience shall be enjoyed by the citizens and subjects of both the contracting parties, in the countries of the one and the other, without their being liable to be disturbed or molested on account of their religious belief. But nothing contained in this article shall be construed to interfere with the exclusive right of the Hawaiian Government to regulate for itself the Schools which it may establish or support within its jurisdiction.

ARTICLE XII

If any ships of war or other vessels, be wrecked on the coasts of the states or territories of either of the contracting parties, such ships or vessels, or any parts thereof, and all furniture and appurtenances belonging thereunto, and all goods and merchandize which shall be saved therefrom, or the produce thereof if sold shall be faithfully restored with the least possible delay to the proprietors, upon being claimed by them, or by their duly authorized factors; and if there are no such proprietors or factors on the spot, then the said goods and merchandize, or the proceeds thereof, as well as all the papers found on board such wrecked ships or vessels, shall be delivered to the American or Hawaiian Consul, or vice consul in whose district the wreck may have taken place; and such Consul, vice consul, proprietors or factors, shall pay only the expenses incurred in the preservation of the property, together with the rate of salvage and expenses of quarantine which would have been payable in the like case of a wreck of a national vessel; and the goods and merchandize saved from the wreck shall not be subject to duties unless entered for consumption; it being understood that in case of any legal claim upon such wreck, goods or merchandize, the same shall be referred for decision to the competent tribunals of the country.

ARTICLE XIII

The vessels of either of the two contracting parties which may be forced by stress of weather or other cause into one of the ports of the other, shall be exempt from all duties of port or navigation paid for the benefit of the

state, if the motives which led to their seeking refuge be real and evident, and if no cargo be discharged or taken on board, save such as may relate to the subsistence of the crew, or be necessary for the repair of the vessels, and if they do not stay in port beyond the time necessary, keeping in view the cause which led to their seeking refuge.

ARTICLE XIV

The contracting parties mutually agree to surrender, upon official requisition, to the authorities of each, all persons who, being charged with the crimes of murder, piracy, arson, robbery, forgery or the utterance of forged paper, committed within the jurisdiction of either, shall be found within the territories of the other; provided, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the person so charged shall be found, would justify his apprehension and commitment for trial if the crime had there been committed: and the respective judges and other magistrates of the two Governments, shall have authority, upon complaint made under oath, to issue a warrant for the apprehension of the person so charged, that he may be brought before such judges or other magistrates respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify the same to the proper Executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive.

ARTICLE XV

So soon as Steam or other mail Packets under the flag of either of the contracting parties, shall have commenced running between their respective ports of entry, the contracting parties agree to receive at the post offices of those ports all mailable matter, and to forward it as directed, the destination being to some regular post office of either country; charging thereupon the regular postal rates as established by law in the territories of either party receiving said mailable matter, in addition to the original postage of the office whence the mail was sent. Mails for the United States shall be made up at regular intervals at the Hawaiian Post Office, and despatched to ports of the United States, the postmasters at which ports shall open the same, and forward the enclosed matter as directed, crediting the Hawaiian Government with their postages as established by law and stamped upon each manuscript or printed sheet.

All mailable matter destined for the Hawaiian Islands shall be received at the several post offices in the United States and forwarded to San Francisco or other ports on the Pacific coast of the United States, whence the post-

masters shall despatch it by the regular mail packets to Honolulu, the Hawaiian government agreeing on their part to receive and collect for and credit the Post Office Department of the United States with the United States rates charged thereupon. It shall be optional to pre-pay the postage on letters in either country, but postage on printed sheets and newspapers shall in all cases be pre-paid. The respective post office Departments of the contracting parties shall in their accounts, which are to be adjusted annually, be credited with all dead letters returned.

ARTICLE XVI

The present treaty shall be in force from the date of the exchange of the ratifications for the term of ten years, and further, until the end of twelve months after either of the contracting parties shall have given notice to the other of its intention to terminate the same, each of the said contracting parties reserving to itself the right of giving such notice at the end of the said term of ten years, or at any subsequent term.

Any citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation.

ARTICLE XVII

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said States, and by His Majesty the King of the Hawaiian Islands, by and with the advice of his Privy Council of State, and the ratifications shall be exchanged at Honolulu within eighteen months from the date of its signature, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the same in triplicate, and have thereto affixed their seals. Done at Washington in the English language, the twentieth day of December, in the year one thousand eight hundred and forty nine.

JOHN M. CLAYTON [SEAL]

JAMES JACKSON JARVES [SEAL]

RIGHTS OF NEUTRALS AT SEA

Declaration signed at Honolulu March 26, 1855, relating to accession by Hawaii to convention of July 22, 1854, between the United States and Russia

7 Miller 121

Whereas the President of the United States of America, has invited His Majesty the King of the Hawaiian Islands to concur in and adopt the principles of the Convention between the United States and His Majesty the Emperor of all the Russias, concluded in Washington, on the 22 day of July 1854,¹ which convention is word for word as follows:

ARTICLE 1st

The two high contracting parties recognise as permanent and immutable the following principles. viz:

1st That free Ships make free goods that is to say, that the effects or goods belonging to subjects or Citizens of a Power or State at War, are free from Capture and confiscation, when found on board of neutral vessels with the exception of articles contraband of War.

2. That the property of neutrals on board an enemys vessel is not subject to confiscation, unless the same be contraband of War.

They engage to apply these principles to the Commerce and Navigation of all such powers and states as shall consent to adopt them on their part as permanent and immutable.

ARTICLE 2^d

The two high contracting parties reserve to themselves to come to an ulterior understanding, as circumstances may require, with regard to the application and extension to be given, if there be any cause for it, to the principles laid down in the first article. But they declare from this time that they will take the stipulations contained in said article 1st as a rule, whenever it shall become a question to judge of the rights of neutrality.

ARTICLE 3^d

It is agreed by the high contracting Parties that all nations which shall or may consent to accede to the Rules of the first article of this convention, by a formal Declaration stipulating to observe them, shall enjoy the rights resulting from such accession as they shall be enjoyed and observed by the two Powers signing this convention. They shall mutually communicate to each other the results of the steps which may be taken on the subject.

ARTICLE 4th

The present convention shall be approved and ratified by the President of the United States of America by and with the advice and consent of the Senate of said States, and

¹ TS 300, *post*, U.S.S.R.

by His Majesty the Emperor of all the Russias, and the Ratifications of the same shall be exchanged at Washington, within the period of ten months, counting from this day or sooner if possible.

In faith whereof, the respective Plenipotentiaries have signed the present convention in Duplicate, and thereto affixed the Seals of their Arms.

Done at Washington the 22^d day of July the Year of Grace 1854

Signed W. L. MARGY [SEAL]

" EDWARD STOECKL [SEAL]

And Whereas His Majesty the King of the Hawaiian Islands, having considered the aforesaid invitation of the President of the United States, and the Rules established in the foregoing convention respecting the rights of Neutrals during War, and having found such Rules consistent with those proclaimed by Her Britannic Majesty in Her Declaration of the 28th March 1854 and by His Majesty the Emperor of the French in His Declaration of the 29th of the same month and year, as well as with Her Britannic Majestys order in Council of the 15th April same year, and with the peaceful and strictly neutral policy of this Kingdom as proclaimed by His late Majesty King Kamehameha III on the 16th May 1854 amplified and explained by Resolutions of His Privy Council of State of the 15th June and 17th July same year, His Majesty, by and with the advice of His Cabinet and Privy Council, has authorized the undersigned to declare in His Name, as the undersigned now does declare that His Majesty accedes to the humane principles of the foregoing convention, in the sense of its III Article.

Department of Foreign Relations Honolulu.

26 March 1855

R. C. WYLLIE [SEAL]

Minister of Foreign Relations

COMMERCIAL RECIPROCITY

Convention signed at Washington January 30, 1875

Senate advice and consent to ratification, with amendments, March 18, 1875¹

Ratified by the Hawaiian Islands April 17, 1875

Ratified by the President of the United States, with amendments, May 31, 1875¹

Ratifications exchanged at Washington June 3, 1875

Proclaimed by the President of the United States June 3, 1875

Entered into force September 9, 1876

Supplemented by convention of December 6, 1884²

Terminated August 12, 1898, upon annexation of Hawaii

19 Stat. 625; Treaty Series 161

CONVENTION

The United States of America and His Majesty the King of the Hawaiian Islands, equally animated by the desire to strengthen and perpetuate the friendly relations which have heretofore uniformly existed between them, and to consolidate their commercial intercourse, have resolved to enter into a Convention for Commercial Reciprocity. For this purpose, the President of the United States has conferred full powers on Hamilton Fish, Secretary of State, and His Majesty the King of the Hawaiian Islands has conferred like

¹ The Senate resolution contained the following amendments:

Art. I. After the words "being the growth" insert the word "and"; in the schedule delete the word "fruits" and insert the word "Bananas"; after the word "Pulu" delete the words "Sandal, Koa, or other ornamental woods".

Art. II. At the end of the schedule add "; harness and all manufactures of leather; starch; and tobacco, whether in leaf or manufactured".

Art. IV. At the end of the article add the following sentence: "It is agreed, on the part of His Hawaiian Majesty, that, so long as this treaty shall remain in force, he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power, state or government, nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty, hereby secured to the United States".

Art. V. After "Government of the United States" delete the words "and the laws required" and insert in lieu thereof "but not until a law".

The text printed here is the amended text as proclaimed by the President.

² TS 163, *post*, p. 878.

powers on Honorable Elisha H. Allen, Chief Justice of the Supreme Court, Chancellor of the Kingdom, Member of the Privy Council of State, His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States of America, and Honorable Henry A. P. Carter, Member of the Privy Council of State, His Majesty's Special Commissioner to the United States of America.

And the said Plenipotentiaries, after having exchanged their full powers, which were found to be in due form, have agreed to the following articles:

ARTICLE I

For and in consideration of the rights and privileges granted by His Majesty the King of the Hawaiian Islands in the next succeeding article of this convention, and as an equivalent therefor, the United States of America hereby agree to admit all the articles named in the following schedule, the same being the growth and manufacture or produce of the Hawaiian Islands, into all the ports of the United States free of duty.

SCHEDULE

Arrow-root; castor oil; bananas, nuts, vegetables, dried and undried, preserved and unpreserved; hides and skins undressed; rice; pulu; seeds, plants, shrubs or trees; muscovado, brown, and all other unrefined sugar meaning hereby the grades of sugar heretofore commonly imported from the Hawaiian Islands and now known in the markets of San Francisco and Portland as "Sandwich Island sugar;" syrups of sugar-cane, melado, and molasses; tallow.

ARTICLE II

For and in consideration of the rights and privileges granted by the United States of America in the preceding article of this convention, and as an equivalent therefor, His Majesty the King of the Hawaiian Islands hereby agrees to admit all the articles named in the following schedule, the same being the growth, manufacture, or produce of the United States of America, into all the ports of the Hawaiian Islands free of duty.

SCHEDULE

Agricultural implements; animals, beef, bacon, pork, ham and all fresh, smoked or preserved meats; boots and shoes; grain, flour, meal and bran, bread and breadstuffs, of all kinds; bricks, lime and cement; butter, cheese, lard, tallow, bullion, coal; cordage, naval stores including tar, pitch, resin, turpentine raw and rectified; copper and composition sheathing; nails and bolts; cotton and manufactures of cotton bleached, and unbleached, and whether or not colored, stained, painted or printed; eggs; fish and oysters, and all other creatures living in the water, and the products thereof; fruits,

nuts, and vegetables, green, dried or undried, preserved or unpreserved; hardware; hides, furs, skins and pelts, dressed or undressed; hoop iron, and rivets, nails, spikes and bolts, tacks, brads or sprigs; ice; iron and steel and manufactures thereof; leather; lumber and timber of all kinds, round, hewed, sawed, and unmanufactured in whole or in part; doors, sashes and blinds; machinery of all kinds, engines and parts thereof; oats and hay; paper, stationery and books, and all manufactures of paper or of paper and wood; petroleum and all oils for lubricating or illuminating purposes; plants, shrubs, trees and seeds; rice; sugar, refined or unrefined; salt; soap; shooks, staves and headings; wool and manufactures of wool, other than ready made clothing; wagons and carts for the purposes of agriculture or of drayage; wood and manufactures of wood, or of wood and metal except furniture either upholstered or carved and carriages; textile manufactures, made of a combination of wool, cotton, silk or linen, or of any two or more of them other than when ready made clothing; harness and all manufactures of leather; starch; and tobacco, whether in leaf or manufactured.

ARTICLE III

The evidence that articles proposed to be admitted into the ports of the United States of America, or the ports of the Hawaiian Islands, free of duty, under the first and second articles of this convention, are the growth, manufacture or produce of the United States of America or of the Hawaiian Islands respectively shall be established under such rules and regulations and conditions for the protection of the revenue as the two Governments may from time to time respectively prescribe.

ARTICLE IV

No export duty or charges shall be imposed in the Hawaiian Islands or in the United States, upon any of the articles proposed to be admitted into the ports of the United States or the ports of the Hawaiian Islands free of duty, under the First and Second Articles of this convention. It is agreed, on the part of His Hawaiian Majesty, that, so long as this treaty shall remain in force, he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power, state or government, nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty, hereby secured to the United States.

ARTICLE V

The present convention shall take effect as soon as it shall have been approved and proclaimed by His Majesty the King of the Hawaiian Islands, and shall have been ratified and duly proclaimed on the part of the Govern-

ment of the United States, but not until a law to carry it into operation shall have been passed by the Congress of the United States of America. Such assent having been given and the ratifications of the convention having been exchanged as provided in article VI, the convention shall remain in force for seven years, from the date at which it may come into operation; and further, until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same; each of the high contracting parties being at liberty to give such notice to the other at the end of the said term of seven years, or at any time thereafter.

ARTICLE VI

The present convention shall be duly ratified, and the ratifications exchanged at Washington city, within eighteen months from the date hereof, or earlier if possible.

In faith whereof the respective Plenipotentiaries of the high contracting parties have signed this present convention, and have affixed thereto their respective seals.

Done in duplicate, at Washington, the thirtieth day of January, in the year of our Lord, one thousand eight hundred and seventy-five.

HAMILTON FISH [SEAL]

ELISHA H. ALLEN [SEAL]

HENRY A. P. CARTER [SEAL]

COMMERCIAL RECIPROCITY

Convention signed at Washington December 6, 1884, supplementing convention of January 30, 1875

Senate advice and consent to ratification, with amendments, January 20, 1887¹

Ratified by the Hawaiian Islands October 20, 1887

Ratified by the President of the United States, with amendments, November 8, 1887¹

Ratifications exchanged at Washington November 9, 1887

Entered into force November 9, 1887

Proclaimed by the President of the United States November 9, 1887

Terminated August 12, 1898, upon annexation of Hawaii

25 Stat. 1399; Treaty Series 163

SUPPLEMENTARY CONVENTION TO LIMIT THE DURATION OF THE CONVENTION RESPECTING COMMERCIAL RECIPROCITY BETWEEN THE UNITED STATES OF AMERICA AND THE HAWAIIAN KINGDOM, CONCLUDED JANUARY 30, 1875

Whereas a Convention was concluded between the United States of America, and His Majesty the King of the Hawaiian Islands, on the thirtieth day of January 1875,² concerning commercial reciprocity, which by the fifth article thereof, was to continue in force for seven years from the date after it was to come into operation, and further, until the expiration of twelve months after either of the High Contracting Parties should give notice to the other of its wish to terminate the same; and

Whereas, the High Contracting Parties consider that the increase and consolidation of their mutual commercial interests would be better promoted by the definite limitation of the duration of the said Convention;

Therefore, the President of the United States of America, and His Majesty the King of the Hawaiian Islands, have appointed:

The President of the United States of America, Frederick T. Frelinghuysen, Secretary of State; and

¹ The Senate resolution added the present text, as proclaimed, of art. II and renumbered art. II of the convention, as signed, to art. III.

² TS 161, *ante*, p. 874.

His Majesty the King of the Hawaiian Islands, Henry A. P. Carter, accredited to the Government of the United States, as His Majesty's Envoy Extraordinary and Minister Plenipotentiary;

Who, having exchanged their respective powers, which were found sufficient and in due form, have agreed upon the following articles:

ARTICLE I

The High Contracting Parties agree, that the time fixed for the duration of the said Convention, shall be definitely extended for a term of seven years from the date of the exchange of ratifications hereof, and further, until the expiration of twelve months after either of the High Contracting Parties shall give notice to the other of its wish to terminate the same, each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said term of seven years or at any time thereafter.

ARTICLE II³

His Majesty the King of the Hawaiian Islands grants to the Government of the United States the exclusive right to enter the harbor of Pearl River in the island of Oahu, and to establish and maintain there a coaling and repair station for the use of vessels of the United States and to that end the United States may improve the entrance to said harbor and do all other things needful to the purpose aforesaid.

ARTICLE III

The present Convention shall be ratified and the ratifications exchanged at Washington, as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their respective seals.

Done at the city of Washington the 6th day of December in the year of our Lord 1884.

FREDK. T. FRELINGHUYSEN [SEAL]

HENRY A. P. CARTER [SEAL]

³ See footnote 1, p. 878.

the United States steamer Boston, with two pieces of artillery, landed in Honolulu. The men, upward of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies.

"This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the bona fide purpose of protecting the imperiled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the de facto and the de jure Government. In point of fact the existing Government, instead of requesting the presence of an armed force, protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. . . .

". . . I believe that a candid and thorough examination of the facts will force the conviction that the Provisional Government owes its existence to an armed invasion by the United States. Fair-minded people, with the evidence before them, will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the Provisional Government had ever existed with their consent. I do not understand that any member of this Government claims that the people would uphold it by their suffrages if they were allowed to vote on the question. . . .

" As I apprehend the situation, we are brought face to face with the following conditions:

"The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

"But for the notorious predilections of the United States minister for annexation the committee of safety, which should be called the committee of annexation, would never have existed.

"But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

"But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

"And finally, but for the lawless occupation of Honolulu under false pretext by the United States forces, and but for Minister Steven's recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government

would never have yielded to the provisional government even for a time and for the sole purpose of submitting her case to the enlightened Justice of the U. S.

"Believing, therefore, that the United States could not, under the circumstances disclose, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration, and in the instructions to Minister Willis, a copy of which accompanies this message, I have directed him to so inform the Provisional Government. . . .

" . . . By an act of war, committed without the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. The Provisional Government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that Government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power. . . .

" . . . On that ground the United States can not properly be put in the position of countenanc-

ing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation. . . ."

The complete text of President Cleveland's message is attached as exhibit "A". It sets forth the entire series of events that occurred prior to, during and subsequent to the so-called, revolution of 1893. In addition attached as exhibit "B" you will find Appendix "A" and "B" from "Hawaii's Story" by Queen Liliuokalani wherein she makes, in part, the following remarks in her report to Commissioner James H. Blount.

"In making out this lengthy statement I will present the main points:

"(1) That it has been a project of many years on the part of the missionary element that their children might some day be rulers over these Islands, and have the control and power in their own hands, as was the case

after the revolution of 1887. Mr. W. W. Hall openly stated that they had planned for this for twelve years. It was a long-thought-of project, a dream of many years. So also said Mr. F. S. Lyman of Hilo, in his speech to the people in the month of January. He said, "Fifteen long years we have prayed for this, and now our prayers are heard."

"The disposition of those appointed to position, of authority, to act with the missionary element, tends to make the government unstable; and because they found I could not easily be led by them, they do not like me.

"(2) The interference of the American minister, J. L. Stevens, in our local affairs, and conspiring with a few foreign people to overthrow me and annex these Islands to the United States, and by his actions, has placed me and my people in this unhappy position. . . .

". . . . (4) That on the afternoon of the 16th of January, at five P. M., the United States troops were landed to support the conspirators, by orders of the United States minister, J. L. Stevens.

"That on Tuesday, the 17th of January, 1893, at about two thirty o'clock P. M., the Provisional Government was proclaimed, and Minister Stevens assured my cabinet that he recognized that Government; and that at six P. M. of the same day I yielded my authority to the superior force of the United States.

"We have been waiting patiently, and will still wait, until such time as the Government of the United States, on the facts presented to it, shall undo the act of its representative. . . ."

The foregoing excerpts together with the complete texts attached hereto spell out the assumption that the treaty of annexation was entered into with the United States Government by a discredited Provisional Government without the consent of the Hawaiian people.

President Cleveland's Secretary of State, Walter Q. Gresham, wrote the President in October of 1893:

" . . . Mr. Blount states that while at Honolulu he did not meet a single annexationists who expressed willingness to submit the question to a vote of the people, nor did he talk with one on that subject who did not insist that if the Islands were annexed suffrage should be so restricted as to give complete control to foreigners or whites. Representative annexationists have repeatedly made similar statements to the undersigned. . . .

" . . . Can the United States consistently insist that other nations shall respect the independence of Hawaii while not respecting it themselves. . Our Government was the first to recognize the independence of the Islands and it should be the last to acquire sovereignty over them by force and fraud. . . ."



HAWAIIAN NATION

We come together today to remember events that took place eighty-four years ago. There are few of us living who can still recall that time, most of us know of those events only through history books or from the stories told by our kupuna; yet, the story touches some secret place in our hearts and arouses sadness, resentment, anger. It is important for us to know what happened, to understand what happened and from this knowledge, make our own choices. The events of those times are not merely history or academic study to Native Hawaiians; there are many Hawaiians who believe that in spite of the "Revolution of 1893," a sovereign Hawaiian Nation exists today; that the actions of the United States in 1893 gave rise to a trust duty owed to the Hawaiian people; and that, at the very least, some form of reparation is due.

What follows is a brief account of those events, told in the words of the participants; Queen Liliuokalani, U.S. minister to Hawaii John L. Stevens, members of the Committee of Safety, President Cleveland and others. It is not an impartial account, but it is an accurate one.

January 14, 1893

It has been claimed that the cause of the "Revolution of 1893" was Queen Liliuokalani's attempt to proclaim a new constitution. It is true that the Constitution of 1887, known as the Bayonet Constitution, since it had been forced upon King Kalakaua, was abhorred by Liliuokalani. It severely curbed the traditional powers of the Crown and required all acts by the Queen be done with the advice and consent of a Cabinet. The privilege of voting was extended to American and European males who had resided in the country a number of years and the House of Nobles, formerly appointed by the Crown, was made an elective office. Property qualifications for running or even voting for that office were so high, that most Native Hawaiians were excluded. The effect of this was to increase the political power of the white community to an overwhelming extent.

But in examining the events of those days, it is important to remember that the revolutionaries were rabid annexationists who controlled the economy and most of the private property of Hawaii. They felt it was only a matter of time until the Islands would be annexed to the United States and they formed an annexation club for that purpose. The annexation club sent Lorrin Thurston to Washington to assess the U.S. government's view of the matter. Secretary of the Navy, B.F. Tracy, after talking with President Harrison, told Thurston:

I have explained to the President what you have said to me, . . . the President does not think he should see you, but he authorizes me to say to you that, if conditions in Hawaii compel you to act as you have indicated, and you come to Washington with an annexation proposition, you will find an exceedingly sympathetic administration here.

The President of the United States was not the only one sympathetic to the annexation cause; closer to home the U.S. Minister to Hawaii, John L. Stevens had written in 1892:

Destiny and the vast future interest of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a Territorial government they could be as easily governed as any of the existing territories of the United States. Hawaii has reached the parting of the ways. She must now take the road which leads to Asia, or the

other, which outlets her in America, gives her an American civilization, and binds her to the care of American destiny . . . I can not now refrain from expressing the opinion with emphasis that the golden hour is near at hand.

Liliuokalani, on the morning of January 14th, planned to sign and proclaim a new constitution which would restore the liberties of the Hawaiian monarch and people. Gathered in the Throne Room to witness the event were members of the Supreme Court, Legislature and diplomatic corps, and outside the palace, a crowd of people waited to hear the proclamation.

Her cabinet ministers, learning of the Queen's plans, feared that the reaction from the white business community would be violent. Two of them went downtown to seek advice from W.O. Smith, a prominent attorney and annexationist. Upon returning to the Palace, Liliuokalani recounts that they:

begged that I should wait for two weeks; in the meantime, they would be ready to present it to me. With these assurances, I yielded and we adjourned to the throneroom.

I then informed the people assembled that under the advice of my ministers I yielded, as they had promised that on some future day I could give them a new constitution. I then asked them to return to their homes and keep the peace.

In the meantime, several dozen men gathered at the law offices of W.O. Smith and formed a Committee of Public Safety. All but one of the thirteen committeemen were members of the Annexation Club. Six of them were Hawaiian citizens, five were Americans, one an Englishman and one a German.

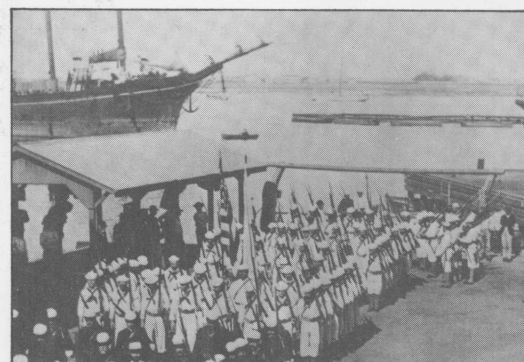
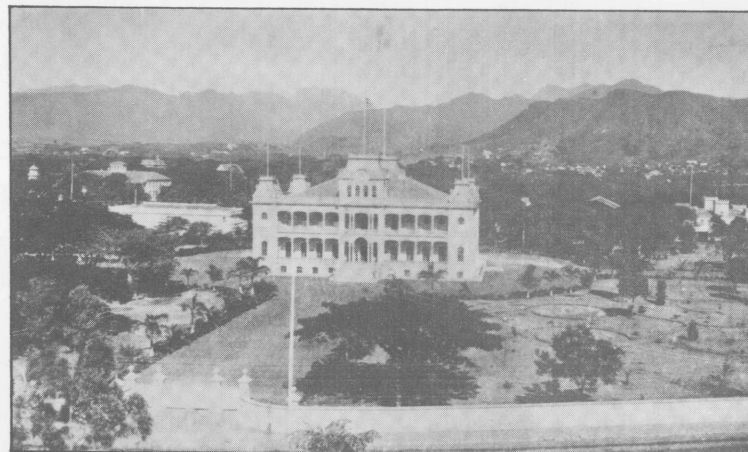
The Committee of Safety met privately and passed a motion proposing that "steps be taken at once to form and declare a provisional government." L.A. Thurston, who proposed the motion, wrote in his memoirs that the motion was:

I move that it is the sense of this meeting that the solution to the present situation is annexation to the United States.

Thurston then called upon U.S. Minister Stevens to ask him if he was going to support the Queen or take the Committee's side in this matter. According to W.O. Smith, Stevens said:

that the United States troops on board

This page, right, Iolani Palace and grounds, 1885. Below, the landing of marines and sailors from the U.S.S. Boston, Jan. 16, 1893.



the Boston would be ready to land any moment to prevent the destruction of American life and property, and in regard to the matter of establishing a Provisional Government they of course would recognize the existing government whatever it might be.

January 15, 1893

Early on the morning of January 15th, Thurston called upon two of the Queen's Cabinet Ministers to advise them of the Committee of Safety's actions and then said to them:

The Committee of Safety are not content to let matters rest as they are. Will you adopt the course which was discussed and agreed to by you yesterday, (i.e., to declare the Queen in revolution against the Government, declare the throne vacant and call on the people for support). If so, well and good, you can take control of the situation; otherwise the Committee intends to proceed on the lines indicated without you.

The two ministers would not agree to the Committee's plans and instead, consulted with the remaining members of the Cabinet. In an attempt to head off further troubles, they drafted a proclamation



for the Queen's signature giving the community assurances that the matter of a new constitution was at an end. Unfortunately, the proclamation was not published until the following day.

Members of the Cabinet also called upon Minister Stevens to see what actions he would take in the event of an armed insurrection against the Queen. Stevens made it clear that in such an event, he would not side with the Queen, he afterwards testified that, "I did not promise him (the Queen's minister) anything."

The Committee of Safety also met for three hours and called a public mass meeting for the next day. In the afternoon, Thurston and Smith again visited Minister Stevens, and as Smith reports:



Queen Liliuokalani just before her death. Below, the funeral of Queen Liliuokalani at Iolani Palace.



informed him of what was being done. Among other things we talked over with him what had better be done in case of our being arrested or extreme or violent measures being taken by the Monarchy in regard to us . . . Mr. Stevens gave assurances of his earnest purpose to afford all the protection that was in his power to protect life and property . . .

January 16, 1893

Liliuokalani tells that, on the morning of the 16th:

notice was issued by my ministers, stating 'that the position I took and the attempt I made to promulgate a new constitution was at the earnest solicitation of my people—of my native subjects.' They gave assurances that any changes desired in fundamental law of the land would be sought only by methods provided in the constitution itself, and signed by myself and ministers. It was intended to reassure the people that they might continue to maintain order and peace.

At the time the Proclamation was issued, the Committee of Safety was meeting and sent a plea to Minister Stevens which concluded:

We are unable to protect ourselves without aid, and therefore, pray for the protection of the United States forces.

That afternoon, two public meetings were held, one called by the Queen's supporters, the other by the Committee of Safety. Thurston spoke at this meeting and recited the events leading up to the meeting, offered a resolution to condemn and denounce the action of the Queen and asked the meeting to ratify the formation of the committee and authorize it to take further actions.

Meanwhile, aboard the U.S.S. Boston in Honolulu Harbor, preparations had begun for landing U.S. troops. Around 3 p.m., Minister Stevens delivered a formal request to Captain Wiltse for troops.

And so it happened that on the 16th day of January, 1893, between 4 and 5 o'clock in the afternoon, a detachment of marines from the United States steamer Boston, with two pieces of artillery, landed at Honolulu. The men, upward of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies . . .

They marched down King Street, past the Palace and halted for a brief period across from Kawaiahao Church. Just before dark, they continued along King Street to the large Atherton estate at King and Alapai. About four hours later, the troops marched back down King

Street to their quarters for the night.

The Queen's ministers immediately went to Stevens and protested the landing of troops but Stevens told them to put their request in writing and he would reply.

President Cleveland later concluded about these actions:

This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the bona fide purpose of protecting the imperiled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the de facto and the de jure Government. In point of fact the existing Government, instead of requesting the presence of an armed force, protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. the location of the troops was inadvisable if they were landed for the protection of American citizens, whose residences and places of business, as well as the legation and consulate, were in a distant part of the city; but the location selected was a wise one if the forces were landed for the purpose of supporting the Provisional Government. That night, the Committee of Safety again met and named the advisory and executive councils for the new provisional government. Sanford B. Dole was asked to serve as President.

January 17, 1893

On the morning of January 17, Dole visited Minister Stevens with a letter:

setting forth our intended movement, and proposing to ask his recognition, or something like that. I went in and handed the letter to him. He did not say much, but I remember that he said: 'I think you have a great opportunity.'

The Queen and her cabinet received word that the Committee of Safety had been actively recruiting men and arms.

Liliuokalani sent a note to Stevens giving him assurances that the present constitution would be upheld. When no reply was received, the Queen's cabinet drove to the American legation to appeal to Stevens. But Stevens would give no help and, one member of the Cabinet later claimed, had said he would protect the

insurgents if they were attacked.

Meanwhile, the Committee of Safety at Smith's office on Fort Street had completed its proclamation deposing the Queen, and the volunteer army had been ordered to assemble at the Armory. The members of the Committee broke up into two groups, one to proceed to the government building by Merchant Street, the other by Queen Street. As they emerged from Smith's office, a shot rang out at King and Fort Streets as the police attempted to halt a wagon load of ammunition being gathered by the revolutionaries. The police who had been watching Smith's office ran towards the shot and a large crowd gathered.

Thus, the Committee of Safety was able to proceed relatively unnoticed to the Government Building where they took possession. From the steps of the building, a proclamation was read declaring that the existing government was overthrown and a Provisional Government established in its place, "to exist until terms of union with the United States of America have been negotiated and agreed upon." The revolutionaries immediately requested recognition from Minister Stevens, and sometime between 4:20 and 5 p.m., he provided it. Stevens' reply recognizing the Provisional Government was given long before the Queen yielded and the barracks and police station, where the Cabinet had made its headquarters, was surrendered. Liliuokalani gives this account of the day:

At about two-thirty P.M., Tuesday, the establishment of the Provisional Government was proclaimed; and nearly fifteen minutes later Mr. J.S. Walker came and told me 'that he had come on a painful duty, that the opposition party had requested that I should abdicate.' I told him that I had no idea of doing so . . . I immediately sent for (my cabinet ministers and advisors). The situation being taken into consideration, it was found that, since the troops of the United States had been landed to support the revolutionists, by the order of the American minister, it would be impossible for us to make any resistance . . .

As night fell, Liliuokalani, in order to avoid bloodshed and under protest, surrendered to the superior forces of the United States. At 7 p.m., the police station was handed over and a short time later, two hundred and seventy Hawaiian soldiers at the barracks surrendered their arms.

On February 1, 1893, Minister Stevens placed the Provisional Government under the protection of the United States pending annexation negotiations, and hoisted the American flag over Hawaii. But the Provisional Government's hopes for a speedy annexation were short-lived. In the United States, Harrison's pro-annexation administration had been defeated by Cleveland. President Cleveland appointed Commissioner James H. Blount to investigate the actual events of the overthrow. Based on Blount's findings, Cleveland acknowledged and condemned the role of the United States in a message to Congress on December 18, 1893:

As I apprehend the situation, we are brought face to face with the following conditions:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives. But for the notorious predilections of the United States minister for

annexation the committee of safety, which should be called the committee of annexation, would never have existed.

But for the landing of the United States forces upon false pretexts . . . the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support, the committee would not have proclaimed the Provisional Government from the steps of the Government building. And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Stevens' recognition of the Provisional Government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the Provisional Government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States . . .

In January 1894, Liliuokalani's loyal supporters began gathering arms in an attempt to restore the monarchy. The government learned of the plot and the royalists were forced to retreat to the Diamond Head slopes and the valleys behind Honolulu—Nuuanu, Pauoa, Manoa, and Palolo. It took ten days to flush the two hundred men out of the dense brush. On January 17th, 1894, Liliuokalani was arrested and confined in one of the apartments at Iolani Palace. The grounds of her home at Washington Place were searched and in her garden were found stores of ammunition. She denied knowledge of the guns in her garden but admitted that she was planning to appoint a new cabinet. She was sentenced to five years at hard labor and fined five thousand dollars. Most of her imprisonment was spent under house arrest at Iolani Palace; eight months later, she was paroled, and finally, in November, 1896, given full freedom of movement.

In 1898, a Joint Resolution of Annexation was passed by the U.S. Congress. By the terms of the Resolution, the Republic of Hawaii purported to cede in fee simple all the

government lands of Hawaii to the United States.

After annexation in 1898, Grover Cleveland wrote:

Hawaii is ours. As I look back upon the first steps in this miserable business and as I contemplate the means used to complete the outrage, I am ashamed of the whole affair.

**The Hawaiian Coalition
of Native Claims**

HCNC is a non-profit organization incorporated under the laws of the state of Hawaii in 1974. It is exempt from federal income tax under the provisions of section 501 (c) (3) of the internal revenue code, and contributions to HCNC are tax deductible.

Enclosed is my tax deductible contribution to assist the Hawaiian Coalition of Native Claims in researching Native Hawaiian rights and developing a legal capability to assert and protect those rights:

_____ name

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MAKE CHECKS PAYABLE TO:

Hawaiian Coalition of Native Claims
116 So. King Street, Suite 404
Honolulu, Hawaii 96813
Phone: (808) 537-9921

Requests for information may be directed to:

Mr. Gail Kawaipuna Prejean,
Director

The Hawaiian Coalition of Native Claims (HCNC) is a non-profit organization whose purpose is to identify and document Native Hawaiian rights to land and related resources and develop a legal capability to assert and properly present those rights. HCNC was created in 1974 as a result of growing awareness in the Hawaiian community that legal action is essential to preservation of the Native Hawaiian culture. It is HCNC's firm belief that if Hawaiian people are made aware of their rights through a program of community information and education and are encouraged to lawfully exercise their continuing rights, a basis for self-sufficiency and self-determination is possible.



Non-profit
Organization

The Hawaiian Coalition of Native Claims
Suite 404 • 116 So. King St. • Honolulu, Hi. 96813

With the laws written in English, it is impossible for most of the Hawaiian people to understand what is expected of them. As a result, everything is lost. As to Hawaiian culture, only crumbs are left.

—A Native Hawaiian of Papakolea

The history of the Hawaiian people, like that of most native peoples, has been one of disruption and alienation upon contact with Western culture. It was less than 200 years ago that Westerners first sighted the islands and the transition from aboriginal society to dominance of 20th century values has been rapid. The pressures for colonization have not only been concentrated in a limited land area, but have taken place in about half the time that such changes occurred on the mainland United States. Yet, the distance of Hawaii from the mainland and the islands' reputation as a sunny paradise have obscured the plight of contemporary Native Hawaiians living among the remnants of their aboriginal culture.

Although a traditional culture based upon land use and a spiritual orientation and respect for nature link Native Hawaiians with other Native American groups, Hawaiians differ from other American aboriginals in that virtually nothing has been done to protect or preserve their rights or to redress their just claims. At a recent statewide conference of Hawaiian community groups, the issue deemed most critical to the Native Hawaiian people was achievement of Self-Determination. Toward this end, an important goal is rebuilding a Native Hawaiian nation or *aupuni*. The concept of a Native Hawaiian nation acting within the existing U.S. political structure may seem new and even revolutionary, yet the United States has long recognized similar native nations within its borders. Indeed, these Native American nations are beneficiaries of a trust relationship with the United States.

A major focus of HCNC's work has been an exploration of the parallels between Native Hawaiians and other Native Americans with a view towards establishing federal recognition of a trust relationship between the United States and Native Hawaiians similar to that enjoyed by many other American aboriginal people. HCNC has sought the

establishment of a Hawaiian Policy Review Commission to focus on the long overlooked problems of our Polynesian people. Extensive contacts with other Native Americans in order to foster an understanding of the Hawaiian situation and gain insight into the similarities among all traditional people have also been made.

Self-determination for Hawaiians necessarily relates to preserving existing Hawaiian owned lands and regaining lands now held by the Federal or State governments or private interests. The changes brought about by the imposition of Western land concepts on aboriginal society resulted in an almost total loss of land to the majority of the Native Hawaiian people. Today, as the population of Hawaii approaches one million and the population density within the city of Honolulu has surpassed that of Tokyo and London, tremendous pressure for urbanization has been placed on the few remaining lands in Hawaiian possession.

HCNC's role in exploring different methods to legally challenge Federal and State control of lands formerly Hawaiian has been of vital importance. Among HCNC's activities has been extensive research on military landholdings in Hawaii and compilation of a legal history of the island of Kaho'olawe, including its taking and use by the U.S. Navy for target practice purposes. A similar study of Makua Valley, another area taken for military purposes has been completed. HCNC has also monitored the activities of the disaster laden Department of Hawaiian Home Lands, set up by a 1920 Act of Congress to lease homestead lands to "rehabilitate" Hawaiians of 50% or more native blood.

For Hawaiians, a proud people who lived off the land and sea and their products, fishing, access, gathering and other traditional rights are nec-



essary for continued existence.

The struggle of the Hawaiian people in seeking self-determination, in rebuilding a Native Hawaiian Nation, in asserting claims to land, in protecting existing

rights, in shaping an almost non-existent body of law to preserve ancient rights is a continuing one. HCNC's work has just begun and the road in closing the gap between recognition of these rights and their actual exercise in daily life is a long one. With a small staff and minimal funding, we have accomplished much. However, HCNC is continually in financial need to maintain its present level of involvement and expand its work.

Research and presentation of claims within the present legal system has led to vindication of legal rights for Native Americans who have sought redress in the white man's courts. Similarly, this legal protection is of critical importance if Native Hawaiian culture and the ancient and humane values it represents is to survive. Your *kokua* (assistance) will be greatly appreciated.



Pānoanoa Ka 'Aina, Mānoanoa Ka Po'e
Rare is the Land, Many are the People

*245-8820
Office of
RM 2177
2400 Mānoa
Hawaii*

AGENDA

INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS
September 13, 1977

SEE MEMBERSHIP LIST IN BACK

- I. Roll Call
- II. Guest Speaker - Alan L. Parker
Chief Counsel
Select Committee on Indian Affairs
U.S. Senate
- III. Guest Speaker - Warren Cardwell
Director
Division of Program Formulation
Indian Health Service

Topic: Unique Relationship of Indians
- IV. Native Hawaiian Issue
- V. Report by Executive Director
- VI. Other Business
- VII. Adjournment

INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS

NATIVE HAWAIIANS AS BENEFICIARIES
OF
PROGRAMS FOR AMERICAN INDIANS/ALASKAN NATIVES

Legislation has been introduced into Congress which would make native Hawaiians eligible for services and programs earmarked for American Indians and Alaskan Natives. Proposed amendments would extend to native Hawaiians the provisions of several Federal statutes including:

- 1) the Indian Education Act and other related education assistance programs;
- 2) the Comprehensive Employment and Training Act of 1973; 3) the Indian Self-Determination and Education Assistance Act; and 4) the Indian Financing Act of 1974.

Supporters of the amendments note the common social, economic, and cultural problems encountered by American Indians and native Hawaiians. According to Senator Inouye of Hawaii, who introduced the new legislation, the amendments are designed to rectify the "regrettable oversight in the original drafting of legislation" which excludes native Hawaiians.

Senator Inouye hopes to provide services to native Hawaiians by "correcting the definition of 'Native American'" to include native Hawaiian people along with American Indians and Alaskan natives.

Native Hawaiians do, in fact, have many unmet needs and the Federal government may need to assume greater responsibility for providing programs and services to enable native Hawaiians to overcome their

existing problems. However, Federal assistance to native Hawaiians should not be contingent upon "correcting" or manipulating definitions so that native Hawaiians or other groups are tagged on to programs for American Indian/Alaskan Natives. This rationale for providing services to native Hawaiians is arbitrary, has no historical basis and can result in further dilution of Federal efforts to carry out its trust responsibilities to American Indians and Alaskan natives. In addition, it would establish a precedent for numerous other groups who are native to U.S. Territories, e.g. the Samoans, Guamanians, Puerto Ricans, to assert themselves as Native Americans eligible to compete for the limited resources set aside for American Indians and Alaskan Natives.

The basis of Federal assistance to Indian people is the long-standing special and unique relationship between Indian tribes and the Federal government. Historical events, the Constitution, treaties and laws, together with court decisions, have determined a relationship between the Indian people and the Federal government which is unlike that enjoyed by any other group of Americans.

In the recent (June 1974) Supreme Court Decision of Mancari vs. Morton, relative to Indian preference, the Court stated that:

Resolution of the instant issue turns on the unique legal status of Indian tribes under Federal law, and upon the plenary power of Congress, based on a history of treaties and the assumption of a 'guardian-ward' status,

to legislate on behalf of Federally-recognized Indian tribes. The plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself.

The unique Federal-Indian relationship carries with it certain Federal responsibilities to the tribes, including special services to Indians because of their status as Indians. Such services are predicated on Constitutionally derived treaties, laws and court decisions recognizing the special status of Indians independent of considerations of race. In fact, the Mancari vs. Morton decision explicitly verifies the non-racial basis of these special entitlements.

The unique status enjoyed by American Indians is extended to Alaskan Natives as a result of the Treaty of March 30, 1867, between the United States and Russia whereby the U.S. acquired dominion over Alaska.

Article III of the Treaty states:

The uncivilized tribes in Alaska will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

As a result of this provision, Alaskan Natives are accorded the same unique status as other American Indian tribes.

There is no basis for extending this special status to native Hawaiians. The only precedent for inclusion of native Hawaiians in Indian earmarked legislation is Title VIII of the Community Services Act (P.L. 93-644).

The purpose of Title VIII, the Native American Programs Act of 1974, is to promote the goal of economic and social self-sufficiency for American Indians and Alaskan Natives. In a last-minute amendment introduced by Representative Patsy Mink of Hawaii, the legislation was extended to provide services to native Hawaiians citing that native Hawaiians were "very much similar to American Indians and the Native Alaskans." It was also noted that the amendment would increase potential beneficiaries by only 8 percent.

It is interesting to note that the same day these amendments were passed in the House, the Senate passed a concurrent resolution on a national American Indian policy, reaffirming that "the American Indian stands in a unique legal, social, and economic relationship to the Federal Government which is based upon the Constitution, treaties, statutes, Executive orders, agreements, judicial decisions, and history."

The resolution further states that "this unique relationship is the basis for the Federal responsibility to protect lands, resources, and rights of the American Indians as well as provide basic community services to American Indians residing on reservations and in other areas considered to be within the scope of the trust relationship."

While this resolution specifically includes Alaska Natives along with American Indians, no mention is made of native Hawaiians. Clearly, Congress never intended to confer upon native Hawaiians the unique special status

enjoyed by American Indians. To group American Indians/Alaskan Natives and native Hawaiians in one category and refer to them all as "Native Americans" merely confuses the issue of unique status.

The definition of American Indian/Alaskan Native recently adopted by the Department follows the precedent of the Congressional policy on American Indians by specifically excluding native Hawaiians. The definition, to be used by all programs except where another definition has been legislated, is as follows:

"American Indian/Alaskan Native," "American Indian" and "Indian" means any individual who is a member or a descendant of a member of a North American tribe, band, or other organized group of native people who are either indigenous to the continental United States, or who otherwise have a special relationship with the United States or a State through treaty, agreement, or some other form of recognition, except as otherwise provided by Federal law. This includes any individual who claims to be an Indian and who is regarded as such by the Indian tribe, group or band of which he or she claims to be a part.

After substantial research and discussion within the Department as well as with the Indian community, the consensus was that crucial to the definition of American Indian/Alaskan Native is the demonstration of a special historical relationship between the tribes and the Federal or State governments.

The Indian community expressed concern over the use of the term "Native American" to apply to both American Indians/Alaskan Natives and native Hawaiians. Indian people feel that they currently do not receive an

adequate level of Federal services and funds and that the inclusion of an additional target population in the Indian earmarked programs would further dilute their already scant resources. Rather than incorporating native Hawaiians into legislation established for American Indians/ Alaskan Natives, a more appropriate alternative is to enact separate legislation which is responsive to the special needs of native Hawaiians.

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September 12, 1977
MEMORANDUM

TO: Senator

FROM: Lorraine

RE: Draft Position of the Intra-Departmental Council on Indian Affairs

At a meeting held today with Jim Kissko, the Executive Director of the Council on Indian Affairs, and Dr. Mastrapasqua, the Acting Commissioner of the Office of Native American Programs (now called the Administration of Native Americans), we received a copy of the Council's draft position on Native Hawaiian inclusion under various Indian acts. It basically acknowledges the needs of Native Hawaiians while strongly recommending they be put under separate title for program benefits.

To justify this position the paper cites the unique status of American Indians based on Constitutionally derived treaties and laws and court decisions which recognize their trust relationship with the federal government. This unique status cannot be denied, however some questions do arise regarding its extension to Alaskan Natives. According to the report, a 1847 treaty with Russia whereby the U.S. acquired dominion over the Alaskan territory states that "the uncivilized tribes in

Alaska will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country." and thus establishes the same unique status for Alaskan Natives as for other American Indian tribes. This kind of relationship cannot be clearly inferred from the passage. Rather the Alaskan Native situation seems more likened to Native Hawaiians where no clear guardian-ward relationship exists by treaty. In fact, it was not until 1971 that the Alaskan Native claims were formally recognized by the passage of the Alaskan Native Claim Act.

The draft goes on to state that there is no basis for extending the special status to Hawaiians and cites only one "precedent" of Native Hawaiian inclusion in Indian legislation, namely PL 93-644. It neglects to mention other laws which include Hawaiians, an important study by the Library of Congress on the subject of comparison of Alaskan Native claims and Native Hawaiian claims, and the hearing reports from the Committee on Interior and Insular Affairs on S.J. Resolution 155.

Furthermore, the definition of American Indian/Alaskan Native referred to is based on a Congressional or legislative definition which they admit is subject to change. The implication being that Congress intentionally excluded Hawaiians from Indian legislation rather than the situation being one of oversight in the original drafting of such legislation.

In sum, the basic focus of the position reflects a major concern over dilution of limited resources and funding by the inclusion of Hawaiians and the fear of setting precedent for natives in trust territories, eg. the Samoans, Guamanians, Puerto Ricans, to attempt to be included under American Indian acts.

ATTACHED: Copy of draft position from the Intra-Departmental Council on Indian Affairs

September 13, 1977

MEMORANDUM

TO: SENATOR

FROM: SHANNON AND LORRAINE

RE: PRESENTATION TO THE INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS
ON SEPTEMBER 13, 1977 AND RESULT OF COUNCIL MEETING

Today the Intra-Departmental Council on Indian Affairs met to discuss the draft report which I showed you yesterday. The draft report put together by the staff of the Department of HEW for the Council suggests that Native Hawaiians should not be included in legislatively-created and mandated programs for American Indians and Native Alaskans because of their unique legal status, apart from the legal status of Native Hawaiians. In fact, the draft report recommends that a "separate but equal" approach be taken by you through specific legislative initiatives aimed at meeting the special needs of Native Hawaiians. The purpose of the Council meeting today was to have the Council vote on acceptance of the draft report and recommend to the Secretary of HEW and, perhaps, in addition to the Secretary of the Interior, that formal departmental positions be formulated against the three bills you have introduced: S. 857, S. 859 and S. 860 which would incorporate Native Hawaiians under the Indian Education Act, the Indian Self-Determination and Education Assistance Act, and the Indian Financing Act. If this were to occur, then when your bills come up in committee for comment and scheduled testimony of the various departments and agencies of the federal government, the die would already be cast in opposition to your bills.

Attached for your further information is the agenda for today's meeting of the Intra-Departmental Council on Indian Affairs, a copy of the draft report which was discussed and a list of the members of the Council. Alan Parker, the Chief Counsel for the Select Committee on Indian Affairs,

September 13, 1977

MEMO RE: MEETING OF INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS

Page Two

was to have attended today's Council meeting but was unable to attend because of ongoing hearings of the Select Committee on Indian Affairs.

Mr. Parker is scheduled to attend your meeting with Indian leaders tomorrow afternoon. Mr. Warren Cardwell's speech set the stage for a vote on the draft report, as he sought to convince the Council members of the unique legal status of American Indians and Alaskan Natives and of the necessity of excluding Native Hawaiians from programs for these groups. At this point, I asked whether Lorraine and I could make a short presentation to the Council on the history of Native Hawaiians and the basis for the introduction of your legislation to benefit Native Hawaiians since two Council members, the Executive Director of the Council, James Kissko, and Dr. Mastrapasqua, the Acting Director of the Office of Native American Programs, which will become the Administration of Native Americans, invited us to do so.

I introduced Lorraine, who proceeded to give a short history of the Hawaiian people, with particular emphasis on the forcible overthrow of the Hawaiian monarchy, the recognition of the Hawaiian monarchy as a foreign government by the United States and other foreign nations, and the admission of American participation in the overthrow of the Hawaiian monarchy by President Grover Cleveland in his White House papers commenting on the Treaty of Annexation brought to the Senate in 1893 by representatives of the Provisional Government. Lorraine read passages from President Cleveland's papers and then I proceeded to explain the land tenure and land title problems in Hawaii, as examined in the Library of Congress study comparing Alaskan Native land claims to Hawaiian Native land claims and Professor Levy's article in the California Law Review on this subject.

In addition, I explained the impact of changes in the land-holding system in Hawaii on the Native Hawaiians by quoting a passage from Gavan Daws' Shoal of Time: A History of the Hawaiian Islands, within the Chapter on the Great Mahele, as follows:

.../The Great Mahele/ It was a genuine revolution, and the white men who saw it through had no doubt that it was all for the best. For the foreigners, certainly, it was the beginning of a new era; but for the Hawaiian commoners it was the beginning of the end. In their first exercise of free choice they chose to uproot themselves. They were liberated from the burdensome tax payments to the chiefs that had kept them tied to the land, and most of them found more interesting things to do than grow taro, which required a long time and a lot of hard work. The idea of the kuleana, the small freehold lot cultivated as an independent family farm, never took hold. In the old days the taro patch and the family had flourished together; a single word, ohana served to describe both a cluster of taro roots and a family group. The Great Mahele, the great division, cut the connection, because once the commoner was free to buy land he was also free to sell it, and that was a freedom he understood. So the great division became the great dispossession. By the end of the nineteenth century the white men owned four acres of land for every one owned by a native, and this included chiefs' lands. The commoners had had their moment, and it had passed by. They were left with not much more than a terrible sense of deprivation.

At which time, Lorraine commented that in a very real sense, Native Hawaiians have become strangers in their own homeland. After that, I mentioned that philosophically I believe that you view the problems of Native Hawaiians as being similar to the problems of Native Americans and American Indians in particular. I stated, as we have the statistics on file to indicate, on any indice or measure of the mental, social and physical health of Native Hawaiians, the Native Hawaiians are at the bottom or the wrong end. I mentioned problems of demoralization, juvenile delinquency, wages or economic status, health problems as indicated by a higher mortality rate than for other ethnic groups, and other problems such as level of education attained.

One other point, which I stressed at the Council meeting, was the fact that I believe, and I indicated that this might have been one of your motivating factors in introducing the package of Native Hawaiian legislation in question, that administratively it would be easier to include Native Hawaiians in educational assistance, economic assistance, and health programs for both American Indians and Native Alaskans, rather than to set up a separate bureaucracy to administer programs targeted only to reach Native Hawaiians. This is because their needs are similar, although the Native Hawaiians may not share the unique legal status of the American Indians outlined in the draft report, they do share a similar background with the Native Alaskans. I pointed out that the draft report incorrectly stated that the rights of the aboriginal Alaskan tribes were recognized under the Treaty of 1867 by which the United States bought from Russia the Alaskan territory. It is very clear from the analysis by the Library of Congress and from the report of the House Committee report accompanying the Alaskan Native Claims Act of 1971, that it was not until passage of that act, that the United States government recognized the right of the Alaskan native tribes of Eskimoes and Aleuts to reparations.

Both Lorraine and I pointed out that you were moving in that direction, and that hearings had been held and that the Senate Committee on Interior and Insular Affairs in its report accompanying S. J. Res. 155 demonstrate the guilt of the American Government in the participation of the forcible overthrow of the Hawaiian monarchy and the obligation of the United States government to make reparations to the Native Hawaiians, in order to redress this wrong.

At this point, Lorraine and I concluded our presentation. Then several of the Council members asked questions. Of the 14 to 15 Council

members present, approximately 10 of them seemed to be quite sympathetic to the need to address the needs of Native Hawaiians. Nearly all of the Council members, except the Chairman Dr. George Blue Spruce, Jr. (Blue Spruce is one last name) and the guest speaker, Mr. Warren Cardwell, the Director of the Division of Program Formulation for the Indian Health Service, who both wanted to exclude Native Hawaiians, expressed considerable dismay at the fact that the draft report was so incomplete as to disclude information so important to an understanding of the Native Hawaiian issue. One Council member went so far as to say that if representatives of your office had not been there, the Council would have made the wrong decision and accepted the draft report.

Mr. Daniel Dozier, the Deputy Assistant Secretary for Congressional Liason, made a motion to table the report, thus killing it, and that motion was seconded. Then Mr. Dozier withdrew his motion. Clyde Matthews, whom our office has worked with before, he is the Liason Officer for the Office of Governmental Relations for the Office of Civil Rights (and a/nearly full-blooded Indian), then made a motion to recommit the report to the Communications Subcommittee of the Council, which/^{will} report back its findings to the Executive Committee of the Council for the next Council meeting approximately two months away. Mr. Matthews' motion was seconded and unanimously accepted.

I do believe it was a successful meeting and a victory for you, since Mr. Matthews' motion stipulates that Native Hawaiians should participate in the drafting of a new report on your legislation and on their legal status. The Council members requested that Lorraine and I provide a copy of our talking paper (we had nothing other than notes as we learned about the Council meeting only yesterday) and documents we made reference to for the use of Council members, as well as cost data because OMB is represented on the Council and the Communications Subcommittee, and data on the status

of Native Hawaiians--how many, indicators of their social, economic, health status, etc.

We did at the request of the Council extend an invitation to Dr. George Blue Spruce to attend your meeting tomorrow with Indian leaders, as he had alleged that your office had made no effort to inform Indian groups of your legislative efforts on behalf of Native Hawaiians. In fact, we have met with many Indian representatives and many of the major Indian groups have expressed their opposition to your bills to us. Dr. Blue Spruce declined to attend saying that adequate notice was not given to him. I apologized for this, but stated that we had followed the prescribed course for setting up such a meeting by going through the Congressional Liason Office for the Department of HEW. Mr. Dozier stated that he would be attending for the Council and apologized for HEW's lack of response to our request for the meeting, while affirming that we had followed the proper and prescribed course for setting up such a meeting. By the way, Dr. Blue Spruce was supposed to have attended the meeting yesterday, which Lorraine, Pat and I had with Mr. Kissko and Dr. Mastrapasqua, but he never showed up. He was therefore, not only surprised by our presence at the Council meeting, but chagrined and disappointed (he was openly antagonistic) that the Council voted down the draft report, by recommitting it to the Communications Subcommittee.

Printed for the use of the
Committee on Interior and Insular Affairs

and give up line social work, it was almost an insupportable blow to me. After all, I was a professional, wasn't I?

I had learned much from my Hawaiian mother and stepfather and perhaps responded unconsciously, as do most Hawaiians, to certain things exclusively as a Hawaiian, but now I was an educated, modern, independent woman who had worked incredibly hard to be liberated from the superstitions of the buried past. A heritage, if thought about at all, dimly associated with naked savages and idol worship.

But, as my conscious appreciation of my culture grew, I began to understand, and sorrow over, how great the loss of this culture has been to all Hawaiian people.

Strangers in what has come to be a strange land, we huddle in our own homeland, afraid to offend, reluctant to impose, wondering what is going to be right or wrong this time, according to somebody else's rules. And, what the appropriate response is to be.

Looking back from the successful, warm dry ledge of one book published and another in the works, it is hard to remember and appreciate the zero level from which we started.

It is hard to recall the shock of discovering the tide of negativism in which most Hawaiians live and move and have their being. But, we did wade in and with the help of writer, Catherine Lee, got it down on paper.

We published a book called "Nana I Ke Kumu" which contains an almost encyclopedic collection of cultural concepts and remedial practices.

It is an effort to translate some of the ancient ways of thinking and how they were conceptualized traditionally by Hawaiians into our present language and modern frames of reference.

And, interestingly enough, especially for this reluctant convert, there are far fewer discrepancies between some of these so-called old, Hawaiian superstitions and some of the behaviorial and medical practices that are being taught today.

I share these thoughts, some of them intimate and personal, with the committee today in the hope that you will appreciate the plight of my people.

Speaking as a western-trained professional with approved credentials, I can only regard as wholesome and healthy this long overdue bid by the Hawaiian for what is rightfully his.

Material recompense is overdue, but it will not be as important in the long run as the spiritual wholeness which will come through pride in a restored sense of self-worth.

Join with us in this moral renaissance!

E Ho'Oulu Lahui Ana Kakou! (Let us increase and preserve the Nation!)

Senator JOHNSTON. Thank you very much, Mrs. Rocha. Do you believe that the work of the Commission should center heavily on recommendations for what you would call the spiritual renaissance of the native Hawaiians through cultural programs and perhaps a language program, history program to reinvigorate the pride and identity of the Hawaiian people. Do I understand and interpret your testimony correctly?

Mrs. ROCHA. I would say if it is sincerely done and not haphazardly.

Senator JOHNSTON. And it can be sincerely done, can it not?

Mrs. ROCHA. It can, if they are willing to do the work that is required.

Senator JOHNSTON. Thank you very much, Mrs. Rocha. Senator Inouye.

Senator INOUE. I would like to thank you, Mrs. Rocha, for your very moving statement, I think it will be most helpful. Thank you.

Senator FONG. I agree. It was very worthwhile. Thank you.

Senator JOHNSTON. The next witness will be Myron Thompson, former director, Department of Social Services, and trustee of the Bishop Estate, who will be accompanied by Richard Lyman, chairman of the Bishop Estate.

**STATEMENT OF MYRON B. THOMPSON, TRUSTEE, THE KAMEHA-
MEHA SCHOOLS/BERNICE PAWAHI BISHOP ESTATE, HONOLULU,
HAWAII; ACCOMPANIED BY RICHARD LYMAN, CHAIRMAN,
BISHOP ESTATE**

Mr. THOMPSON. Senator Johnston, and members of the Senate Interior Committee and all people present. Aloha Kakou.

My name is Myron B. Thompson and I am a trustee of the Kamehameha Schools—

Senator JOHNSTON. Excuse me. Would you qualify under the 1920 act?

Mr. THOMPSON. Yes, I would. And, so would my children. [Applause.]

Thus, I am representative of a heritage, very proud of its past; very distressed by its present; very concerned about its future. For while it is true that some of the fellow inheritors of our great heritage have succeeded in our enterprising society as lawyers, as physicians, as businessmen, as artists, as other professionals, as people—far too many have not.

It really doesn't matter at which index of social and economic deprivation one looks—we Hawaiians are far too heavily represented there in terms of our numbers. Too many are on welfare, too many are in prison, too many young are cataloged as delinquents, too many have great educational deficiencies, too many exist at poverty's edge in the middle of hopelessness. [Please see app. I to my statement for details.]

And there is a great and terrible irony at the center of all this. For you see at one time the Hawaiians owned all of the land on which the modern prosperous economy of Hawaii has been built.

And our loss was to a large degree the gain of the Government of the United States, albeit an unlawful gain. For representatives of the United States, acting without the authority or knowledge of the Congress or President, assisted in the overthrow of our lawful government. This in a few years led to annexation which in turn led to the United States acquiring great acreage that had been the property of the Hawaiian people.

We asked for redress back in 1893. Thus far, there has been no response. In 82 years, one would think that even a committee might be able to write a report. Thus, you will understand that we may be a bit impatient.

However, I am aware that there well may be present Members of Congress unaware of this unhappy blight on the Nation's historical record. For this reason, I endorse the resolution you have introduced calling for the establishment of the Hawaiian Aboriginal Claims Settlement Study Commission.

But, I would urge that the Commission not tarry in its work. Redress is long overdue. Unless it comes with some speed it will be difficult for us to continue to believe that Ua Mau Ke Ea O Ka Aina I Ka Pono—The Life of the Land is Perpetuated in Righteousness.

Mr. Chairman, this is the context of my presentation. I would entertain any questions.

Senator JOHNSTON. Thank you very much indeed, Mr. Thompson. I have been looking at your appendix here which will be very useful to the committee.

Do I understand you to believe it will not be terribly difficult to determine who is Hawaiian and part-Hawaiian?

Mr. THOMPSON. I believe if we took the amendments to the Community Services Act, which states that the Hawaiian is defined as a person who had a relative here in 1778, there would be no problem to determine—

Senator JOHNSTON. A relative. You mean a direct descendant?

Mr. THOMPSON. Right. That is in your Community Services Act.

Senator JOHNSTON. Any one direct ascendant in 1778, which would be a minimum of what? About one-sixteenth?

Mr. THOMPSON. I couldn't say at this point. It might go to one-thirty-second.

Senator JOHNSTON. Of course, depending on the number of generations in between, but it could be one-thirty-second?

Mr. THOMPSON. Yes.

Senator JOHNSTON. I wouldn't want to prejudge the work of the Commission, Mr. Thompson, but you have detailed these problems here. How would you—I don't want to ask you to give a final judgment on this, but what is your view as to what the Commission should recommend as recompense?

Let's suppose the Congress says yes there is money. How would you use it?

Mr. THOMPSON. I think, Senator, you touched on it when you spoke about the Cajuns in terms of the resurgence of the cultural identity of the French in Louisiana. I think this desire exists here. There is one difference between Louisiana and the Cajuns there and the native Hawaiian. That is, the amount of information about the heritage is readily available from France, whereas with the Hawaiians, this material has to be developed, and a great deal of research is necessary.

So, I would say that if reparations did take place some of that money should go in that direction.

Senator JOHNSTON. Should that be a principal concern, do you think?

Mr. THOMPSON. My personal bias would be, yes.

Senator JOHNSTON. What percentage of Hawaiians speak Hawaiian?

Mr. THOMPSON. I have no idea. My impression, again, is that a very small percentage of the 150,000 does.

Senator JOHNSTON. Is it rare to find a Hawaiian-speaking Hawaiian? Mr. THOMPSON. I believe so.

Senator JOHNSTON. Is it ever spoken as the native tongue at home?

Mr. THOMPSON. Well, I think in some of our rural areas it is spoken. However, I grew up in the midst of this area right here. In fact, in Waikiki. At the time it was forbidden for us to speak Hawaiian. My mother, who attended the Kamehameha Schools of which I am a trustee now, was punished for speaking Hawaiian at the time she attended. And, that is all she knew.

Senator JOHNSTON. So would you say it is rarely spoken in homes in, say, Honolulu?

Mr. THOMPSON. I would think so.

Senator JOHNSTON. Are there any Hawaiians who speak only Hawaiian and not English?

Mr. THOMPSON. There is a group that I am aware of and that is the same group on the Island of Niihau. There are some of the people there that are bilingual, too.

Senator JOHNSTON. That is fairly rare?

Mr. THOMPSON. I believe so.

Senator JOHNSTON. We have some Louisianans who speak only French. Thank you very much indeed, Mr. Thompson, for a very interesting and excellent testimony.

Senator INOUE. Mr. Chairman, I hope that the appendix will also be made a part of the record.

Senator JOHNSTON. Yes. It will be very carefully studied by me and I know the rest of the members of the committee. It is excellent as was the testimony. Thank you very much, Mr. Thompson.

Senator FONG. Thank you, Mr. Thompson.

[The appendix to Mr. Thompson's statement follows:]

Appendix I

RECENT PARTIAL SOCIO-ECONOMIC DATA RELATIVE TO THE HAWAIIAN AND PART-HAWAIIAN POPULATION IN HAWAII

1. HAWAIIAN POPULATION

In 1853, of 73,137 persons inhabiting the Hawaiian Islands, 70,036 or 95.8% were pure Hawaiians. An additional 983 were part-Hawaiians for a total of 71,019 Hawaiians.

In 1970, if we are to use the U.S. Census count, there are only 71,274 or only 55 more Hawaiians in the count.

However, in 1972, the Hawaii Health Surveillance Program Survey provided us with a count of 142,164 part Hawaiians and 8,173 pure Hawaiians for a total of 150,337 Hawaiians out of a state population of 787,051 people. While this figure is based on percentage application to the universe from a sampling, it appears to be valid due to the adequate size of the sample (21,924 persons) and the "acceptable" criteria established for ethnic identification, i.e., self and visual determinations.

The wide range of the estimated Hawaiian population, from 9.3% to 19.1% confirms the need for a more complete and reliable study.

2. HAWAIIANS ON WELFARE

In March 1974, 26,532 adults and children assisted by public welfare in Hawaii were of Hawaiian or part-Hawaiian descent (this figure represents only an extrapolation of 14,929 "not reported" category).

Each Hawaiian received an average of \$88.75 or a total equivalent of \$18,705,060 for money payments on a yearly basis.

In addition, medical care expenses totalled an estimated \$10,040,000.

CHRONOLOGY OF LEGISLATION ON NATIVE CLAIMS ISSUE:

93rd Congress: H.R. 1566 (Matsunaga/Mink) - not reported from Comm.

94th Congress:

1975 - S.J.Res. 155 introduced by Senator Inouye

1976 - hearings held in Hawaii on S.J.Res. 155

failed to obtain full Senate approval

95th Congress:

1977 - S.J.Res. 4 introduced by Senators Inouye and Matsunaga

1977 - hearings held in Hawaii on S.J.Res. 4

passed in Senate, failed in House

96th Congress:

1979 - S. 2131 introduced by Senators Inouye and Matsunaga

H.R. 5791 introduced by Representatives Akaka, Heftel,
Burton

1979 - hearing held in Hawaii on H.R. 5791

1980 - native claims bill attached as rider to H.R. 7217,
passes Senate by voice vote

December 22, 1980: H.R. 7217 signed into law (P.L. 96-565)

To: Senator

From: Laurie

Re: Chronology/Native Hawaiian Claims-~~Study-Commission-Act-~~
Legislation

93rd Congress

HR1566 - Matsunaga/Mink - providing for a final monetary settlement of Native Hawaiian claims against the United States.

June 27, 1974 - Introduced and referred to the House Interior Committee

No further action

94th Congress

S.J. Res 155 - Inouye/Matsunaga - providing for the establishment of a Native Hawaiian Claims Settlement Study Commission.

December 18, 1975 - Introduced and referred to the Senate Committee on Energy and Natural Resources

September, 1976 - Reported to the Senate Floor

No further action before adjournment

95th Congress

Inouye/Matsunaga -
S.J. Res. 4 - [^]Hawaiian Native Claims Study Commission Act

January 10, 1977 - Introduced and referred to Senate Energy Committee
(Identical House bill ^{H.R. 526} introduced Oct 27, 1977 referred to House Interior Committee)

July 6-7, 1977 - Joint House/Senate Hearings in Hawaii

October 17, 1977 - Reported to Floor by *Sen. Te Committee*

October 20, 1977 - Passed Senate by a voice vote

January 31, 1978 - Reported to House Floor

May 23, 1978 - failed to receive 2/3 ^{majority} vote required under suspension calendar

July 12, 1978 - Rule Resolution reported to floor

September 8, 1978 - Final Floor Action - ordered recommitted to the Committee
by a vote of 190-148

96th Congress :

S2131-Matsunaga/Inouye- Hawaiian Native Claims Study Commission Act

December 13, 1979 - Introduced and referred to Senate Energy

No Further Action

November 11, 1980 - Johnson amendment to Hawaii National Parks
Bill accepted by House Interior Committee

November 12, 1980 - Matsunaga amendment (Johnson version) to Hawaii
National Parks bill rejected by Senate Energy
Committee.

12/24 - signed

1/20/81 - members appointed

3/1/81 - members fixed -

94TH CONGRESS
1ST SESSION

S. J. RES. 155

IN THE SENATE OF THE UNITED STATES

DECEMBER 18 (legislative day, DECEMBER 15), 1975

Mr. INOUE introduced the following joint resolution; which was read twice
and referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

Establishing the Hawaiian Aboriginal Claims Settlement Study
Commission, and for other purposes.

Whereas, in the year 1893, the United States Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholly without the authority or knowledge of Congress or the President, unlawfully conspired with a small group of non-Hawaiian residents of that kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii; and

Whereas, in pursuance of such conspiracy, the United States Minister and the naval representative of the United States, also acting without authority, caused Armed Forces of the United States to be put ashore and deployed in support of the overthrow of such indigenous and lawful government, and that the United States Minister thereupon extended

diplomatic recognition to a provisional government formed by the conspirators without the consent of the people or of the lawful government of Hawaii, which provisional government was sustained solely by the Armed Forces of the United States; and

Whereas, on December 18, 1893, in a message to the Congress, President Cleveland did report fully and accurately on these illegal actions, which statement acknowledged that by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a peaceful and friendly people was overthrown and that substantial wrong was thus done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair; and

Whereas a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Liliuokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing aboriginal citizens of Hawaii; that in 1898, Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Hawaiian aboriginals prior to the overthrow of their indigenous government; and

Whereas some eighty-three years have now passed without the wrongs done the Hawaiian aboriginals having been repaired: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives of*
2 *the United States of America in Congress assembled,*
3 That (a) the Congress hereby declares it is now necessary
4 that a fair and just settlement of the claims of the Hawaiian
5 aboriginals founded on the lawless, fraudulent, and forceful
6 acts of agents of the United States, by which acts the law-
7 ful indigenous and sovereign government of the Kingdom
8 of Hawaii was overthrown; the independence and sover-
9 eignty of the Hawaiian people were denied; and dominion
10 over the people and Territory of Hawaii and domain over
11 the extensive lands formerly owned, in common, by the
12 Hawaiian aboriginals were acquired by the United States,
13 which thereby turned to its advantage the illegal acts of its
14 agents.

15 (b) (1) For the purpose of accomplishing such settle-
16 ment referred to in subsection (a) of this section, there is
17 hereby established the Hawaiian Aboriginal Claims Settle-
18 ment Study Commission (hereinafter referred to as the
19 "Commission").

20 (2) The Commission shall be composed of eleven mem-
21 bers appointed as follows:

22 (A) six members appointed by the President of the
23 United States from recommendations of the Governor of
24 Hawaii; and

1 (B) five members appointed by the President of
2 the United States.

3 (3) The Commission shall elect a Chairman and Vice
4 Chairman from among its members.

5 (4) Six members of the Commission shall constitute a
6 quorum. Any vacancy in the Commission shall not affect its
7 powers, but shall be filled in the same manner in which the
8 original appointment was made.

9 (5) Each member of the Commission shall serve with-
10 out compensation, but shall be reimbursed for travel, sub-
11 sistence, and other necessary expenses incurred by such
12 member in the performance of his duties.

13 (6) The first meeting of the Commission shall be called
14 by the President within the sixty-calendar-day period follow-
15 ing the date of the approval of this resolution.

16 (7) Subject to such rules and regulations as may be
17 adopted by the Commission, the Chairman shall have the
18 power to—

19 (A) appoint and fix the compensation of an execu-
20 tive director, and such additional staff personnel as he
21 deems necessary, without regard to the provisions of
22 title 5, United States Code, governing appointments in
23 the competitive service, and without regard to chapter 51
24 and subchapter III of chapter 53 of such title relating
25 to classification and General Schedule pay rates, but at

1 rates not in excess of the maximum rate for GS-18 of the
2 General Schedule under section 5332 of such title; and
3 (B) procure temporary and intermittent services to
4 the same extent as is authorized by section 3109 of title
5 5, United States Code, but at rates not to exceed \$100
6 a day for individuals.

7 (c) Each Federal department, agency, and instrumental-
8 ity is authorized to furnish the Commission such data, reports,
9 information, and other resources as the Chairman of the
10 Commission may request.

11 (d) The Commission shall give its fullest attention and
12 consideration to the needs and concerns of the Hawaiian
13 aboriginals, and make a full and complete study with a view
14 to determining, with finality and certainty, the nature of
15 the legitimate claims of, and the extent of the injuries to, the
16 Hawaiian aboriginals by reason of the action referred to in
17 subsection (a) of this section.

18 (e) The Commission shall, within the twelve-month
19 period following the date of the approval of this resolution,
20 submit an interim report to the Congress concerning the
21 activities of the Commission during the period preceding such
22 report. The Commission shall, on or before the expiration of
23 the twenty-four-month period following the date of the ap-
24 proval of this resolution, submit a final report to the Congress
25 setting forth the findings and results of such study, including

1 the recommendations of the Commission as to the manner
2 in which, and the extent to which, such claims should be
3 settled by the Federal Government so as to meet the eco-
4 nomic and social needs of the Hawaiian aboriginals.

5 (f) Upon the expiration of the sixty-day period follow-
6 ing the submission of such final report, the Commission shall
7 cease to exist.

8 (g) There are authorized to be appropriated such sums
9 as may be necessary to carry out the provisions of this
10 resolution.

94TH CONGRESS
1ST SESSION

S. J. RES. 155

JOINT RESOLUTION

Establishing the Hawaiian Aboriginal Claims
Settlement Study Commission, and for other
purposes.

By Mr. INOUE

DECEMBER 18 (legislative day, DECEMBER 15), 1975
Read twice and referred to the Committee on Interior
and Insular Affairs

On reparations: 'Question is how'

By ROBERT HOLLIS
Advertiser Staff Writer

"By an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown . . ."

— President Grover Cleveland in a message to Congress, Dec. 18, 1893.

Thus began the 87-year-old debate that rages today over what, if anything, the United States government owes native Hawaiians for its role in the overthrow of the sovereign kingdom of Hawaii and its subsequent annexation, five years later.

"There is no doubt," said Rep. Phillip Burton, D-Calif., yesterday in Honolulu, "that this was an act of imperialism and colonialism" on the part of agents of the United States. "The question now is how do we honorably redress this wrong."

There was no shortage of answers yesterday as about 20 people — Hawaiians and their supporters — testified at a House subcommittee hearing at Fort DeRussy on a measure which would create a "Native Hawaiians Study Commission."

The commission, under legislation authored by Hawaii Reps. Daniel K. Akaka and Cecil Heftel, would study the events that occurred in the Islands between the bloodless coup which overthrew the Hawaiian monarchy in 1893 and the annexation of Hawaii by the United States in 1898.

In theory the panel would then decide if the country should compensate the Hawaiian descendants of the kingdom for the lands lost to the American revolutionaries.

It is the second time since 1978 that such a measure has been before Congress. The last bill died by a 190-148 House vote, largely because of language in the measure which adjudged the United States guilty before the commission began its investigation.

The second bill, introduced last month, is being managed in the House by Burton, from San Francisco, who is among the most powerful Democratic leaders in the House.

Burton said the key to winning passage of the measure this time lies in rewording the bill to remove the offensive language and convincing congressmen that substantive changes in the measure have been made.

Testimony yesterday indicated that if reparations were approved, approximately 150,000 Hawaiians and part-Hawaiians in the Islands would share in the award.

A similar commission in 1973 awarded \$1 billion and 40 million acres of land for native Alaskans. No money figures for Hawaiian reparations were discussed yesterday.

During the daylong hearing yesterday, there was general agreement among those who testified that the United States has a legal and moral obligation to make reparations to Hawaiians. Several speakers, however, suggested America should re-

nounce possession of the islands.

Virtually all of the arguments heard yesterday had been made over the years. As one committee aide noted: "Nothing's been said here that hasn't been said 58 times before."

Nevertheless, several speakers drew heavy applause and praise from Burton and Akaka for their testimony.

Harry Fergerstrom, who appeared carrying his four-month-old son in a bassinet, said the high level of crime among many Hawaiian young people is caused by the alienation they feel living in contemporary haole society.

"When I was growing up I was embarrassed to tell people I was Hawaiian," he said. Hawaiian children are often torn between demands that they reject their cultural heritage and an inability to cope with the contemporary society which tends to view Hawaiians as the castoffs of the Islands.

Fergerstrom said he is the product of a broken home and said he hijacked a plane several years ago. "I've been a dope dealer and a smuggler. Many of my age group may have to go through the same thing."

The young father characterized the older generation of Hawaiians as ignorant of the ways of white society.

"We as a people are moving from a generation who know nothing of land and titles to a generation where we must," he said.

Several speakers, such as Kawaipuna Prejean, organizer of the United Hawai'i Foundation, told the subcommittee on National Parks and Insular Affairs that immediate steps should be taken to stop migration to the Islands and even the creation of new parks.

Prejean said parks were simply tools of government used to deny Hawaiians their traditional agricultural, fishing and hunting rights to the land.

Jon Van Dyke, University of Hawaii law professor and a director of the Native Hawaiian Legal Corporation, pointed out that Hawaiians were never given a choice on whether they wanted to join the United States.

He suggested that the commission should also look into the period prior to the January, 1893, coup d'etat when American businessmen "manipulated the economy so that most of the land passed into the hands of westerners."

The payment of reparations "is part of the American tradition . . . to come to grips with our history," he said.

Burton supports the Hawaiian Study Commission and the idea of reparations.

Sens. Daniel Inouye and Spark Matsunaga have meanwhile introduced legislation in the Senate which will speed the passage of the Akaka-Heftel bill should it win approval in the House.

But Hawaii Congressmen blast findings

Comments sparse on Native Hawaiian study draft report

By KAYLE TUCKER
Washington Bureau
Donrey Media Group

WASHINGTON D.C. —
Less than 50 formal
comments to the draft



AKAKA



INOUE

report of the Native Hawaiian Study Commission were submitted by yesterday's deadline (Tuesday) and only about 30 of those could be considered "substantive," according to a source close

to the commission.

Among the responses turned in are those of Sen. Daniel Inouye, D-Hawaii, and Reps. Cecil Heftel and Daniel Akaka, both D-Hawaii. Sen. Spark Matsunaga, D-Hawaii, plans to submit his comments before the end of the month, and Mary Lyon-Allen, director of the commission's Washington office, indicated yesterday she would accept responses as long as possible.

Each member of the Hawaii delegation here, along with a number of native Hawaiian groups in the State, have requested an extension of the deadline so they could submit more detailed

analyses of the commission's September draft report. Although the extension has not been formally granted, Allen says she will not "throw further comments into the wastebasket."

Allen has refused to release the public comments until the final report comes out next June, but members of Congress released their own comments before sending them to Allen yesterday. All of the responses are expected to be critical of the draft report, which concluded that there is no legal basis for the compensation of native Hawaiians claims.

Heftel submitted a four-page response to the draft

report, calling for an extension of the deadline because the point of view of native Hawaiians "has not been given sufficient weight in this draft."

"History, as someone noted, is written by the victors — who perhaps have no interest in being totally fair, even a century later," Heftel charged. Heftel and Akaka both questioned whether it is possible for a politically-appointed commission to reach an unbiased conclusion. The commission's members were appointed by President Reagan last year.

Inouye, in a 40-page formal comment, stated that "If the report is adopted, in substantially its present form, the cause of the native Hawaiians will be severely damaged."

Inouye concluded that the findings of the commission are "so negative as to assure the defeat of any...remedial legislation."

Akaka was also critical of the draft report. His 15-page comment charged that the historical part of

the report "is made from a thoroughly western perspective and is therefore biased."

Akaka's response went into great detail on the "historical inaccuracies" of the commission's findings listing historical data that was not included in the draft report.

Allen noted yesterday that the draft report has been available in libraries in the State and said there is no reason why anyone who wanted to respond could not have done so. She said "there are fewer responses than I expect." And noted that half the responses were newspaper clippings that were simply signed by the sender. Other, she said, were "purely emotional."

Heftel said from his district office that he is "not particularly surprised" at the small number of comments.

haukihuki ' your opu

Hawaii, we have four different kinds (species) of opihi. Each one is native to Hawaii, and is not found anywhere else in the world. Only two of these species make up the majority of the market product, the maka'ia'uli, or black foot opihi (*Cellana exarata*), and the alina'alina, or yellow foot opihi (*Cellana sandwicensis*).

Both the maka'ia'uli and the alina'alina live on lava rock and only in the intertidal zone, the area along the shore between the high tide mark and the low tide mark.

A third kind of opihi (*Cellana talcosa*) is sometimes sold in the market, and is found in deeper water. The last type of opihi, (*Cellana melanostoma*) is only found on the islands northwest of Kauai.

Both the black foot and yellow foot opihi grow very rapidly. In fact, they can usually grow to a shell length of 1.6 inches in only one year. Scientists have found that even when the growth of the shell starts to slow down, the body weight or meat of the opihi continues to increase. In other words, if you picked a maka'ia'uli when it was six months old, it would have a shell length of about one inch, and the meat would weigh about .03 oz. If this opihi was allowed to grow for another six months, its shell would only grow to be 1½ inches long, but the meat of the opihi would more than triple in size to .10 oz.! The moral is, the longer you allow the opihi to grow, the more meat you will get when you harvest.

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The reason for these regulations is obvious. By protecting the opihi until it has grown large enough to spawn, the animals will have already reproduced by the time that they are harvested.

Be certain to learn and follow these basic conservation rules and practices the next time you go fishing. Remember, only if you obey today's kapu system, will you have fish for the future.



Auntie Edith Kanakaole, husband, Uncle Luka and moopuna proceed to the makai lanai of the Governor's offices where colorful tribute was paid to her in mele and hula after the Governor's presentation. Photo by Alyce Ikeoka

Auntie Edith gets Order of Distinction

Hawaii's prestigious Order of Distinction was given by Governor Ariyoshi recently to Kumuhala Edith Kekuhikupuuoneonaaliokohala Kanaele Kanakaole for her magnificent contributions to the people of our islands. The award was sponsored by the State Foundation On Culture and the Arts and was the first of two awards given to Auntie Edith last week. She also received the designation of "Living Treasure" from Buddhist Bishop Fujitani of the Honpa Hongwanji Temple.

Heritage of Kaua'i

By WILLIAM K. PILA KIKUCHI

The word heritage is derived from the Latin word meaning heir, or someone who inherits. In this respect, every person, regardless of ethnic background, nationality or length of residence on Kaua'i is an heir, steward and caretaker of all the cultural and natural artifacts of this island. There are degrees by which people identifies with, and care for these artifacts of the past and the present. It is each generation's duty and responsibility to decide whether it is going to retain, maintain and perpetuate these links to our past, our heritage, or to destroy them.

Two gross levels of Kaua'i's heritage can be recognized. The first is comprised of the indigenous native Hawaiian universe, the second the whole grouping of ethnic, non-Hawaiian artifacts. Time depths for the second group varies with the initial arrival of a sizeable population of each of the various ethnic groups, obviously, they always fall after 1778. The basic culture of Hawaii has always been Hawaiian. It is much more common to view other ethnic groups as being "more Hawaiian" than it is to consider the Hawaiian as being, say, Japanese, or Portuguese oriented. In other words, in-coming ethnic groups have, to a great extent, adapted to the Hawaiian culture and environment.

Associated with and a very vital part of Kaua'i's artifacts of human activity are its distant natural geological and geographical features. A unique and strikingly beautiful landscape had evolved on Kaua'i prior to the first arrival of humans. The misty beauty of the Napali Coast, the colorfully stratified Waimea Canyon, proud and erect Ha'upu, cloud shrouded Wai'ale'ale and the majestic face of Namolokama are but a few of the impressive wonders of this island.

Opihi, haukihuki ono for your opu

The opihi as well as haukihuki are fat and juicy this time of year off shores of Kaua'i. Our Sea-grant marine advisor Jeremy Harris kindly submitted the following article on the ono opihi for our Native Hawaiian community. Jeremy, an active and akamai young man, also a con-con delegate is busy now helping local fishermen form a commercial co-op. He is always willing and helpful—mahalo nui Jeremy.

By JEREMY HARRIS

Opihi, that tasty shellfish and popular pupu, has always been a delicacy for the people of Hawaii.

In olden times, the Hawaiians made great use of this shellfish, using the meat as a staple food item, and the shells as tools for such things as scraping breadfruit.

In Hawaii today, the demand for opihi is growing each year, but at the same time the catch is declining. Just 77 years ago, in 1900, about 150,000 lbs. of opihi a year were sold in the Honolulu markets. Because they were so abundant, the price for opihi then was only 15 cents a pound.

Today, however, only about 18,000 lbs. of opihi are sold in the Honolulu markets each year with prices as high as \$3.50/lb. In fact, opihi in the markets today average ¼-inch smaller than the marketed opihi of just 20 years ago. As every opihi-picker knows, it's becoming harder and harder to find any opihi, even for family luaus.

The reason for this is obvious, the opihi stocks, once abundant in Hawaii, have been seriously overfished on all of the islands.

This decline in opihi is a serious concern, not only to opihi-pickers and eaters, but to state and country agencies as well. In order to better understand the opihi, so that the stocks can more effectively be conserved and increased, a study of the shellfish has been conducted over the past several years, funded by the University of Hawaii Sea Grant College, Hawaii County, the Hawaii State Association of Counties, and the 1975 Legislature, through the Department of Planning and Economic Development, Center for Science Policy and Technical Assessment.

The study, conducted by Dr. E. Alison Kay, research team leader, and Dr. William Magruder, both of the University of Hawaii, produced a great deal of interesting information.

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Canyon, proud and erect Ha'upu, cloud shrouded Wai'ale'ale and the majestic
face of Namolokama are but a few of the impressive wonders of this island.
Along the shore are the Spouting Horn at Kukui'ula, the dazzling white sand
beaches of Nohili, Mana and Polihale, the tumbling musical rocks of
Pohakuka'a and the serene rivers of Hanalei, Kalihiwai, Wailua, Huleia,
Hanapepe and Waimea. Upland, the lush, pristine forests of Kokoe'e and the
mysterious bogs of Alaka'i and Wahi'awa lured insects, birds and plants which
eventually were to evolve into forms unique to Kaua'i. Kaua'i could have been
the Galapagos had Darwin chosen our Island as his laboratory. The Garden
Island's vibrant natural wonders were to inspire both native and visitor to
praise in song and chant its beauty. These are the most durable parts of our
heritage, as Leahi is to O'ahu or Mauna Kea to Hawaii'i.

The first Polynesians to come to Kaua'i brought with them their native beliefs
and life-styles and transposed them unto their new land. Their first and
foremost level of interpretation was religious. Religion was an omnipotent and
omnipresent aspect of Polynesian life. The gods and demigods of the
supernatural world could easily pass through the transparent veil to the
natural-cultural world. By a process similar to that called cloning, the natural
world was likened to be composed of a multitude of the parts of the gods and
demigods. At no time could the native be separated from his makers and
ancestors. The gods and demigods manifested themselves everywhere, in the
sky, in the earth and in the sea.

The god Ku can be seen as the phallic rock formations at Ha'ena and Ha'upu
(the finger of Queen Victoria). Incised boulders occasionally found in plantation
fields, the submerged rock in Lawa'i-kai Stream and the famous profile of Queen
Victoria on Ha'upu are all forms of Hina, Ku's female counterpart. The deeply
grooved lands of Huleia stand as relics of the intense sexual encounter of Pele
and Kamapua'a. Every cloud, rainstorm, lightning flash, Ti plants and maile
vine was a body form of Kane. Rainclouds, rain, lush growth of ferns, the
aholehole fish and certain types of seaweeds became embodiments of the god
Lono. The god Kanaloa was represented by the deep ocean depths, the squid and
octopus and certain types of seashells. Practically every rock formation, cliff,
waterfall and every other natural feature had a name and explanation as to its

Continued on Page 5

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Today, however, only about 18,000 lbs. of opihi are sold in the Honolulu markets each year with prices as high as \$3.50/lb. In fact, opihi in the markets today average ¼-inch smaller than the marketed opihi of just 20 years ago. As every opihi-picker knows, it's becoming harder and harder to find any opihi, even for family luaus.

The reason for this is obvious, the opihi stocks, once abundant in Hawaii, have been seriously overfished on all of the islands.

This decline in opihi is a serious concern, not only to opihi-pickers and eaters, but to state and country agencies as well. In order to better understand the opihi, so that the stocks can more effectively be conserved and increased, a study of the shellfish has been conducted over the past several years, funded by the University of Hawaii Sea Grant College, Hawaii County, the Hawaii State Association of Counties, and the 1975 Legislature, through the Department of Planning and Economic Development, Center for Science Policy and Technical Assessment.

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YETP applications due

The Youth Employment Training Program (YETP) is one of several youth programs operated under the CETA Act. It is designed to provide youth between the ages of 14 and 21 with job prospects and career opportunities to enable them to secure unsubsidized employment in the private or public sectors of the economy. It is not the purpose of YETP to provide make-work activities, but rather to provide youth with the opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program.

The ALU LIKE Youth Program is soliciting proposals from organizations interested in providing training opportunities to youth. The types of training positions allowable under YETP are virtually endless. Examples include office trainee, library aide, videotape production assistant, hospital aide, etc.

Eligible organizations include both profit making and nonprofit.

If your organization wishes to provide both training and employment to eligible youth, please call the ALU LIKE Island Center Office and request a proposal application package from the Employment and Training Coordinator.

Deadline date for receipt of YETP applications is March 16, 1979.

Kalaupapa group named

The Secretary of the Interior has announced the appointment of the following persons to the Kalaupapa National Historical Park Advisory Commission. They include the Rev. Mr. David K. Kaupu, Dr. Richard Blaisdell, Charles Busby, Fred Cachola, Myron Gugelyk, Christopher L. Hart, Paul Harada, Keoloha, Joseph Gardner Kealoha, Marion de Fries Peters, Bernard Punikaia, and Velma Santos.

The commission will be advised by Robert L. Barrel, State Director of the National Park Service.

Reparations based on fallacy

By KEONI AGARD

The current claim of reparations is primarily based on two wrongs:

1. loss of domain (land), and
2. loss of dominion (self-government)

How has the Federal Government dealt with other groups with regard to the first claim? Are there examples of U.S. involvement in this area?

The United States has already negotiated reparation settlements to extinguish "aboriginal" title: to lands historically used and occupied by two groups within the U.S., namely American Indians and Alaskan Natives. These two settlements were accomplished by the passage of federal legislation in 1946 and 1971.

Some may ask, why should we be concerned with other peoples' struggles on the Mainland? The answer is simple. The U.S. system of law and custom is based on past decisions. In short, the U.S. method of decision-making is to look at prior decisions concerning that subject area and use them as a basis to resolve current conflicts.

What is the significance of these past decisions?

All decisions concerning and impacting upon American Indians and Alaskan Natives should be looked upon with great interest by Native Hawaiians. Why? Because the U.S. legal system is based on tradition and precedent, the success or failure of all Native American struggles will, to a large extent, lay the foundation for subsequent issues raised by Native Hawaiians concerning similar rights and claims.

It is important for Native Hawaiians to study and evaluate the lessons learned by the Native American experience, in order to avoid similar pitfalls so that struggles here are not unduly delayed or dismissed because of our failure to research and perceive those areas which could have been avoided.

What similarities exist among the three groups?

Aboriginal or native is defined as original inhabitant of a specific land region. The common bond is that American Indians, Alaskan Natives and Native Hawaiians are aboriginals or native that used and occupied land areas which, in time, later became part of the U.S. public domain.

These land areas carry a term in legal circles known as "aboriginal" title: Aboriginal title is a term which is used to indicate designated land areas which have been used and occupied for generations by a particular aboriginal or native group.

transfer of domain and dominion, still retain some degree of control over their own affairs.

In the 19th century, our ancestors established a nation recognized by all the major powers of the world through treaty relations. Our ancestors furthermore created a depository of public lands for our benefit. Since that time many changes have taken place. Certain residual rights still remain despite these changes. It is the responsibility of the Federal Government to acknowledge and recognize these residual rights.

Before final settlement is achieved, the responsibility of the Federal Government to preserve and protect traditional and customary Hawaiian rights is of utmost importance. In negotiating a final settlement due consideration must be given to native

fishing rights, hunting rights, gathering rights, access rights, mineral rights, geothermal rights, cultural and religious access and practice rights.

In summary, earlier settlements involved different claims and claimants. However, the common thread throughout all previous dealings is the assertion of rights and claims based on "aboriginal title" of use and occupancy.

Native Hawaiians occupied and used their ancestral lands long before the first foreigner arrived in Hawaii. Because each of the three aboriginal or native groups possess "aboriginal title" each are entitled to similar treatment.

The remaining issue becomes, when will the U.S. bring a sense of justice to the lawful and legitimate claims for reparations to the peaceful and aloha-spirited Hawaiian people.

On Kaua'i the dream is life off the land

By TAMARAH WONG

Kaleo Hookano and Ron Mahelona had a dream. Wet fields of taro and many fat kamapua'a—all so one can live off the land, then teach other Hawaiians how to do so. Such a dream is shared by all Alu Like 'ohana—"to provide economic and social self-sufficiency for Native Hawaiians"... Alu Like's reason for existence.

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UPDATE:

ons based on fallacy

transfer of domain and dominion, still retain some degree of control over their own affairs.

In the 19th century, our ancestors established a nation recognized by all the major powers of the world through treaty relations. Our ancestors furthermore created a depository of public lands for our benefit. Since that time many changes have taken place. Certain residual rights still remain despite these changes. It is the responsibility of the Federal Government to acknowledge and recognize these residual rights.

Before final settlement is achieved, the responsibility of the Federal Government to preserve and protect traditional and customary Hawaiian rights is of utmost importance. In negotiating a final settlement due consideration must be given to native

fishing rights, hunting rights, gathering rights, access rights, mineral rights, geothermal rights, cultural and religious access and practice rights.

In summary, earlier settlements involved different claims and claimants. However, the common thread throughout all previous dealings is the assertion of rights and claims based on "aboriginal title" of use and occupancy.

Native Hawaiians occupied and used their ancestral lands long before the first foreigner arrived in Hawaii. Because each of the three aboriginal or native groups possess "aboriginal title" each are entitled to similar treatment.

The remaining issue becomes, when will the U.S. bring a sense of justice to the lawful and legitimate claims for reparations to the peaceful and aloha-spirited Hawaiian people.

On Kaua'i the dream is life off the land

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UPDATE:

MINAMINA

Three who gave of themselves

Pele Sukanuma left us in the midst of a ceremony replete with hula, oli and dedication. The daughter of a distinguished and revered kupuna, Mary Kawena Pukui, Pele learned well and in turn, became a kumu too, a source of learning and pride.

We are grateful to Kumuhula Sukanuma for her inspiration and encouragement in the perpetuation of our ancient dance and the use of our native language.

Clinton Kanahele was a remarkable man. He gave many years of service to our public school system and was an prominent leader in his church. Mr. Kanahele received the Outstanding Alumnus Award from Brigham Young University-Hawaii last year and was a Hawaiian language scholar.

Dr. Thomas Mossman served as city physician from 1941 to 1955 and was connected with the Health Department for 24 years. He was reputed to be the second native Hawaiian to practice medicine in Hawaii at the beginning of his career.

Mahalo nui loa to three distinguished keiki hanau o ka aina. Their accomplishments will inspire generations to come.

Youth program seeks summer project ideas

The ALU LIKE Youth Program is currently soliciting proposals from nonprofit organizations interested in sponsoring Youth Community Conservation Improvement (YCCIP) projects during the summer months.

The YCCIP program seeks to provide youth between 16 and 19 years of age, who are experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. Examples of types of projects include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing artificial barriers); neighborhood improvements; basic repairs to low-income housing; and, restoration of natural resources on publicly held lands.

Nonprofit organizations who are

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Ron Mahelona at his piggery in Hanapape had his share of headaches too at the onset of the project. Every dream hides a small nightmare but persevering Ron did not let the late payments stop their progress. CETA hard workers Eugene Kaiwi and Tony Niau, Benjamin's older brother learned that raising pigs requires much more than just feeding them. They learned how to construct a piggery, market the meat, administer medicine and much more. They also maintain a nursery of ornamental plants.

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Nonprofit organizations who are interested in sponsoring projects should contact the Employment Training Coordinator at the ALU LIKE Island Center Office. Proposal application packages will be provided upon request.

Deadline date for receipt of applications is March 16, 1979.

REGISTER & VOTE!

Ohana Radio Show Calendar

OHANA RADIO SHOW CALENDAR

Talk Story with your Extended Family Sunday Evenings from 7:30 p.m. to 9:00 p.m. Hawaiian Radio Station KCCN.

March 4 — Ho'ola Ika Po'e

March 11 — Alice Namaka'elua—Living Treasure

March 18 — John Clarke, Author, THE BEACHES OF OAHU

March 25 — Keahi Allen, King Kamehameha Celebration

Hosts: Clarence Ching, Gard Kealoha, Winona Rubin

look at prior decisions concerning that subject area and use them as a basis to resolve current conflicts.

What is the significance of these past decisions?

All decisions concerning and impacting upon American Indians and Alaskan Natives should be looked upon with great interest by Native Hawaiians. Why? Because the U.S. legal system is based on tradition and precedent, the success or failure of all Native American struggles will, to a large extent, lay the foundation for subsequent issues raised by Native Hawaiians concerning similar rights and claims.

It is important for Native Hawaiians to study and evaluate the lessons learned by the Native American experience, in order to avoid similar pitfalls so that struggles here are not unduly delayed or dismissed because of our failure to research and perceive those areas which could have been avoided.

What similarities exist among the three groups?

Aboriginal or native is defined as original inhabitant of a specific land region. The common bond is that American Indians, Alaskan Natives and Native Hawaiians are aboriginals or native that used and occupied land areas which, in time, later became part of the U.S. public domain.

These land areas carry a term in legal circles known as "aboriginal" title: Aboriginal title is a term which is used to indicate designated land areas which have been used and occupied for generations by a particular aboriginal or native group.

Past reparation settlements were based on this concept of "aboriginal title" whereby the Federal Government compensated the group for the taking of their lands. Native Hawaiians have never been compensated for the taking of their public lands as a result of the 1893 overthrow. On the other hand, settlements have been made with other groups. The time for reparations to Native Hawaiians is long overdue for loss of domain.

Are there any examples of U.S. involvement with regard to the second claim? There are some instances of the U.S. restoring dominion (self-government) to other foreign countries. Within the U.S., certain Indian nations are entitled to a number of rights, benefits and services because they enjoy federal recognition and acknowledgement from the Federal Government.

Can it be said that Native Hawaiians are entitled to exercise powers of self-government, at least to the extent that American Indian nations exercise such rights?

The claim of loss of dominion is a difficult and complex one. However, a good case can be put together to show that Native Hawaiians, despite the unlawful overthrow and subsequent

6-NATIVE HAWAIIAN

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The main thrust of the Youth Employment Training Program (YETP) will center on education. Alu Like staff members will work closely with school counselors, employers, youth and their families in an on-going effort to keep youthful participants in school while giving them an opportunity to earn wages and gain practical work experience.

The program, funded by the U.S. Department of Labor, will provide wages or subsidies, in the form of stipends, for eligible applicants.

YETP applicants must be between the ages of 16 and 21, inclusive. Exceptions may be made for 14- and 15-year-olds.

A second program geared to the needs of the individual youth also results in broader benefits to the community as a whole. The Youth Community Conservation Improvement Program (YCCIP), to be held during the summer months only, emphasizes the development and provision of jobs. Any training provided must be related to a participant's job.

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In all fairness, the parks designated by the County and the State have been attempts to save the artifacts of the past. Ha'ena, Polihale, Koke'e, and Lydgate are parks which have preserved natural and cultural sites, although, regrettably, they are identified with improper and inadequate interpretive signs. Since these parks have no resident caretakers and interpreters, the visitor can only guess at what he or she sees. How then can we pass on our heritage? Definitely, it cannot be only through the physical remains of a temple. Heritage must be communicated either by word of mouth or in writing, and it must be a conscious, ongoing act.

Truly famous are the spots on Kaua'i, the wahi pana a Kaua'i, how unfortunate that their stories are restricted to only a few. Have you seen and tasted the salt from Nomilu? The salt pans with the red salt once were so famous that if one did not visit them, that person could not claim to have seen Kaua'i. The famous spot west of Koloa town near the '76 Service Station was once called Ka-lei-na-pe'a. This is where the kite of 'Aikanaka fell with such a thud that it split the landscape, thus giving the notch its name. The hero who was responsible for the kite incident was Kawelo, a famous chief and hero in Kaua'i mythology. Look at the hole in the mountain at Anahola. There are two stories of heroes throwing their spear to create the hole. But what also of a Kaua'i bird named Hulu-Koki, who is said to have pecked out the hole so that he could look out without being seen. Have you seen the artifact collection at Kukuiolono Park at Kalaheo? Several legendary stones can be found there. One of these is a stone anchor that once held Ni'ihau to Kaua'i, another is a large dished out boulder that held surplus Awa fish. This boulder gave the place name Wahiawa to the valley in which it once stood. A fish god now stands in this high location, impotent and lonely, a stone cone respected and worshipped for its powers of attraction.

The once numerous and functional heiau or temples are now mere shadows of their former selves. To outsiders these houses of worship all too often were seen as heathen places and merely convenient piles of rock.

Many of the temples and shrines of Kaua'i were stripped, degraded and destroyed. Most of those that still exist are to be found on private lands and in forgotten, overgrown locations. The ones along the shores have been stripped to the point of oblivion. Only Polihale, Hau'ola, Poliahu, Kapinao and Lohiau's heiau are in relatively good condition. In contrast the smaller fishing shrines

along the shores are still used and re peoples of Kaua'i. Mochi, unopened Coca commonly can be seen on fishing shrine the sea as they seek good fortunes from observed also when Kaua'i people put N boats, tractors, and cars and even on th

Within a short time span of 200 years, east have tremendously changed Kaua'i and altered the shape of its coastline temples everywhere. What did these of Kaua'i's heritage? Usually one thinks of historic buildings, bridges, churches, and overlook the famous 88 shrines of Lā Lawa'ikai, the forts of Alexander at Han the sleepy facades of Hanapepe, Wai architecture of the County Buildings. Unforgettable is the goose-bump pro reconstructed engine at Puhi that once Farm. Walk the swinging bridges of Wai of Ahukini, Hanalei and Port Allen, and Eucalyptus trees at the Koloa Junction. treasures of Kaua'i.

When we speak about preserving the h of concern. All too often, preservation historical society activities are thought of. The general public on Kaua'i must preservation and they, themselves, are r the-making. Another problem deals with Numerous private property owners pro site, in effect is a religious site and should admirers. Lack of respect is all too visible destroyed. Surely, each person should be has the duty and responsibility to keep th ancestors one day, what will your answer to respect and honor us, the past?"

**Bishop Yoshiaki Fujitani of Honp
nine new "Living Treasures of Hawa
The honorees included Kumuhula E
Eddie Kamae, John Dominis Holt
Kahuna nui Emma DeFries, Kupunay
Morris and Clorinda Lucas.**

Opportunities abound through

Opportunity knocks more than once—it beats like a triphammer—at the office of Alu Like, 4347 Rice Street, for lower-level income or unemployed Hawaiians on the Garden Island.

By VIC GIVAN
E & T Coordinator

The opportunities are open to eligible applicants of all ages, from 14 years up, who are medically able and willing to work or to train for employment. The variety of programs offered by Alu Like, funded under the Comprehensive Employment and Training Act of the U.S. Department of Labor, has a single goal: "To promote social and economic self-sufficiency amongst Native Hawaiians."

In 1979, a year dedicated to the Youth of the world, the Employment and Training (E & T) staff of Alu Like will concentrate much of its efforts to improving the economic opportunities of young Hawaiians.

The International Year of the Child, the designation bestowed on 1979 by the United Nations, will focus worldwide on all of the needs of the younger citizens of the world, as summed up in a 10-point "U.N. Declaration of the Rights of the Child."

The eighth point, "The right to be a useful member of society and to develop individual abilities," parallels the mission of Alu Like's E & T youth program.

Alu Like began its overall youth program in April of last year. Initially limited to summer activities, the program was established to provide job training and employment opportunities for economically disadvantaged Native American youth (Hawaiian, American Indian and Native Alaskan).

This year the program will be continued the full 12 months. It will offer a variety of activities to eligible in-school and out-of-school youth, aimed at increasing their career options and improving their chances of finding and keeping suitable jobs.

The main thrust of the Youth Employment Training Program (YETP) will center on education. Alu Like staff members will work closely with school counselors, employers, youth and their families in an on-going effort to keep youthful participants in school while giving them an opportunity to earn wages and gain practical work experience.

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With the programs expanded in 1979, emphasis on the concerns of the Hawaiians detract from the efforts of Alu Like's E & T staff to meet the needs of adult participants. This will make them ready, through training programs, to meet the annual achievement goals of adult participants substantially.

Among the major employment and training programs are service employment, work experience and on-the-job training.

Public service employment provides jobs for youth at Alu Like, in county, state and private agencies. Participants are funded for a maximum of one year in permanent positions with the employing agencies.

In addition to providing immediate employment, the jobs also sharpen the participant's skills.

At the same time they are earning a wage, participants are serving the needs of the community. A federal grants-in-aid to county, state and federal agencies.

The work experience program provides training for public or nonprofit private employers for youth. The participants, under constant supervision, have an opportunity to develop good work habits, training or employment that will move them toward social and economic self-sufficiency.

This program is beamed toward individuals who have been chronically unemployed.

While there is a six-month limit on the work experience activity, the participant may return to the program for additional training and employment.

The work experience assignment may be for a period of time that receives the same entry-level pay as of the participant's previous employment.

On-the-job training enables a participant to gain work experience. It may be likened to an apprenticeship, hired at an unskilled level to move up to more skilled assignments, each involving small increments of training.

Participants entering this program are given the same benefits as those in work experience activities. They are given the same wages as those in work experience activities.

Alu Like subsidizes the full cost of training expenses for individuals placed in training. Making employers may be reimbursed for training expenses.

On-the-job training reimbursements cover the extra costs of hiring individuals they might not otherwise hire. They cover the extraordinary costs of hiring persons as workers.

The program is especially well suited to individuals who are disenchanting with classroom training. They need help and effort to overcome work-oriented problems.

Successful completion of on-the-job training leads to unsubsidized employment.

Kikuchi looks at Kaua'i history

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earned wages, school credits or accumulated
ententials.

With the programs expanded in 1979, the figures should be far greater.

Emphasis on the concerns of the Hawaiian youth of Kauai in no way will detract from the efforts of Alu Like's Employment and Training staff to serve the needs of adult participants. This will include placing them in jobs or getting them ready, through training programs, for permanent places in the job market.

Annual achievement goals of adult programs have been increased substantially.

Among the major employment and training programs for adults are public service employment, work experience, on-the-job training and classroom training.

Public service employment provides jobs, funded by federal funds allotted to Alu Like, in county, state and private agencies that serve the public. The jobs are funded for a maximum of one year and are viewed as springboards into permanent positions with the employing agency or into similar jobs with other employees.

In addition to providing immediate employment to out-of-work Hawaiians, the jobs also sharpen the participant's work habits and skill.

At the same time they are earning and learning on the job, participants in public employment are serving the needs of the public. The program is, in effect, a federal grants-in-aid to county, state and other public agencies.

The work experience program provides short-term work assignments with public or nonprofit private employers for participants to learn basic work skills. The participants, under constant and close supervision, are given an opportunity to develop good work habits and to become motivated for further training or employment that will move them up the ladder in their climb toward social and economic self-sufficiency.

This program is beamed toward individuals who have never been employed or who have been chronically unemployed.

While there is a six-month limit on the time a person may spend in a work experience activity, the participant may be transferred to another Alu Like program for additional training and task-oriented experience.

The work experience assignment may be full or parttime, and the participant receives the same entry-level pay as other workers during similar tasks.

On-the-job training enables a participant to learn specific skills in an actual work situation. It may be likened to an apprenticeship that permits a worker hired at an unskilled level to move upward through a progression of job assignments, each involving small increments of skill.

Participants entering this program are more advanced in job readiness than those in work experience activities. They, too, receive the same rate of pay as other workers performing the same tasks.

Alu Like subsidizes the full cost of participant wages, fringe benefits and training expenses for individuals placed with nonprofit organizations. Profit-making employers may be reimbursed for the costs of training.

On-the-job training reimbursements are designed to encourage employers to hire individuals they might not otherwise consider by helping the employers to cover the extraordinary costs of hiring, training and retaining disadvantaged persons as workers.

The program is especially well suited for disadvantaged persons who may be disenchaned with classroom training. Many disadvantaged clients need extra help and effort to overcome work-oriented obstacles and become meaningfully employed.

Successful completion of on-the-job training should lead to permanent unsubsidized employment.

Continued on Page 7

uchi looks at Kaua'i history

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along the shores are still used and revered by both native and non-native peoples of Kaua'i. Mochi, unopened Coca Cola bottles, fruit, Ti-leaves and coins commonly can be seen on fishing shrines. Fishermen still respect the whims of the sea as they seek good fortunes from the gods. This respect can still be observed also when Kaua'i people put New Year's mochi on ti-leaves on their boats, tractors, and cars and even on their work equipment and tools.

Within a short time span of 200 years, the combined cultures of both west and east have tremendously changed Kaua'i's landscape, tapped its mighty rivers and altered the shape of its coastline as they scattered their houses and temples everywhere. What did these cultures contribute to the totality of Kaua'i's heritage? Usually one thinks of only gross material things, such as historic buildings, bridges, churches, and graveyards. However, one must not

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on Kaua'i, the wahi pana a Kaua'i, how restricted to only a few. Have you seen and alt pans with the red salt once were so famous : person could not claim to have seen Kaua'i. n near the '76 Service Station was once called kite of 'Aikanaka fell with such a thud that it ; the notch its name. The hero who was as Kawelo, a famous chief and hero in Kaua'i e mountain at Anahola. There are two stories reate the hole. But what also of a Kaua'i bird have pecked out the hole so that he could look een the artifact collection at Kukuilono Park tones can be found there. One of these is a hau to Kaua'i, another is a large dishd out 1. This boulder gave the place name Wahiawa l. A fish god now stands in this high location, e respected and worshipped for its powers of

nal heiau or temples are now mere shadows of hese houses of worship all too often were seen nvenient piles of rock.

ines of Kaua'i were stripped, degraded and l exist are to be found on private lands and in he ones along the shores have been stripped to ale, Hau'ola, Poliahu, Kapinao and Lohiau's tion. In contrast the smaller fishing shrines

along the shores are still used and revered by both native and non-native peoples of Kaua'i. Mochi, unopened Coca Cola bottles, fruit, Ti-leaves and coins commonly can be seen on fishing shrines. Fishermen still respect the whims of the sea as they seek good fortunes from the gods. This respect can still be observed also when Kaua'i people put New Year's mochi on ti-leaves on their boats, tractors, and cars and even on their work equipment and tools.

Within a short time span of 200 years, the combined cultures of both west and east have tremendously changed Kaua'i's landscape, tapped its mighty rivers and altered the shape of its coastline as they scattered their houses and temples everywhere. What did these cultures contribute to the totality of Kaua'i's heritage? Usually one thinks of only gross material things, such as historic buildings, bridges, churches, and graveyards. However, one must not overlook the famous 88 shrines of Lawa'i Valley, the botanical garden of Lawa'ikai, the forts of Alexander at Hanalei and Elizabeth at Waimea. Look at the sleepy facades of Hanapepe, Waimea, Koloa and Hanalei towns, the architecture of the County Buildings and the Kaua'i Museum in Lihu'e. Unforgettable is the goose-bump producing whistle of the Wainiha, the reconstructed engine at Puhi that once proudly hauled sugarcane for Grove Farm. Walk the swinging bridges of Waimea and Hanapepe, fish from the piers of Ahukini, Hanalei and Port Allen, and pass under the cathedral cover of Eucalyptus trees at the Koloa Junction. These are but a few of the historical treasures of Kaua'i.

When we speak about preserving the heritage of Kaua'i, we face several areas of concern. All too often, preservation, protecting the environment and historical society activities are thought of as "haole" middle class endeavors. The general public on Kaua'i must also be convinced of the worth of preservation and they, themselves, are really history-in-action, or heritage-in-the-making. Another problem deals with access to the artifacts of our heritage. Numerous private property owners prohibit access to sites. Every Hawaiian site, in effect is a religious site and should be accessible to its worshippers and admirers. Lack of respect is all too visible as we see our artifacts vandalized and destroyed. Surely, each person should become a konohiki, a land steward who has the duty and responsibility to keep things right. When you have to face your ancestors one day, what will your answer be to their question: "Did you take care to respect and honor us, the past?"

Bishop Yoshiaki Fujitani of Honpa Hongwanji Mission designated nine new "Living Treasures of Hawaii" in temple ceremonies recently. The honorees included Kumuhula Edith Kanakaole, Gabby Pahinui, Eddie Kamae, John Dominis Holt IV, Rev. Mr. Abraham Akaka, Kahuna nui Emma DeFries, Kupunawahine Alice Namakaelua, Aldyth Morris and Clorinda Lucas.

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