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HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION

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JOINT HEARINGS

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESOURCES

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

AND THE

SUBCOMMITTEE ON
INDIAN AFFAIRS AND PUBLIC LANDS

OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S.J. Res. 4

JOINT RESOLUTION ESTABLISHING THE HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION, AND FOR OTHER PURPOSES

H.J. Res. 526

JOINT RESOLUTION ESTABLISHING THE HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION, AND FOR OTHER PURPOSES

HONOLULU, HAWAII, JULY 6, 1977
WAILUKU, MAUI, HAWAII, JULY 7, 1977

Publication No. 95–83

Printed for the use of the Committees on
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NOTE.—The first listed minority member is counterpart to the subcommittee chairman.

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HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION

WEDNESDAY, JULY 6, 1977

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES,
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Honolulu, Hawaii.

The subcommittees met, pursuant to notice, at 9:45 a.m., at the multipurpose auditorium, McKinley High School, Honolulu, Hawaii, Hon. Spark M. Matsunaga presiding.

Present: Senators Matsunaga, Abourezk, Inouye. Representatives Akaka and Heftel.

Also present: Steven P. Quarles, counsel.

Senator MATSUNAGA. The Joint Committee on Senate Joint Resolution 4, and House Joint Resolution 526, resolutions to establish the Hawaiian Native Claims Settlement Study Commission will now come to order. Rev. Abraham Akaka will open the hearings with a prayer. Will you all please rise?

Reverend AKAKA. Before I offer the prayer, Dr. Kinney asked if I would preface the prayer with a brief word. I want to express thanks to our Senators and Representatives for the personal interest that they have taken in our native Hawaiian people and our problems and for the progress that has been made in this matter.

We all have our heroes. I would like to mention two of mine, Queen Liliuokalani and Abraham Lincoln. In her darkest hours some of you remember Queen Liliuokalani wrote a prayer:

"O kou aloha no a ai i ka lani,
A o kou oia io, hemolele hoi."

And she was sustained and strengthened by her faith.

Abraham Lincoln in the darkest hours of the Battle of Gettysburg went to his knees in prayer and in telling about it later, he said:

> I told God that I had done all that I could and that now the result was in his hands. That if this country was to be saved, it was because He so willed it. The burden fell off my shoulders, my intense anxiety was relieved, and in its place came a great trustfullness.

Our President Lincoln had great faith and that faith was vindicated. Queen Liliuokalani had great faith and it is now being vindicated. God has led us to this moment and led us to this hour. Let us keep faith with Him and with each other. Let us pray.

Pomaikai ka lahuikanaka o iehova kona akua, ka poe kanaka hoi ana i koho ai i hooilina nona. Blessed is the nation whose God is the Lord,

the people He has chosen for His inheritance * * * one nation under God, with liberty and justice for all * * *

Almighty God our Father, on this birthday week of our Nation, we thank Thee for forbears 201 years ago, for that new breed of visionaries, few but formidable, whose dreams of a better world for themselves and all people called into question all that was, in the light of what might be, whose idea of realism made them confident they could walk on water, and whose commitment to justice generated the deep currents needed for social progress and change.

We thank Thee for native Americans in Hawaii today, who have a passion for openness to the future, who see the unseen, think the unthinkable, do the undoable, and dream of life's possibilities rather than its impossibilities—for Louisa Rice, Kekoa Kaapu, Arthur Kinney, Jerry Kaluna, and for all who founded, led, and have supported the Aloha Movement to this place of hope.

Grant now Thy blessing upon us as we seek to right a tragic wrong. Establish us O Lord in the realism of Thy kingdom that calls under judgment all human attitudes and acts, and establishes, what is just and good and true.

To that end, bless our Senators Daniel Inouye and Spark Matsunaga, our Representatives Daniel Akaka and Cec Heftel, our friend Senator Abourezk, and all members of the Senate Energy and Natural Resources Committee. Bless them as they help us and our Nation establish a Hawaii Native Claims Settlement Study Commission, and move on to legislating those requirements of justice that close the gap between what is and what ought to be.

Preserve our integrity as one Nation under Thee, with liberty and justice for all. Let the beauty and glory, the aloha, unity, and prosperity of the Lord our God be upon us. Establish Thou this work of our hearts and hands upon us. No ka mea nou ke aupuni, ame ka mana, ame ka hoonani ia a mau loa aku—for Thine is the kingdom and the power and the glory forever. Amen.

Schma Ysroel, anonai elohaynu adonai echod—Hear O Israel, O American, O planet Earth—the Lord your God is one Lord. Amen.

OPENING STATEMENT OF HON. SPARK M. MATSUNAGA, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator MATSUNAGA. Thank you very much, Reverend Akaka, for your most inspiring invocation. We certainly appreciate your taking time out to share with us your thoughts. I must say that there are few, if any, who understand the Hawaiian people as much as you do, and we are grateful that you are participating in these hearings with us.

Today, the Senate Committee on Energy and Natural Resources, of which Senator Henry M. Jackson of Washington is chairman, and the Committee on Interior and Insular Affairs of the U.S. House of Representatives, of which Representative Mo Udall of Arizona is chairman, begin 2 days of joint hearings on Senate Joint Resolution 4, introduced by Hawaii's two senators, and House Joint Resolution 526, introduced by Hawaii's two Representatives. These identical bills propose to create the Hawaiian Native Claims Settlement Study Commission. Without objection, copies of these bills will be included in the hearing record at this point.

[The resolutions follow:]

95TH CONGRESS
1ST SESSION

S. J. RES. 4

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 1977

Mr. INOUYE (for himself and Mr. MATSUNAGA) introduced the following joint resolution; which was read twice and referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

Establishing the Hawaiian Native 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 the 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;

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and 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 feeble but friendly and confiding people has been overthrown", that "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 that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; 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 Liluokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Hawaiian Natives; and

Whereas, 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 Natives prior to the overthrow of their indigenous government; and

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

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-three years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and a commission of distinguished Hawaiian Natives and other citizens should be convened to advise the Congress on all matters pertaining to such remedy.

SEC. 2. (a) There is hereby established the Hawaiian Native Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(b) (1) The Commission shall be composed of eleven members appointed by the President, of whom six shall be from a list of not less than twelve names submitted to the President by the Governor of Hawaii. Six of the members shall be of the blood of Natives of the Hawaiian Islands prior to 1778 (hereinafter "Natural blood"), two of whom shall

be of one-half degree or more of Native blood, two of whom shall be of one-quarter or more degree of Native blood, and two of whom shall be of any degree of Native blood. Each of the counties of Hawaii, Honolulu, Kauai, and Maui shall be represented on the Commission by a member of Native blood who is an inhabitant thereof. At least four members shall be conversant in Hawaiian Native culture, history, or language and one member shall be knowledgeable concerning Federal and State laws which are addressed to or significantly affect Hawaiian Natives.

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

(3) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(4) 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 as in the case of the original appointments.

"(5) Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per

diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

(c) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of approval of this resolution.

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

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff personnel 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 for GC–18 of the General Schedule under section 5332 of such title; and

(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.

(e) Each Federal department, agency, and instrumentality is authorized to furnish the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

SEC. 3. (a) The Commission shall, within one year from the date of the approval of this resolution—

(1) conduct a study of the culture, needs, and concerns of the Hawaiian Natives; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiian Natives by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong; and

(2) submit a report of its findings to the Congress.

(b) (1) The report required by this section shall provide recommendations for a remedy. Such recommendations shall include—

(A) the distribution, expenditure, investment, or other use of funds to be appropriated in equal increments over a period of years as a component of any such remedy: *Provided,* That emphasis shall be placed not on direct grants but on investment of funds by an Hawaiian Native organization or organizations and issuance of shares to Hawaiian Natives as stockholders therein, loans or guarantees of loans to or for Hawaiian Natives, or other innovative uses of the funds which will insure such

moneys are employed successively for the benefit of Hawaiian Natives;

(B) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109), except purchase or condemnation of lands by the Federal Government: *Provided*, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Hawaiian Natives under a subsequent Act to provide for such remedy;

(C) such other recommendations concerning the components set forth in clauses (A) and (B) of this paragraph as the Commission deems appropriate;

(D) the preservation and enhancement of Hawaiian Native culture and the education of Hawaiian Natives as principal purposes of any such remedy;

(E) the blood quantum requirements for eligibility to receive the benefits of any remedy and, if the Commission deems appropriate, to receive specific benefits or shares of benefits;

(F) the form or forms of organization best suited to

receive, distribute, or administer the benefits of any remedy; and

(G) other matters concerning any such remedy, including but not limited to alienability and tax status of the benefits of any such remedy, provision of technical assistance to Hawaiian Natives on the use of such benefits, and the reporting of the disposition of such benefits to the Federal Government and the Hawaiian Natives.

(2) Any such recommendations shall, to the extent possible, be designed to insure that any such remedy—

(A) will be a final settlement which extinguishes all claims of Hawaiian Natives against the United States arising from the actions set forth in the preamble of this resolution;

(B) will be capable of prompt implementation with a minimum of litigation;

(C) will be in conformity with the real economic and social needs of the Hawaiian Natives;

(D) is fashioned and will be implemented with the maximum participation of Hawaiian Natives;

(E) will not create a wardship or trusteeship;

(F) will not replace or diminish any right, privilege, or obligation of the Hawaiian Natives as citizens of the United States or the State of Hawaii; and

(G) will not relieve, replace, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Hawaiian Natives as citizens of the United States or Hawaii.

SEC. 4. Upon the expiration of the sixty-day period following the submission of the report required by section 3 of this resolution, the Commission shall cease to exist.

SEC. 5. No provision of this joint resolution shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Hawaiian Natives to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

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

SEC. 6. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon

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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.

95TH CONGRESS
1ST SESSION

H. J. RES. 526

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 1977

Mr. AKAKA (for himself and Mr. HEFTEL) introduced the following joint resolution; which was referred to the Committee on Interior and Insular Affairs

JOINT RESOLUTION

Establishing the Hawaiian Native 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 the 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 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 feeble but friendly and confiding people has been overthrown", that "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 that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; 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 Liluokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Hawaiian Natives; and

Whereas, 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 Natives prior to the overthrow of their indigenous government; and

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

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-three years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and a commission of distinguished Hawaiian Natives and other citizens should be convened to advise the Congress on all matters pertaining to such remedy.

SEC. 2. (a) There is hereby established the Hawaiian Native Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(b) (1) The Commission shall be composed of eleven members appointed by the President, of whom six shall be from a list of not less than twelve names submitted to the President by the Governor of Hawaii. Six of the members shall be of the blood of Natives of the Hawaiian Islands prior to 1778 (hereinafter "Natural blood"), two of whom shall

be of one-half degree or more of Native blood, two of whom shall be of one-quarter or more degree of Native blood, and two of whom shall be of any degree of Native blood. Each of the counties of Hawaii, Honolulu, Kauai, and Maui shall be represented on the Commission by a member of Native blood who is an inhabitant thereof. At least four members shall be conversant in Hawaiian Native culture, history, or language and one member shall be knowledgeable concerning Federal and State laws which are addressed to or significantly affect Hawaiian Natives.

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

(3) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(4) 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 as in the case of the original appointments.

"(5) Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per

diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

(c) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of approval of this resolution.

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

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff personnel 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 for GC–18 of the General Schedule under section 5332 of such title; and

(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.

(e) Each Federal department, agency, and instrumentality is authorized to furnish the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

SEC. 3. (a) The Commission shall, within one year from the date of the approval of this resolution—

(1) conduct a study of the culture, needs, and concerns of the Hawaiian Natives; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiian Natives by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong; and

(2) submit a report of its findings to the Congress.

(b) (1) The report required by this section shall provide recommendations for a remedy. Such recommendations shall include—

(A) the distribution, expenditure, investment, or other use of funds to be appropriated in equal increments over a period of years as a component of any such remedy: *Provided,* That emphasis shall be placed not on direct grants but on investment of funds by an Hawaiian Native organization or organizations and issuance of shares to Hawaiian Natives as stockholders therein, loans or guarantees of loans to or for Hawaiian Natives, or other innovative uses of the funds which will insure such

moneys are employed successively for the benefit of Hawaiian Natives;

(B) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109), except purchase or condemnation of lands by the Federal Government: *Provided*, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Hawaiian Natives under a subsequent Act to provide for such remedy;

(C) such other recommendations concerning the components set forth in clauses (A) and (B) of this paragraph as the Commission deems appropriate;

(D) the preservation and enhancement of Hawaiian Native culture and the education of Hawaiian Natives as principal purposes of any such remedy;

(E) the blood quantum requirements for eligibility to receive the benefits of any remedy and, if the Commission deems appropriate, to receive specific benefits or shares of benefits;

(F) the form or forms of organization best suited to

receive, distribute, or administer the benefits of any remedy; and

(G) other matters concerning any such remedy, including but not limited to alienability and tax status of the benefits of any such remedy, provision of technical assistance to Hawaiian Natives on the use of such benefits, and the reporting of the disposition of such benefits to the Federal Government and the Hawaiian Natives.

(2) Any such recommendations shall, to the extent possible, be designed to insure that any such remedy—

(A) will be a final settlement which extinguishes all claims of Hawaiian Natives against the United States arising from the actions set forth in the preamble of this resolution;

(B) will be capable of prompt implementation with a minimum of litigation;

(C) will be in conformity with the real economic and social needs of the Hawaiian Natives;

(D) is fashioned and will be implemented with the maximum participation of Hawaiian Natives;

(E) will not create a wardship or trusteeship;

(F) will not replace or diminish any right, privilege, or obligation of the Hawaiian Natives as citizens of the United States or the State of Hawaii; and

(G) will not relieve, replace, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Hawaiian Natives as citizens of the United States or Hawaii.

SEC. 4. Upon the expiration of the sixty-day period following the submission of the report required by section 3 of this resolution, the Commission shall cease to exist.

SEC. 5. No provision of this joint resolution shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Hawaiian Natives to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

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

SEC. 6. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, salaries and expenses of the Commission shall be paid from the contingent fund of the House upon

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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.

Senator MATSUNAGA. The Joint Committee will conduct this one day of hearings here in Honolulu. Tomorrow, the committee will travel to Maui, where an additional day of hearings will be held in the county building in Wailuku from 10:30 a.m. to 12 noon and from 2 to 4 p.m.

The committee is very pleased to have as an ad hoc member during the duration of these hearings the Honorable Daniel K. Inouye, Hawaii's senior Senator and principal cosponsor of the Senate bill which is the subject of these hearings. Also sitting with the Joint Committee are Hawaii's two Members of the U.S. House of Representatives, the Honorable Cecil L. Heftel and the Honorable Daniel K. Akaka, who are the sponsors of the House version of the proposal under consideration.

The committee is also most privileged to have as a sitting member the Honorable James Abourezk, U.S. Senator from South Dakota, who happens to be delayed at the airport at this moment. He should be here at any moment now. I will speak about Senator Abourezk later when he arrives.

The proposal which this committee will consider in depth represents the continuation of an effort to redress certain wrongs committed against the Hawaiian people 84 years ago in 1893. While the committee will hear a more extensive explanation of the events of that period later today, it is clear that in 1893, the legitimate Kingdom of Hawaii, with Her Majesty Queen Liliuokalani as Regent, was overthrown by a group of non-Hawaiian residents of Hawaii. After a careful study of the situation, it was later concluded by the President of the United States, Grover Cleveland, among others, that the so-called "Revolutionaires," who sought the annexation of Hawaii to the United States, were aided and abetted by the U.S. Minister to Hawaii and Naval Forces of the United States.

Following the overthrow of the monarchy, the lands of the native Hawaiians and the Crown Lands of Queen Liliuokalani were expropriated without compensation. This wrong was incorporated in the Treaty of Annexation of Hawaii to the United States 5 years later, when the United States assumed ownership of these lands.

As we know, these events have had grievous consequences for the native Hawaiians. In this regard, President Cleveland's summation in 1893 remains just as true today as it did then, and I quote:

> 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 (that) we should endeavor to repair.

The proposal which the Hawaii congressional delegation has submitted for the consideration of the Congress represents the first step toward our ultimate goal of fulfilling President Cleveland's urging. It seeks: (1) recognition of the validity of claims against the United States by native Hawaiians based on the 1893 incident; and (2) creation of a Hawaiian Native Claims Settlement Study Commission to conduct a thorough study of the nature of the wrongs committed against, and the extent of the injuries to, native Hawaiians by reason of the 1893 incident. The Commission would be mandated to report back to Congress within 1 year its recommendation for reparative legislation.

The committee is hopeful that witnesses will address their statements both to the bill as a whole and to the provisions presently

contained in the bill. We would welcome comment, for example, on the question of whether 1 year will be sufficient to fully examine this vital issue and make well-informed, well-studied recommendations to Congress. As another example, witnesses' thoughts are sought on the proposed composition of the Commission, and on the manner in which the Commission's members might be chosen. Of course, comments on any other aspect of the bill, and on the larger issues of native claims and its relation to other issues of concern to native Hawaiians, will be welcome.

The pending proposal is, with a few exceptions, nearly identical to Senate Joint Resolution 155, sponsored by Senator Inouye in the 94th Congress. Hearings on that bill were held in Hawaii in February 1976, during the course of which a wide assortment of views on the bill was obtained. Subsequently, the bill was reported unanimously by the Senate Committee on Interior and Insular Affairs, which is now the Energy Committee. I ask unanimous consent that a copy of the committee's report (S. Rept. 94–1356) be included in the appendix to the record.

With no objection, it is so ordered. [See app. I, p. 288.]

I believe that I share the optimism of my colleagues that, with a similar expression of interest in the current proposals during the course of these hearings, we will be able to move this extremely important matter expeditiously through the Congress.

I would like to insert in the record at this point a speech that I made before the Fifth Annual Convention of the ALOHA Association held on June 4, 1977.

[The speech follows:]

HAWAIIAN NATIVE CLAIMS SETTLEMENT: AN ACHIEVABLE GOAL—A SPEECH BY HON. SPARK MATSUNAGA, U.S. SENATOR FROM HAWAII, BEFORE THE 5TH ANNUAL CONVENTION OF THE ALOHA ASSOCIATION, KAUAI RESORT HOTEL, JUNE 4, 1977

President Kinney, Convention Chairman Kaluna, members of ALOHA, distinguished guests, ladies and gentlemen, Aloha! Because of our long and close association, it is indeed a pleasure to meet with you again as a group, although I have spoken and stayed in touch with many of you individually since I last addressed your organization in Hilo. As you know, I have since had the great honor or becoming one of your U.S. Senators, and I wish to state very strongly at the outset that my commitment to the attainment of the goals of your organization remains total.

That mutual effort to which we must continue to dedicate our efforts remains this: To obtain recognition that in the course of Hawaii's history, unjustifiable wrongs were done to that proud people who are native to Hawaii; to call upon that sense of fairness which is inherent to our country's history to remedy these wrongs as much as is possible; and, in a broader sense, to continue to foster that still-growing resurgence of ethnic identify and pride in heritage which Native Hawaiians have experienced in recent years.

As we have always known, these are ambitious goals. Their realization will come about as the result of many people exerting many different efforts in many related avenues. A natural and welcome part of this effort has been, and will continue to be, the elicitation of many divergent opinions as to how our goals can best be achieved. To unify these divergent views into one channel is, as we all realize, a tremendous challenge. But, I continue to believe strongly that the strength of the goals themselves will encourage unity and bring about their eventual achievement.

I spoke of the necessity of exerting many different efforts at the same time. Unquestionably the most important among those which we have advocated to date, one with which you of ALOHA and I have been involved now for a number of years, is the settlement of Hawaiian native claims. I can state without hesitation that were it not for your organization's tremendously active advocacy,

support and assistance throughout the last five years during which this effort has been pursued, we would not be as far along toward our goal, and would not have the groundwork behind us that we have today. ALOHA must continue to utilize its experience and its expertise in actively seeking a settlement. Along these lines, I would like to bring you up to date on the progress which we have made and the directions in which we are going in Washington on this issue of the greatest importance.

As you know, the proposed Hawaiian Native Claims Settlement Act was first introduced in the U.S. House of Representatives on June 27, 1974. The bill was the product primarily of an exceedingly large effort by ALOHA, which sponsored hearings throughout the State and heard from hundreds of representatives of the Hawaiian community and others in reviewing the concept and possible substance of native claims legislation. As a result of these extensive discussions, ALOHA drafted a bill, which I introduced, with then Congresswoman Mink as a cosponsor, exactly as it was drafted by ALOHA so that the Congress could begin the consideration of the complicated issue.

We reintroduced the bill as H.R. 1944, at the beginning of the 94th Congress, in January, 1975. Extensive hearings were held on the bill the following month on the islands of Molokai, Maui, Hawaii, Kauai, and Oahu by a Subcommittee of the House Committee on Interior and Insular Affairs, chaired by Congressman Lloyd Meeds of Washington.

As we will recall, the hearings were very well attended, and served as the most valuable first step toward bringing to the attention of the Congress and the American people the facts involving the overthrow of the Hawaiian monarchy in 1893, and the grave injustice which was forced upon the Native Hawaiians by the forceful and illegal seizure of their legitimate government. The need for just compensation for damages suffered by the Native Hawaiians became clearly evident. However, as was to be expected, considerable disagreement was voiced over several provisions of H.R. 1944, such as the amount of reparations, the mode of distribution, and the definition of the term "Native Hawaiian."

In part because of these valid disagreements among the supporters of reparations, our colleague in the U.S. Senate, Senator Daniel K. Inouye, chose to follow a different approach to the Hawaiian native claims issue. On December 18, 1975, he introduced Senate Joint Resolution 155, which sought recognition by the U.S. Congress of the wrongs done the Native Hawaiians, and the establishment of a Hawaiian Native Claims Settlement Study Commission with a mandate to undertake an exhaustive study of all issues regarding Hawaiian native claims and report back to Congress with recommendations for remedial legislation within one year of the creation of the Commission. S.J. Res. 155, proposed also that the Commission be composed of 11 persons, six to be of Hawaiian ancestry, with each of Hawaii's four countries to be represented on the Commission, and with at least four members "conversant in Hawaiian Native culture, history, or language".

Hearings were held on S.J. Res. 155 by the Senate Committee on Interior and Insular Affairs in February of 1976, and generated an impressive degree of support for the concept of Hawaiian native claims equal to that demonstrated at the House hearings on the House bill of a year earlier. Some controversy arose during subsequent consideration of the bill by the Senate Interior Committee over a proposal that the bill be amended to include a ceiling on the amount of reparations which might ultimately be paid to Hawaiians as part of any legislation to settle their native claims. However, the amendment, opposed strongly by Hawaii's two Senators as well as myself, was not accepted, and the bill was reported out of the Interior Committee to the full Senate on September 29, 1976. Unfortunately, not enough time remained in the 94th Congress, and the bill died without any further action by the Senate.

In the present 95th Congress, Hawaii's Congressional delegation, at Senator Inouye's suggestion, unanimously decided to unite behind the concept of first establishing a study commission, before pursuing the course of the House proposed Hawaiian Native Claims Settlement Act. Accordingly, Senator Inouye and I introduced on January 10 of this year S.J. Res. 4, which is identical to the bill reported from the Senate Interior Committee last September. I understand that Congressmen Heftel and Akaka will introduce a similar measure in the House in the very near future.

There are several reasons why I am supporting the approach taken in S.J. Res. 4. The primary reason is that there needs to be a massive educational effort to convince the Congress that the Native Hawaiians do in fact have a legitimate claim against the United States Government. To do this, a step-by-step approach appears to be the more effective way. As I said earlier, our goals must be to

obtain recognition that representatives of the Government of the United States acted wrongfully in aiding in the overthrow of the Hawaiian monarchy in 1893 first, and then, having established that fact, proceed to obtain a remedy for that injustice. The bills which I introduced in the House during the 93rd and 94th Congresses contained both elements of this effort, that is, they sought both the recognition and the remedy, all at the same time. As I also said, the hearings which were held on the proposed Hawaiian Native Claims Settlement Act evidenced no substantial disagreement with the former, but did bring out the need for further discussion as to what the remedy should be. The danger in such a situation is that during subsequent consideration by Congress of this or similar proposals, disagreement as to the remedy might cloud or even prevent achievement of the first goal—the recognition of the wrong. S.J. Res. 4 appears to be the right approach to follow at this point in time in that it has as its primary goal the establishment of a wrong and of an obligation on the part of the U.S. Government to do what it can to right it. I quote from the proposed resolution:

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 the 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; . . . Now therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy . . .

I believe you will agree with me that this is strong language which, if accepted by the Congress, creates an obligation upon Congress and upon the federal government to remedy the wrong. This in and of itself would be a significant and major step forward.

Other reasons for my decision to support S.J. Res. 4 include the fact that its predecessor cleared a major hurdle, the Senate Interior Committee (now the Committee on Energy and Natural Resources of which I am a member); the fact that our non-Hawaiian allies in Congress, such as Congressman Meeds, believe this to be the best approach; and the desirability of Hawaii's Congressional delegation presenting a united front in Congress on this matter. However, perhaps the most important reason is that passage of the resolution would establish a forum, the Commission, before which the various views within the Hawaiian community on different aspects of reparations can be fully aired, but with the requirement that a decision must be made within a year, as mandated in the legislation, and transmitted to Congress as the recommendation of the Hawaiian people.

My 14 years of experience in Congress has taught me that few occurrences serve as greater deterrents to the passage of a bill than the opposition of the supposed beneficiaries of a bill. The Sugar Act was defeated in 1974 for this very reason. Congress is inclined to delay action on any proposal whenever the proposed beneficiaries disagree among themselves as to the manner in which they wish to benefit from the enactment of the relevant legislation. If there is agreement, speedy action can be expected.

The fact that ALOHA supports the course of action being taken by the Hawaii Congressional delegation will definitely help our mutual cause. If other Hawaiian organizations will join in the effort the chances of success will become even brighter.

While I support the establishment of a Commission as the apparent best course to take for the present, I add that this will by no means negate the truly hard work which ALOHA has put into the formulation of proposed reparations legislation. On the contrary, I have no doubt that if the Commission is established, its major focus will be on the consideration of ALOHA's draft bill, with the burden of proof on alternate proposals.

I am optimistic about the chances of passage of S.J. Res. 4 during the present session of Congress. My optimism stems primarily from the fact that an identical measure cleared the Senate Interior Committee last year.

Furthermore, because I considered the Hawaiian native claims settlement to be of the highest priority I sought appointment to the Energy and Natural Resources Committee, which has jurisdiction over S.J. Res. 4. For the same reason, I successfully sought assignment to that Committee's Subcommittee on Public Lands and Resources, whose ten members, including myself, hold the key to passage of S.J. Res. 4 in the Senate. Even as a freshman Senator, I am therefore in an excellent position to advance the bill in the Senate, and have discussed at

length the best possible manner to proceed, including the possibility of further hearings in Hawaii later during this summer, with the Subcommittee Chairman, Senator Metcalf of Montana. I am most encouraged by Chairman Metcalf's understanding of the problem and his desire to help in enacting corrective legislation. The same is true about his counterpart in the House, Congressman Teno Roncalio of Wyoming, who, as Congressman Meeds' successor as Chairman of the House Interior Committee's Subcommittee on Indian Affairs, will be primarily responsible for the movement of the bill in that body. I intend to keep in very close contact with Chairmen Metcalf and Roncalio, and my other colleagues in Congress as we continue to work toward the expeditious passage of this tremendously vital piece of legislation.

From the very beginning your organization and I have shared as our most important common goal the native claims reparations legislation. But beyond that we share a mutual commitment to assisting Native Hawaiians in other areas. In this regard, I wish to mention four bills which I and the other members of the delegation have introduced which seek to include Native Hawaiians as beneficiaries under certain federal programs designed to aid so-called "Native Americans". Three of these bills, new to the Congress, seek to extend to Native Hawaiians the special benefits available to American Indians and Native Alaskans under the Elementary and Secondary Education Act of 1965, the Indian Self-Determination and Education Reform Act of 1973, and the Indian Financing Act of 1974.

Enactment of a fourth proposal may be imminent. That bill, which I originally introduced in May of 1975 while then a member of the U.S. House of Representatives, proposes that Native Hawaiians be designated as recipients of special manpower training funds presently available to other Native American groups under the Indian manpower programs mandated in the Comprehensive Employment and Training Act of 1973. I am most pleased to report that the provisions of my bill were incorporated in S. 1242, the proposed Youth Employment and Training Act of 1977, which passed the Senate on May 26. The House version of S. 1242 does not include such a provision, and so this difference between the two versions will be a subject for discussion in the joint House-Senate conference on the proposals to occur next week. You may be assured that I am exerting every effort to make sure that the Senate prevails on this item of great importance to Hawaii and the Native Hawaiians.

We have made much progress in our efforts on behalf of the original settlers of our Island State, but much remains to be done. The foremost task continues to be our effort to right the wrong done over 80 yeras, and while such a great undertaking requires much time and greater perseverance. I will reiterate my strong belief that the goal can be achieved. I will continue to work toward that end, and will look forward to ALOHA's continuing leadership in this effort as the organization which can rightfully claim the major share of the credit for the most significant accomplishments to date.

Mahalo and aloha.

Senator MATSUNAGA. At this time, I wish to present for his opening statement Congressman Akaka, who is cochairing this joint hearing with me as representative of the House Interior and Insular Affairs Committee through the request of its chairman, Congressman Udall.

Congressman Akaka.

STATEMENT OF HON. DANIEL K. AKAKA, A U.S. REPRESENTATIVE FROM THE STATE OF HAWAII

Congressman AKAKA. Thank you very much, Mr. Chairman. My colleagues here and those of you present, Aloha.

The AUDIENCE. Aloha.

Congressman AKAKA. It is a great privilege and honor for me to join with my colleagues here today in holding hearings on an issue of such importance, legislation which will establish the Hawaiian Native Claims Settlement Study Commission.

To the people of Hawaii the creation of such a Commission would be a landmark, both symbolically and as a practical method of dealing

with an unresolved issue. I say symbolically because the establishment of the Hawaiian Native Claims Settlement Claims Commission would reflect the proper attention and priority given this matter by both the Congress and the people of Hawaii.

The Commission would also possess the authority to redress some of the wrongs committed when the government of Queen Liliuokalani was overthrown in 1893 by recognizing the responsibility of the United States Government to provide such remedy.

I wish to take this opportunity to thank my honorable colleague, Congressman Cecil Heftel, for joining with me in House Joint Resolution 526 as offered in the House. This bill, which is identical to that introduced by my good friends and colleagues, Senators Matsunaga and Dan Inouye, will establish a commission to conduct an in-depth examination of Native Hawaiian claims and report back to the Congress within one year its recommendation for remedial legislation.

Also, I am honored to have been designated to represent Hon. Teno Roncalio, Subcommittee Chairman of the Indian Affairs and the Public Lands and also Morris K. Udall, Chairman of the Committee on Interior and Insular Affairs.

I have a strong hope that the legislation we will be discussing today will be enacted into law. I am particularly encouraged by the fact that Chairman Udall, and Chairman Roncalio, are both very interested in this bill and in the hearings to be held this week.

At this point I would like to request that Chairman Udall's letter be submitted for the record, Mr. Chairman.

Senator MATSUNAGA. Without objection, it will be made a part of the record.

[The letter referred to follows:]

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., June 29, 1977.

Hon. DANIEL K. AKAKA,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR DANNY: As you know, as a matter of courtesy the Senate Committee on Energy and Natural Resources has invited the House Committee on Interior and Insular Affairs to participate in field hearings on July 7 and 8 in Hawaii on a joint resolution that would establish a Hawaiian Native Claims Settlement Study Commission (S.J. Res. 4).

Unfortunately these hearings, in Honolulu and Wailuku, Maui, come at a time when our several subcommittees are committed to an ambitious program of activity elsewhere. As a result neither Tena Roncalio, who chairs our Subcommittee on Indian Affairs and Public Lands (to which I shall be assigning your similar resolution here, H.J. Res. 526), nor can I come to Hawaii.

Since this matter is of intense interest to many of your constituents and I understand you will be in Hawaii at the time, I wonder if you would be good enough to represent the interests of our Committee at these hearings by attending them and letting us have a brief report on your observations.

Sincerely,

MORRIS K. UDALL, *Chairman.*
TENO RONCALIO,
Chairman, Subcommittee on Indian Affairs and Public Lands.

Congressman AKAKA. By participating in the hearings today in Honolulu and tomorrow in Maui and by working with my colleagues in the Senate and the House, I have high hopes that this legislation will be passed by the Congress and the issue of Native Claims will receive the priority it deserves.

Thank you very much, Mr. Chairman.

Senator MATSUNAGA. Thank you very much, Congressman Akaka. Now we will hear from Senator Inouye with his opening statement.

STATEMENT OF HON. DANIEL K. INOUYE, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator INOUYE. Mr. Chairman, I have a rather lengthy statement. I'd like to ask for your consent that it be made part of the record in toto.

Senator MATSUNAGA. Without objection, it is so ordered.

Senator INOUYE. I would like now just to summarize my statement.

Chairman Akaka and Chairman Matsunaga, the resolution which is the subject of these hearings achieves three goals. First, it will provide a clear statement by the Congress of the United States that a wrong has been committed by representatives of the U.S. Government against the Hawaiian people.

Second, it will clearly set forth that that wrong was never redressed. Third, it will provide a vehicle for the Hawaiian Native Claims Land Settlement Commission which will recommend the extent of the Federal obligation which is outstanding and the means by which this obligation can be met.

Mr. Chairman, for very tragic historical reasons, some of our Native Hawaiian people are understandably suspicious of placing their trust in the Federal Government for the righting of the wrongs which have been done against them as a people. The record to date has been far from impressive, but I am convinced that the cause is right, and Members of the Congress will respond once the issue has been brought fully to their attention in an appropriate and rational manner.

Since last year's hearings the issue of Kahoolawe has reached new and increasingly pressing dimensions as an important part of the claims of the Hawaiian people against the Federal Government. The continued use of that island as a bombing range by the Navy is but a part of that claim albeit an important and highly emotional one.

The understandably strong sentiments of many Hawaiian people about that island have resulted in some violating the law, and most tragically, in the death of others. It is my fervent hope that the Commission, envisioned in the legislative measure considered here this morning, can serve as a vehicle for addressing the issue of Kahoolawe in a peaceful and productive manner as an important aspect of the overall problem.

I know others will establish the historical record in the course of these hearings. I think that record is clear and will fully support the position taken by President Grover Cleveland in his message to the Congress on December 18, 1893, when he refused to send the annexation agreement up for ratification. In that message he said, and I think it is worthy of repeating:

> Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the government of the Islands, or of anybody else so far as shown, except the United States Minister.
>
> * * * It has been the boast 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 internation 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.

Previous efforts to repair that wrong have been futile. It is my fervent hope that the time is right; that the Congress of the United States will now respond affirmatively and provide that just measure of reparations which is the Hawaiian's due. I stand ready to be of help, and I appreciate the interest which is being demonstrated this morning.

Thank you very much.

Senator MATSUNAGA. Thank you very much, Senator Inouye. As I understand it, you have an appointment with a doctor which you need to keep this morning so——

Senator INOUYE. I will be back.

Senator MATSUNAGA. We will miss you. We will see you back again.

[The prepared statement of Senator Inouye follows:]

STATEMENT OF HON. DANIEL K. INOUYE, A U.S. SENATOR FROM THE STATE OF HAWAII

Mr. Chairman, I wish to thank you for taking time from your busy schedule to come to Hawaii for these hearings on S.J. Res. 4, establishing a Hawaiian Native Land Claims Commission. It is a long way from your native State of South Dakota but I know that any issue which involves native Americans is a matter of great interest to you and we appreciate this demonstration of that interest and having you with us today and tomorrow for these hearings.

While Hawaiian native land claims is not a burning national issue it is one which has received the interest of community leaders in Hawaii for some time. It has also received the attention of your predecessor Committee—the Interior Committee. That Committee held three days of hearings here in Hawaii in February, 1976. Subsequent to those hearings a revised version of my bill in the 94th Congress, S.J. Res. 155, was reported out by the Committee but unfortunately too late in the session to receive further consideration by that Congress, S.J. Res. 4 is, however, identical with the measure reported by the Interior Committee last year and I introduced it with the sponsorship of my distinguished colleague, Senator Matsunaga, early in this Congress in the hope that we would be able to proceed in a timely fashion to address this issue and pass it in the 95th Congress.

When hearings were held on the predecessor measure last year there was considerable opposition voiced against that measure. Much of that opposition was centered on a fear that referring such an issue to a Commission would delay final action or place control for action in hands unfriendly to the interests of the Hawaiian people. I believe there is less concern about that course today with changes in the Resolution which guarantee that a majority of the Commission members will be Hawaiian and apportioned among the counties and a greater appreciation of how difficult, if not impossible it would be, to get legislative action without going through the intermediate step of having detailed recommendations to the Congress from a prestigious national commission.

I have struggled with this problem for about four years and I know that some may be frustrated by the sense of inaction and the knowledge that these claims date back almost a century. Four years is not a long time in the Congress on any issue of this magnitude, however. It takes time to educate the members on the nature of the problem and the legitimacy of the claim. Hawaii is a long way from Washington and the competition for the attention of the Congress is great. These hearings are a very necessary part of the educational process even though you who are participating here as witnesses may feel that you have heard it all before.

Success requires more than a just cause, moreover, it requires persistent effort and a large dose of pragmatism.

The resolution which is the subject of these hearings achieves three goals. First, it will provide a clear statement by the Congress that a wrong has been committed by representatives of the United States Government against the Hawaiian people. Second, it will clearly set forth that that wrong has never been redressed. Third, it will provide a vehicle, the Hawaiian Native Land Claims Settlement Commission, which will recommend the extent of the Federal obligation which is outstanding and the means by which that obligation can be met.

Mr. Chairman, for very tragic historical reasons, some of our Hawaiian native people are understandably suspicious of placing their trust in the Federal Government for a righting of the wrongs which have been done against them as a people.

The record to date has been far from impressive. But I am convinced thai the cause is right and the Members of Congress will respond once the issue has been brought fully to their attention in an appropriate and rational manner.

Since last year's hearings the issue of Kahoolawe has reached new and increasingly pressing dimensions as an important part of the claims of the Hawaiian people against the Federal Government, The continued use of that Island as a bombing range by the Navy is but a part of that claim albeit an important and highly emotional one.

The understandably strong sentiments of many Hawaiian people about that Island has resulted in some violating the law and, most tragically, in the death of others. It is my fervent hope that the Commission, envisioned in the legislative measure considered here today, can serve as a vehicle for addressing the issue of Kahoolawe in a peaceful and productive manner as an important aspect of the over-all problem.

I know others will establish the historical record in the course of these hearings, I think that record is clear and will fully support the position taken by President Grover Cleveland in his message to the Congress on December 18, 1893 when he refused to send the annexation agreement up for ratification. In that message he said:

"Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the government of the islands, or of anybody else so far as shown, except the United States Minister.

. . . It has been the boast 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."

Previous efforts to repair that wrong have been futile. It is my fervent hope that the time is right; that the Congress will now respond affirmatively and provide that just measure of reparations which is the Hawaiian's due. I stand ready to be of help and I appreciate the interest which is being demonstrated by you presence here today.

Senator MATSUNAGA. We are fortunate to have at these joint hearings also an ad hoc member of the House committee, one who has taken great interest in this matter and is a cosponsor of the House measure now pending before this joint hearing, Congressman Cecil Heftel.

STATEMENT OF HON. CECIL HEFTEL, A U.S. REPRESENTATIVE FROM THE STATE OF HAWAII

Congressman HEFTEL. Thank you, Mr. Chairman. I ask for your consent that my statement be entered in the record and, at this time, I would like to make a short comment.

Senator MATSUNAGA. Without objection, it is so ordered.

Mr. HEFTEL. I doubt if there is any question that the people of Hawaii had their lands illegally taken. I believe President Cleveland made the record very clear on this point. In this atmosphere of the Carter administration, President Carter has stated very clearly that the United States is concerned with human rights, thus making this measure truly appropriate at this time. The United States will be a spokesman and example for the world on the concern for human rights. It is only commonsense that those human rights should be expressed and begun in our own land, in our own 50 States.

So, it would be natural and mandatory that Congress and the President support the establishment of this commission to determine the extent of the wrong committed and how that wrong should be righted.

For the record, it should be made very clear that this commission would not be established to determine if a wrong was committed or if lands were illegally taken, but rather to what extent were the Hawaiian people's rights violated and what subsequent reparations could be given to the Hawaiian people. Indeed, this is a fortuitous time for the birth of such a commission since Hawaii has, in Congress a Member of Hawaiian ancestry, Danny Akaka. I think that his influence and presence in Congress can go a long way toward helping Congress to understand the need for these reparations.

Senator Inouye mentioned Kahoolawe. It is perhaps a symbol of wrongs committed and never righted, a frustration never satisfied. I certainly hope that we in the Congress, in joining together, will see this wrong righted during this term; that this commission will be fair and equitable to Hawaiian people; that the Hawaiian people themselves will be satisfied with those findings; and that the Congress will enforce those findings expeditiously.

Thank you very much, Mr. Chairman.

Senator MATSUNAGA. Thank you very much, Congressman Heftel.

[The prepared statement of Congressman Heftel follows:]

STATEMENT OF HON. CECIL HEFTEL, A U.S. REPRESENTATIVE FROM THE STATE OF HAWAII

It is my pleasure to join with Senators Inouye and Matsunaga, and the first Hawaiian Congressman of Hawaiian Native descent, Dan Akaka, in the introduction of legislation to establish the Hawaiian Native Claims Settlement Study Commission.

In a time when our own President is demanding human rights throughout the world, we must look at ourselves to provide examples of establishing and continuing human rights at home.

We have recently set an example with efforts to settle the just claims of Alaskan natives. Although Alaskan lands were taken from their rightful owners peacefully, that wrong is already being redressed. We must convince the Congress that now is the time to settle those claims created by the forceful overthrow of a legitimate government.

Approximately eighty-three years have passed without reparation to Hawaiian Natives for wrongs done to them. The time is long overdue for these wrongs to be righted.

In 1893, the U.S. Minister, without the authority or knowledge of the Congress or the President, unlawfully deployed armed forces to overthrow the national government of Hawaii. Wrongful acts were committed by agents of the United States Government and by such acts, the dominion over the people and the kingdom of Hawaii and domain over the lands formerly owned in common by the Hawaiian Natives were acquired by the United States.

This is an unhealthy chapter in our country's history. Congress must recognize the wrong that was done and make reparations to the people of Hawaii.

It has been the policy of the United States in its dealing with Indian Tribes to grant them title to a portion of the lands which they occupied, to extinguish the aboriginal title to the remainder of the lands by placing such lands in public domain, and to pay the fair value of the titles extinguished. This same policy should also apply to the Hawaiian people.

The proposed study commission would submit a report to the Congress with recommendations for remedies to repair the wrongs done to the Hawaiian Native people.

The time is now ripe, the demands of the Hawaiian people are being heard. In recent months, the rightful ownership of Kahoolawe Island has been the subject of considerable discussion and concern. The people of Hawaii are speaking up for their rights.

It is up to us to now listen to them.

I am pleased to be an integral part of the current efforts to effect this necessary change.

Senator MATSUNAGA. I am sure that there are a number of people here who would like to testify and are not on the witness list. You may have called in and given your name, but, as you probably know, we have just moved our offices, all of us, from the old building to the new Federal building, and some of the notes and documents may be locked up in boxes which have, at least in my case, not yet been unpacked.

In any event, will you please see the young lady back there, Gladys Karr, if you wish to testify at these hearings and you find that you have not yet been listed as a witness.

Everyone who signs the guest book at the table in the hall and leaves his or her address will be sent a copy of the hearing record. So, if it is your wish to get a copy of the hearing record, be sure that your name and address appear legibly in the guest book out in the hallway.

Because of the length of the witness list, after the public officers have spoken we must limit the public witnesses to 7 minutes each. Of course, your written testimony will be printed in the record, and the record will be open to further submissions for a period of 3 weeks. So, anyone who so desires may submit additional information and additional details about his or her testimony. So, wherever possible, because of the limited time, please try to summarize your comments, with the full knowledge that your written statement will appear in the record in full.

We have as our first witness today representing the Honorable George Ariyoshi, Governor of the State of Hawaii, Mr. Robert Crowell, or Bobby Crowell, as he is better known. Mr. Crowell, we will be happy to hear from you.

Before you begin, some of you may be wondering who the gentleman on my right is. He is the counsel to the Senate Committee on Energy and Natural Resources, Mr. Steven Quarles.

You may proceed, Mr. Crowell.

STATEMENT OF HON. GEORGE R. ARIYOSHI, GOVERNOR, STATE OF HAWAII, HONOLULU, HAWAII, AS PRESENTED BY ROBERT CROWELL

Mr. CROWELL. Thank you, Mr. Chairman. This morning I have the privilege of presenting to this distinguished panel the testimony of Governor George Ariyoshi pertaining to the Hawaiian Native Claims Settlement Study Commission, and the Governor says and writes:

Mr. Chairman and committee members:

All who have diligently studied the history of the Hawaiian people have felt at times a sense of outrage at the vicissitudes of life which brought suffering and slow decline to this magnificent Polynesian society. It is all the more tragic that it was their generosity and spirit of aloha which proved their undoing as an independent nation and ethnic group.

Today, however, this futile sense of outrage is giving way to a search for a practical approach to leveling the scales of justice, no matter how long delayed. It is desirable that formal action be taken by the people of the United States to recognize, assess, and act upon those injustices against the Hawaiian people which can be properly documented.

We are gathered here today for public testimony toward that end, so that the Congress of the United States may be privileged to right a wrong in the most practical and prudent manner possible.

It is my duty and privilege to support this movement toward justice for the Hawaiian people, and I do so with a firm determination to assist them. I am grateful to you, Mr. Chairman, and Members of the Senate Committee on Energy and Natural Resources, for this opportunity to testify. I am pleased to report to you that, in my best judgment, there is among all of Hawaii's people a widespread appreciation and acceptance of the basic idea that the Hawaiian Native Claims would be judiciously studied and, in due time, result in some form of reparations.

Through these hearings in our islands, and in detailed written testimony to be presented to you by various organizations and individuals, you will be given a very clear picture of the history and present situation of the Hawaiian people.

I favor and support the concept of reparations but do not offer you any suggestion on how this should be accomplished. This is because I believe it is most important that the many details of the mechanisms established for achieving the ultimate goals desired, be worked out carefully with, by, and for the Hawaiian people. There must be effective participation and decisionmaking by those most concerned.

I am very pleased that this resolution provides for an 11-member commission to be appointed by the President—of whom 6 shall be from a list of not less than 12 names submitted by the Governor of Hawaii. In keeping with the intent of the resolution, I want the committee to know that should the resolution be adopted, I will consult with the Hawaiian organizations in the preparation of the list of names to be submitted to the President.

You need not fear the Hawaiian people in their judgments and actions. They possess a deep wisdom, a rare appreciation of the genuine versus the false values in human affairs, and a sense of justice, honor, and magnanimity unsurpassed anywhere. Their history, their culture, their actions have consistently shown this to be so.

When we mention the Hawaiian people today, we are speaking of tens of thousands who, through intermarriage, have become part-Hawaiians. We must never forget that the title and privilege of being a part-Hawaiian is a noble one. It reflects a profound movement in the very soul of mankind toward a breaking down of ethnic, social, cultural, and credal walls which for ages have divided human societies. The Hawaiian people, much more than others, have this deep sense of oneness with all the human race. It is this spirit which brought this incredible intermingling of races in Hawaii which so charms the rest of the world. In the historic process, however, the purity of the bloodline was sacrificed to the spirit of human unity and harmony. And in the process, the injustices previously referred to were an unhappy result.

This total intermingling of races is thoroughly American, in the finest spirit of our Nation, which glories in the title, "One Out of Many." We must now show these wonderful Americans of Hawaiian ancestry that America is ready to fully recognize their spiritual and other contributions to our great Nation, and to right the wrongs of history.

Mahalo. Thank you very much, Mr. Chairman.

Senator MATSUNAGA. Thank you very much, Mr. Crowell for so ably representing the Governor of this State.

Our next witness is Representative Henry Peters. Is he anywhere? Not as yet.

Our next witness will be Honolulu City and County Councilman Frank Loo. We would be happy to hear from you, Councilman Loo.

STATEMENT OF HON. FRANK LOO, CITY COUNCILMAN, HONOLULU, HAWAII

Mr. Loo. Aloha to the members of this joint hearing. I appear here in three separate roles. One, on behalf of the city council showing its concern in this matter; second, as a city councilman myself representing many Hawaiians in my district; and third, as a father, concerned father whose children do attend Kamehameha School and certainly would benefit if the legislation should pass.

Now, I'd like to present an insert into the record the resolution that was passed by the city council just a while ago at a special meeting.

Senator MATSUNAGA. Without objection, the resolution will be included in the record at this point.

Mr. Loo. Could I read it, Mr. Chairman? The council expects me to read it so I will.

RESOLUTION ENDORSING AND SUPPORTING THE ENACTMENT OF SENATE JOINT RESOLUTION 4 PROVIDING FOR THE ESTABLISHMENT OF THE HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION

Whereas, the Council of the City and County of Honolulu, through adoption of Resolution No. 17 in February 1975, endorsed and supported the aims and purposes of the Hawaiian Native Claims Bill; and

Whereas, since that time the Council has not wavered in its endorsement or support; and

Whereas, the Council has remained cognizant of the fact that the project of educating and assuring congressional members of the validity of the claims of the Native Hawaiians is of mammoth proportions; and

Whereas, Senate Joint Resolution 4 provides the mechanism by which the U.S. Congress shall recognize that a substantial wrong was done the Native Hawaiians in the 1893 overthrow of the Hawaiian Monarchy under Queen Liliuokalani, and that the U.S. Government is obligated to provide suitable remedy; and

Whereas, the mechanism provided for in in Senate Joint Resolution 4 is the establishment of a study commission that will engage in exhaustive examination of all native claims arising out of the events of 1893; and

Whereas, on July 6 and 7, 1977, the U.S. Senate Committee on Energy and Natural Resources will hold hearings in Hawaii on legislation dealing with reparations for Native Hawaiians; now, therefore, be it

Resolved by the Council of the City and County of Honolulu of the State of Hawaii, That it does hereby endorse and support the aims and purposes of Senate Joint Resolution 4 and urges favorable consideration of this legislation; and be it finally

Resolved, That the Clerk of the Council be and is hereby directed to present copies of this reolution to the Chairman and members of the U.S. Senate Committee on Energy and Natural Resources, and the Chairman and members of its subcommittee on Public Lands and Resources, and members of Hawaii's Congressional Delegation.

Mr. Chairman, I'd like to add that at the time this resolution was prepared, it was not known that the House had also intoduced a companion bill, resolution, and so this is apropos also to the House resolution.

Now, to my personal remarks, Mr. Chairman. Honorable gentlemen of Congress, aloha. I am City Councilman Frank W. C. Loo of Honolulu seeking justice, fair play, and human rights for native Hawaiians. Justice, fair play, and human rights, like charity, should begin at home in the United States of America.

Senate Joint Resolution 4 and House Joint Resolution 526 are positive steps in the right direction in dispensing justice, fair play, and human rights to native Hawaiians by their own Federal Government.

In our country's Indian history, as your Indian Affairs Committee will remember, native Indians accused Americans of being two-faced regarding Indian claims. The native Indians accused Americans of speaking with forked tongue.

Let not the native Hawaiians have cause to voice the same harsh accusations. President Carter's America cannot hold high the flaming torch of justice, fair play, and human rights as a steady beacon of hope to other oppressed people of the world while ignoring the just claims of its own people, the native Hawaiians. Yea, Americans' idealistic crusade for justice, fair play, and human rights among the oppressed peoples of the world would be a hollow mockery, indeed, if the Federal Government failed to justly settle the meritorious claims of the native Hawaiians. To our eternal shame and dishonor our Nation will be ridiculed and reviled as big, fat hypocrites.

The claims of native Hawaiians are not imaginary, illusory, or ill-advised. They are real, substantial, and just. President Cleveland in a message to Congress on December 18, 1893, 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 feeble but friendly and confiding people has been overthrown, that 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 that we endeavor to repair, and that the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparations.

It was honorable, noble, and just that President Cleveland publicly confessed a substantial wrong done to the native Hawaiians by the Government of the United States and recommended reparation, but talk is cheap. It is time that the United States Government vindicates its honor and its sense of justice, fair play, and human rights by an earnest effort to make all possible reparation. Let us on this bicentennial year plus 1 year of our Nation's birth, right a wrong too long neglected for eight decades. Let us rekindle the flaming torch of our Nation's revolutionary beginnings when our Nation valiantly marched to war to fight for justice, fair play, and human rights.

In all our Nation's wars during the ensuing 201 years, we reaffirmed and rededicated our allegiance to the same noble causes.

It is time again to reaffiirm and rededicate ourselves to those same noble causes, justice, fair play, and human rights.

Let us to our own roots, to our own ideals, to our own self be true. The time to act is now. Pass these joint resolutions establishing the Hawaiian Native Claims Settlement Study Commission. Aloha. Mahalo.

Senator MATSUNAGA. Thank you very much, Councilman Loo.

The committee is now most pleased to recognize as a sitting member the Honorable James Abourezk, U.S. Senator from South Dakota. Senator Abourezk, who was delayed in transit from the big island this morning, has just joined us.

Senator Abourezk was elected to the U.S. House of Representatives in 1970 and, after just one term, successfully sought a seat in the U.S. Senate. Like myself, Senator Abourezk is a member of the newly formed Senate Committee on Energy and Natural Resources, and chairman of its Subcommittee on Parks and Recreation. He is very interested in this proposal which is now pending before this joint hearing, not only because of his membership on that committee, but because he is known in the Senate as the foremost advocate of the rights and needs of native Americans. His dedication to this work has earned him the chairmanship of the Senate Select Committee on Indian Affairs.

With his knowledge and sympathetic understanding of the concerns of other native Americans as well as his insights into the workings of these two committees, we look forward to having the benefit of his thoughts as we focus in these hearings on Hawaii's own native Americans, those whose ancestors were residents of our islands prior to 1778. I know I speak for the entire Hawaiian congressional delegation and all concerned people of Hawaii when I say, "Mahalo nui loa" or thank you very much, Senator Abourezk, for taking the time to come to Hawaii to participate in these vitally important hearings. We will be happy to hear an opening statement from you, Senator Abourezk.

STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. Well, thank you, Sparky. It is almost as though you were introducing me for a long speech, but I only want to say that no sacrifice is too great to have to come to Hawaii. [Laughter.]

I am willing to fulfill all of my responsibilities in the Senate including this one and I am very pleased that Spark Matsunaga and Danny Inouye invited me to come to the hearings and I am very much interested in this kind of claims legislation since I have been chairman of the Indian Committee ever since I have been in the Senate. It was the Subcommittee of the Interior until this year, when the reorganization established it as a full committee and I was appointed chairman at the time.

I would be very interested in hearing the witnesses and if we have time today, I would be very interested in talking with the Native Hawaiian people while I am here and I'd like to hear more of your point of view other than what you present in formal testimony.

I come here—the second reason I came here was to find out how Spark Matsunaga and Dan Inouye get such big margins when they run for office. [Laughter.]

That is something all politicians are interested in and I'd just like to greet the two Congressmen from the State as well. Thank you very much.

Senator MATSUNAGA. Thank you very much, Senator Abourezk.

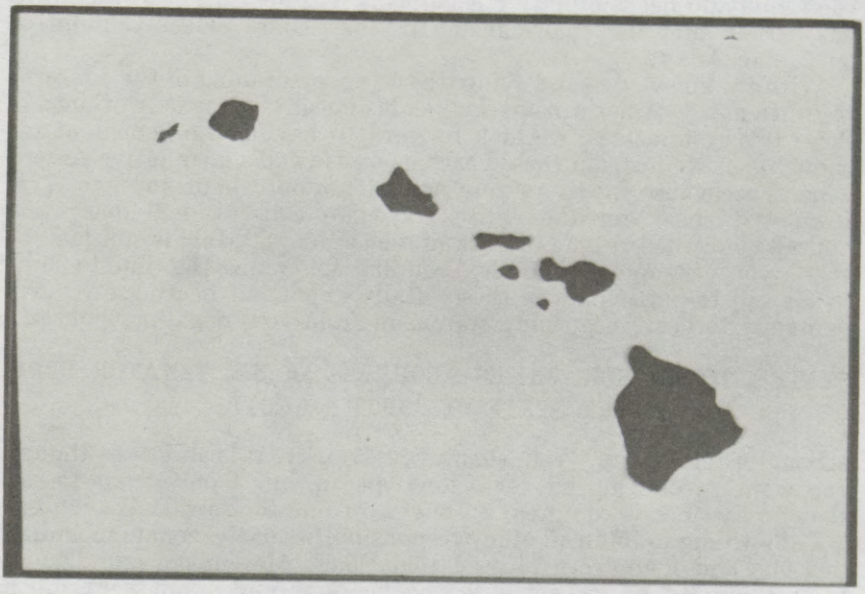
We will now hear from Mr. Russell Apple. Mr. Apple is the Pacific Historian of the National Park Service.

STATEMENT OF RUSSELL APPLE, HISTORIAN, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, HONOLULU, HAWAII

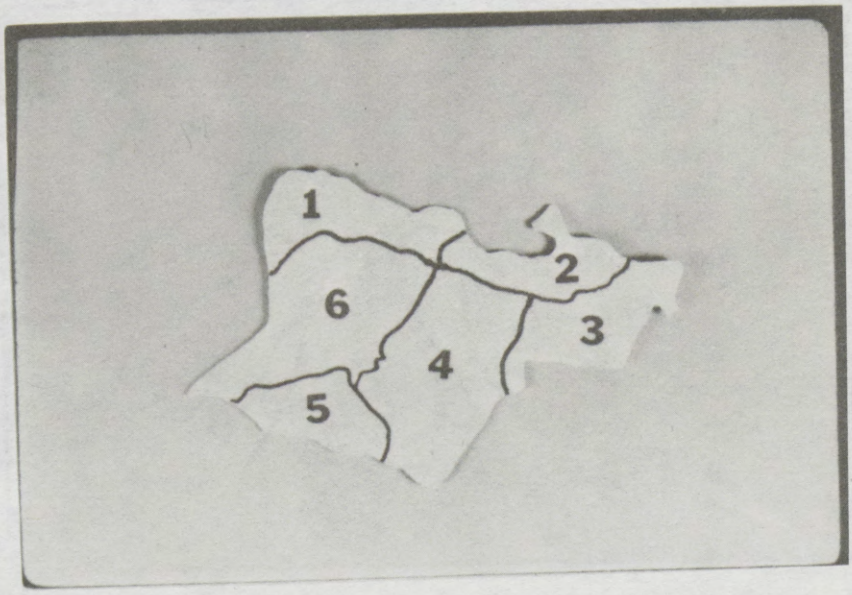
Mr. APPLE. This talk is a portion of an illustrated talk prepared in 1971 and entitled "Lands, Parks and Hawaiians," which has been presented to numerous Hawaiian groups on several Hawaiian Islands.

SLIDES

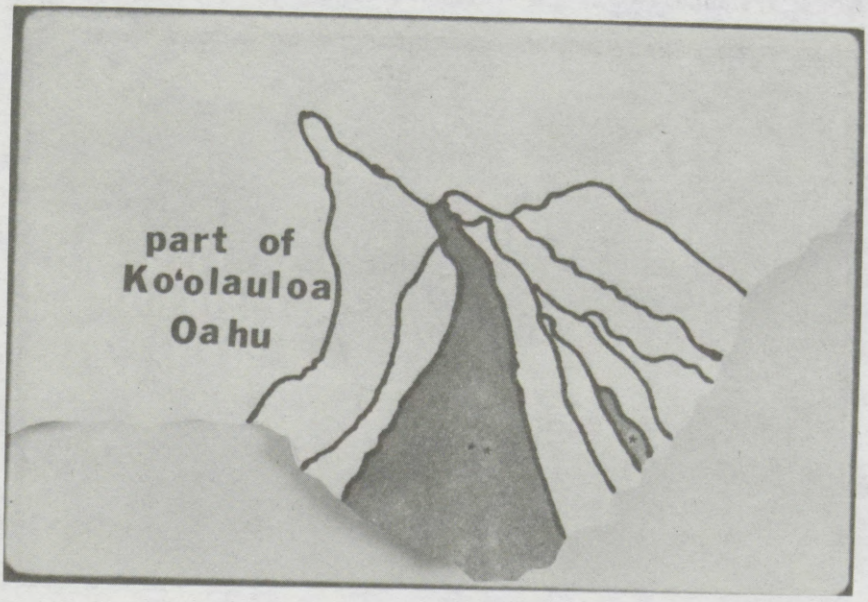
One: The Hawaiian Islands as Captain James Cook discovered them in 1778. Let's look at how the Hawaiian people organized and used their land.



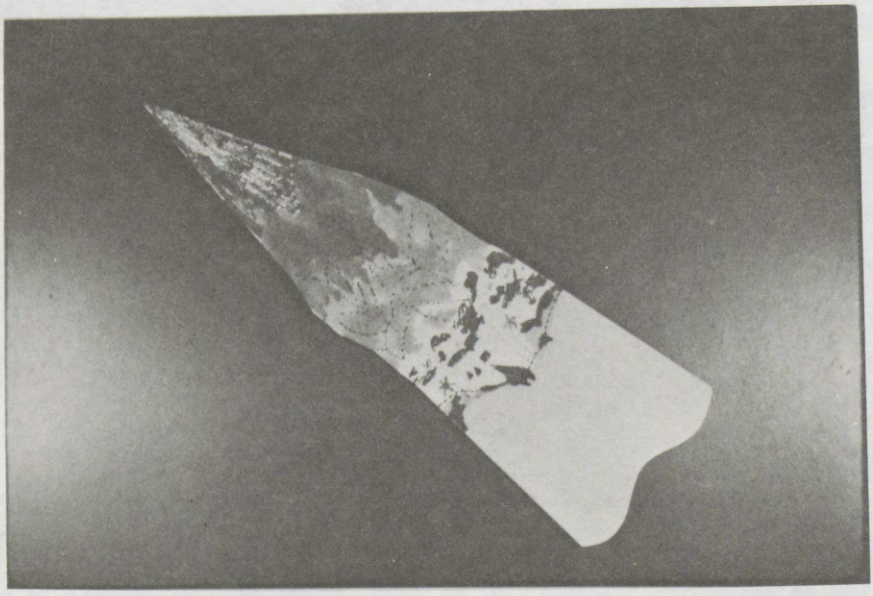
Two: For control and management, Hawaiians divided their islands into divisions. For instance, the Island of Oahu was divided, starting from the top and going clockwise, into these directions: (1) Koolauloa; (2) Koolaupoko; (3) Kona; (4) Ewa; (5) Waianae, and (6) Waialua. Since then, Kona, No. 3, has acquired the names of Waikiki and Honolulu and Wahiawa has been created out of portions of Ewa, No. 4, Waianae, No. 5, and Waialua, No. 6.



Three: In turn, large land divisions were subdivided into that unique Hawaiian land unit known as the ahupua'a. Ahupua'a were of different sizes. An ahupua'a is not a measure of land, such as an acre is. A small ahupua'a contained perhaps 100 acres, but a large one might contain 100,000 acres. Here are some of the ahupua'a of Koolauoa, of O'ahu. Kahuku is the big one, and Opana the smallest.



Four: This is a schematic concept of an ideal ahupua'a. It is extended out in the water—and the offshore waters were part of the ahupua'a as a land management unit. The chiefs, priests and people who lived in an ahupua'a had certain rights in the products of the land and water. Each individual was entitled to a share of what he produced. The first and choicest products went up the line to the chiefs, for their support Hawaiian chiefs were the closest living relatives to the gods, and their right to absolute ownership was never challenged or denied them.



Five: When ruling chief Kamehameha the Great conquered the Hawaiian Islands, a job not completed until 1810, he used this ancient land system. For his own personal use he kept the best lands, and assigned the use of the rest among his warrior-chiefs. The warrior chiefs, in turn, divided their lands and awarded their staff members with landlordships.



Sixth: Temporary landlordship—a spoils system wherein the conquering chiefs and their friends benefited—did not affect commoners, except they sometimes experienced a change in landlords. Commoners usually stayed within their home ahupua'a. Over generations, families associated as perpetual tenants with small parts of ahupua'a—lands where they lived and grew taro and breadfruit. They were legally tenants—but so essential to the welfare of their landlord that commoners were usually left alone on their land.



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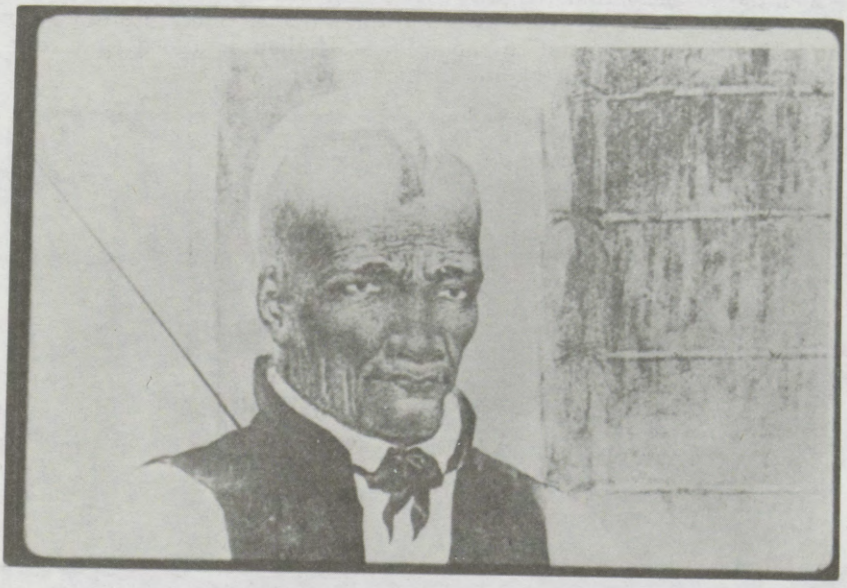
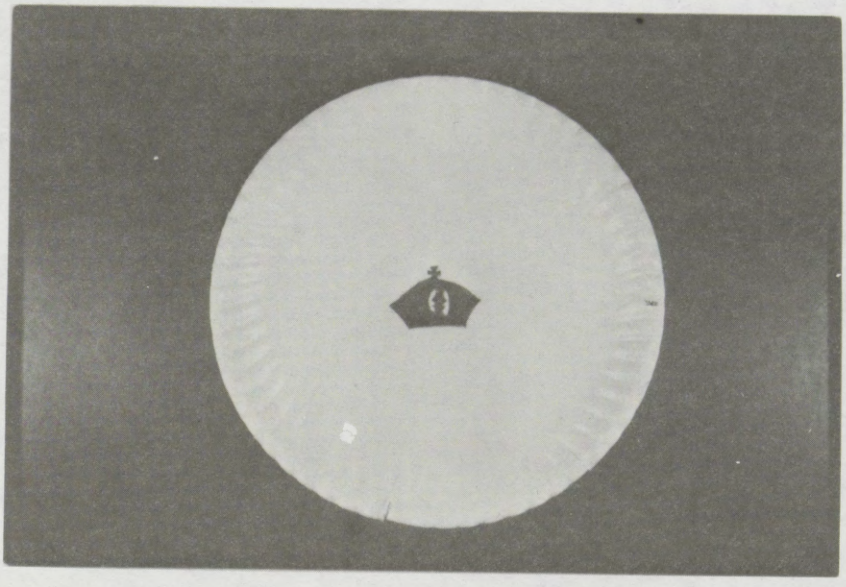
Seven: All the Hawaiians, from the high chiefs down to the tenant commoners, owed and paid taxes and gave gifts to Kemehameha the Great. This tax was not only in kind—the products of the land and sea—but services as well.



Eight: Kamehameha the Great owned all of Hawaii's land—the whole pie. In absolute fee. Any person who had dared disagree was dead. The crown signifies crown land.



Nine: Liholiho, Kamehameha II, inherited his father's absolute powers, and with it all of Hawaii's land. When Kamehameha II died in London in 1824 * * *.



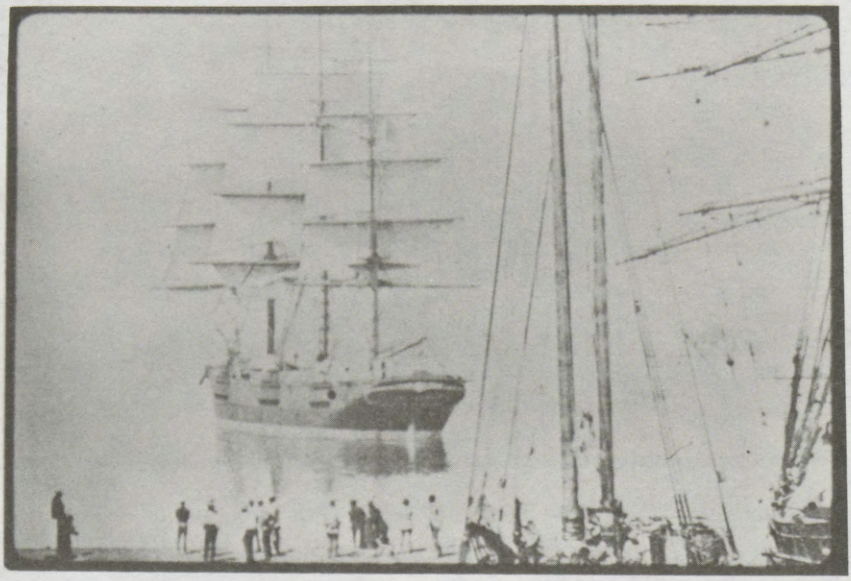
Ten: His brother, a 9-year-old son of Kamehameha the Great became King. Kamehameha III was a boy when he became king and inherited all of Hawaii's land.



Eleven: By the time Kamehameha III became a man and able to run his own kingdom, he had been acculturated—brain-washed partially if you will—by the Americans and Englishmen in leadership position in his kingdom. Foreigners from America and Europe living in Hawaii believed in possessing lands in fee simple—and Americans not only resented a king owning the lands where they lived and worshipped and did business on, but resented the concept of monarchy.



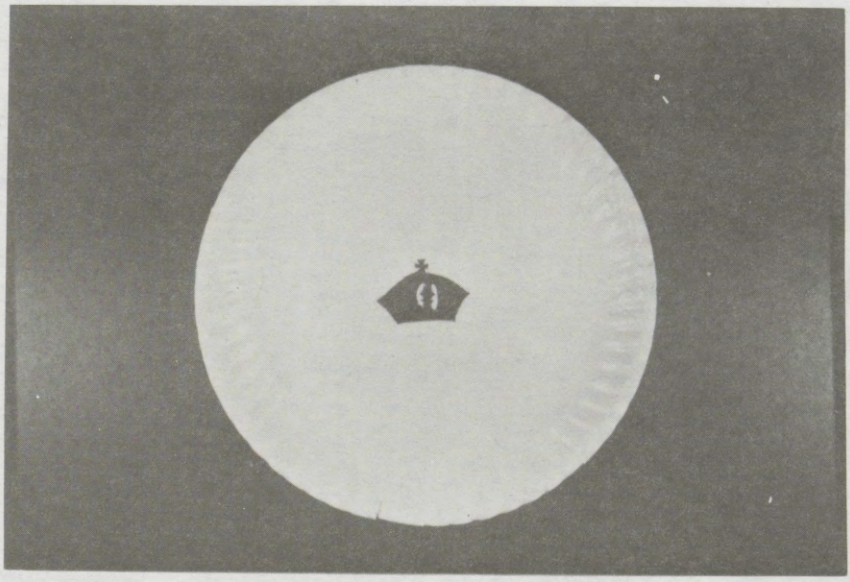
Twelve: Foreigners in these lands, sometimes supported by warships in Honolulu harbor, forced the king and his council of chiefs to change, along with others, Hawaii's land policies. This led to the 1839 "Bill of Rights," which among other things protected private property and stopped landlords from throwing tenants off land without good cause. About 1840, Hawaii went from an absolute monarchy to a constitutional monarchy, and with the guidance of its American writers.



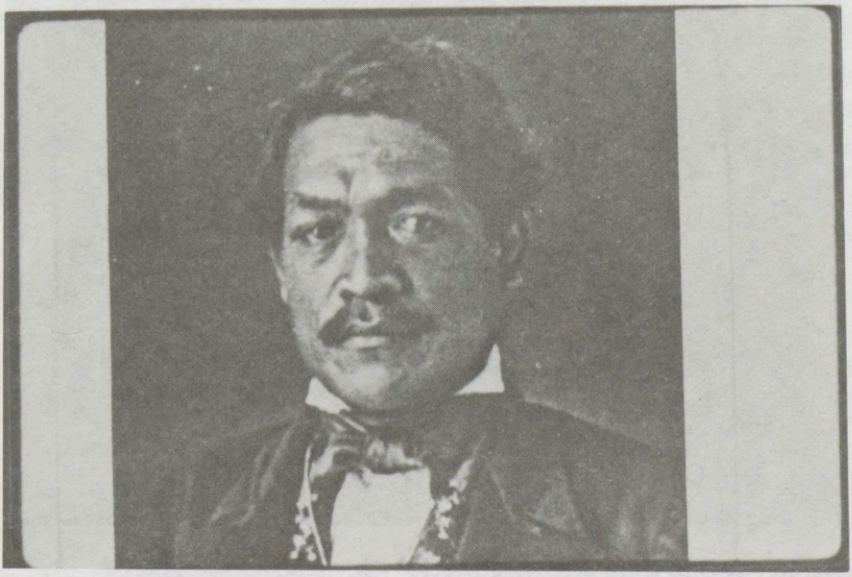
Thirteen: Hawaii's first constitution declared that Kamehameha the Great really didn't own the land after all. It was not his private property, the constitution said,



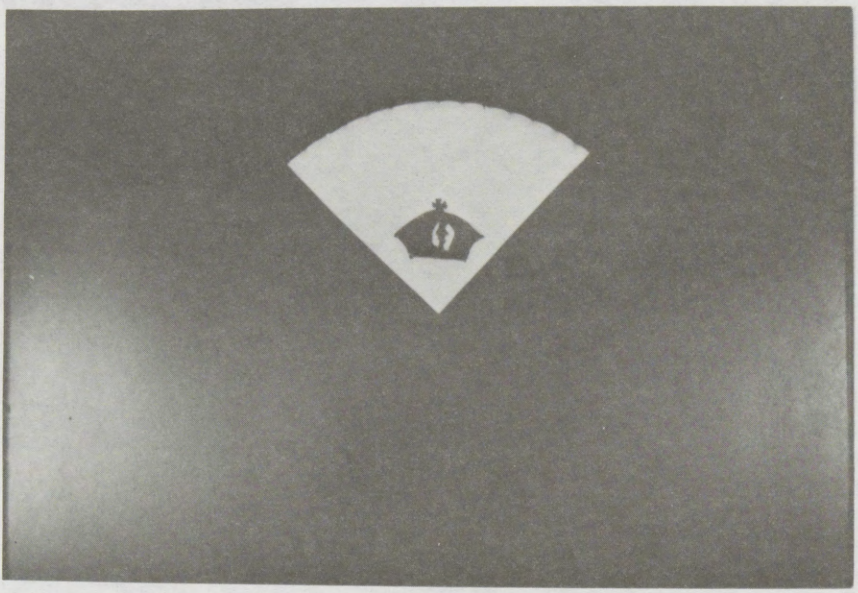
Fourteen: * * * it belonged to the chiefs and people in common. During his reign, the theory went, Kamehameha the Great had been just the trustee, and the manager of the people's land.



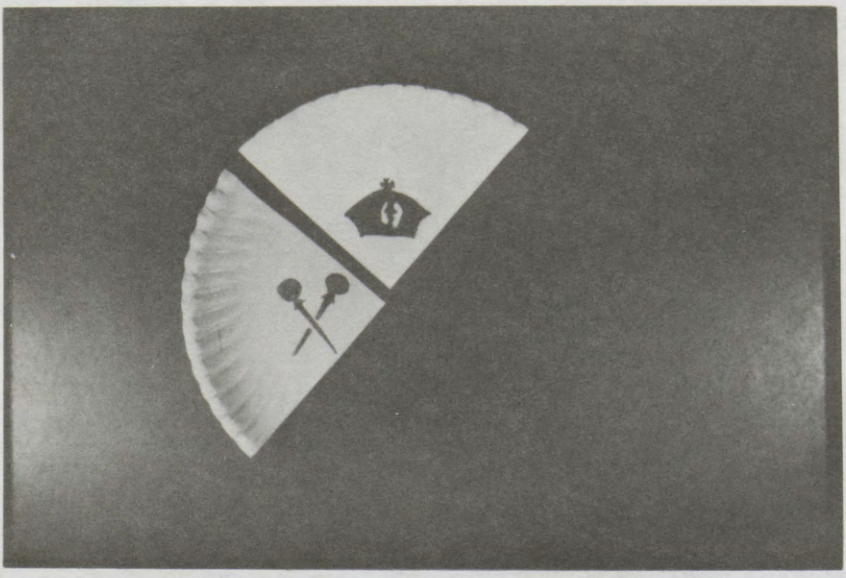
Fifteen: So was Kamehameha III just the trustee and manager of the people's land. The way was set, the philosophy expounded, for the Great Mahele.



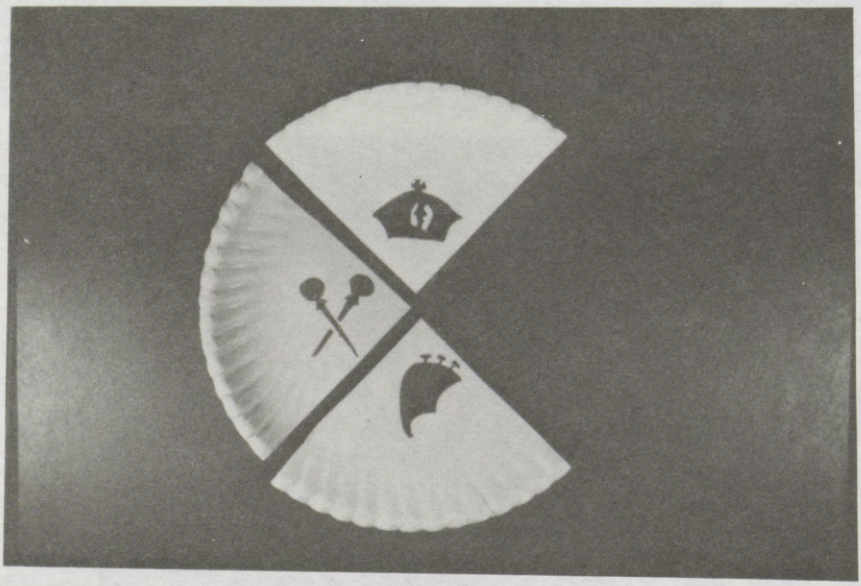
Sixteen: The concept of the Great Mahele was sold as a great, noble idea. This pie chart shows how it was supposed to work. The king picked his own land—the best. This was to be the Crown Land. It was to support the throne.



Seventeen: Of the rest * * * one-third was to go to the Government.

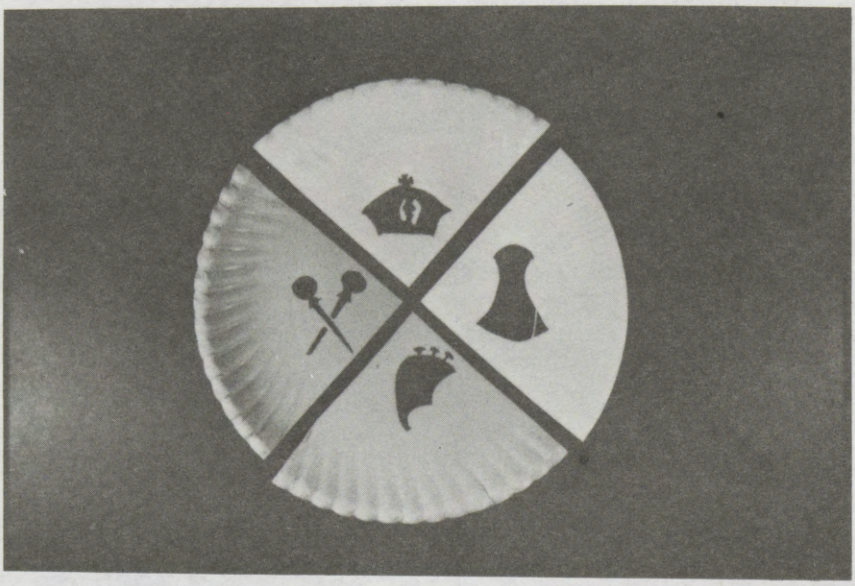


Eighteen: One-third was to go to the chiefs.

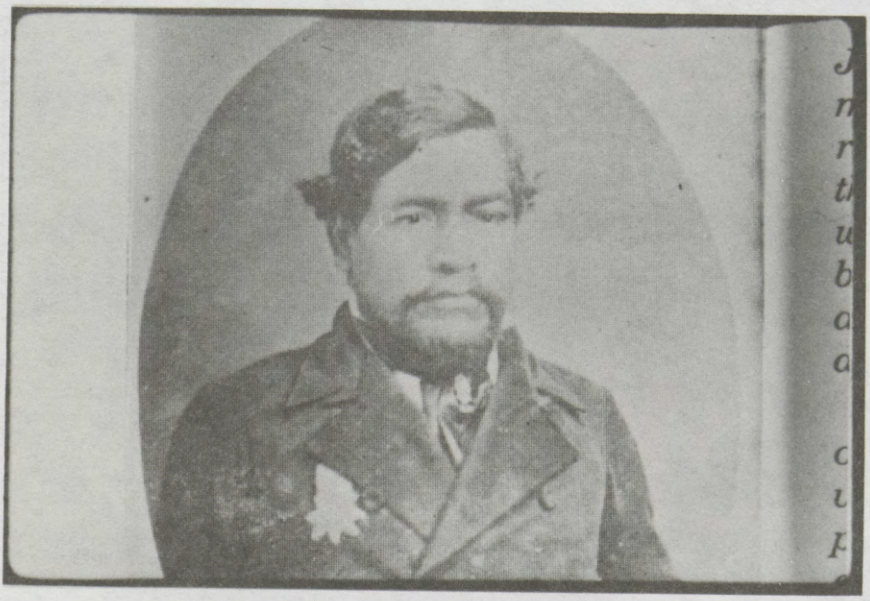


Nineteen: And the commoners, the hu, the makaainana, were to get the last third. The idea said was a nice, neat, tidy, fair, distribution of land. But here's what actually happened.

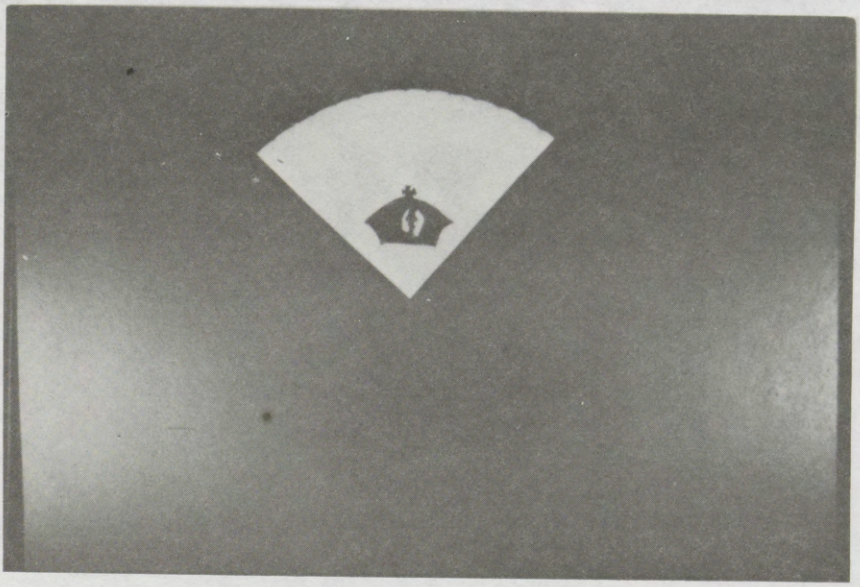




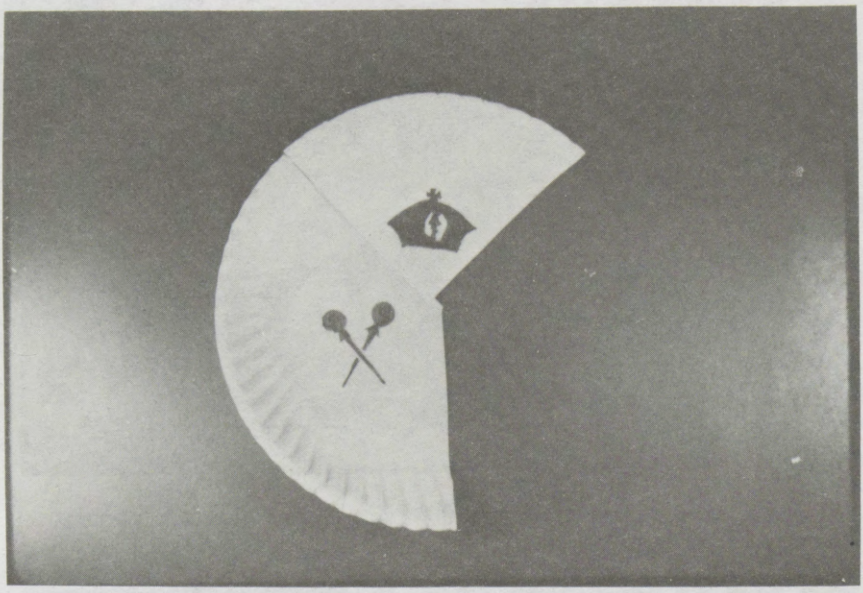
Twenty-one: In the Great Mahele, the King Kamehameha III, took 1 million acres of the best land, as his personal property, as king, as crown land.



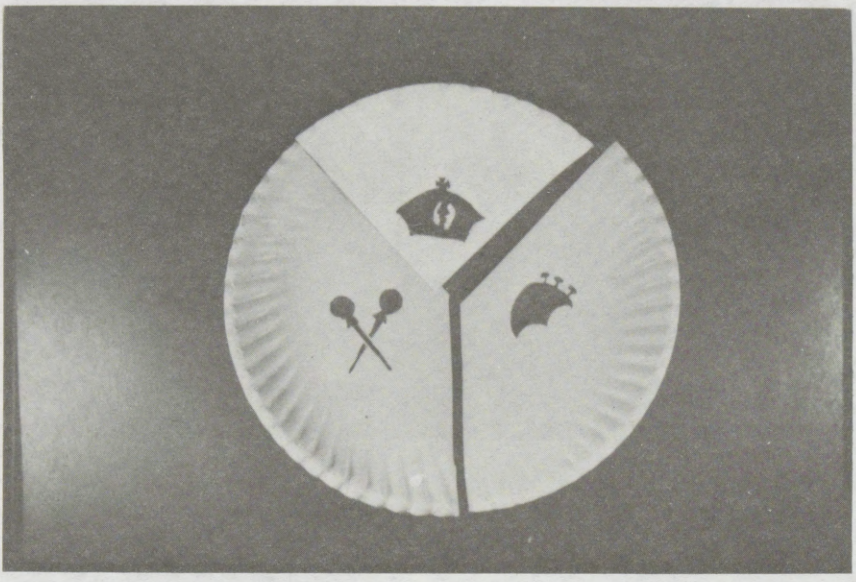
Twenty-two: We'll talk more about this Crown Land later.



Twenty-three: In the Great Mahele, the Kingdom of Hawaii, that is the Government, got 1½ million acres. This consisted of 769 individual parcels on the islands of Hawaii, Maui, Moloka, Kahoolawe, Oahu, Kauai, and Niihau. Many Hawaiians lived on these lands. This is called the government land. The crossed kapu sticks signify government land.



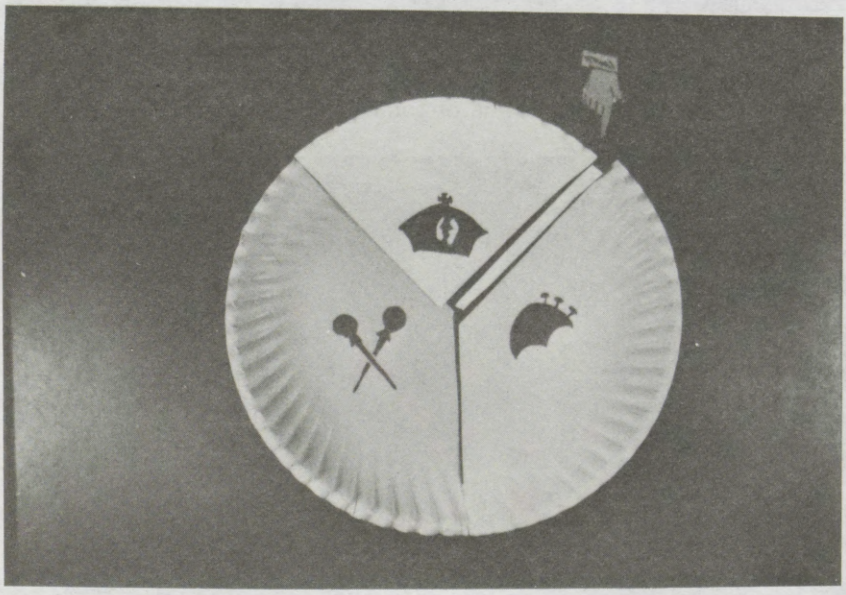
Twenty-four: In the Great Mahele, 240 of the highest ranking chiefs got 1½ million acres, spread as separate parcels over all islands. Most of the estate and private lands of today come from this source.



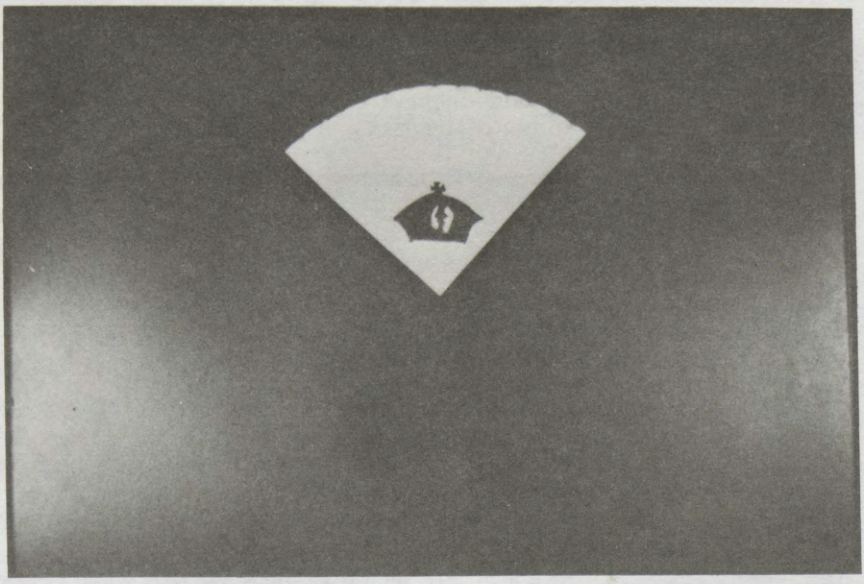
Twenty-five: In the Great Mahele, 30,000 acres—some of it was good agricultural land—went to commoners.



Twenty-six: That's right, 30,000 acres—less than 1 percent of Hawaii's total land.



Twenty-seven: Back to the crown land. His million acres were selected by Kamehameha III. This crown land consisted of 138 individual parcels of various sizes on the islands of Hawaii, Maui, Molokai, Oahu, and Kauai. Many Hawaiians lived on these lands. On March 8, in the Great Mahele Book, his



Twenty-eight: majesty retained for himself, his heirs, and successors forever, quote "my lands * * * these lands are set apart for me and for my heirs and successors, forever, as my own private property exclusively," unquote. It has been held by the courts of Hawaii that he hold perfect title—*Harris* v. *Carter*, 6 Hawaii 195—1877.

As if that isn't definite enough, on June 7, 1848, Hawaii's Legislature confirmed the crown land as private property * * * quote, "To be the private lands of his majesty Kamehameha III, * * * to have and to hold to himself, his heirs, and successors forever; and said lands shall be regulated and disposed of according to his royal will and pleasure subject only to the right of tenants."



Twenty-nine: The rights of the King's tenants were same as the rights of Hawaiian tenants on the chiefs' lands, or on the Government lands. They could own the small plots on which they lived and grew taro.



If they could get the money to survey the boundaries; get the money to hire a lawyer-type to handle the paperwork, and so on.

But if the commoner died without heirs, the land went back to the original owner. As said before, only 30,000 acres ever went to commoners under the Great Mahele program.

Thirty: Kamehameha IV did what he wanted with the crown lands. He sold a bit there, rented a bit here, and mortgaged a bit over there.

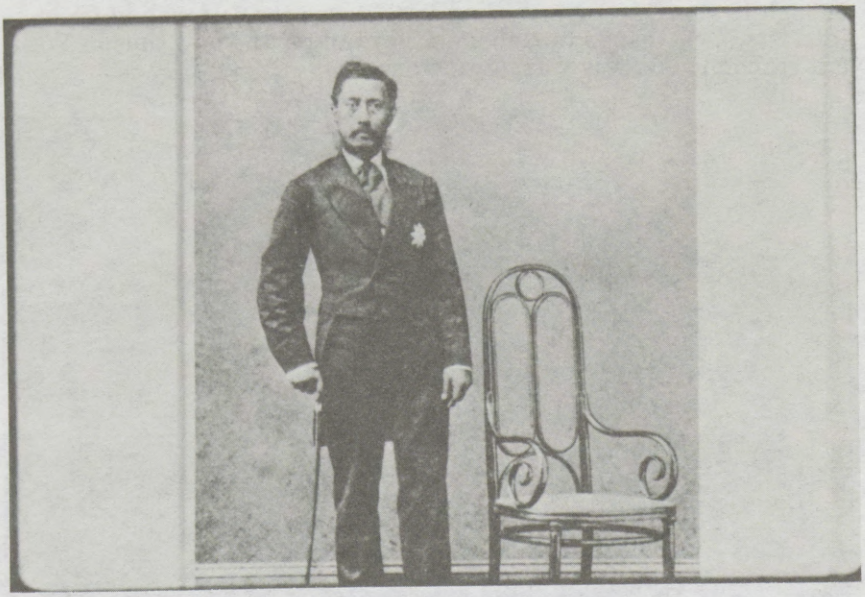


Thirty-one: And so did Kamehameha V. That is, up to January 3, 1865, when a haole-dominated Government reneged on the crown lands. The Government said that the King did not own the crown lands, but only held them in trust. No more selling, no more leasing, no more mortgaging, without legislative approval.

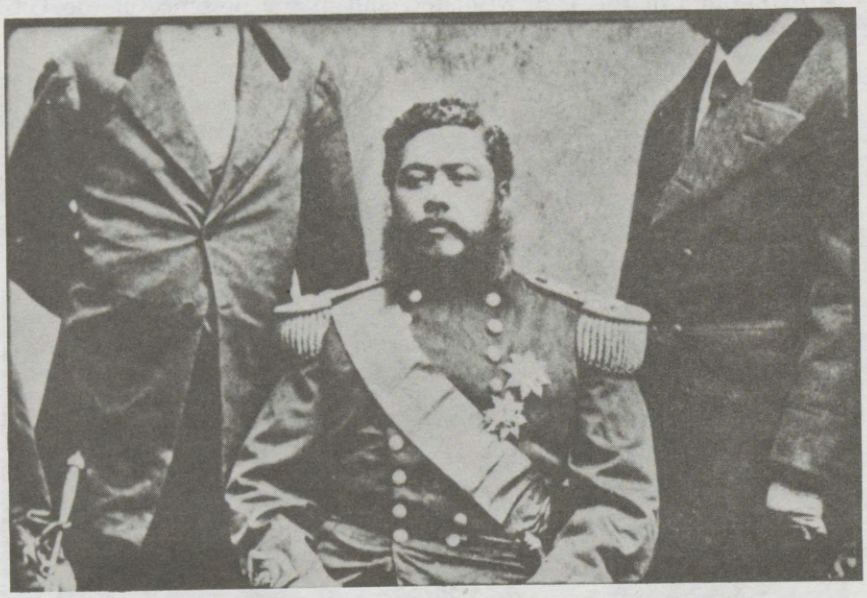
Perhaps one reason Kamehameha V may have been willing to give a little on his rights to the crown land, was a trade, with the legislature. Kamehameha V got the Constitution he wanted in 1864. The 1864 Constitution made the King boss of the Government. Kamehameha V ran Hawaii the way he wanted to * * *



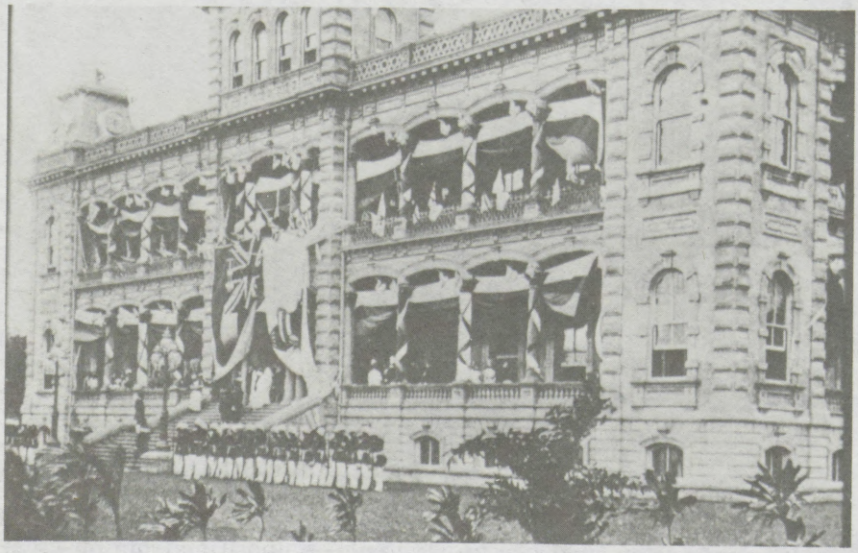
Thirty-two: and so did King Lunalilo * * *



Thirty-three: and so did, for a time, King Kalakaua. But Kalakaua ran into opposition right here in Honolulu—opposition from businessmen and sugar planters with strong economic ties to America. King Kalakaua was forced to sign, some say with a bayonet at his throat, a new constitution, which made the monarch just a ceremonial head of state.



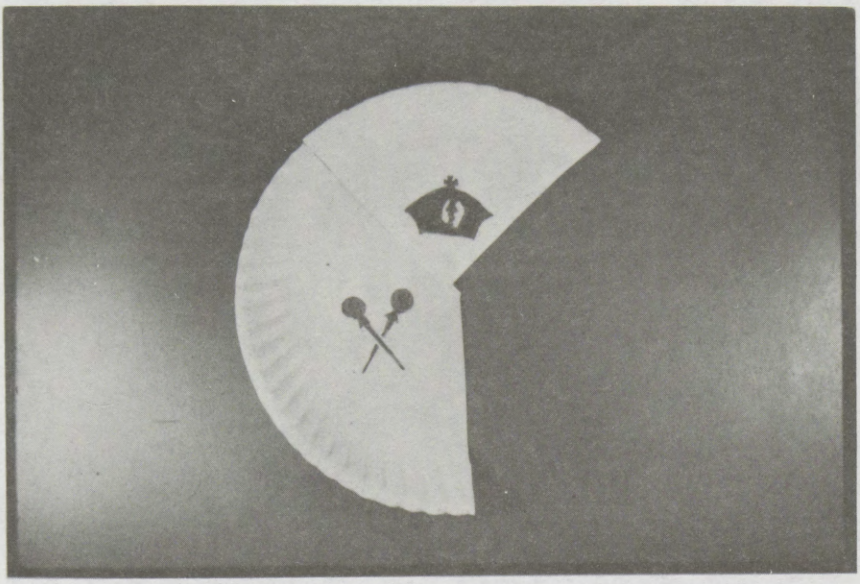
Thirty-four: From then after, King Kalakaua was good only for the parades and ceremonies at the Iolani Palace he built, but not good enough to run Hawaii, according to the downtown Honolulu business interests. Yet, thanks to Kalakaua, Hawaii for the first time in Western economic life, was very prosperous.



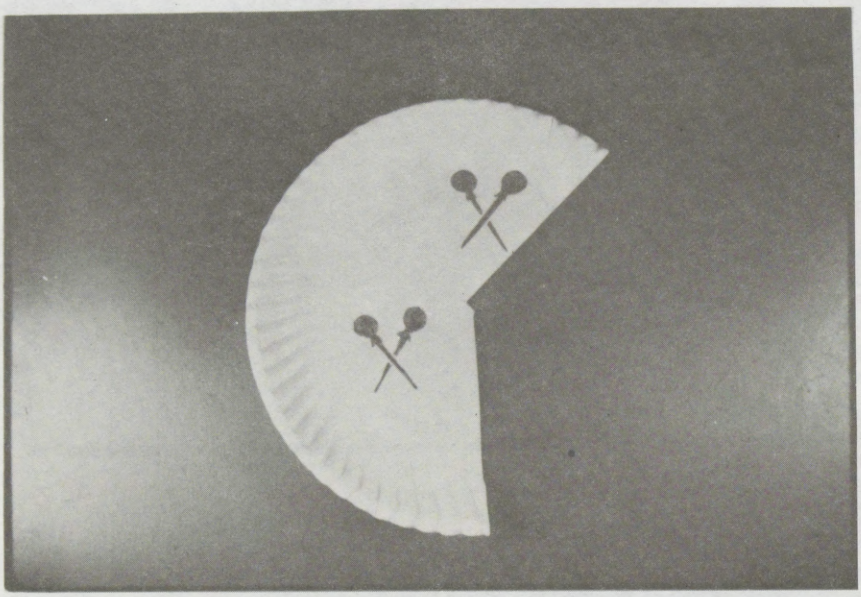
Thirty-five: It was when Queen Liliuokalani tried to throw out the bayonet constitution forced on her brother Kalakaua, that she was overthrown. Her majesty tried to restore the constitution of 1864. Her overthrow was accomplished under the guns of U.S. warships, with the help of the U.S. Minister, and in the presence of the U.S. Marines.



Thirty-six: The revolutionary government—politely termed in most history books as the provisional government—took from the Queen her crown lands * * *



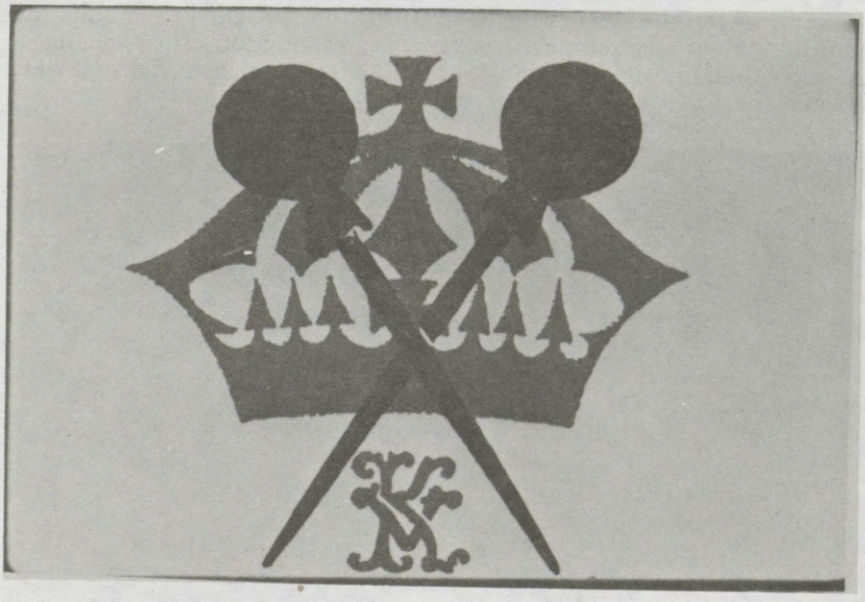
Thirty-seven: * * * and added them to the Government lands. The combined lands were then called variously the Government lands, and/or the Government land and former crown lands. The revolutionary government turned itself into the so-called Republic of Hawaii. When adverse party politics in Washington, D.C., changed to favorable, and in the light of the Spanish-American War, Hawaii was



Thirty-eight: annexed. But part of the deal was that Hawaii gave to the United States * * * I repeat, gave to the United States the Government land and crown land in fee simple to become the absolute property of the United States of America. Thank you.

I will continue my testimony.





Senator MATSUNAGA. Thank you very much, Mr. Apple, for the background information.

Mr. APPLE. My name is Russell A. Apple. I am a professional historian who has worked in the field of Hawaiian history since 1953. This testimony is as a private citizen. Clearance from my employer, the U.S. Department of the Interior, for this testimony has been obtained as per Part 478: Nonofficial Expression, of the Department of the Interior departmental manual.

I hold a master's degree in Hawaiian history from the University of Hawaii. My master's thesis covered Hawaiian land matters. I have completed all requirements for a Ph. D. in Pacific anthropology at that institution except for completing the dissertation. With my wife, I have coauthored a column on Hawaiian history that has appeared weekly since 1969 in the Honolulu Star-Bulletin.

I list a series of related 19th century situations and events which are concerned with Hawaiian land matters and which appear to lead to a historical conclusion.

One: The Kingdom of Hawaii was the legitimate owner of the Government land granted it in the series of land transactions known as the Great Mahele; and Her Majesty Queen Liliuokalani was the legitimate owner of the crown land retained in the Great Mahele by Kamehameha III. The continuity of the Government since 1810 and the orderly succession of the monarchs are not in question, nor is the legality of the Great Mahele.

Two: After the overthrow of Queen Liliuokalani on January 16, 1893, the revolutionaries formed what they termed the provisional government. The provisional government took possession of the Government land of the Kingdom of Hawaii, and took possession of the crown land from the Queen. Queen Liliuokalani protested the overthrow of the crown, and questioned the legitimacy of the provisional government, and of its acts.

Three: In its bid for annexation by the United States in 1893, the revolutionaries offered to give the Government and crown lands of Hawaii to the United States.

Four: In the light of conflicting reports concerning the involvement of U.S. officials and troops in the revolution, and other matters, the President of the United States, Grover Cleveland, withdrew the pending annexation treaty from the U.S. Senate; and sent James H. Blount of Georgia to Hawaii to investigate the reports.

Five: Blount saw that the U.S. troops, still on duty in Honolulu when he arrived on March 29, 1893, returned to their ships in Honolulu harbor. He saw that U.S. flags were lowered from official flagpoles ashore. His report to President Cleveland said that U.S. Minister Stevens and troops from the U.S.S. *Boston* had assisted in the overthrow of the monarchy. Blount recommended that the monarchy be restored.

Six: The provisional government of Hawaii became the Republic of Hawaii in 1894 and took possession of the Government and crown land of Hawaii.

Seven: In the "Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States," approved July 7, 1898, the Republic of Hawaii ceded and transferred to the United States "the absolute fee and ownership of all public, Government, or Crown lands * * * belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereto appertaining."

It is my opinion that the Government of the Republic of Hawaii was not the legitimate owner of the Government or crown lands of Hawaii, and that the United States of America knowingly accepted illegally acquired lands. Thank you.

Senator MATSUNAGA. Thank you very much. Do members of the committee have any questions for Mr. Apple?

Well, thank you again, Mr. Apple, for your excellent presentation.

Our next witness is—is Mr. Peters here yet? Representative Henry Peters of the State legislature will be our next witness. Representative Peters, we will be happy to hear from you.

STATEMENT OF HON. HENRY HAALILIO PETERS, MEMBER, STATE HOUSE OF REPRESENTATIVES, HONOLULU, HAWAII

Mr. PETERS. Aloha. Chairman Matsunaga, members of the subcommittee, and Members of Hawaii's congressional delegation, I appreciate this opportunity to express my views on Joint Resolution No. 4 establishing the Hawaii Native Claims Settlement Study Commission. I come here today as both a State representative and as an ethnic Hawaiian. I come here today in support of this joint resolution.

It has been over 80 years since the Hawaiian monarchy was overthrown by illegal actions. It has been over 80 years since President Cleveland publicly acknowledged the illegality and wrongfulness of this act and espoused the concept of reparation for native Hawaiians. It has been over 80 years since Queen Liliuokalani petitioned the Government of the United States for redress.

And here we sit gentlemen, more than 80 years after the clear recognition, acknowledgement and application for proper redress and reparations. And we are still only "talking" about it.

It is a matter of record that native Hawaiians have had their lands taken away from them. Yet we've had to sit on the side and watch the Alaskan Native Claims Settlement Act take place. We've had to sit on the side and watch American Indians and other indigenous peoples provided with many forms of redress for wrongful acts committed in the past.

It is a matter of record that many studies have been conducted and proposals reviewed on the subject. We have had many congressional hearings here in Hawaii. And we have again, yet another proposal to consider.

After all of this, you may wonder why I am amenable to this particular resolution. I recognize and acknowledge that there are intricacies to our system of government, and that we need the experience and expertise of those who are knowledgeable in the system. I also recognize that you, like any other public official, must meet the objectives of your office. I know that your objectives must include ours. And as long as the people who are affected don't get shortchanged in the process, I, for one, am willing to rely on the judgment and expertise of our good Senators and Representatives.

We have had the idea of a study commission before. However, the resolution before you today contains important improvements over the previous proposal. It calls for a report to be filed by the commission within a year of its adoption. It also removes any ceiling on the amounts which may be appropriated for reparations. These features make the idea of a study commission much more attractive.

I don't know how one attaches value to resources which have been taken away and been unavailable for so many years—resources which could have had immeasurable impact on the standing of Hawaiians in today's society. The social consequences have been great.

Gentlemen, this has been a long time coming. It's time we got started, but we don't want to be led down some primrose path. I acknowledge your expertise, your experience, and your judgment. I only ask that you prove me right. Thank you. God bless you.

Senator MATSUNAGA. Thank you very much, Representative Peters. We certainly appreciate your taking time out to share with us your views on the pending matter, and are certainly pleased to know that you support the resolutions before this joint committee. Congressman Heftel has a question.

Congressman HEFTEL. Mr. Peters, to what extent have you explored the analogy of Hawaii and Alaska?

Mr. PETERS. Well, it seems to me, Congressman Heftel, that the Hawaiians, we were overthrown whereas in the case of Alaska, I didn't see in my investigations any kind of similar act.

Congressman HEFTEL. I ask that question for the record, Mr. Chairman, to point out that Alaska has received reparations. If it was correct and proper to right whatever wrongs occurred in Alaska where there were no acts of violence, it would certainly seem a minimum responsibility of the Government to do this same identical thing for Hawaii where acquisition through an act of violence did occur. Yet, Hawaii still waits.

Mr. PETERS. Absolutely. Thank you.

Senator MATSUNAGA. Any questions? Thank you very much again, Representative Peters.

Next we will have a panel of witnesses representing the ALOHA Association. As most if not all of you know, the ALOHA Association was the association which spearheaded this movement toward reparations for native Hawaiians. We'd be happy to hear now from the following who represent the ALOHA Association.

Mrs. Louisa Rice who is a founder of the association; Mr. Arthur Kinney, who is the President of the ALOHA Association; Mr. Jeremiah Kaluna, the Kauai director of the association; Mr. Arthur Hoke, the Hawaii director; Mr. Charles Rose, also a Hawaii director; Mr. James Kama, the Oahu director; and Mr. Richard DeMello, Jr., who is the president of the Founding Chapter of ALOHA Association.

You have all been seated up front here where you may be seen and where you may be handy for presentation of your part of the testimony.

Mr. KALUNA. I am not Louisa Rice, but on behalf of the ALOHA Association, I'd like to present a lei to Chairman Matsunaga. These are maile leis. We hope you express to Senator Abourezk the meaning of these leis.

Senator Matsunaga, Chairman Akaka of the House, Senator Abourezk. We would also like to present leis to Steven Quarles who was here the last time. He likes it here in Hawaii. Also, to staff member Ed Case out of Matsunaga's office and Barbara, one to Barbara Sokomoto out of Senator Inouye's office. Thank you very much, Mr. Chairman.

We will start now with Mrs. Louisa Rice. She came all the way from the mainland to participate in the hearings today.

Senator MATSUNAGA. Please proceed.
Mrs. RICE. Aloha.
THE AUDIENCE. Aloha.

STATEMENT OF LOUISA RICE, FOUNDER, ALOHA ASSOCIATION, HONOLULU, HAWAII

Mrs. RICE. Honorable Chairman and Honorable—I am sorry. I can't pronounce your name. Honorable staff members and friends.

I think it's really cute because I didn't know about this hearing, really. I came back. I brought my granddaughter back. I took care of her for 5 years when the mama got buried and that was the deal, that if she get married I bring her back; but I guess the Good Lord does watch for all things because when I came back, I was scheduled to go back Monday, and I found out my son had registered my name for the hearings today. So, I stayed long enough to appear here. I am sorry to see so few people. I feel very fortunate, indeed, especially not having known about this hearing to be here today.

I read the resolution here. I find this is the same resolution that was introduced last year, the hearing that we had at the Coral Room, Hawaiian Village. At that time I spoke against it and I still speak against it now.

I feel that when this was started way back in 1971, this was started as a movement to gather the Hawaiian people, especially those way down from the grassroots level to approach Congress themselves. It was not meant and it has never meant that we have someone speak for us. I am sure we are all capable of speaking for ourselves.

We do have our own Congressmen back there and it is to them that we present our problems to be presented to Congress and they are still there and I feel it is their job to take care of our reparations bill, not to pass it on to a bit of a group of people and compose them into a committee or a commission and speak for us. They may be able to get that passed, but I and those who follow the way I feel will not give them the right to speak for us because I will not surrender my right to speak personally to a group of people that are appointed. Whoever they are appointed by, it is their kuleana and we retain our and sustain our right to speak what we feel and this is the same way I will always feel. I do not speak in this manner to be disrespectful, believe me. I speak because this has been my profound feeling from the very beginning and I step aside to let a group of leaders of aloha carry the ball; but that will mean that I have given up. I just stand by and watch and if they don't do the job, by God, I am going to have to come forward and do what I feel should have been done a long time ago. Six years have passed. It's too long.

Without seeming disrespectful, I feel, Honorable Chairman, that you and your colleagues back there should be doing your job. If there is to be a report submitted, you have all the means right there in Washington. Now, you realize that there are some records we are not able to obtain and I refer to that House Executive Number 53–177, I believe. I have found out that that is not available to us. It's only known to Congressmen and before we can get any record of that, that important document, we'd have to pay for it. It's over 700 pages. I

tried to get it, but I couldn't because I don't have that kind of money; but our Congressmen have access to those documents. They should be able to get it and report the findings to our people.

This is what I feel. I feel that you are there to do this job, not to create a commission and pass the buck on to them. That is passing the buck. I don't know how you rationalize it, but that is really passing the buck.

I feel that because we don't have access to some of those records which are very important in our case. You are right there. You should do it. Save us the expense and trouble. I'd like so much to go back there, but I have my family problems. With a business and everything, I have to keep close to home; but if it needs doing, I will save up some more money and go back there, but not for no commission, believe me. I feel very strongly.

I do not say this, what I am about to say, as a repercussion or anything, but I believe that the fight that you had carried on for your fellow ancestral Japanese that were held in California during the war, they were compensated beautifully and I am glad they were. Now, the way you did it for them, I know you didn't get a commission to work for them. You did it yourself. Now, come on. Give us that right, too, and ours is a big, big fight. [Applause from the audience.]

I am glad to see you smiling because I like you very much, but I will say it the way I feel. Please don't let us scramble to and forth trying to get our cause to you people. It's been done already. All the speaking and the hearings, they are over with. Now it is time to get down and get that bill in. It should be in by this year. I thank you, sir. [Applause from the audience.]

Senator MATSUNAGA. Thank you very much, Louisa. Louisa, we have a few questions for you. As I understand it, the views expressed by you just now are your personal views and not those of the ALOHA Association.

Mrs. RICE. I speak as one who started the whole thing and feel very responsible and very obligated to it. As a founder I speak of it now.

Senator MATSUNAGA. You know, of course, that the ALOHA Association with Arthur Kinney as its president met in State convention on Kaui recently and did adopt a resolution supporting Senate Joint Resolution 4.

Mrs. RICE. Well, like I say, I have never been informed. Before I left Hawaii, I requested that I be given copies of whatever goes on. I have never been given a copy and I don't know if I should say it here now.

I think that resolution is invalid because I would like to declare that election invalid in the first place. It was never done according to the bylaws. No ballots were sent out and at least the courtesy should have been given me to get a ballot. I didn't get no ballot so I consider that election invalid and that joint resolution invalid also.

Senator MATSUNAGA. Well, let me ask you this question. You, of course, are not opposed to any reparations for native Hawaiians?

Mrs. RICE. No sir.

Senator MATSUNAGA. You are in favor of reparations?

Mrs. RICE. Definitely.

Senator MATSUNAGA. You are rather impatient about the time that it has taken for the Government to act, is that it?

Mrs. RICE. Well, it is your imposition of this commission on us. I don't feel that we should have any commission and if there is to be a lengthy report submitted, it is right there in the Library of Congress.

Senator MATSUNAGA. You know, of course, that it took 5 years for the Alaskan Claims Act to be enacted, and the Alaskan Claims Act, of course, had as its basis a provision in the Alaska Organic Act of 1884 which mandated that Congress at some point consider the land claims of Native Alaskans. We don't have that in our Organic Act which made us a State, so we are hoping that by taking this initial step we will have forwarded what, at least in our best opinion, we feel is the most expeditious way of bringing out the reparations which you, as founder of ALOHA Foundation, are so much in favor of.

I might also point out that while you say that the Japanese-Americans interned during the Second World War were given handsome reparations, they actually got 10 cents on the dollar. If that is handsome, well, I would hope that it would be a much better case that we will put forth for the native Hawaiians.

Mrs. RICE. I thank you very much.

Senator MATSUNAGA. Senator Abourezk has a question.

Senator ABOUREZK. Louisa, this is not really a question. I just want to try to express to you as one Member of Congress how I first felt about the proposition of Hawaiian native claims, and I am speaking of a person who has dealt with American Indians claims for a number of years and have been sympathetic and, in fact, have fought very hard in favor of those claims.

When I was first approached by someone—I can't remember who—a few years ago to ask if I would support Hawaiian native claims, my first reaction was what? Them too? As familiar as I am with native claims, my prediction, if Sparky and the rest of your delegation went back to Washington and put in a bill for immediate payment without some kind of factfinding basis and research basis, everybody would throw up their hands and say, "That is enough. We have had it."

I think, what I hope you can understand is, what they have done is they are laying a foundation for a valid claim to be filed with the Congress and for Congress to approve and pass. So, I think when you hit them right in the face with the thing, they would shy right away. I speak from experience on that.

Now, for example, the Alaska Native Claims Act was passed based upon a commission that was established and studied the claim of Alaskans. They produced a 600-page report.

Mrs. RICE. I know that also.

Senator ABOUREZK. And it was such a good basis for it that Alaska got a claim passed by the Congress. It was unprecedented in the history of this country. There may never be another one that big unless the Penobscot Indians who are trying to take over the State of Maine win their case; but just as a matter of explanation, I am not trying to defend Sparky or the Congress. They can speak for themselves. I want to explain the political realities of the situation.

Mrs. RICE. I am aware of that, sir. I am aware of that, but I feel our case is a little unique because we just happened to have come upon us accidentally; and because it had come to me personally, I feel the brunt of that burden upon me and I feel I must keep right along with

it because it really doesn't matter how it is done. But when you create another commission and here is the Board already established, incorporated and everything, that's duplication of what we are doing.

By God, give us a chance. Give us the opportunity to step forward ourselves. This is what I feel. We need this. It is an honor for us to do it. Don't take it away from us. That is about it.

Senator MATSUNAGA. Any further questions?

Congressman HEFTEL. Louisa, if the Members of Congress, and there are 535, feel they have an obligation to establish a commission which would contain a majority of members of Hawaiian ancestry to do a study with the Congress defending and supporting their ultimate position in terms of reparations for Hawaii and native Hawaiians; do you think it would be desirable for Congress to initiate this commission if a bill would be unsuccessful?

Mrs. RICE. Well, then, that is when we have to gather our forces again and keep submitting a new bill each year, but the thing is this, Honorable Heftel, I feel that the decisions that would have to go to this bill would have to be decided by us people, not by this group that will be chosen.

According to my knowledge now this group will decide what is going to go into this bill all the way, whether we like it or not, that is, back in the grassroots area. So, I feel by sustaining and retaining what we already have, we have the means of communicating with the grassroots people; but the Commission, no way.

Congressman HEFTEL. Louisa, I understand your concerns that another body is making recommendations to Congress when you feel you already have the necessary information to provide Congress. However, if the Congress honestly feels, as do my colleagues Danny Akaka, Senators Inouye and Matsunaga, that Hawaii will best be served in terms of reparations for native Hawaiians by the establishment of this Commission, do you think we would do better to give Congress this commission they desire, or to refuse their request, thus jeopardizing a future bill?

Mrs. RICE. Well, I am sorry to appear stubborn, but you just can't get me off that way at all. I just feel that you will be taking away the rights of our people to speak. They will be fighting this Commission. We don't want the Hawaiian people fighting the Commission. I'd like to have—I mean, not literally fighting, but I'd like to have them fight in Congress, not within the Commission, a group of people.

Congressman HEFTEL. Louisa, do you really want to fight with Congress or do you want to work with Congress?

Mrs. RICE. I am not using the correct word, I think. I would have to say to submit, not fight, to submit our cause.

Congressman HEFTEL. But if the Congress, representing all 50 States, feel it needs this Commission to determine the facts in which the bill would be developed and the reparations determined, isn't it better to cooperate with the Congress doing this than fighting in this issue since the ultimate objective will be the same, with the one exception that Congress feels this is the most responsible way to proceed?

Mrs. RICE. OK, if the majority of the Hawaiian people feel the way you do, fine with me; but so far, the people I have talked to don't feel that way. So, because of their feelings, now I feel that this cause has to consider the feelings of our people. When I speak of people, the grassroots, the poor people in other cases cannot even be heard.

If they feel that way, fine. I go along with that, but I feel the majority of the people don't feel that way and what you are listening to are the elite Hawaiian people of our community, really.

Congressman HEFTEL. This isn't a case of the elite. This is a case of what Congress says.

Mrs. RICE. But the elite are those who are in high positions, those who are right up in the middle class. Why I say this because in the beginning, when I whole heartedly came out, I approached all the so-called expertise people, the elite people. No response from them at all. I got response only from the grassroots people and that is why I say I cannot ignore their feelings. I would not like to see anybody so unhappy about it; but if I find the majority of the Hawaiian people are for it, I go along, but that is the only way. If that is their feelings, it is the way you Congressmen should go along.

Congressman HEFTEL. It isn't so much the way we feel. It is the 535 Members of Congress who have stated their preference to go forward in this manner. It is the same way they proceeded with Alaska. This is the way Congress normally operates, and perhaps, it is important for you to be aware of this; this is the way the Congress would normally do this and it would be a very difficult task to change the minds of that many people from so many different States. It is much more efficient to assist in doing it their way, in establishing a commission which would have 11 members from the Hawaiian community. It may not be perfect, but for Congress to act, this Commission may be the way to proceed rather than to prolong it further.

Mrs. RICE. Well, are you saying that if we compromise in that manner they will respond beautifully, but I feel from the manner that the Hawaiian people have suffered and the way our people have suffered and, therefore, all these past years they have suffered, by God, I think we should have the right to come up the way we started. That is the way I feel. I am sorry.

Senator MATSUNAGA. Thank you.

[Applause from the audience.]

Senator MATSUNAGA. Our next speaker is Mr. Arthur Kinney, president of the ALOHA Association.

STATEMENT OF ARTHUR KAILUA KINNEY, PRESIDENT, ALOHA ASSOCIATION, KAUAI, HAWAII

Mr. KINNEY. Senator Matsunaga and members of the panel, aloha. I do not intend to testify at this hearing because I testified at both hearings previously. It is a matter of record, but I would like to make it known that I take the attitude that our ALOHA Association took at our last convention, that we support the resolution as introduced in the Senate and later in the House.

We were told some years ago when we first started that it would take us between 6 and 9 years. We are now in our 6th year. We have also been told that we must show unity back here at home. The last person to tell me that was Congressman Heftel in a telephone conversation just after his election. We know that many of our people are becoming impatient. They would like to see the reparations bill passed as soon as possible.

We also know, and we have been told so by our Congressional delegation and our legal counsel, that the only vehicle by which we

may have our reparation bill become law is through this resolution. I feel that the resolution is the necessary vehicle for us. We have had controversy on it. At first I was not in favor of the Commission; but with the new resolution I changed my mind and I feel that it is absolutely necessary.

The Hawaiian—when I speak of the Hawaiian, I mean a group as a whole, the native Hawaiians. The Hawaiian has two strikes on him at the present time and a curve ball is coming up and he is taking a good grip on that bat and he is going to take a healthy swing at that ball regardless.

My idea of a good batter is to keep your eye on that ball, but our people, some of them, are going to swing at that ball regardless. If we make this a third strike, it will be our finish. It will be the finish of our Hawaiian people. I can tell you that. Therefore, we must work hard together. Internal problems can be handled, but when we come out and fight such a thing as a resolution as introduced in both the Senate and the House, then I think we are making a big mistake.

Our problem, ALOHA Association, our big problem has been finances; but the way is being opened that we may be able to obtain a good financial footing before the end of the year. We have been curtailing our movements because of this fact that we have run short of money. So we feel, that is, ALOHA Association through its convention, that we would like to support the resolution as introduced in introduced in both houses. Thank you.

Congressman AKAKA [presiding]. Thank you very much, Mr. Kinney Are there any questions by the members of the panel? If there are none, may I call on the next person listed, Mr. Jeremiah Kaluna, who is the Kauai director of the ALOHA Association?

Mr. KULANA. Mr. Chairman, can I introduce our panel leader who is John Agard and then we will follow after him?

Mr. AGARD. Thank you, Jerry.

STATEMENT OF JOHN AGARD, MEMBER, ALOHA ASSOCIATION, MAUI, HAWAII

Mr. AGARD. Honorable Chairman, Senator Matsunaga, who just left, Hon. Senator James Abourezk, Hon. Representative Daniel Akaka, Hon. Representative Cece Heftel, staff members and members of the press and concerned citizens, Aloha ka kame aka, aloha kau ko.

The AUDIENCE. Aloha.

Mr. AGARD. For the benefit of our mainland committee members, I did not swear at you. I just offered a warm good morning. My name is John Agard and I have been actively involved in the Hawaiian movement for 7 years since my return from the mainland. Today, as a member, I was asked by the ALOHA Association to serve as a panel moderator and, as such, I would perform the following: First, provide introductory and summary statements relative to subsequent testimony by panel speakers representing the board of directors of the ALOHA Association.

Second, serve as a coordinator in response to questions coming from your committee. The purpose, of course, of forming this panel is to provide a battery of experts who are capable of jointly fielding questions from the committee if necessary.

We have a panel of six speakers, including myself, and you may ask each panelist questions as they complete their statements or wait until we have all completed our statements.

Our first speaker today is Arthur Hoke. Arthur will be speaking on the recap of ALOHA's position for the record.

STATEMENT OF ARTHUR A. HOKE, JR., VICE PRESIDENT, ALOHA ASSOCIATION, MAUI, HAWAII

Mr. HOKE. Thank you, John. Honorable Senators and representatives, my name is Arthur Hoke, Jr., and I am the current vice president of the ALOHA Association. My testimony today is addressed at section 3(b) of Senate Joint Resolution 4 at line 14 on page 6. It is designed to offer an explanation of the ALOHA Association's position with respect to the requested recommendations.

First, in February of 1975, when the Subcommittee on Indian Affairs held its first hearings on the matter of the Hawaiian Claims Settlement, we offered a conceptual model for consideration as a vehicle to handle the issue of native claims. Since ALOHA was incorporated in July of 1973, until today it has maintained its position with respect to this conceptual model. A testimony covering this point can be found printed in the text of those original hearings.

In February of 1976 the Senate Committee on Interior and Insular Affairs held its hearings on the Hawaiian Claims Settlement issue. The ALOHA Association again presented its position with respect to the eventual settlement using the same conceptual model and offered as evidence of this a settlement proposal which can be found from pages 62 to 74 in the text of that hearing.

Today the ALOHA Association again comes before your congressional gathering and our basic position with respect to native claims remains unchanged. Our main concern today is that the language of the resolution not be made restrictive as it presently appears to be in several sections. The record of the two previous congressional hearings on Hawaiian native claims and the record of these hearings, when they are complete, will show clearly that the Hawaiian people are fully capable of rational and consistently sound thinking, that the Hawaiian people are represented by leadership in their many organizations that will address you at these hearings that personify the, quote, the clear, rational and consistently sound thinking I have referred to.

Before your committee lies a vehicle which the Hawaiian people, through which the Hawaiian people may finally receive a redress of the grievances commenced by Queen Liliuokalani through her petition shortly after her wrongful overthrow. We ask today that this vehicle be left open to imaginative, innovative thinking, not unnecessarily hindered or hampered to prevent a full and complete expression of the wants and needs of our Hawaiian people, by the only ones that can perform these tasks, the Hawaiian people themselves.

Thank you very much. If there are any questions, I'd be happy to answer them.

Senator MATSUNAGA [presiding]. Specifically, when you say that the provisions relative to the recommendations of the commission are overly restrictive, what are you suggesting?

Mr. HOKE. Specifically, Senator, under section 3(b), it limits the scope of the findings of this commission. For example, at line 20 on page 6, it says, "That emphasis shall be placed not on direct grants but on investment," et cetera. These are the kinds of decisions that I feel should be left to the prerogative of the Hawaiian people, to make whatever kind of recommendations they feel are justified to this commission; but the wording of the proposed resolution prohibits the commission from finding in any other matter.

Senator MATSUNAGA. You understand, of course, this was the language of the resolution which was reported out by the Senate Committee on Interior and Insular Affairs in the last Congress.

Mr. HOKE. Yes, sir.

Senator MATSUNAGA. And as a consequence of a suggestion made by a Member of that committee, whose support was necessary. However, I believe your concern can be remedied in this resolution just as we have eliminated the ceiling which was imposed at the insistence, initially, as you recall, of one Member of that committee. This is the same language which was insisted upon by that same Member, and we feel that he now has come around to at least a sympathetic attitude towards the entire matter.

Mr. HOKE. The second example on page 7, beginning at line 6, where it talks about the provision of land as any component of the settlement and it specifically excludes the commission from making any consideration of the Federal Government purchasing or condemning lands to make them part of the settlement.

These are the kinds of respective language that we are talking about that we would hope would not appear in the mandate to the commission so that the commission can really make an objective analysis of what kind of reparations should be the settlement.

Senator MATSUNAGA. Again——

Mr. HOKE. And this, I understand, was also at the insistence of that same member.

Congressman HEFTEL. Mr. Hoke, on page 6, line 20, of the resolution, it provides, "That emphasis shall be placed not on direct grants but on investment of funds," but it does not exclude funding of some form by direct grants. It doesn't exclude it.

Do you feel that language was not——

Mr. HOKE. I am not saying excluded, but what it appears to say if the will of the Hawaiian people should be that the majority of the settlement is made in direct grants, it cannot possibly be. I don't personally believe that to be the will of the Hawaiian people.

Congressman HEFTEL. You would like to have the commission free to determine, for example, between direct grants and investment of funds in the open resolution of the matter rather than a predetermination in the resolution?

Mr. HOKE. Yes, sir.

Congressman HEFTEL. With regard to Federal lands on page 7, line 7, you will note that this commission cannot require the Federal Government to purchase or condemn lands. However, they could have a finding regarding surplusing of Federal ands so, again, there is not a total preclusion of lands in Hawaii owned by the Federal Government being used as part of the settlement. The only question is whether there be a requirement provision for purchase or condemnation. Thus, the matter you are concerned with has been at least partially addressed here.

Mr. HOKE. Yes; but I think the essence of what we are trying to say is that if you limit it only to surplusing Federal lands, then the scope of the settlement is unnecessarily narrow because the Federal Government doesn't control that big a portion of the State of Hawaii.

If the Federal Government is precluded or if this commission is precluded from recommending, for example, that the Federal Government should condemn 90 percent of the State lands and make these part of the settlement, it can't even recommend that.

Congressman HEFTEL. So, in both cases you would like the commission given greater latitude regarding both condemnation and purchase of the lands and the question of direct grants versus preinvestment of funds?

Mr. HOKE. Yes; not because this is what I feel the settlement will be comprised of, but if we are going to have a commission created to make an objective study, then it seems unfair that before the study is even commenced that the findings of the study are limited.

Congressman HEFTEL. I think it should be pointed out that our predecessors agreed to this language in an effort to get a resolution they thought could be passed.

Mr. HOKE. Yes, we are aware of that.

Congressman HEFTEL. We will go back and reflect on what you have given us, However, it would be important to note that if this language is required, would you want us to go forward with this resolution or kill it?

Mr. HOKE. If I am wrong, please correct me, but it is our understanding, and by "our" I mean the ALOHA Association, it is our understanding that the report of this commission will not automatically become law. That it is, in effect, just recommendations to Congress and Congress at some future time must wrestle with the decision.

All that I believe we are asking for is since the vehicle would appear to be best made through this study commission, let the study commission have the totality of information available to itself, make the presentation.

Congressman HEFTEL. There is no disagreement here. We are just trying to find out how hard you want us to try and pursue the change in language.

Mr. HOKE. I would like to see the language liberalized considerably from what it presently reads; but if the only way that this vehicle gets passed is with the language as written, then we will have to deal with that in the future.

Congressman HEFTEL. That was my main concern. If we find we can't get this change of language, should we pursue the commission in your estimation, recognizing that this is the best that we can do for whatever the reasons?

Mr. HOKE. Yes; with the clear understanding that it would probably be against the wishes of the Hawaiian people and they would react to it very strongly.

Congressman HEFTEL. Thank you very much.

Senator MATSUNAGA. John, will you proceed then?

Mr. AGARD. Before we proceed to the next panelist, we have a lei here for representative Cec Heftel who happened to be out of the room at the time they were being issued.

Congressman HEFTEL. If we could only take this back to all of our Members of Congress, it would be much appreciated.

Mr. AGARD. Our next panelist is Jimmy Kama and he will be addressing the resolution and specifically the study commission. Jimmy?

STATEMENT OF JAMES KAMA, DIRECTOR OF THE OAHU BRANCH OF ALOHA ASSOCIATION

Mr. KAMA. I would just like to say thank you, John, and to the Members of the Senate, I would like to say a very fond aloha. I am happy to be here this morning to represent the grassroots people and the type of people I am talking about is the Hawaiian aboriginals. I am James Kama. I am a member and director of the ALOHA Association from this island of Oahu.

As the record will show, the primary force behind the reparations and the majority of eligible recipients are grassroots Hawaiian aboriginals. We are the "Makaainana"—commoners—who have always suffered in the past and have never been justly compensated for the injustices done to us. We have lost our lands, our dominion rights, and sovereignty. Yet, through these past hardships, the Hawaiian aboriginals have kept their faith. We see your deliberations and decisions as the righting of wrongs against us and our Kupunas.

The selection and make up of the study commission must not discriminate or eliminate the grassroots Hawaiian from serving. They are the beneficiaries and should dominate the six Hawaiian commission members to be selected.

Therefore, the ALOHA Association recommends that the last sentence of section 2, (b)(1) be eliminated. This sentence states:

> At least four members shall be conversant in Hawaiian native culture, history, or language, and one member shall be knowledgeable concerning Federal and State laws which are addressed to or significantly affect Hawaiian natives.

As you can see, these additional requirements assures that only educated and learned Hawaiians will be selected. It leaves out the many grassroots Hawaiians who in actuality practice their Hawaiian culture, history, and language in the privacy of their homes and with their families.

Again, thank you for giving us this opportunity to express our mana'o [innermost feelings]. Mahalo.

[Applause from the audience.]

Senator MATSUNAGA. Any questions? Thank you very much.

Mr. AGARD. Our next panelist will be Charles Rose and he will be addressing the basis of ALOHA claims for the record. Charlie.

Mr. ROSE. Aloha. My name is Charles L. Rose, Jr., I am presently the secretary of the ALOHA Association Inc., the prime movers behind the issue of Hawaiian native claims.

I appear before you in behalf of the ALOHA Association to discuss with you the legal bases for our claims.

Let me begin by stating that this is the third time that our organization has appeared before U.S. congressional committees to provide testimonies dealing with our claims.

We first appeared on February 11, 1975, at a hearing conducted here in Honolulu, by the subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, U.S. House of Representatives, 94th Congress, first session, dealing with House bill 1944. At that

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time, the legal bases for our claims was presented by the then vice president of our organization, Mr. Kekoa Kaapu. His testimony and the dialog that followed can be found on pages 31 to 51 and on pages 54 to 62 in the printed report of that committee's hearings.

We next appeared on February 9, 1976, almost a year later, at a hearing conducted here in Honolulu, by the Committee on Interior and Insular Affairs, U.S. Senate, 94th Congress, second session, dealing with Senate Joint Resolution 155.

At that time, the legal bases for our claims was presented by our current vice president, Mr. Arthur Hoke. His testimony can be found on pages 87 to 94 in the printed report of that committee's hearings.

Mr. Chairman, we now appear a third time, which is about 2½ years since our original appearance and ask that you bear with us as we express a sense of frustration and disappointment with the slow and lengthy processes of the U.S. Congress. We try so hard to be patient and understanding but at times find it difficult. Never the less, we know that we must continue to try to persuade you and your colleagues that our cause is just and our request reasonable.

Toward that end, Mr. Chairman, because we feel that the legal basis for our claims has been presented in great detail and at length during the two prior hearings I mentioned, we will not present it in its entirety at this time, but instead will present a brief summation of our position. We do request however, that copies of the printed committee hearings dealing with House bill 1944 in 1975 and Senate Joint Resolution 155 in 1976, be made a part of the file of this committee for its review.

Mr. Chairman, basically our claim is that as a result of unauthorized illegal and dishonorable acts by agents of the U.S. Government stationed within the Hawaiian Islands in the year 1893, the Hawaiian Government, a constitutional monarchy, was overthrown and a provisional government created against the will of the Hawaiian Native people. The fact that the overthrow was supported by agents of the United States and was not authorized and was illegal and dishonorable, is clearly established and proven by an investigation ordered by then President Grover Cleveland and is well documented in the U.S. Congress.

We contend that this was a substantial wrong committed against the Hawaiian Native people and that grievous harm and suffering has been the result of this wrong. We submit that we have suffered two principal losses or injuries. First, is the loss of our country, our nationhood, our sovereignty, our right to rule ourselves. Second is our loss of domain, our right to the common title of those lands that were in the public domain prior to the overthrow and were ceded to the United States. We further contend that we have never been compensated for these wrongs committed against us, we have never been compensated for these injuries inflicted upon us, and that justice and fairness require that compensation be made.

Mr. Chairman, this is our case in capsule form, and as I have stated earlier, the case has been presented in great detail and most eloquently by our people at two prior hearings.

At this time, I would like to call to your attention, a committee report from the Committee on Interior and Insular Affairs, of the 94th Congress dealing with Senate Joint Resolution 155, dated September

20, 1976, reporting favorably on the resolution with amendments. We ask that this report be made a part of the file of this committee for its review and submit it as further evidence of the validity of our claim. Of special significance is the paragraph on page 12 stating "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 of 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."

Senator MATSUNAGA. I might say, Mr. Rose, that by earlier action the committee has made the record of the hearings a part of the record. [See app. I, p. 288.]

Mr. ROSE. Thank you, sir. Mr. Chairman, we are hopeful that your committee hearing will result in the same findings as that of the Committee of Interior and Insular Affairs of the 94th Congress.

Mr. Chairman, this concludes my remarks as a member of the ALOHA Association. However, I feel I am compelled to testify as an individual, to call to your attention certain concerns that we are faced with. Besides my activity with the ALOHA Association I am also involved in other Hawaiian issues. I am a member of the Hawaiian Civic Club movement, which is one of the oldest Hawaiian organizations, having been founded by Prince Jonah Kuhio. There are 40 Hawaiian Civic Clubs throughout this State and two in the State of California. I presently serve on the State board of that organization.

I am also active in the Hawaiian Canoe Racing Association which is an effort to preserve or perpetuate the sport of Hawaiian canoe racing and preserve the Hawaiian Koa canoe. On the Big Island, I am the president of the Mokua Hawaii Canoe Racing Association. We have racing events that involve 1,100 people participating and 3,000 to 4,000 spectators. It is probably the largest recreational event occurring on the Big Island today.

Professionally I serve as a law enforcement officer. I have completed my 22d year of service in the Hawaii County Police Department and am presently a captain in charge of the criminal investigation division. However, I want to make it clear that I speak only as an individual.

Native Hawaiians have served in the field of law enforcement for many years. They have served honorably. Hawaiians have aspired to the highest positions in the field of law enforcement and I am concerned that we will be putting Hawaiian against Hawaiian because of the fact that issues with government Hawaiian people face do not get resolved. As an example, the interaction between government agencies and the Hawaiian people has been so dismal at best and possibly oppressive at worst, as an example, on the Federal level I cite right now situations like the long struggle to obtain reparations which we are addressing today.

I cite situations like the inability of the Hawaiians to have their race inserted in the 1980 census. As I understand, a report has come out that they do not favor inserting Hawaiian as a race for the 1980 census although requests have been made, I believe, from your own office.

I cite the inability to resolve the struggles of Kahoolawe where we have lost two young lives already and several of our people have been convicted of criminal offenses.

I cite the irony of the U.S. Navy just swearing in 73 citizens of this State into the fifth all Army-Navy unit, of which they have served, as I understand it, in honor. This event occurred on July 2d of this year. And this same Navy is involved in the bombing of Kahoolawe.

I cite the Hawaiians who have come before the courts to challenge on a social issue a law, fully realizing that civil disobedience is a tool of an oppressed people; but I fear that there will be violence in the future. That is why I believe we must urge you, whatever way we can, to persuade you, to give some assurance to the Hawaiian people that have been hurt.

They listen to you. Whether we have been heard is another thing. Senator, I don't want to get emotional, but I compel you, please help us.

I believe that this legislation is the basis, is the foundation, for the uplift of the Hawaiian people, I think it is very important that it be speedily handled.

I am hopeful you can get this commission created by the end of the year. Give the Hawaiian people some assurance that they are being heard and interact with the government to prevent our own people in social issues getting into conflict with our own people who are the enforcers of our laws. I am very frightened. Thank you.

[Applause from the audience].

Senator MATSUNAGA. Thank you very much. I might say in response to your emotional plea that the Hawaiian delegation is fully behind the resolution.

As you know, resolutions have been introduced in both the Senate and the House and in order to expedite matters, we decided to have a joint hearing rather than separate hearings. The Senate had planned earlier to hold separate hearings, but then it was felt that if we held a joint hearing, then we would definitely expedite matters because the House, too, would then have a basis for acting as a consequence of these hearings.

For that reason, every effort was made to have the Hawaiian Members of the House of Representatives, who are not members of the Interior and Insular Affairs Committee, to be made ad hoc members of that committee for the purpose of representing the House committee at these joint hearings. I think you can definitely see the trend toward expeditious handling of the resolution.

Mr. HOKE. Please, Mr. Chairman, I don't want to give the impression or to offend you folks in any way. I don't want to give you the impression that I am singling you folks out for complaint, but please understand the frustrations that we are working under and we appreciate your efforts. We urge that you do whatever you can to have this speedily resolved.

Senator MATSUNAGA. Congressman Heftel has a question.

Congressman HEFTEL. Charles, I wish that you could have been in Washington when we held the hearings with the Census Bureau Chairman, Mr. Plotkin, and asked why all of us received the same form letters from his office when we asked why we could not get part-Hawaiian as part of the census for 1980.

It was obvious, though many of us wrote letters of inquiry with different statements, we all got back the same form letter. I had mine and I compared it with Pinky Thompson's and it was the same form letter with the same stamp of Plotkin's name without a signature.

Now, during that hearing I was not nearly as polite as you have been about the fact that the Census Bureau was not coming back with answers to our questions. They were talking about something unrelated.

The Chairman, William Lehman, from New York, was equally firm in saying that he was not satisfied with what the Census Bureau was telling us. Pinky Thompson testified and I don't have a copy of the transcript of the total hearings yet because we left before we saw a transcript; but when I get a copy of the transcript, I will send it to you.

Mr. HOKE. I'd appreciate it.

Congressman HEFTEL. For your information, we did make your voices heard. Pinky Thompson, those of us who were on the committee, as well as the letters from Danny Akaka, and our Senators, were all very firm and very well-heard and read.

I can't tell you if we will prevail, but we are not going to lay down and stop fighting very easily and we will very vigorously pursue the part-Hawaiian designation to replace the existing "Pacific and Asian" category. Although status reports on this issue have been few, we have worked tirelessly in this effort, and I thought you should know that.

Mr. HOKE. Thank you very much, Congressman. Like I mentioned earlier and maybe my words are misunderstood, I believe that what you are telling me is correct. You were listened to. I do not believe you were heard because if you were heard, they would have a census and Hawaiians would be in it. [Applause from the audience.]

This is the point I am making. This is why I appeal to you folks. Don't only listen here because you just gave me an example that the Census Bureau don't hear you.

Congressman HEFTEL. But we don't know yet if they have heard us. Certainly, if they continue to ignore us then there will be additional action. We will not diminish our efforts, but it is very hard to make that Census Bureau listen—and this feeling is shared by many, not just Hawaiians.

Mr. HOKE. Sir, as a government employee, I can assure you that I am well aware that it is very hard to make that all bureaucrats hear. [Applause from the audience.]

Mr. AGARD. Thank you, Charles, for that moving delivery.

Gentlemen of the committee, we didn't intend to keep you in suspense, but our next panelist will remove that suspense and that is Jerry Kaluna. He will address a statement of support relative to Senate Joint Resolution 4.

STATEMENT OF JEREMIAH KALUNA, AN ALOHA ASSOCIATION DIRECTOR FROM KAUAI

Mr. KALUNA. Chairman Matsunaga, members of the distinguished committee, aloha. I am Jeremiah Kaluna, an ALOHA Association director from Kauai. The ALOHA Association (Aboriginal Lands of Hawaiian Ancestry) appreciates this opportunity to show our support of Senate Joint Resolution 4 and House Joint Resolution 526. As the record indicates, from our last presentation in February 1976 of

the Senate Hearings on Senate Joint Resolution 155, the ALOHA Association had some misgivings. Since that time, the many questions that we had previously have been resolved and included in Senate Joint Resolution 4 and House Joint Resolution 526. The ALOHA Association at its last annual meeting on Kauai voted to endorse Senate Joint Resolution 4.

We realize that there is still work to be done on the present Senate Joint Resolution 4 and House Joint Resolution 526 after your hearings today and tomorrow on Maui. The ALOHA Association has a few reservations concerning "Extinguishment of Hawaiian Rights," makeup of the study commission, and the use of the title "Aboriginal Hawaiians" instead of "Hawaiian natives."

Because the Aboriginal Hawaiians have been patiently waiting for over 84 years to have the injustices done to them corrected by the U.S. Government, it is hard for them to give up their "Hawaiian rights." Until an agreement for reparations that includes lands and monies is achieved, the question of extinguishment of Hawaiian rights will be a major question.

The ALOHA Association recommends that the six Hawaiian members on the proposed study commission be selected primarily from the Aboriginal Hawaiians at the "grass roots" level or their elected representatives.

Senate Joint Resolution No. 4 and House Joint Resolution No. 526 have replaced "Aboriginal Hawaiians" with "Native Hawaiians. We recommend that "Aboriginal Hawaiians" be put back into the final joint resolution. It is much easier to associate aboriginal Hawaiians with our continuing drive for reparations. I know that throughout your hearings these reservations will be raised.

Again our warmest aloha to each of you for being with us today. Mahalo. Thank you very much.

Senator MATSUNAGA. Thank you very much, Mr. Kaluna. Any questions for Mr. Kaluna?

Mr. Agard, will you proceed?

Mr. AGARD. Our final panelist will be Richard DeMello and he will be addressing the resolution pertaining to the commission. Richard.

STATEMENT OF RICHARD DeMELLO, JR., PRESIDENT, FOUNDERS CHAPTER OF ALOHA ASSOCIATION

Mr. DEMELLO. Honorable Chairman, representatives of our Government, and Senator Matsunaga, especially. Since our first hearing that we had a few years back I saw a lot of emotions displayed basically and a lot of repetition of what happened, especially around 1893. Since a lot has been brought out and I don't want to be repetitious, I have prepared some testimony in regards to the resolution itself. I am going to read you what I wrote and there's some notes I'd like to, some points, I'd like to bring up afterward.

Senator MATSUNAGA. Please proceed.

Mr. DEMELLO. On behalf of our efforts to make right the wrongs that have accumulated since 1820 all the way until today, I would like to say that this is just another rip off. I'd like to single you out, Senator Matsunaga, but if we allow our rights and privileges to be decided upon by an intermediary, the commission, then we will have a repeat performance of what has occurred in the past. Examples are

the so-called great Mahele and the provisional government. You can go on and on.

We are seeking reparations for the loss of our rights that have spotlighted in the overthrow of Queen Liliuokalani. By the way, her name is not spelled right in the resolution itself. Does anyone here know how this effort started? It was not started by a commission, but it was started by a simple grassroots Hawaiian. It took a grassroots Hawaiian to bring to light the need for reparations and at the same time I have been told, we have been told, we need a commission to decide if we are going to get those reparations. All of the testimony that has been presented speaks to a positive side. I don't know, you know. I have seen examples of single people coming forth with a lot of knowledge of injustices. Take Waiahole and Waikani. These are just grassroots people.

During the winter semester of 1976 at Brigham Young University I attended one of our student forums of which Senator Inouye was our featured speaker. One of the points brought out by Senator Inouye was that whenever a bill is introduced, one of the first questions that is asked is: What does the administration think?

Am I to believe that a commission that has appointees of the administration on it will be totally uninfluenced by the person or body making the appointment and whom they have to report to?

I don't want to sound ungrateful for all the efforts that have been put into this commission idea, but, here again, an intermediary is being put between us and our Government. President Carter has shown us that he wants to get closer to the people, especially by staying in their homes, very accessible to them, and along comes the proposal to put a body between us and our leaders. This is just undoing what our President is trying to accomplish. I feel we can follow suit and follow his example. I am tired of being treated as an incapable person, by having someone else appointed to speak for us. I say let the Hawaiian people begin now to speak for ourselves and begin to work for their future. Let us be the ones to decide what our needs are. It is too easy to shut off the communication of our needs and wants to Congress when the person speaking on our behalf is there because the Government itself chooses them.

The real uplift of our people will not come because of the handout that Congress itself decides to give us, but by the sweat of our own efforts to achieve what we need. The grassroots people need to be the ones to make known what they want. They're the ones with the most to gain.

I believe we have seen numerous occasions when the Hawaiian people can speak out. I see many young leaders emerging from within our own homes and islands, and they are not speaking out because they are reading or knowledgable of history. They're speaking loudly because they're truly and personally experiencing the hardships and wrongs put on us. They are the ones suffering.

The commission will supposedly consist of distinguished Hawaiians who shall have knowledge of our language, culture, and history. Without using any strong language, I'd like to say that this burns me up. When my mom and I, along with the help of my brothers and sisters, first initiated this reparations movement, the people who laughed the loudest were the so-called distinguished members of our State. Only when the common grassroots people started to rally forth and support

us did we start to get support from our majority of distinguished citizenry or more commonly called our high makamake. If we are given the chance to work for our reparations ourselves, then we can always call in the experts to give us the information we need. I ask you, please stop putting people in front of us or between our Government and us. We need to do our own talking and our own work. Only when we can do our own work and communication can we get something that is genuinely Hawaiian. We need to earn what we deserve. The greatest joy we can achieve is to be able to say that we have earned our reparations not only because we are receiving justice but because it is something that we worked for, too.

I grew up on Molokai. We were very poor, very poor. There were times when we only had coconut, pineapples, and I could go steal bananas. Otherwise, we did a lot of hunting. I grew up prejudiced, I didn't like the Japanese because they had everything and we had nothing. I know many Hawaiians who have grown up in the same way and they remain in the same situation, frustrated, prejudiced. I feel extremely fortunate that since this whole movement has started I have become familiar with my own Hawaiian history and I went to Kam School and they never taught me this. My prejudices, my frustrations have changed. I hope I am not prejudiced. I don't feel I am.

Sparky, if I may call you that, I didn't vote for you when I first was able to vote because I was prejudiced. I think if there are any members here of the Hawaiians, I used to always question when you brought up the bill, "are you really for the Hawaiians or not?"

I am just using you as an example. Today, I respect you among all our representatives. I know you are trying. I know that a lot of you are trying. I have learned a lot. I have learned to love the other races because I have seen them struggle whereas the Hawaiian people, some people call them lazy, dirty. Some say we are just Primo Beer drinkers, you know.

If reparations come out and we just get money, that is not going to help us. I can see by my own example that what can really help the Hawaiian people is to educate themselves to become familiar with who they are, to gain an identity. By doing this, they can love their neighbor, they can feel proud of who they are and people will be proud of their Hawaiian neighbors because they will see the Hawaiians will work hard. [Applause from the audience.]

Senator MATSUNAGA. Thank you very much, Mr. DeMello. You referred in your testimony on several occasions to "My mom." You, of course, were referring to Louisa Rice?

Mr. DEMELLO. Yes.

Senator MATSUNAGA. Thank you, again, for your testimony.

Mr. AGARD. Thank you, Richard. In the interest of saving time and sharing time, I will postpone a visual illustration until later or this evening. If there are no questions, further questions, I mean, from the committee, in conclusion you have heard our urgent concerns.

We respectfully request that you find our claim just and that you will help us in our cause.

We further request that you use the statements provided in the panel's testimony and God bless you. We need your direction, your education to show us the way.

We leave you with a charge, push, push, push, and push some more. Mahalo. Aloha.

Senator MATSUNAGA. Thank you very much. The committee will now go into recess for lunch and we will be back here at 2 o'clock. I am sorry that those who were supposed to appear this morning and testify have not been able to do so yet, but if you are able to come back again at 2 o'clock, we will take it again in the order as was shown. If you are unable to appear, we would be happy to receive your written statement for the record and your statement will appear in the record as if you had presented it in person. Mahalo. We will see you after lunch.

AFTERNOON SESSION

Senator MATSUNAGA. The joint committee will come to order.

We will continue with the hearing that we started this morning.

Due to the press of business, two have requested that they be put on early. Again, I regret that this morning we were unable to go through the entire list.

We have with us at this time Mr. Richard K. Sharpless, managing director of the city and county of Honolulu, who is representing Mayor Frank F. Fasi.

Congressman AKAKA. May I ask the unanimous consent to include in the record the statement and prayer that was given this morning by Reverend Akaka?

Senator MATSUNAGA. Without objection, it is so ordered.

Mr. Sharpless.

STATEMENT OF HON. FRANK F. FASI, MAYOR, CITY AND COUNTY OF HONOLULU, AS PRESENTED BY RICHARD K. SHARPLESS, MANAGING DIRECTOR, CITY AND COUNTY OF HONOLULU

Mr. SHARPLESS. Thank you very much for permitting me to go on now.

I want to read the testimony of Frank F. Fasi, mayor, city and county of Honolulu, to the U.S. Senate Committee on Energy and Natural Resources; subject: Senate Joint Resolution 4, establishing the Hawaiian Native Claims Settlement Study Commission, and for other purposes.

Mr. Chairman and members of the Committee on Energy and Natural Resources:

I am here today to urge serious and sympathetic consideration of the issues which the above Senate joint resolution addresses. I regard this proposed legislation as a meaningful opportunity for the United States of America to discharge its moral obligation to the descendants of the native inhabitants of the Hawaiian Islands who were deprived of ancient rights through the actions of the United States of America and its official agents.

I think that right now is not too soon for our great Nation to give Hawaiians the same consideration which has been afforded the Indian nations and the Alaska Eskimos.

Unlike some who have argued for Senate Joint Resolution 4 on the basis of interpretations of historical fact and alleged fact, I do not wish "to get lost in yesterday."

I am not particularly concerned about technical and legal arguments pro and con concerning Hawaii's land title system—termed the Great

Mahele—which today stands back of every fee simple land title in the State of Hawaii.

I am not particularly concerned about the potential interest that every subject of the Kingdom of Hawaii held in crown and government land at the time the monarchy was overthrown.

I am not particularly concerned that subjects of the Kingdom of Hawaii may have suffered various types of intangible damage by the overthrow of the monarchy, or that the exchange of Hawaii citizenship for U.S. citizenship may have represented a loss in status.

I am not concerned about yesterday. I am concerned about today.

I am deeply concerned that persons of native Hawaiian descent comprise a large, identifiable component in the State of Hawaii's hardcore poverty problems.

I hasten to add that there are many, many citizens of native Hawaiian descent who are fully as successful, affluent and influential as the members of any other ethnic group in the State. Furthermore, persons of native Hawaiian descent are not the only identifiable ethnic group in the State's hardcore poverty picture.

The Hawaiians have a special claim on our attention. These islands are their native land. The native lands of other ethnic groups are elsewhere. That a number of Hawaiians have failed to keep pace with the progress and prosperity of their native land is regrettable. That some have fallen into the hardcore poverty cycle is tragic.

The social costs connected with hardcore poverty are tremendous, ranging from the loss of these person's potential contribution of effort and talent down to the dollar cost of maintaining welfare programs, police forces and prisons.

As mayor of the city and county of Honolulu and through a deep involvement in our now-completed model cities programs and other programs aimed at reducing and, hopefully, ending the poverty cycle, I am well aware that many of our Hawaiian and Part-Hawaiian friends need all the help they can get.

With the right help in such areas as education, economic opportunity, housing, medical care, and the preservation of native Hawaiian culture, I am convinced that a great potential for productive activity will be released.

Eventually, the return to the United States of America resulting from the right sort of help will be worth many times its cost.

I repeat, now is not too soon to help these worthy people by making an appropriate restitution to them for their lost kingdom. [Read portion completed.]

Thank you.

Senator MATSUNAGA. Thank you, Mr. Sharpless.

Our next scheduled witness is Judge Kazuhisa Abe. Welcome to the hearings, Judge.

State your name, please.

STATEMENT OF JUDGE KAZUHISA ABE, ATTORNEY, HONOLULU, HAWAII

Mr. ABE. My name is Kazuhisa Abe. I am an attorney practicing law in the city of Honolulu.

In connection with Senate Joint Resolution No. 4 of the 95th Congress, 1st session, this petition is presented on behalf of some of the

lineal heirs of Princess Theresa Owana Kaohelelani. The Princess, widow of former U.S. Delegate to Congress Robert W. Wilcox, was a collateral heir of King Kamehameha The Great, who established the Hawaiian Kingdom (1810–1893) by right of conquest.

Now assuming or presuming that reparations are due to native Hawaiians, we may dispense with lengthy arguments and accumulations of evidence and confine ourselves, by and large, to making this contribution to the proposal at hand in the interests of fair and just reparations. With the overthrow of the monarchy in 1893, obviously the rights violated and losses suffered by the ruled were not the same as those of the rulers. To settle half the issue without due consideration for the other would be unsatisfactory, first, because the rule of the sovereign chief was an integral part of Hawaiian culture that was lost forever; secondly, because it is in the interest of the American people once and for all to set to rest all issues concerning treaty rights, sovereignty rights, international rights, and property rights that have been violated. We agree that no wrong of this nature could ever be "fully" rectified. Suitable remedy to a readily identifiable group for losses involving readily identifiabe lands is not only practical but very much in order and in keeping with the spirit and purpose of reparations. Over and beyond general losses, there were sovereignty rights and property rights involving the Crown Lands to be considered in order for a Study Commission to formulate adequate recommendations for fair and just compensation.

As an aid to this quest, we present as part of this petition a published thesis entitled The Crown Lands of Hawaii, by Thomas Marshall Spaulding, attached hereto our petition as exhibit A. In our opinion it is a comprehensive, competent, accurate and impartial study of the Crown Lands. In the light of the purpose for which it was written, and the historical accuracy, we believe that it is more worthy of your consideration than if we had prepared a report strictly to be presented to you for your consideration in connection with the Senate Joint Resolution No. 4.

In 1848 Kamehameha III, by the Great Mahele, divided the lands in his kingdom among his chiefs, the public, and the King. The first instrument contained in the Mahele Book provided:

> Know all men by these presents, that I, Kamehameha III., by the grace of God, King of these Hawaiian Islands, have given this day of my own free will and have made over and set apart forever to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government, therefore by this instrument I hereby retain (or reserve) for myself and for my heirs and successor forever, . . . these lands are set apart for me and for my heirs and successors forever, as my own property exclusively.

To gain some insight into the Crown Lands trust and its intended beneficiaries, it is necessary to go back to the founder of the trust, King Kamehameha III. We must bear in mind that according to Hawaiian culture, the right to rule had a spiritual dimension, based on concepts of inherited rank and mana. In ancient Hawaii there was a rigid caste system and within that system was a hierarchy of different grades of chiefs. The highest chiefs directed and controlled subordinate or petty chiefs. As the 19th century scholar Rev. Dr. Charles M. Hyde has correctly put it:

> Among the Hawaiians there was no tribal organization, no tribal ownership of land, no subordination of the individual to the tribe. The social organism recognized the highest chief as the highest ruler. [Taken from: Rev. Charles McEwen

Hyde D.D., "Hawaiian Names of Relationships of Consanguinity and Affinity," The Hawaiian Almanac and Annual (10th ed.; Honolulu: Thos. G. Thrum, 1884), p. 43.]

In harmony with this principle, King Kamehameha III, who inherited the absolute sovereignty of Kamehameha I (his father), and whose children by his Queen consort, Kalama, had died in infancy, sponsored in 1839 a select school known as the royal boarding school, exclusively, for children of the highest chief class in the realm. The following year he freely and voluntarily conferred upon his subjects a constitutional monarchy (probably to gain U.S. recognition of the independence of the kingdom). That the students of the royal boarding school be expressly selected by King Kamehameha in council is written into the law of the kingdom. [Reference on this last fact taken from: Second Act Kamehameha III, an Act to organize the executive departments, 1 Statute Laws of His Majesty Kamehameha III, 213 (1846).]

[Testimony continued:] And in the Report of the Minister of Public Institution read before His Majesty and the Hawaiian legislature on August 1, 1846, states that the Royal Boarding School:

* * * from its commencement embraced all the children of the highest class of chiefs for whom it was particularly established. . . and when time and firm moral and religious sentiment shall have put the finish on their character, there will be nothing wanting to make them all that a nation can desire or want in rules. [Taken from: Report of the Minister of Public Instruction read before His Majesty to the Legislature, Aug. 1, 1846, Honolulu. The Government Press, N.D. 50–52.]

At this point may we call your attention that up to and until the overthrow of the monarch on January 18, 1893, the Crown Lands descended to the heirs and successors of the Hawaiian Crown. It is correct the constitution of the Republic of Hawaii, then the Organic Act for the Territory of Hawaii enacted by Congress made Crown Lands part of the public domain or public lands.

Now assuming or presuming that the Congress of the United States of America recognizes or acknowledges that the overthrow of the Hawaiian Monarchy was a wrong and Congress elects to enact legislation to rectify this wrong, we respectfully submit and recommend that the claims for reparations for Crown Lands by presumptive heirs to the Hawaiian Throne be given due and favorable consideration.

Once it is determined or acknowledged by Congress that the overthrow of the Hawaiian Monarchy on January 18, 1893 was wrong, which should be rectified, in our opinion logic and commonsense dictate that what was originally not a rightful action, cannot be made legal or right by the Constitution of the Republic of Hawaii and the Organic Act. The Crown Lands was merged into the public domain upon the overthrow of the Hawaiian Monarchy—now in our opinion if that revolution and overthrow of the Hawaiian Monarchy was wrongful, the taking of Crown Lands by the constitution of the Hawaiian Republic or the Organic Act should not be deemed to right that wrongful action.

If a wrong is established by the proposed Study Commission—if interference in the internal affairs of a then foreign power has indeed brought down grievous humiliation and tragic losses on an entire royal clan, in violation of international rights, treaty rights, and prop-

erty rights, and so forth, consideration to the lineal heirs of victims of overthrow would be very much in order, over and beyond reparations in general, so that, in fairness, this unique issue that has blotted our history for so long may be settled.

May we respectfully request that Senate Joint Resolution No. 4 be amended to provide for study and consideration of claims for the crown lands; also to consider direct reparations under settlement of crown land claims; and further may we respectfully suggest that at least one member of the class of persons, who are claiming presumptive rights of succession to the throne be represented on the proposed Study Commission, in the interest of fairness and justice, so that the entire question of violated rights may be set to rest once and for all.

Senator MATSUNAGA. Thank you very much, Judge Abe.

Are there any questions from the panel?

Mr. ABE. Thank you very much.

[The prepared statement of Mr. Abe follows:]

STATEMENT OF JUDGE KAZUHISA ABE, ATTORNEY, HONOLULU, HAWAII

In connection with Senate Joint Resolution No. 4 of the 95th Congress, 1st session, this petition is presented on behalf of some of the lineal heirs of Princess Theresa Owana Kaohelelani. The Princess, widow of former U.S. Delegate to Congress Robert W. Wilcox, was a collateral heir of King Kamehameha The Great, who established the Hawaiian Kingdom (1810-1893) by right of Conquest.

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As an aid to this quest, we present as part of this petition a published thesis entitled *The Crown Lands of Hawaii, by Thomas Marshall Spaulding,* attached hereto as **EXHIBIT A.** In our opinion it is a comprehensive, competent, accurate and impartial study of the Crown Lands. In the light of the purpose for which it was written, and the historical accuracy, we believe that it is more worthy of your consideration than if we had prepared a report strictly to be presented to you for your consideration in connection with the Senate Joint Resolution No. 4.

Now on this issue of reparations, in our opinion it will be necessary to have these questions considered and answered. **WHAT WAS LOST; BY WHOM;** and **WHAT COMPENSATIONS ARE DUE.** In answering these questions we believe a review of *The Crown Lands* (Exhibit A) will be helpful.

Inspite of the decision of the U.S. Court of Appeals, regarding the Crown Lands, it is obvious that great losses were indeed incurred by the overthrow of 1893. Deposing Queen Liliuokalani was one thing; abrogating the monarchy was another. Losses suffered included:

1) The Hawaiian Throne - an heritage won by the Conquest by King Kamehameha 1st, from which stemmed the sovereignty rights of the realm. This had been a significant feature of Hawaiian culture, lost forever.

2) The hereditary right of succession to the throne of certain families of the highest chieftain rank.

3) With the throne, all benefits (rents, profits, emoluments, etc.) of the Crown Lands Trust. All of this was forever lost with the abrogation of the monarchy. The Crown Lands had been private lands of King Kamehameha III, placed in Trust to benefit successors to the Royal office. The act of 1865 approved by Kamehameha V in effect insured that the benefits would have continued to accrue to the living successors or sovereign chiefs, had the monarchy survived.

To gain some insight into the Crown Lands trust and its intended beneficiaries, it is necessary to go back to the founder of the trust, King Kamehameha III. We must bear in mind that according to Hawaiian culture, the right to rule had a spiritual dimension, based on concepts of inherited rank and mana. In ancient Hawaii there was a rigid caste system and within that system was a hierarchy of different grades of chiefs. The highest chiefs directed and controlled subordinate or petty chiefs. As the 19th century scholar Rev. Dr. Charles M. Hyde has correctly put it,

> *Among the Hawaiians there was no tribal organization, no tribal ownership of land, no subordination of the individual to the tribe. The social organism recognized the highest chief as the highest ruler.*[1]

In harmony with this principle, King Kamehameha III, who inherited the absolute sovereignty of Kamehameha 1st (his father), and whose children by his Queen consort, Kalama, had died in infancy, sponsored in 1839 a select school known as the Royal Boarding School, exclusively, for children of the highest chief class in the realm. The following year he freely and voluntarily conferred upon his subjects a constitutional monarchy (probably to gain U.S. recognition of the independence of the Kingdom). That the students of the Royal Boarding School be expressly selected by King Kamehameha in council is written into the law of the Kingdom.[2] And the Report of the Minister of Public Institution read before His Majesty and the Hawaiian

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1. Rev. Charles McEwen Hyde D.D., "Hawaiian Names of Relationships of Consanguinity and Affinity," The Hawaiian Almanac and Annual (10th ed.; Honolulu: Thos. G. Thrum, 1884), p. 43.
2. Second Act Kamehameha III, an Act to organize the executive departments, 1 Statute Laws of His Majesty Kamehameha III. 213 (1846).

legislature on August 1, 1846 states that the Royal Boarding School,

> *. . . from its commencement embraced all the children of the highest class of chiefs for whom it was particularly established. . .and when time and firm moral and religious sentiment shall have put the finish on their character, there will be nothing wanting to make them all that a nation can desire or want in rulers.*[3]

The Polynesian lists the names of the students of 1847, as follows:[4]

Moses Kekuaiwa	*Jane Loeau*
Alexander Liholiho	*Abigail Maheha*
James Kaliokalani	*Mary Paaaina*
David Kalakaua	*Lydia Kamakaeha*
Lot Kamehameha	*Bernice Pauahi*
William C. Lunalilo	*Elizabeth Kekaniau*
Peter Y. Kaeo	*Emma Rooke*
William Kinau Pitt	*Victoria Kamamalu*

Much later, Mark Twain would write to the "Sacramento Union", that,

> *In case the King should die without making provision for a successor, it would be the duty of the Legislature to select a king from among the dozen high chiefs, male and female, who are eligible under the Hawaiian Constitution.*[5]

Queen Liliuokalani, a former "Royal" student, confirms that each student's claim to the throne was acknowledged.[6]

Thus we see that King Kamehameha III, founder of both the Constitutional Monarchy (1840-1893) and of the Crown Lands Trust, provided a *pool of eligibles*, acknowledged by himself and counselors. They were of the highest chiefly rank in the realm to be trained as presumptive successors. These acknowledged presumptives were prudently provided by the government for any future contingency. And as expected with vacancies of the throne, the successors, King Lunalilo in 1873 and next, King Kalakaua in 1874 chosen by Parliament, were of this *pool of eligibles*.

In tracing the successors to the Royal Office, let us turn to King Kalakaua,

3. Report of the Minister of Public Instruction read before His Majesty to the Legislature, August 1, 1846, Honolulu. The Government Press, N.D. 50-52.
4. Polynesian (Hawaii), January 9, 1847, p. 138.
5. Samuel Langhorne Clemens, Letters from the Sandwich Islands written for the Sacramento Union by Mark Twain (New York: Haskell House Publishers Ltd., 1972), p. 105.
6. Liliuokalani, Hawaii's Story by Hawaii's Queen (Boston: Lee and Shepard Publishers, 1898), p. 5.

second to the last Monarch of the Hawaiian Kingdom. While Kalakaua, as constitutional monarch, might confer honorary titles, he was not empowered to provide successors of his own right. By the mode set forth in the constitutions (1864, 1887), under which he reigned, he could nominate his successor. This nomination, however, was dependent on the consent of the House of Nobles. In addition, due process required that the accepted and confirmed nominee be publicly proclaimed successor to the throne during the King's lifetime. In the absence of proclaimed successors, the successor was elected by the upper and lower houses of Parliament. And as Minister Gibson reminds us, in the Hawaiian Hansard Report of the proceedings and speeches of the Hawaiian Legislative Assembly of 1886, with regard to the election of King Kalakaua, a former "royal student,"

> *the King may be the father and friend of the people, but all his rights did not emanate from the choice of the Legislature. He had hereditary rights outside of this. He was a great hereditary Chief. At that time the choice lay between two or three of the great Chiefs of whom he was one. Prince Kalakaua was entitled to the throne by right of birth and by limit of choice.*[7]

Queen Liliuokalani, who had survived her brother, King Kalakaua, was his duly proclaimed successor. After her accession to the throne she, in 1892, with the consent of the house of nobles, proclaimed her niece, Princess Kaiulani, to be her successor. Then in 1893 Liliuokalani was overthrown, and the Monarchy abrogated. Since the Crown Lands were annexed to the throne, who then, would be the intended beneficiaries of Crown Lands Trust, if Hawaiian History had not been altered? After the counter-revolution of 1895, Liliuokalani abdicated her rights to the throne. Kaiulani died in 1899 without issue, and then Liliuokalani died in 1917 without issue. Whenever the throne was vacant due to a failure of proclaimed heirs, all the constitutions of the Monarchy from 1840 through the last, in 1887, have provided for legislative acceptance and confirmation of the power of one of these aforementioned, "Great hereditary Chiefs," acknowledged by King Kamehameha III in council, to exercise his or her right to rule. And it appears the minimum requirement of "Native alii of the Kingdom" in article 22 would further obviate the danger of loss of Sovereignty to a foreign power in case of a failure in these highest chiefs with first rights to the throne.

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7. Hawaiian Kingdom, Legislature, The Hawaiian Hansard, a complete verbatim report of the Proceedings and Speeches of the Hawaiian Legislative Assembly of 1886 (Honolulu: Daily Bulletin Steam Co. Printing Office), p. 580.

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Thus, with the overthrow and abrogation of the Monarchy, such sovereign chiefs of the realm lost forever the hereditary right to assert sovereignty, and with it the benefits of the Crown Lands. Queen Liliuokalani would have had successors, and there was a class of highest chiefs next in succession if the monarchy had survived. Their lineal heirs should be compensated for their losses, especially in the light of the Treaty with the United States, ratified on the 19th of August 1850, which states in 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.*[8]

Obviously this treaty was violated and the methods used that resulted in the confiscation of Crown Lands were regarded by President Grover Cleveland to be in clear violation of International Law.

The Hawaiian Kingdom, it may be recalled, was formerly ceded to Great Britain on July 31, 1843. The cession deed, as expected, bore the signatures of King Kamehameha III and his Co-Ruler; the Sovereignty was later restored by the British Admiral Thomas. It would appear the normal procedure, as reflected in later annexation treaty proposals, to extinguish all Sovereignty rights over land and sea. Witness the instructions of Secretary of State Marcy, on annexation,

> *I understand that the measure proposed by the people and that which the present rulers are disposed to concur is 'annexation' as distinguished from protection. . .*[9]

In light of all of this, perhaps U.S. Minister Henry A. Pierce writing from Honolulu to Secretary of State Hamilton Fish (February 25, 1871) had the best suggestion of all,

> *It is said that at a proper time the United States may have the Sovereignty of these Islands without money and without price, except perhaps for the purchase of the Crown Lands and public lands, and moderate annuities to be given to the five or six high Chiefs now living with uncertain claims as successors to the Crown.*[10]

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8. Treaties and conventions Concluded between the Hawaiian Kingdom and other Powers since 1825 (Honolulu: Pacific Commercial Advertiser, Printer, 1875), p. 21.
9. U.S. Congress, House Committee on Foreign Affairs, Annexation of the Hawaiian Islands, 55th Cong., 2d Sess., 1898, H. Rept. 1355 to accompany H.R. 259, p. 170.
10. Henry A. Pierce, Letter to Hamilton Fish, Honolulu, February 25, 1871, Senate Executive Document no. 45 (52d Cong. 2d Sess.) pp. 17-19 in Papers Relating to the Foreign Relations of the United States 1894, App. 2: Affairs in Hawaii. U.S. Dept. of State. 1895 (S1.1: 1894 1 App. 2).

The Crown Lands are readily identificable, as are lineal heirs of family or families of the Highest rank, who would have had presumptive rights of succession to the throne. To cite an example, we hereby assert the claim of lineal heirs of Princess Theresa Owana Wilcox (1860-1943), who with her aunt, the High Chiefess Elizabeth Kekaaniau Pratt (1834-1928), one of the eligibles of the Royal Boarding School, had presumptive first rights to the throne in case of an interregnum. Both were legitimate survivors of King Kamehameha 1st, founder of the Monarchy by Conquest (1810-1893). See **EXHIBIT B** attached hereto.

If a wrong is established by the proposed Study Commission——if interference in the internal affairs of a then foreign power has indeed brought down grievous humiliation and tragic losses on an entire Royal clan, in violation of international rights, treaty rights, and property rights, etc., consideration to the lineal heirs of victims of the overthrow would be very much in order, over and beyond reparations in general, so that, in fairness, this unique issue that has blotted our History for so long may be settled.

Thus, in the light of House Concurrent Resolution 56 and Senate Resolution 393, adopted by the 9th Legislature, State of Hawaii, 1977 (Regular Session), (see **EXHIBIT C** and **D** attached hereto), may we also join in to respectfully request that S.J.R. No. 4 be amended to include the Study of Crown Lands, and that the guidelines recommended by SR 393 be included. And/or may we respectfully suggest that members of the aforementioned class of persons be represented on the Study Commission proposed in the interest of an impartial and bi-partisan study, so that the entire question of violated rights be set to rest once and for all.

Dated at Honolulu, Hawaii, this 27th day of June, 1977.

Respectfully Submitted,

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EXHIBIT A

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THE CROWN LANDS OF HAWAII

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THE CROWN LANDS OF HAWAII

EARLY LAND TENURE

In the history of European civilization, we can readily trace the transition from allodial holding to the purely feudal system of land tenure, wherein the king is the supreme landlord and all other holders are directly or indirectly his tenants; and again to the system now prevailing in the United States, substantially allodial, though marked with traces of feudal theory. In the greater part of the United States feudalism never existed practically at all, or only in such an enfeebled form as lingered on in England in the seventeenth century; but in that little corner of our country called Hawaii men still living were born under a feudal regime in some respects more complete and effective than ever prevailed in mediaeval Europe. The origins of the system in Hawaii are lost in antiquity. We can see its end but not its beginning. From the commencement of authentic history, we find the monarch to be the absolute owner, in theory and in fact, of every foot of land within his dominions, not as an individual, indeed, but in virtue of his office. This was true during what might be termed the period of the Hawaiian heptarchy, when petty kings fought continually against each other, and boundaries of kingdoms advanced and retreated according to the ability and the ambition of their sovereigns. It could not fail to be true, then, after Kamehameha the Great joined all the islands in one monarchy. As king he succeeded to all the legal rights of the sovereigns whom he superseded; as conqueror by force of arms he was able to dispose of the lands of the conquered according to his pleasure, and would have been so even if legal theory had flatly opposed him instead of fully sanctioning all that he did.

All land, then, was the king's. Reserving such as he chose as his private domain, the remainder he granted out to his principal chiefs, who rendered services and taxes in return. These tenants in chief made similar grants of part of their lands on similar terms, and the process continued in the way with which we are familiar in Europe, though in Hawaii subinfeudation was carried to an extent rarely, if ever, known in Europe——certainly not in England. Ownership remained always in the king, and it was no mere shadowy claim of title, but a real and ever-present fact. The royal dues, in service and in produce, were constantly exacted, unchecked by any of those recognized customs which in England and France and Germany placed definite limits upon the demands of the suzerain. In Hawaii the lord had his rights against the tenant, but the tenant had none against his lord. If his burdens proved too heavy his only redress, short of rebellion, was to surrender his fief and seek another lord. Nor had he any security of tenure even while he rendered his dues punctually. Land was occasionally reallotted, and at the death of a king a general redistribution by his

successor was the almost invariable rule. Up to the time of Kamehameha I fiefs in general had not become hereditary. It is true that certain lands had remained for generations in the same families.[1] This may have been more or less accidental, and have implied no acknowledgment of any actual right, but in the course of time it would naturally result in the claim of such a right, and perhaps lead eventually to a general recognition of the principle of inheritance. It is clear, however, that no such custom existed as to most of the lands of the kingdom, and that the transfer of a fief from one family to another was no matter for either surprise or just grievance.

EVOLUTION OF INDIVIDUAL RIGHTS IN LAND

In the last years of the reign of Kamehameha I began that revolution in the system of land tenure which ended, in little over a quarter of a century, with the complete disappearance of the feudal system and the establishment of full individual ownership. Kamehameha I, by adopting the principle of hereditary succession as the normal rule in grants of land, took an important step.[2] The tenant still had no actual right in his land, nor any absolute certainty that he could either retain it for himself during his lifetime or transmit it to his posterity on his death, but at least his expectation of both events became reasonable enough to offer him some encouragement to industry.[3] The Bill of Rights of Kamehameha III, promulgated in 1839, converted this expectation into a legal right, and its principles were adopted in the constitution granted in 1840. "Protection is hereby secured to the persons of all the people, together with their lands, their building lots, and all their property, while they conform to the laws of the kingdom, and nothing whatever shall be taken from any individual except by express provision of the laws."[4] At the same time it was declared: "Kamehameha I was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property. Wherefore, there was not formerly, and is not now, any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom."[5]

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1. Fornander: An Account of the Polynesian Race. (hereinafter, Forander.) II, p. 300.
2. Blackman: The Making of Hawaii. (hereinafter, Blackman.) p. 157.
3. Hawaiian Reports. (hereinafter, Haw.) 2 Haw. 522, for some account of the customs as to inheritance in this transition period.
4. Lydecker: Roster Legislatures of Hawaii, 1841-1918. Constitutions of Monarchy and Republic. Speeches of Sovereigns and President. (hereinafter, Lydecker.) p. 8.
5. Lydecker, pp. 9-10.

After this time, as well as before, all land was the property of the king. But it was no longer subject to his arbitrary disposition. Henceforth neither the king nor any other landlord (konohiki) could remove a tenant or increase his rent except in accordance with law. No subject could yet obtain absolute ownership of land, but a legal interest, enforceable in the courts, could now be had, under lease. As a temporary expedient this served fairly well, but it could be only temporary; with Hawaii now entering the general current of civilization, with trade expanding, with American and European immigration increasing, it was necessary to provide as soon as possible for complete individual ownership. This was done by Chapter VII of the act to organize the executive departments, approved April 27, 1846. Article IV of this chapter[6] directed the creation of a board of commissioners to quiet land titles: "His Majesty shall appoint through the minister of the interior, and upon consultation with the privy council, five commissioners, one of whom shall be the attorney general of this kingdom, to be a board for the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners, to any landed property acquired anterior to the passage of this act; the awards of which board unless appealed from as hereinafter allowed, shall be binding upon the minister of the interior and upon the applicant." There follow various provisions, including one authorizing appeal to the Supreme Court, and then the following: "The minister of the interior shall have power in concurrence with the privy council, and under the sanction of His Majesty, to issue to any lessee or tenant for life of lands so confirmed, being an Hawaiian subject, a patent in fee simple for the same, upon payment of a commutation to be agreed upon by His Majesty in privy council."

The first of the two sections just quoted provides for no alteration in the nature of existing titles, but only for the accurate determination of rights in land already existing, their legal basis being the Bill of Rights of 1839. Tenure at the will of the landlord had become tenure for life or for a term; rent, in produce or in labor, was no longer fixed at the discretion of the landlord, but by agreement of the parties or by law. It was for the board of commissioners to fix the boundaries of the lands in whose possession both landlords and tenants had thus been confirmed, and to determine under just what conditions they were held. It was to give nothing new to either landlord or tenant, but merely to establish definitely their respective rights.

But once the rights of the occupant in his land had been determined,——when, so to speak, the terms of his lease had been recorded,——the second of the two sections quoted would enable him to buy up the reversion at a price to be fixed by the king in council, and to obtain a patent in fee simple, something unknown to earlier Hawaiian law. Other provisions were made in this same act,[7] and in

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6. Laws of Hawaii: [The earlier collected as Volumes I and II; the later designated by the year.] (hereinafter, Laws.) I, 107.
7. Laws, I, 95.

supplementary statues passed within the year,[8] for the sale and lease of land, so that when the board should have completed its work, the law of real property in Hawaii would differ in no essential respects from that in England and the United States.

PRINCIPLES ADOPTED BY THE BOARD OF LAND COMMISSIONERS

In compliance with the statute, William Richards, John Ricord, J. Y. Kanehoa, John Ii and Z. Kaauwai were appointed commissioners, and commenced their labors by a careful investigation into the nature of old land tenures and the respective rights of all classes of persons making claim to shares in landed property. On August 20, 1846, as a result of their examination, they agreed on certain principles, which, on October 26, 1846, were adopted by the legislature as rules which should govern in the partition of the lands of the islands.[9] The board declared it to be "fully established that there are but three classes of persons having vested rights in the lands: First, the Government; second, the landlord; and third, the tenant." Considering the practically unlimited powers which the king had until recently enjoyed, and which he still possessed except as they had been restricted by law, it was concluded that "should the King allow to the landlord one-third, to the tenant one-third, and retain one-third himself, he, according to the uniform opinion of the witnesses, would injure no one unless himself." It is to be noted that the text uses *the King* and *the Government* interchangeably throughout. It is not Kauikeaouli Kamehameha, but the Hawaiian State, which has been found to be the rightful owner of an undivided third of the lands within the national boundaries.[10] Until a few years earlier the King was the State, and there could be no distinction between king's property and public property. Now, with the establishment of constitutional government, a national treasury as distinct from the king's private purse had been created. As the king was thereby relieved from the duty of defraying the expenses of the state, so must he surrender the income and the property which he had held as the state's representative, though like any other resident of the kingdom he might hold property of his own and dispose of it at pleasure.[11]

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8. Laws, II, 70.
9. Laws, II, 81. Fund. Laws, 140.
10. 7 Haw. 421, p. 430: "The whole context of these Principles shows that the land tenures of this Kingdom were to be settled on the basis that the King—meaning the State or Government—had one-third of any given land held by a landlord. * * * The terms King and Government are, as we see, used interchangeably. They mean the State in each case."
11. Lydecker, p. 10. Constitution of 1840: "He shall also retain his own private lands."

ROYAL REVENUES

The development of a system of government finance, independent of royal control, took place rapidly——almost instantaneously——in Hawaii, but was otherwise very similar to that in England. In the one case the process took years, and in the other, centuries; it is not the only instance in which the history of Hawaii is that of Europe in miniature, and in which the one may help to explain the other. In England, as elsewhere, the king was originally expected to "live on his own." He paid all the expenses of the government out of his private estates, feudal dues, and such other revenues as were from time to time granted to him by the representatives of the people, or annexed by him in some more or less informal manner. Any surplus remaining he disposed of for his own benefit. Sometimes, of course, he attended to his own benefit first and the business of government was conducted on what happened to be left. In the course of time new sources of revenue were opened, not granted to the crown, but freeing it from the obligation of defraying the cost of certain parts of the administration. Finally the king surrendered his hereditary revenues in return for an annual grant of money and relief from most of the expenses of government. This practice has been followed at the accession of each new monarch, and each one has been freed from the payment of certain charges which had been borne by his predecessors, until the civil list, as it is still called, has become practically the "pay and allowances" of the sovereign. Curiously enough, the surrender of the hereditary revenues in return for an allowance of less value by some millions of dollars, is occasionally spoken of as if it were a munificent gift bestowed by the king upon the British people; his relief from the obligation of meeting the expenses of the government——some hundred of millions——is forgotten.

In both England and Hawaii, then, the national revenues were sooner or later taken out of the lands of the king, a grant of money from the public treasury being given to him at the same time. In both countries the king could possess property of his own. In both countries, too, there was a third class of property which remained at the disposal of the king,——private in the sense that he had the full enjoyment of its proceeds, but public in that he held it because of his position as head of the state, and only while occupying that position. In England the revenues of the duchy of Lancaster are paid over to the king throughout his reign; he has the free use of them, whatever they may amount to, but on his death or deposition they pass to his successor in office. A similar source of income was provided for the constitutional king of Hawaii in 1848, when the crown lands were set aside. While there were at first considerable differences between his rights in them and those of the English king in the duchy of Lancaster, these differences were largely removed within a few years, and the likeness in the later days of the Hawaiian monarch was very close.

THE GREAT MAHELE

The principles adopted by the board of land commissioners were simple, but their application to particular cases was naturally a difficult matter. The board, with occasional changes in membership, proceeded steadily with its work, but it became evident that its operations "would occupy a long series of years, and that the Commission would encounter much difficulty in settling the rights of the chiefs and konohikis."[12] The need of some more expeditious method of settlement soon forced attention, and the matter was finally taken up in the Privy Council, where it was fully discussed at the sessions of December 11, 14 and 18, 1847.[13]

Meanwhile the king, as the landlord from whom the tenants in chief held, had advanced a claim to a large part of the land of the islands,—that is, he believed himself to have rights under the second of the three classes of persons named in the principles adopted by the board,—and had worked out a division of the lands in the island of Oahu, between himself and the chiefs, on the basis of his claim. "The chiefs do not greatly object to this, but they ask: Has the government a third interest in lands left to us? The King replies Yes, and the government has a third interest in his."[14] It will be seen that this was meant as an adjustment of rights within the second of the three classes, assigning to each konohiki, superior or inferior, his proper share, after which the government (the first class) would take one-third from each konohiki, and the tenants (the third class) would presumably be entitled to convert their leaseholds into fee simple estates of one-third area. There was considerable debate in the council as to the validity of the king's claim. Some believed that "the King as an individual and as the head of the nation should be regarded as one"; that "the government portion of the lands should go into the hands of the King, from which he should select a part as his individual property, and set aside the remainder for the use and support of his government." Chief Justice Lee, however, after study of the question, gave it as his opinion that "the King and the government were one and the same in most things, but not in every thing. From the constitution it seemed clear that in property the King and government were two separate and distinct persons."[15]

After full discussion it was determined (December 18, 1847) to appoint a committee which should endeavor by negotiation to effect an equitable division of lands between the chiefs on the one hand and the government and the king on the other, this to be followed by a division of the second portion into state and crown

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12. 2 Haw. 721.
13. Privy Council Records. [These have never been published; the originals are preserved in the Hawaiian Archives in Honolulu.] (hereinafter, P. C. Records.) P. C. Records of these dates.
14. P. C. Records, Dec. 11, 1847.
15. P. C. Records, Dec. 14, 1847

lands. The right of the tenants to their third was recognized, but a general distribution to them was not attempted. Each tenant might receive an allotment upon application, which seems to have been made in only a few cases, most apparently preferring their existing leaseholds to the smaller holdings in fee simple. The committee's work was so quickly performed that on March 30, 1848, there was "presented a book of 225 pages consisting of the lands assigned to the King on the left and those to the chiefs on the right——also a division of the King's lands from those belonging to the Government."[16] This was the "Mahele Book," signed and sealed by the king on March 8, 1848. In it is contained an instrument setting aside the crown lands, translated into English as follows: "Know all men by these presents, that I, Kamehameha III, by the grace of God, King of these Hawaiian Islands, have given this day of my own free will and have made over and set apart forever to the chiefs and people the larger part of my royal land, for the use and benefit of the Hawaiian Government, therefore by this instrument I hereby retain (or reserve) for myself and for my heirs and successors forever, my lands inscribed at pages . . . . of this book: these lands are set apart for me and for my heirs and successors forever, as my own property exclusively."[17]

The action of the king and council was brought before the legislature at its next session, and on June 7, 1848, was passed an act confirming the division agreed on. The pertinent portions read as follows:

"Whereas, It hath pleased his most gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, to surrender and forever make over unto his chiefs and people the greater portion of his royal domain;

"And whereas, * * *

"Be it enacted by the House of Nobles and Representatives of the Hawaiian Islands in Legislative Council assembled,

"That expressing our deepest thanks to his Majesty for this noble and truly royal gift, we do hereby solemnly confirm this great act of our good King, and declare the following named lands, viz: * * * To be the private lands of his Majesty Kamehameha III, to have and to hold to himself, his heirs and successors forever; and such lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants."[18]

Thus the Great Mahele (i. e., division) was completed, and the crown lands, as distinct from lands for the use and benefit of the government, were set apart.

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16. P. C. Records, Mar. 30, 1848.
17. Quoted, 2 Haw. 723 and 45 Ct. Cls. 429.
18. Laws, 1848, p. 22. Quoted, 2 Haw. 717 and 45 Ct. Cls. 429-430.

PERIOD FROM 1848 TO 1864

The next few years may be passed over briefly. From the time of the division until his death, Kamehameha III administered the crown lands through an agent, receiving the revenues, selling and leasing at pleasure. He died on December 15, 1854, and was succeeded on the throne by his nephew, Kamehameha IV. The late king's will, probated January 27, 1855, after providing for the payment of his debts and devising certain lands to his consort, Queen Kalama, in lieu of dower, left all his remaining estate to his nephew, the new king. The administration of the crown lands was continued as before. They were treated in all respects as private lands; the queen consort (Emma) joined with the king in deeds to individuals whenever it would have been necessary for a private citizen to do so in order to bar right of dower; portions were sold and the remainder was heavily burdened with mortgages.[19]

LITIGATION OVER THE ESTATE OF KAMEHAMEHA IV

Kamehameha IV died intestate on November 30, 1863, and the crown passed to his brother, Kamehameha V. A dispute at once arose as to the distribution of his estate and particularly as to the disposition to be made of the crown lands. The widow, Queen Emma, laid claim to one-half, with dower in the other half, on the theory that the crown lands were his private property and subject to the ordinary rules of inheritance. If this assumption were correct, her right to receive one-half could not be disputed, for under Hawaiian law an equal division of the estate must be made between the late king's widow and his father.[20] As to her dower right in the remainder the case was not so clear. Her entire claim was opposed by the attorney-general, who held that the crown lands constituted "a royal domain annexed to the Hawaiian crown," that they descended from each holder to his successor on the throne, and that they were not subject to the right of dower.

It seems probable that up to this time no very careful consideration had been given to the exact legal status of the crown lands. Since they had first been set apart, the reigning sovereign had always received the income from them, as he would have done whether they were his private property or "a royal domain annexed to the crown." On the one occasion when a new king had acceded, he had entered into

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19. 2 Haw. 724-725.
20. The father of Kamehameha IV and Kamehameha V was not of royal blood. Their mother was a sister of Kamehameha III.

possession, by law, of whatever property was attached to the crown, and, by the will of his predecessor, of the latter's private property, so that no question had arisen as to which category included the crown lands,——they all passed into the same hands anyway, and there was nothing to draw particular attention to the matter. It is easy to find contemporary statements that seem to imply that the lands set apart for Kamehameha III in 1848 were ceded to him as absolutely as those assigned to the chiefs were to them, but such remarks were not made as technical legal statements, and too much must not be deduced from them. On the other hand it seems to have been pretty commonly assumed, without any great amount of reflection, that the crown lands would go with the crown. Once the issue was actually made, it was not hard for reasonable men to take diametrically opposite views and to make a plausible argument on each side. The character of Kamehameha V, of Queen Emma and of the attorney-general are sufficient evidence that the litigation was an honest attempt to settle an honest difference of opinion.

The case was argued at the April term, and the decision announced by Justice George H. Robertson on May 27, 1864.[21] "In our opinion, while it was clearly the intention of Kamehameha III to protect the lands which he reserved to himself out of the domain which had been acquired by his family through the prowess and skill of his father, the conqueror, from the danger of being treated as public domain or Government property, it was also his intention to provide that those lands should descend to his heirs and successors, the future wearers of the crown which the conqueror had won; and we understand the act of the 7th June, 1848, as having secured both these objects. Under that act the lands descend in fee, the inheritance being limited however to the successors to the throne, and each successive possessor may regulate and dispose of the same according to his will and pleasure, as private property, in like manner as was done by Kamehameha III. In our opinion the fifth clause of the will of Kamehameha III was not necessary to pass the reserved lands to Kamehameha IV, any more than the first clause was necessary to pass to him the crown. He was entitled to inherit those lands by force of the act of 7th June, 1848, when he succeeded to the crown, in virtue of the public proclamation made by his predecessor with the consent of the House of Nobles.[22]

* * * We are clearly of opinion also that her Majesty Queen Emma is lawfully entitled to dower in the reserved lands, except so far as she may have barred her right therein by her own act and deed. There is nothing in Act of 7th June, 1848, which can be understood as taking away the Queen's right of dower in the lands therein named; nor

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21. 2 Haw. 715-726.

22. The Hawaiian monarchy was not at this time hereditary. Art. 25, constitution of 1852, provides that "the successor shall be the person whom the King and the House of Nobles shall appoint." Lydecker, p. 38.

is there any law of this Kingdom which renders the matrimonial rights of the wife of the King any less than or any different from those of the wife of any private gentleman. Such was unquestionably the understanding of both Kamehameha III and his successor as to dower in those lands, which are to be dealt with in all respects as private inheritable property, subject only to the special legislative restriction on the manner of their descent."

To sum up, then, it had been established that the reigning sovereign might enjoy the revenues of the crown lands during his lifetime, and might also sell or mortgage any part or all of them, the proceeds becoming his private personal property; that on his death all such lands still held should pass to his successor in office, subject to the same right of dower as private lands.

LEGISLATION OF 1864-1866

For the first time the exact legal status of the crown lands was now clear and the serious condition of affairs was brought to public attention. The new king was, indeed, confirmed in his right to the benefit of them, but they came to him burdened with mortgages placed on them by his predecessors and their value further diminished, during Queen Emma's life-time, by her right of dower. His income from them promised to be small. But this was not the worst of it. The former kings, though they had mortgaged a great deal, had not sold much, but there was nothing to prevent a spendthrift monarch from disposing of every acre to the highest bidder, and leaving nothing to those who came after. Of course this had been known from the beginning, but there had never been any imminent danger and nothing had been done. Now, however, the decision of the Supreme Court moved the legislature to provide not only for the needs of the reigning king but also for the protection of his successors.

First, the king was relieved from the burden of Queen Emma's dower. By an act passed December 3, 1864, a grant of six thousand dollars a year from the national treasury was made to her, in lieu of dower, the preamble reciting that "Whereas, it is not advantageous to the Kingdom that the Royal Domain should be diminished."[23] This was in effect an increase of the civil list during the lifetime of Queen Emma.

Next, on January 3, 1865, was approved an act of such importance that it must be quoted in full.[24]

Whereas by the act entitled "An Act relating to the lands of His Majesty the

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23. Laws, 1864-1865, pp. 71-72.
24. Laws, 1864-1865, p. 69. Quoted, 45 Ct. Cls. 431-432. The obvious omission in the preamble occurs in the original.

King and of the Government," passed on the 7th day of June, A. D. 1848, it appears by the preamble that His Most Gracious Majesty Kamehameha III, the King, after reserving certain lands to himself as his own private property, to surrender and make over unto his chiefs and people the greater portion of his royal domain; and whereas by the same act it was declared that certain lands therein named shall be the private lands of Kamehameha III, to have and to hold to himself, his heirs, and successors forever, and that the said lands shall be regulated and disposed of according to his royal will and pleasure, subject only to the rights of tenants; and whereas by the proper construction of the said statute the words 'heirs and successors' mean the heirs and successors to the royal office; and whereas the history of said land shows that they were vested in the King for the purpose of maintaining the royal state and dignity, and it is therefore disadvantageous to the public interest that the said lands should be alienated or the said royal domain diminished; and whereas, further, during the two late reigns the said royal domain has been greatly diminished and is now charged with mortgages to secure considerable sums of money: Now, therefore,

Be it enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:

Section 1. The Minister of finance is hereby authorized to issue exchequer bonds, with coupons attached, to the amount of not more than $30,000, said bonds to bear interest at not more than 12 per cent per annum, payable half yearly, and to be redeemable at such times within the next twenty years as the said minister of finance shall deem expedient, which said bonds shall be issued whensoever necessary to the commissioners of crown lands, hereinafter provided for, to be used to extinguish those mortgages which may remain unsatisfied after the administrator of his late Majesty's estate has exhausted all the estate belonging to his late Majesty, in a private capacity, which the said administrator may be legally entitled to use for the payment of the debts of the estate.

Section 2. Full authority is hereby given to such commissioners, jointly with the minister of finance, to negotiate for the redemption of the mortgages in the preceding section referred to, and dispose of the said exchequer bonds for that purpose in such manner as may be most advantageous to the public interest.

Section 3. It is further enacted that so many of the lands which by the statute enacted on the 7th of June, 1848, are declared to be the private lands of His Majesty Kamehameha III, to have and to hold to himself, his heirs, and successors forever, as may be at this time unalienated, and have descended to His Majesty Kamehameha V, shall be henceforth inalienable, and shall descend to the heirs and successors of the Hawaiian Crown forever; and it is further enacted that it shall not be lawful hereafter to execute any lease or leases of the said lands for any term of years to exceed thirty.

Section 4. The commissioners of the crown lands shall have full power and

authority to make good and valid leases of the said lands for any number of years not exceeding thirty; but in no case shall it be lawful to collect the rents on the same for more than one year in advance, or to receive anything in the nature of a bonus for signing the said lease, and all the rents, profits, and emoluments derived from the said lands, after deducting the necessary and proper expenses of managing the same, shall be for the use and benefit of the reigning sovereign, and payable by the said commissioners to the order of the King, except when the King shall be a minor, and then they shall be invested for the benefit of the said minor King, as the legislature may direct, until the said minor shall have arrived at the age of Majority, and excepting further as in the succeeding section set forth.

Section 5. There shall be set apart by the said commissioners one-fourth part of the annual revenue of the said estate, which shall be paid into the public treasury and be devoted first to the payment of the interest on the exchequer bonds herein above provided for, and so much of the said fourth part of the said income as may be in excess of the said interest on the said bonds shall be applied to the payment of the principal of the said bonds until the entire sum by this act authorized to be issued shall be fully paid.

Section 6. The board shall consist of three persons, to be appointed by His Majesty the King, two of whom shall be appointed from among the members of his cabinet council, and serve without any remuneration, and the other shall act as land agent, and shall be paid out of the revenues of the said land such sum as may be agreed by His Majesty the King.

As regards Kamehameha V, this law gave him the assistance of the public credit in extinguishing the debt on the crown lands, which might or might not be of any practical benefit to him. The important thing is that henceforth these lands were inalienable, so that no king might sell them and take all their value for himself, to the exclusion of his successors. Bearing in mind that His Most Gracious Majesty King Kalakaua ascended the throne only nine years later, it will be realized that this law came not much too soon.

Under the act of January 3, 1865, one-quarter of the income of the crown lands was to be turned into the treasury to pay the interest on the government's loan and to extinguish the principal. Kamehameha V, however, did not limit himself to this, but paid over nearly the entire revenue of the domain. Far from seeking to get as much as he could for himself, his ambition appears to have been to transmit the crown lands to his successor free from all indebtedness. His generosity in this respect was emulated by the legislature. It was decided to free the crown lands, once for all, from all burdens, and by a resolution approved July 6, 1866, the government assumed

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liability for both the principal and the interest of the bonds.[25] Bonds to the total of $27,000 were issued to extinguish the mortgages.[26] Thenceforth until the end of the monarchy each king enjoyed the full revenue of the royal lands.

PERIOD FROM 1866 TO 1893

For nearly thirty years there is nothing of consequence to relate, except one curious episode to be mentioned later. The principal of the trust fund represented by the crown lands was now effectually protected, and it was only the interest that Kalakaua could squander, along with his regular subsidy from the civil list and his large but uncertain income from bribes and frauds on the custom-house.[27] The area of the lands in the hands of the commissioners was slightly reduced, the courts holding that certain tracts heretofore administered by them had been the private property of Kamehameha IV, and therefore passed to his heirs.[28] On one of these tracts the government had paid off a mortgage, under the terms of the act of July 6, 1866; the premises were accordingly charged with the amount, on prayer of the Minister of Finance.[29]

On September 30, 1880, Princess Ruth, a descendant of Kamehameha I, conveyed to Claus Spreckels, for a consideration of $10,000, "all my estate, right, title and interest both at law and in equity of, in and to" the Hawaiian crown lands.[30] As the princess had no estate, right, title or interest of any description in the crown lands, either a law or in equity, this was a singular proceeding. It is possible that she imagined herself to have some sort of vague rights in the property. She was a princess of the house of Kamehameha which had once owned every foot of land in the kingdom, and she may well have found it hard to grasp the idea that all of the royal lands could pass to another family, leaving none for the descendants of the conqueror. Acts and decisions of new-fangled things like legislatures and courts could not mean much to her. Anyway, she would have no objection to taking the money which Mr.

25. Laws, 1866-1867, p. 11. Quoted, 45 Ct. Cls. 432-433.
26. 6 Haw. 580.
27. The most notorious instance was the King's acceptance of a bribe of $75,000 for the award of the opium monopoly. After he had received $71,000, another applicant offered $80,000, and wisely insisted on getting the license before paying. The King's profit in the transaction, accordingly, was $151,000. The estate of the defrauded applicant, however, brought legal proceedings against the trustees whom the King had been compelled to appoint for the settlement of his debts. Refund was resisted on the ground that the transaction was an illegal one, in which the courts would give no redress. With delightful gravity the court declared that "it cannot be assumed that the King could be a party to any illegal transaction," and "in the eye of the law, the King cannot be bribed, or accept a bribe, or be capable of committing a wrong"; and His Majesty was obliged to disgorge. 7 Haw. 401, [405].
28. 6 Haw. 466. 6 Haw. 454.
29. 6 Haw. 579.
30. 6 Haw. 447.

Spreckels pressed upon her. Spreckels, of course, had no illusions as to her rights, but his part in the transaction is easily understood. He was hand in glove with the king and many almost equally unscrupulous politicians, and is said to have boasted, not long after this, that he had the legislature in his pocket. His friends might help him to make something out of this deed of Princess Ruth's, and even if they could not, its possible blackmail value was considerable. He was willing to invest ten thousand dollars in an enterprise that appeared (and proved) to offer considerable profit with no great risk of loss. An incorruptible Supreme Court stood in the way of his gaining anything through legal proceedings, but his capacity to make trouble was so evident that the cabinet felt in expedient to buy him off. Accordingly there was introduced in the legislature, passed on July 20th, and approved on July 21, 1882, an act authorizing the conveyance to him of the ahupuaa of Wailuku, a part of the crown lands in the island of Maui, "estimated to contain twenty-four thousand acres or thereabouts," on condition of his relinquishing all claims on the remainder of the crown lands.[31]

CROWN LANDS MERGED WITH THE PUBLIC DOMAIN

Liliuokalani, the last monarch of Hawaii, was dethroned on January 17, 1893, and a provisional government was established, which was succeeded on July 4, 1894, by a republic of the familiar American form. With the enforced abdication of the queen, the lands "vested in the King for the purpose of maintaining the royal state and dignity" passed to the new "heir and successor of the Hawaiian Crown," and the provisional and republican governments successively took them in charge. To remove any doubts which might possibly exist, the constitution of the republic expressly provided: "That portion of the public domain heretofore known as crown land is hereby declared to have been heretofore, and now to be, the property of the Hawaiian Government, and to be now free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever upon the rents, issues, and profits thereof."[32] After the annexation of Hawaii to the United States in 1898, the organic act, passed by Congress in 1900 to establish a government for the territory, repeated the same provision.[33] Title was no longer in the Hawaiian government, however, but in that of the United States, the treaty of annexation providing that "the Republic of Hawaii also cedes and hereby transfers to the United States the absolute fee and ownership of all public, government, or crown lands, * * * together with every right and appurtenance thereunto appertaining."[34] The treaty was not ratified as such, but the joint resolution providing for annexation (approved July 7, 1898), adopted its

31. Laws, 1882, p. 11. Quoted, 45 Ct. Cls. 433-434. Mr. Preston the Attorney-General, introduced the bill, which is sufficient evidence of good faith.
32. Lydecker, p. 222.
33. U. S. Statutes at Large. (hereinafter, U. S. Stat. L.) 31. U. S. Stat. L. 161.
34. U. S. Court of Claims Reports. (hereinafter, Ct. Cls.) 45 Ct. Cls. 436.

terms.[35]

CLAIM OF THE FORMER QUEEN

The loss of her income from the crown lands, amounting to about $50,000 a year, was naturally resented by the former queen, but during the existence of the republic of Hawaii it was evidently impossible for her to recover anything through the courts, whose existence was derived from the same instrument (the constitution of 1894) which asserted the crown lands to be free "from any trust" and "from all claim of any nature whatsoever." Nor does it seem to have occurred to her or to her advisers, until a long time had passed, that her legal position had perhaps been altered since annexation. After several years, however, suit was brought in the United States Court of Claims, alleging the right of the ex-queen to the income during her life, and the last act in the history of the crown lands took place. The case deserves more than a hasty examination.

Aside from the merits of the ex-queen's claim, there was a preliminary legal question involved. In view of the provisions of the Hawaiian constitution of 1894, of the annexation resolution and of the organic act, it would seem on the face of it that there was nothing upon which an action could be based. The attorney for the claimant, Mr. Sidney Ballou, conceded of course that the courts of the republic were unable under the terms of the constitution to take cognizance of the case, but advanced the theory that the equitable right of the ex-queen was merely suspended, and not destroyed; that it still existed, although for the time being no court had jurisdiction. If the right remained at the time of annexation, then it was protected by the fifth amendment to the constitution (deprivation of property without due process of law), and the clause in the organic act could not destroy it. As to the status of the crown lands prior to 1893, the claimant took the position that they had always been the private lands of the king and in no sense national property. Great emphasis was laid on the words of Justice Robertson, who, in the decision of the case of the estate of Kamehameha IV, said: "The records of the discussion in Council show plainly his Majesty's anxious desire to free his lands from the burden of being considered public domain, and as such, subjected to the danger of confiscation in the event of his islands being seized by any foreign power."[36] And again, "it was clearly the intention of Kamehameha III to protect the lands * * * from the danger of being treated as public domain." Of course, if the crown lands——or a life estate in them——were the private property of Liliuokalani, the action of the provisional government amounted to

35. 30 U. S. Stat. L. 750. Quoted, 45 Ct. Cls. 438-440.
36. 2 Haw. 722.

confiscation.

The decision of the court was delivered by Judge Fenton W. Booth, on May 16, 1910.[37] He first discussed the decision of 1864. "Although the court sustained the right of dower in the widow of the King, it is clear from the opinion that the crown lands were treated not as the King's private property in the strict sense of the word. While possessing certain attributes pertaining to fee-simple estates, such as unrestricted power of alienation and incumbrance, there were likewise enough conditions surrounding the tenure to clearly characterize it as one pertaining to the support and maintenance of the Crown, as distinct from the person of the Sovereign. They belonged to the office and not to the individual." Referring to subsequent legislation, he said: "The act of 1865 to become effective under the Hawaiian constitution required the approval of the King. On January 3, 1865, Kamehameha V approved the statute which expressly divested the King of whatever legal title or possession he theretofore had in or to the crown lands. The Hawaiian Government in 1865 by its own legislation determined what the court is now asked to determine." And the decision of the court was that "the reservations made were to the crown and not the King as an individual. The crown lands were the resourceful methods of income to sustain, in part at least, the dignity of the office to which they were inseparably attached. When the office ceased to exist they became as other lands of the Sovereignty and passed to the defendants as part and parcel of the public domain."

The case was thus decided on its merits. Liliuokalani had never been the owner of the crown lands, and so had lost nothing through the provisions of the constitution of 1894 and of the organic act. The court remarked: "We have not entered into a discussion of the defenses predicated upon the above provisions of law, believing the case disposed of before we reached them. It is, however, worthy of note that the organic act of 1900 puts an end to any trust——if the same possible existed." This last statement may be doubted. If Liliuokalani ever had any private property right in the lands, and if it were not confiscated and destroyed by the constitution of the republic, then an act of Congress could not deprive her of it; that would clearly be a taking of property without due process of law, as argued by the claimant. In view of the grounds of the decision, however, the point is of no importance. The court held that ownership had been in the government under the monarchy as well as under the republic; and though it needed to go no further, it might well have decided that the constitution of 1894 destroyed (not suspended) any rights that previously existed, for the claimant's theory, though ingenious, and backed up by elaborate argument, seems without foundation.

The soundness of the decision can hardly be doubted; in fact, probably the claimant and her advisers never felt sanguine, but thought it might be worth while to

37. 45 Ct. Cls. 418.

take a chance. One wonders just where their arguments would lead. On their theory there was an equitable life estate in the reigning sovereign which could not be taken from him by loss of the crown through change of government. If the monarchy had been continued after Liliuokalani's deposition, instead of being superseded by the republic, would the revenues of the crown lands have continued to be paid to the ex-queen? No one could have seriously entertained such an idea. They would of course have accrued to the new sovereign, "the heir and successor to the royal office," the Princess Kaiulani. If the same rule did not apply under the actual circumstances, it could only be because Liliuokalani was succeeded by a republican government instead of a constitutional monarch. The logic is obscure. Assuming, however, that she, as the only queen there was, continued to receive the income during her life; what was to become of it after her death? Would it go to her personal heirs? Or to the Hawaiian government? Certainly not the former, for they are not "heirs and successors to the royal office." As to the latter, if it ever succeeded "to the royal office" it was on the deposition of Liliuokalani and not on her death.

There is, indeed, only one thing which lends a little plausibility to the claim; that is the utterance of Justice Robertson, already quoted. Certainly it seems very much to the point: "It was clearly the intention of Kamehameha III to protect the lands * * * from the danger of being treated as public domain." This is as given in the claimant's argument, but the quotation is not complete, for these words follow: "It was also his intention to provide that those lands should descend to his heirs and successors, the future wearers of the crown which the conqueror had won." The Court of Claims says that "this statement" (as imperfectly quoted) "has been seized upon and assiduously emphasized by the claimant. It is not in harmony with the detailed history given by the court in its opinion." Going back to the record of the discussion in the Privy Council, mentioned by Justice Robertson, we find that in the course of the debate, December 18, 1847, the King asked: "If a foreign power should take the Islands, what lands would they respect? Would they take possession of his lands?" Mr. Lee, the Chief Justice, "gave it as his opinion, that except in the case of resistance to, and conquest by, any foreign power the King's rights to his private lands would be respected." The King asked: "During the French Revolution were not the King's lands confiscated?" To which Mr. Wyllie, the Minister of Foreign Affairs, replied: "They were confiscated, but that was by the King's own rebellious subjects."[38]

Now this does not necessarily show that the King believed the proposed segregation of lands would insure his retention of those allotted to him, in case of his deposition, but it does at least show that he had some curiosity on the point. Again, it will not do to found any theories on the words in his speech at the opening of the

38. P. C. Records, Dec. 18, 1847.

legislature in 1848: "I have also reserved to myself a portion of lands which are to be retained as my private property, and to descend to my heirs forever."[39] If we are to insist on the narrowest literal meaning of the words "private property," we may not ignore the omission of the words "and successors"; we should have to take this as an assertion that the lands would descend to his personal heirs, which, according to the Supreme Court's decision, was not the case. Taking everything into consideration, however, it is conceivable that Kamehameha III did believe the crown lands to be his own private property in the full sense of the words. If so, he was evidently mistaken as to the legal effect of the act of the legislature approving the partition. We have not only the Supreme Court's decision on the other side, but also the declarations of the legislature in 1865 that "the words *heirs* and *successors* mean the heirs and successors to the royal office," and that "the history of said lands shows that they were vested in the King for the purpose of maintaining the royal state and dignity." As this act was approved by Kamehameha V, it may be taken, in the absence of evidence to the contrary, as expressing his views as well as those of the nobles and representatives.

EXTENT AND VALUE OF THE LANDS

The crown lands thus finally merged in the public domain had a total area of 971,463 acres, of which 642,852 were in the island of Hawaii, 69,121 in Maui, 20,892 in Molokai, 17,369 in Lanai, 66,593 in Oahu and 154,636 in Kauai. The value was estimated at $2,314,352.[40] This included agricultural land of all descriptions and also considerable city tracts. Some has now been alienated and the identity of the rest has of course been completely lost, having been dealt with for thirty years without distinction from other public lands.

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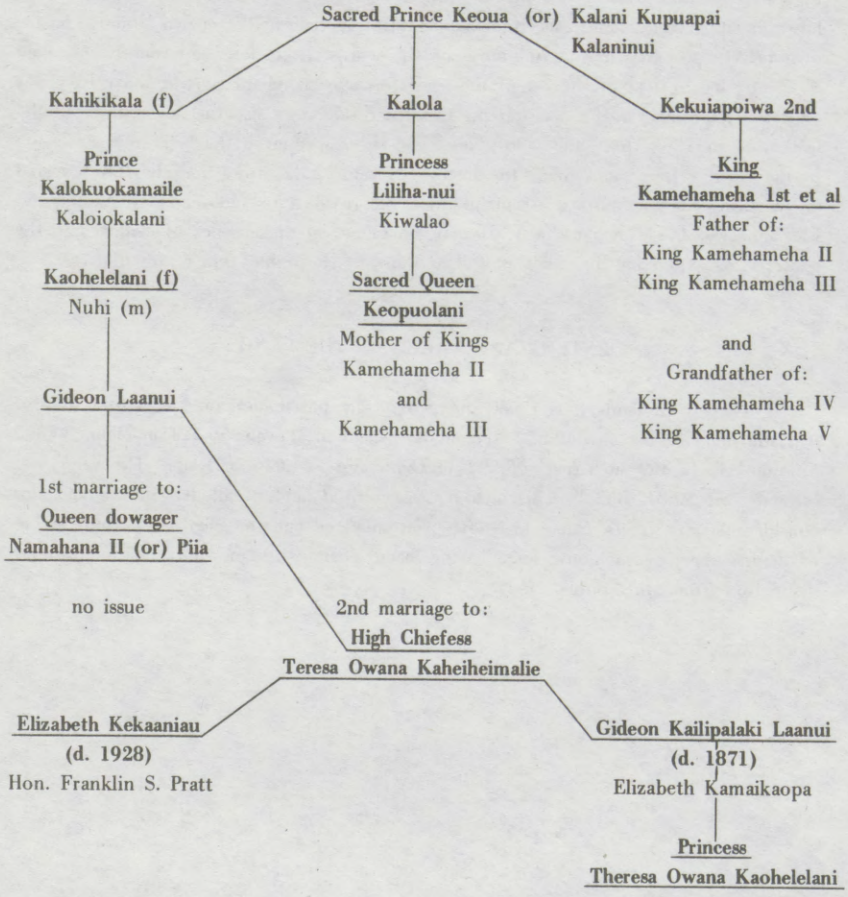
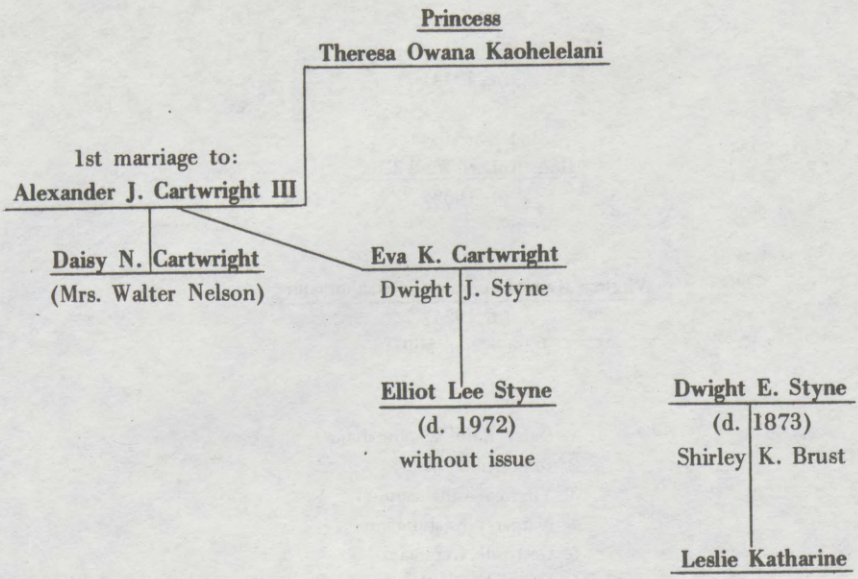
39. Lydecker, p. 24.
40. Report of the Commissioners of Crown Lands. 1894. (hereinafter, Rep. of Commrs. of Crown Lands, 1894.) p. 8.

EXHIBIT B

GENEALOGICAL DESCENT FROM THE KAMEHAMEHA ROYAL FAMILY



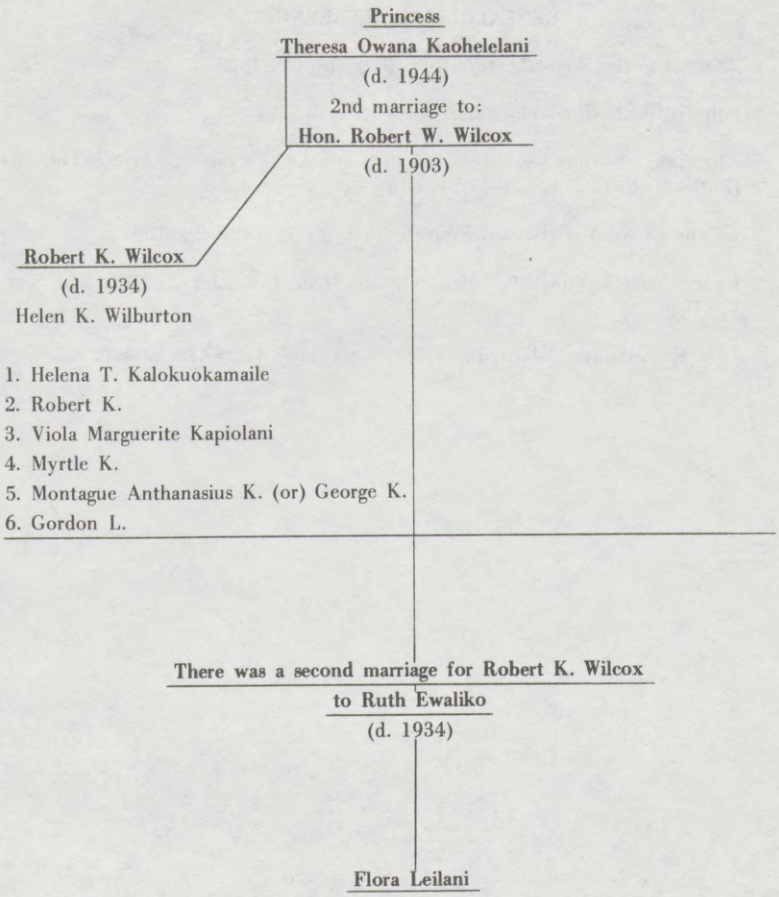

Princess
Theresa Owana Kaohelelani
1st marriage to:
Alexander J. Cartwright III
Daisy N. Cartwright
(Mrs. Walter Nelson)
Eva K. Cartwright
Dwight J. Styne
Elliot Lee Styne
(d. 1972)
without issue
Dwight E. Styne
(d. 1873)
Shirley K. Brust
Leslie Katharine

Princess
Theresa Owana Kaohelelani
(d. 1944)

2nd marriage to:
Hon. Robert W. Wilcox
(d. 1903)

Virginia Kaihi Kapumahana Kaahumanu
(d. 1954)
John Kilioe Miller

1. Daisy Kaihi Kapumahana
2. John Kilioe Jr.
3. Virginia Kahaleaupuni
4. Margaret Kaahumanu
5. Gertrude Kapiolani
6. Elmer Elsworth


Princess
Theresa Owana Kaohelelani
(d. 1944)
2nd marriage to:
Hon. Robert W. Wilcox
(d. 1903)
Robert K. Wilcox
(d. 1934)
Helen K. Wilburton
1. Helena T. Kalokuokamaile
2. Robert K.
3. Viola Marguerite Kapiolani
4. Myrtle K.
5. Montague Anthanasius K. (or) George K.
6. Gordon L.
There was a second marriage for Robert K. Wilcox
to Ruth Ewaliko
(d. 1934)
Flora Leilani

GENEALOGICAL REFERENCES

1. Editorial in the *Honolulu Advertiser,* December 22, 1928.

2. Editorial in the *Honolulu Advertiser,* January 9, 1944.

3. Abraham Fornander. *An Account of the Polynesian Race (Vol. II)* (Rutland: C. E. Tuttle, 1969), p. 216.

4. Ka nupepa Kuokoa (Hawaii), April 6, 1878, by P. S. Pakelekulani, p. 1.

5. Ka makaainana, June 29, 1896, July 13, 1896, November 2, 1896, and Sept. 28, 1896.

6. Lucy K. Peabody affidavit, Bureau of Conveyances Liber 483, p. 490.

EXHIBIT C

STAND. COM. REP. NO. 952

Honolulu, Hawaii
April 1, 1977

RE: H.C.R. No. 56
H.D. 1

The Honorable James H. Wakatsuki
Speaker, House of Representatives
Ninth Legislature
Regular Session, 1977
State of Hawaii

Sir:

Your Committee on Water, Land Use, Development and Hawaiian Homes to which was referred H.C.R. No. 56 entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE U.S. CONGRESS TO ENACT LEGISLATION TO COMPENSATE OR TO MAKE REPARATION TO HAWAIIANS FOR DAMAGES SUFFERED BY THEM AT THE TIME OF ANNEXATION", begs leave to report as follows:

The purpose of this concurrent resolution, Senate concurring, is to request the Congress of the United States of America to enact legislation to compensate the aborigine or native Hawaiians for damages suffered by them at the time of the annexation of the Hawaiian Islands to the United State of America.

Upon the abdication of the throne by Queen Liliuokalani, the Crown Lands, or those lands distributed for the king's use under the Great Mahale of 1848, were deemed to be part of the public land of the Hawaii Republic. Upon the annexation of Hawaii by the United States of America, crown lands thereby became part of the public lands of the United States of America, thereby depriving the native Hawaiians of certain property or property rights.

Your Committee feels that reparation is due the Hawaiian people, either in the form of land or money, or both, for the damages the Hawaiian people have lived with since the time of annexation.

Your Committee has amended the concurrent resolution by deleting reference to members and the descendants of the Hawaiian Royal Family and adding another BE IT FURTHER RESOLVED clause.

Your Committee on Water, Land Use, Development and Hawaiian Homes concurs with the intent and purpose of H.C.R. No. 56, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 56, H.D. 1.

Respectfully submitted,

RICHARD A. KAWAKAMI, Chairman

WL 3686

STAND. COM. REP. NO. 952

Page 2

RICHARD L. CALDITO, JR., Vice-Chairman

JOHN CARROLL, Member

EXCUSED

HIRAM L. FONG, JR., Member

ANDREW POEPOE, Member

RUSSELL BLAIR, Member

RICHARD GARCIA, Member

MINORU INABA, Member

JACK LARSEN, Member

EXCUSED

OLIVER LUNASCO, Member

TED MORIOKA, Member

LISA NAITO, Member

CHARLES TOGUCHI, Member

MITSUO UECHI, Member

KATSUYA YAMADA, Member

(To be made one and ten copies)

HOUSE OF REPRESENTATIVES
NINTH LEGISLATURE, 19 77
STATE OF HAWAII

H.C.R. NO. 56 H.D. 1

HOUSE CONCURRENT RESOLUTION

REQUESTING THE U.S. CONGRESS TO ENACT LEGISLATION TO COMPENSATE OR TO MAKE REPARATION TO HAWAIIANS FOR DAMAGES SUFFERED BY THEM AT THE TIME OF ANNEXATION.

WHEREAS, by the Great Mahele of 1848, all the lands in the Hawaiian Kingdom were divided and distributed to wit: One-third (1/3) for the public called "Public Lands"; One-third (1/3) for the King for his use, designated as "Crown Lands"; and One-third (1/3) to the Chiefs; and

WHEREAS, prior to the reign of Kamehameha V the Crown Lands were considered to be the private domain of the King, and he could sell, mortgage or otherwise deal with such land as his private property without any limitation; and

WHEREAS, during his reign, King Kamehameha V declared Crown Lands to be inalienable, and it appears that it was so regarded and thereafter, King Lunalilo, King Kalakaua and Queen Liliuokalani were deemed to have been only entitled to use of the income from the Crown Lands; and

WHEREAS, upon the abdication of the throne by Queen Liliuokalani, the Crown Lands were deemed to be part of the public land of the Hawaiian Republic; and upon the annexation of Hawaii by the United States of America, crown lands thereby became part Public Lands of the United States of America; and

WHEREAS, it appears that person or persons who were or should be entitled to the Crown Lands were deprived of their property or property rights in the Crown Lands; and

AND, WHEREAS, Aborigine or Native Hawaiians were deprived of certain property or property rights upon the annexation of these islands by the United States of America; now, therefore,

BE IT RESOLVED by the House of Representatives of the Ninth Legislature, State of Hawaii at the Regular Session of 1977, the Senate concurring that the Congress of the United States of America be respectfully requested to enact legislation to compensate the Aborigine or Native Hawaiians for damages suffered by them at the time of the Annexation of the Hawaiian Islands to the United States of America; and

WL 4594 & 4595

BE IT FURTHER RESOLVED that the Congress of the United States of America be respectfully requested to amend Senate Joint Resolution No. 4 entitled, "Hawaiian Aboriginal Claims Settlement Study" now pending, by specifically including therein all Crown Land claims and authorizing direct grants of payment as compensation for settlement of Crown Land claims; and

BE IT FURTHER RESOLVED that duly certified copies of this Concurrent Resolution be transmitted to the President of the United States of America; the Vice-President of the United States of America; the President Pro-temp of the Senate of the Congress of the United States of America; the Speaker of the House of Representatives of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the Senate of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the House of Representatives of the Congress of the United States of America; to the Honorable Daniel K. Inouye, and Honorable Spark M. Matsunaga, senators from the State of Hawaii and to Honorable Daniel K. Akaka and Honorable Cecil Heftel, representatives from the State of Hawaii of its United States of America.

History of House Concurrent Resolution No. 56, HD1

TITLE: REQUESTING THE U.S. CONGRESS TO ENACT LEGISLATION TO COMPENSATE OR TO MAKE REPARATION TO HAWAIIANS FOR DAMAGES SUFFERED BY THEM AT THE TIME OF ANNEXATION.

Offered by Representative PETERS, KUNIMURA and

ABERCROMBIE	GARCIA	MINA	SUTTON
AJIFU	IKEDA	MIZUGUCHI	SUWA
AKI	INABA	MORIOKA	TAKAMINE
BAKER	KAMALII	NAITO	TAKAMURA
BLAIR	KAWAKAMI	NAKAMURA	TOGUCHI
CALDITO	KIHANO	NARVAES	UECHI
CAMPBELL	KIYABU	PETERS	UEOKA
CARROLL	KONDO	POEPOE	USHIJIMA
CAYETANO	KUNIMURA	SAY	UWAINE
COBB	LARSEN	SEGAWA	YAMADA D.
DODS	LUNASCO	SHITO	YAMADA K.
EVANS	MACHIDA	STANLEY	YUEN
FONG	MEDEIROS		

SPEAKER WAKATSUKI

Date	
2-18-77	Offered
2-18-77	REF: Legislative Management
2-22-77	St. C. Rep. # 62 fr. Legislative Management
2-22-77	REF: WL A/S #19
4- 1-77	ADOPTED (St.Com.Rep.#952) HD1
4- 1-77	Trans. to Senate
4-15-77	Ret. fr. Senate (Sen.Com.# 462) Ad. in Senate 4-14-77

May 20, 1977

I hereby certify that the above mentioned HCR 56, HD 1 was adopted by the House on April 1, 1977 as indicated hereon and adopted by the Senate on April 14, 1977; that this is a true record of the action taken on HCR 56, HD 1.

George M. Takane

GEORGE M. TAKANE
Chief Clerk

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EXHIBIT D

JOHN T. USHIJIMA
PRESIDENT

DUKE T. KAWASAKI
VICE PRESIDENT

DONALD D. H. CHING
MAJORITY LEADER

ANSON CHONG
STANLEY I. HARA
GEORGE H. TOYOFUKU
ASSISTANT MAJORITY LEADERS

ROBERT S. TAIRA
MAJORITY FLOOR LEADER

JOHN J. HULTEN
DENNIS O'CONNOR
MAMORU YAMASAKI
ASST. MAJORITY FLOOR LEADERS

FRANCIS A. WONG
MAJORITY POLICY LEADER

FIRST DISTRICT
STANLEY I. HARA
RICHARD HENDERSON
JOHN T. USHIJIMA

SECOND DISTRICT
HENRY TAKITANI
MAMORU YAMASAKI

THIRD DISTRICT
D. G. ANDERSON
MARY GEORGE
JOHN J. HULTEN

FOURTH DISTRICT
DONALD D. H. CHING
JOSEPH T. KURODA
FRANCIS A. WONG
PATSY K. YOUNG

FIFTH DISTRICT
DUKE T. KAWASAKI
ROBERT S. TAIRA
RICHARD S. H. WONG
T. C. YIM

SIXTH DISTRICT
ANSON CHONG
JEAN KING
JOHN LEOPOLD
WADSWORTH YEE

SEVENTH DISTRICT
DONALD S. NISHIMURA
DENNIS O'CONNOR
PATRICIA SAIKI
W. BUDDY SOARES

EIGHTH DISTRICT
GEORGE H. TOYOFUKU

SEICHI HIRAI
CLERK

The Senate
The Ninth Legislature
of the
State of Hawaii

HONOLULU, HAWAII

April 20, 1977

Mr. Kazuhisa Abe
Honolulu, Hawaii

Dear Mr. Abe:

I transmit herewith a copy of Senate Resolution No. 393, which was adopted on April 14, 1977, by the Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977.

Respectfully,

Seichi Hirai
Clerk of the Senate

THE SENATE
NINTH LEGISLATURE, 1977
STATE OF HAWAII

S.R. NO. 393

SENATE RESOLUTION

REQUESTING THE U.S. CONGRESS TO INCLUDE CROWN LAND CLAIMS AS SUBJECT MATTER FOR THE STUDY COMMISSION PROPOSED BY S.J. RES. 4, 95TH CONGRESS, 1ST SESSION.

WHEREAS, by the Great Mahele of 1848, all the lands in the Hawaii Kingdom were divided and distributed to wit: One-third (1/3) for the public called "Public Lands"; One-third (1/3) for the King for his use, designated as "Crown Lands"; and One-third (1/3) to the Chiefs; and

WHEREAS, prior to the reign of Kamehameha V the Crown Lands were considered to be the private domain of the King, and he could sell, mortgage or otherwise deal with such land as his private property without any limitation; and

WHEREAS, during his reign, King Kamehameha V declared Crown Lands to be inalienable, and it appears that it was so regarded and thereafter, King Lunalilo, King Kalakaua and Queen Lilioukalani were deemed to have been only entitled to use of the income from the Crown Lands; and

WHEREAS, upon the abdication of the throne by Queen Lilioukalani, the Crown Lands were deemed to be part of the public land of the Hawaii Republic; and upon the annexation of Hawaii by the United States of America, crown lands thereby became part of the Public Lands of the United States of America; and

WHEREAS, it appears that person or persons who were or should be entitled to the Crown Lands were deprived of their property or property rights in the Crown Lands; and

WHEREAS, Aborigine or Native Hawaiians were deprived of certain property or property rights upon the annexation of these islands by the United States of America; now, therefore

BE IT RESOLVED by the Senate of the Ninth State Legislature, State of Hawaii at the Regular Session of 1977, that the Congress of the United States of America be respectfully requested to enact legislation to compensate the family or families who would be considered to be the highest among the chiefs and would have been considered the presumptive heirs to the throne and the Hawaiian Kingdom for the Crown Lands so

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taken and damages suffered, and the aborigine or Native Hawaiians for damages suffered by them at the time of the Annexation of the Hawaiian Islands to the United States of America; and

BE IT FURTHER RESOLVED that the Congress of the United States of America be respectfully requested to specifically include all current Crown Land claims as a part of the Hawaiian Aboriginal Claims Settlement Study (S.J. Res. 4) and that there be no limitation of taking into consideration direct grants for payment under any settlement of Crown Land claims; and

BE IT FURTHER RESOLVED that duly certified copies of this resolution be transmitted to the President of the United States of America, the Vice-President of the United States of America, the President Pro-temp of the Senate of the Congress of the United States of America; the Speaker of the House of Representatives of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the House of Representatives of the Congress of the United States of America; to the Honorable Daniel K. Inouye and Honorable Spark M. Matsunaga, senators from the State of Hawaii and to Honorable Cec Heftel and Honorable Daniel K. Akaka, representatives from the State of Hawaii, of the Congress of its United States of America.

OFFERED BY: Patsy K. Young

Senator MATSUNAGA. Our next witness, who has been waiting patiently along with his fellow trustee of the Bishop estate is Mr. Richard Lyman, Senator Lyman, accompanied by Mr. Myron "Pinky" Thompson.

STATEMENT OF RICHARD LYMAN, JR., CHAIRMAN, BOARD OF TRUSTEES, BERNICE PAUAHI BISHOP ESTATE

Mr. LYMAN. Mr. Chairman and members of the committee, Mr. Thompson asked me to convey his regrets. He had an appointment this afternoon and so was not able to accompany me.

My name is Richard Lyman and the statements I am about to make are my personal convictions from facts based on several of many reports that have been published heretofore.

My Hawaiian ancestors lived here in Hawaii for generations before the coming of foreigners to these shores. My great grandmother was Louisa Chu Chu Gilman, whose father was known as John Neddles. Louisa married a man from China known as Ahung who died in 1845. Louisa had one child with Ahung before he died and so my grandmother was a combination of Indian, Hawaiian, and Chinese. Hualani, my grandmother, was married to my grandfather the fifth son of a missionary in 1866, and following him were 11 others. As far as I know of the 16 children in my grandfather's family no other one married outside of the missionary clan. In fact, half of his brothers and sisters returned to the mainland and never came back. On my mother's side her father came from Italy and married a native Hawaiian and so here I am—Hawaiian, Indian, Chinese, Italian, and American.

Before making my testimony I must admit that up to a year ago I may have had the opinion that the native claim was frivolous. However, I am now convinced that the claims made by the advocates of "Aloha" and others who may be called "activists" are not without merit—in fact the claims are too long overdue.

Many of us including myself have been too prone to accept what was laundered and given to us as gospel truth, but now that we understand the whole series of events that transpired before the Indian Claims Act of 1946 (U.S.C.A. 70) which provided for the jurisdictional claims under section 70A. It is now a new ballgame.

When the Indians were permitted to make claims in 1946, the door was opened for the Alaskan Natives the opportunity of doing likewise by the passage of the Alaskan Native Claims Settlement Act of 1971, Public Law 92–203. For several years the question of the status of the native Hawaiian as an aboriginal was held in abeyance but finally settled when aboriginal Hawaiians were classified as native Americans, a recognition that was also long overdue.

The Hawaiians, unlike the Indians and Eskimos, are making claims for payment for the loss of their rightful role as a constituted government recognized by the leading nations of the world before the turn of this century. This overthrow of government was brought about by intrigue and the force of arms of the American Government and other Americans, which is a part of Joint Resolution 4.

To go back into history, Hawaii was officially discovered by Capt. James Cook in 1778. However, there is evidence that Spanish explorers had visited these islands several centuries before the arrival of Captain Cook, 200 years ago.

At the time the Hawaiian islands were discovered in 1778 the native population was estimated to be at a minimum of 250,000 to possibly 400,000.

It is interesting to note that in 1823 the estimated population was 142,000.

In a census of 1832 the figure was 130,300; in 1836 the census figure was 108,600; in 1853 the population was 73,100; in 1860 the population was 69,800; in 1872 the population was 56,900; and in 1884 the estimate was 84,619.

It is also interesting that the native population in 1884 was estimated to be Hawaiians 44,232, Chinese 20,273, Portuguese 9,373 and other foreigners 10,741.

[Source—Thrums-Hawaiian Almanac and Annual 1885.]

It is noteworthy that the fastest growing foreign population were the Chinese which probably caused the white foreign population great concern and steps were taken to deprive them of voting and citizenship rights.

It is my personal belief that the Chinese were openly accepted by the Hawaiians, especially the women because the Chinese husband was a good provider, a hard worker, a good cook, and a very ambitious person for himself and family.

Almost 50 years after Captain Cook's arrival the missionaries came to Hawaii to Christianize and civilize the natives of Hawaii who were considered to be pagans and heathens like the Chinese.

The native Hawaiians were taught to read and write. However, they were soon alienated from their early culture and customs.

With the coming of the missionaries and the foreigners there was concern that the natives and Chinese would wield too much power in the future.

In order to provide labor for the development of sugar plantations it became necessary to import labor from foreign countries because the native population was declining at a rate of 8 percent or better per year and the available native labor was not particularly interested in working on the sugar plantations when there were other jobs that they were more interested in and available to them.

With the arrival of the missionaries in the early 1820's, steps were taken to teach the natives to become literate. By the middle of the 18th century the people were able to read and write in their own language and became so proficient that there were few countries in the world that were as literate as the Hawaiians. In this respect the missionary influence was all to the good.

However, while the Hawaiian and his half caste brethren were learning there was a hope that the missionary children might some day be the rulers over these islands and have the control and power in their hands.

This was a long range project for some. It was also openly stated by some that this plan was in progress for many years and a dream that almost came to pass for real. These statements can be verified by reading "Hawaii's Story" by the late Queen of Hawaii, Liliuokalani.

Following the importation of labor from China, immigrants from India, Russia, Japan, Puerto Rico and the Philippines was attempted as contract laborers. Those of us, who have lived in Hawaii all of our lives recognize that there has been a feeling of unrest about the people who came here and until almost 50 years ago there was this feeling.

"Don't give these children from foreign lands too much education for fear that they would be educated away from the labor force of these islands"—which is a reecho of the fear previously expressed by the people who wished that the destiny of Hawaii would be placed in the hands of their children.

And now we come to the question of the resolution introduced by Senators Inouye and Matsunaga which establishes the Native Claims Settlement Study Commission and for other purposes.

There is a saying—"When a tiger dies he leaves his skin behind but when a man dies he leaves his name behind for good or for evil."

As a Native American I want to believe that in this particular instance the American name will be good and it is my hope that this resolution will apply to other purposes as well when we speak of those things that we call Hawaiian.

I do not quarrel with the intent of the resolution. I do not believe that this is the time or the place to do any nitpicking. However, I do have a question or perhaps a suggestion for what it may be worth, on page 3, line 18, following the word President no less than six of the members instead of six.

Mr. Chairman and members of your committee—I urge the adoption of the resolution so that the Commission can be appointed to do the job set forth in your Settlement Study Commission forthwith.

Thank you, gentlemen.

[Applause from the audience.]

Senator MATSUNAGA. Senator Lyman, I have one question.

In the event that we should change that to "no less than 6," we would have to change the composition of the full Commission also, because we would otherwise have a problem, would we not?

Supposing you just say "no less than 6." Then if you have a majority who are not of Hawaiian blood, do you mean no less than the majority? Is that what you mean?

Mr. LYMAN. Maybe I didn't make myself clear. I dashed this off last night and I know there are errors in here.

You will find words misspelled.

As I understand it, 6 of the 11 will be Hawaiian

Senator MATSUNAGA. Of Hawaiian ancestry.

Mr. LYMAN. And that would be the minimum. What I am trying to say is that there will be no less than six. There could be more than six.

Senator MATSUNAGA. Fine.

Mr. LYMAN. In other words, there could be seven. It might be eight.

Senator MATSUNAGA. Thank you very much. Any questions?

Senator ABOUREZK. I wonder if I might suggest a procedure to the committee. You have about 17 more witnesses and if you are going to finish during the time, might I suggest that the committee adopt the procedure where everybody who has a written statement submit it for the record and simply respond to the questions of the committee as they come up. We can ask how they stand on the bill. Is that agreeable to you? Otherwise, it's going to be unfair to the witnesses who are going to come up.

Senator MATSUNAGA. Perhaps a better suggestion would be that, if you prefer to read the statement, we are going to have to limit each presentation to 5 minutes or even less.

Some of you may not even have a statement which would run five minutes. Those of you who do have statements, written statements, which would take more than 5 minutes to read, we will appreciate

it very much if you will submit the written statement and try to summarize, because time is of the essence.

Senator Abourezk will have to leave here at 3:30 in order to go to Maui for other commitments. So, the suggestion is well taken, and we will proceed on that basis, unless other suggestions are forthcoming.

Our next witness is Winona Rubin.

Winona, are you here?

Mr. KEALOHA. Mrs. Rubin will not be able to be here. I am Gard Kealoha, communications specialist for Alu Like, our native Hawaiian program.

Mrs. Rubin has asked me to read testimony prepared by her.

STATEMENT OF WINONA KEALAMAPUANA ELLIS RUBIN, HOME-RULE REPRESENTATIVE TO THE COUNCIL OF HAWAIIAN ORGANIZATIONS, HONOLULU, HAWAII, AS PRESENTED BY GARD KEALOHA, CORRESPONDING SECRETARY, COUNCIL OF HAWAIIAN ORGANIZATIONS

Mr. KEALOHA. From October 1975 through December 1976 Alu Like conducted a needs assessment survey and research in the native Hawaiian community in Hawaii. For the first time, information about native Hawaiians were compiled from as many existing sources as possible, and area meetings and individual interviews were conducted to document for the Government and obtain first-hand the perceptions of native Hawaiians about their needs and their priorities. Having done this, Alu Like is attempting during this initial operational year to provide intake, counseling, and referral assistance while doing outreach and advocacy to eliminate blocks to services and to establish agency linkages which will more effectively address the native Hawaiian needs.

Let me share some of the Alu Like data with you.

Population—there are approximately 150,000 native Hawaiians in the State of Hawaii, that is, approximately 18 percent of the people in this State have ancestors who were native to the Hawaiian Islands prior to the arrival of Captain Cook in 1778. Of this total approximately 50 percent are 18 years of age or younger. Of the native Hawaiians in the State approximately 11,000 are full Hawaiians. Their mean age is 48.1 years, and one-third of the full-Hawaiian group are over 56 years of age. In addition, one-third of the school age population in the State are native Hawaiian. Major priorities identified by native Hawaiians during the assessment year included education and culture, economic opportunities, and the issues of land, water, and native rights—all areas in which there are significant and pressing concerns for Hawaiians. More data is available in the Alu Like report entitled "Analysis of Needs Assessment Survey and Related Data (1976)". An extract summary of the analysis follows:

SUMMARY OF THE ANALYSIS OF THE NEEDS ASSESSMENT SURVEY AND RELATED DATA*

In summarizing the needs of the Hawaiian population, the data have been grouped under 10 indicators. These data have been extracted from the "Analysis

*Data cited which are not from the Needs Assessment Survey, unless otherwise footnoted, are generated from the Health Survey (benchmarked 1973) and from the Hawaii State Population Survey 1976, Research and Statistics Office, State Department of Health, Honolulu.

of the Needs Assessment Survey and Related Data" from which more details can be obtained in the form of tables, charts and graphs (copies of the full report are available from the Alu Like Office).

HEALTH AND MEDICAL NEEDS

Overall, the Hawaiian population does not fare as well by most indicators of health when compared to the average for all other ethnic groups in the State of Hawaii. The majority of in-depth studies on specific chronic conditions such as cancers, diabetes, prematurity, infant mortality, and congenital malformations show that rates for these conditions among those with Hawaiian ancestry are slightly higher than the State's averages. Furthermore, death rates at all ages are higher for the Hawaiian population, that is, the life expectancy at birth is shorter for those with Hawaiian ancestry than that for all ethnic groups in the State. However, contrary to these findings, self-reports of health conditions such as days in bed, number of hospital visits, days lost from work or school are not different between the Hawaiian groups and all other ethnic groups. This discrepancy may be an indication that cultural factors are influencing perception of health and illness. Further analysis must be done in this area to determine whether those with Hawaiian ancestry are receiving less medical services because of cultural interpretations of health and illness, unavailability of services, lack of finances, or lack of understanding of the health delivery service system.

A different combination of needs are found in subgroups of the Hawaiian population. For example, the elderly is a group who are in most need of access to health care as well as medical insurance; those living in rural areas lack health facilities; and school-aged girls are particularly at high-risk for illegitimate early pregnancies with subsequent health and social problems.

HOUSING AND LAND

Housing.—Large percentages (from 20 percent to 60 percent in various localities) of the Needs Survey sample, particularly in rural areas and on Hawaiian Homes Land, report inadequate housing. They feel that stray animals, cockroaches, and social problems such as vandalism, theft, drugs, truancy, and teenage delinquency are big problems. Those living on neighbor islands have large percentages (ranging from 20 percent to 90 percent) who are not satisfied with neighborhood services and facilities such as street maintenance, street lighting, garbage collection, playgrounds, welfare, educational and health services, and shopping facilities. Many people in rural Oahu share these dissatisfactions.

Land.—Historically, the Hawaiian population has a unique relationship to their land. The land is an integral part of their spititual and everyday life-style. As a result, the percentage of those living in public housing units is smaller than the percentage of Hawaiians of low-income families would indicate. There are some who still practice Hawaiian skills related to using the land and sea for producing food but there are more who have strong feelings that land should be made available for these culturally-specific life pursuits. The Hawaiian Homes Commission Act of 1920 set aside about 200,000 acres of State-owned land to answer this need. However, only about 13 percent of this land is being used for living, agriculture, or pastoral purposes. The need to develop more land for agricultural-aquatic purposes has been expressed to 82 percent of the respondents in the Needs Survey.

TRANSPORTATION AND MOBILITY NEEDS

Traffic and traffic control are localized problems. Mainly on Oahu, both in rural areas and in Honolulu, over half of those surveyed think traffic is a big problem and are not satisfied with the traffic control services.

The elderly Hawaiians tend to have more physical disabilities than the elderly of all ethnic groups, making such activities as going up-and-down stairs, dressing, and going out more difficult. In area meetings, the elderly expressed the need for better services to be provided by existing state-sponsored transportation programs for the elderly, especially for the handicapped.

SAFETY AND LEGAL NEEDS

Vandalism and stealing are viewed by about 40 percent of the residents in predominantly Hawaiian neighborhoods as being a big problem. These tend to be rural areas and on the Hawaiian Home Lands. Many of the rural areas in particular are also not satisfied with the police protection services.

A possibly serious legal need is that of criminal justice. An investigation of State records reveals that arrest rates for persons of Hawaiian ancestry are lower or equal to the State rates. However, the offender population (persons in correctional facilities) rate is twice as high for the Hawaiians and Part-Hawaiians. Because the types of crime causing arrests are not appreciably different, a major hypothesis explaining this discrepancy is that those arrested who have Hawaiian ancestry are not receiving the same treatment in legal aid, sentencing practices, parole procedures as are other ethnic arrests.

State data also reveal the following about Hawaiian offenders: (1) the majority of crimes are classified as offenses against property; (2) disproportionate percents of the juvenile offenders come from homes receiving welfare and are living in public housing; (3) disproportionate percents of the adult male offenders over 30 years of age have physical handicaps, mental problems, and alcohol addiction; (4) the highest rates are among teenagers and young adults; and (5) breaking the law tends to run in families, particulary among siblings.[1]

EDUCATIONAL NEEDS

Educational needs are in top priority for programs for the Hawaiian population surveyed. This is also the major category of needs expressed in the area meetings. School-aged children comprise about half of the Hawaiian population; whereas only about one-third of the State population are children. Hawaiians have high aspirations for their children. The Needs Survey revealed that, almost unanimously, the parents feel it is important for their children to finish high school; and three-quarters of the parents feel that at least some college is important.

Hawaiian adults have fewer who completed high school than does the general population (67 percent versus 72 percent). And those with more Hawaiian ancestry have fewer who completed high school than those with less Hawaiian ancestry (51 percent versus 74 percent).

A vast majority (77 percent) of the Hawaiian children attend public schools. About one-third of the Needs Surve respondents are not satisfied with the public schools. This percentage is even higher in some rural areas. One of the major complaints is that the public schools are not sensitive to the needs of the child with a culturally Hawaiian lifestyle.

Although the percentage of children attending preschool is not different between the Hawaiians and other ethnic groups, it is believed that Hawaiian children are more in need of homestart/headstart preparation for the public schools as a way of integrating their cultural orientation with that of the vastly different orientation in the public elementary schools they will attend.

CULTURAL NEEDS

The Hawaiians are proud of their cultural heritage and are very concerned about the diminishing opportunities available for the perpetuation of their culture. Many respondents in the Needs Survey spontaneously voiced this concern in relationship to quality of education, employment, and availability of land.

Although there are quite a number of persons still practicing Hawaiian skills of arts and cherishing the Hawaiian way of life, there are more persons who are concerned because they feel that they should know more about their people and want their children to know more Hawaiian history, language, music, crafts, dance, and sports.

Those with more Hawaiian ancestry are more likely to have Hawaiian skills. And those who have such skills and/or want to acquire more of these skills are very interested in participating in activities to strengthen the Hawaiian community: special newspaper, TV programs, workshops, etc.

RECREATIONAL NEEDS

About 40 percent of the respondents in the Needs Survey stated they were not satisfied with the parks and playgrounds. In some areas, over 60 percent of the people feel this way. This dissatisfaction is expressed in all areas of the State.

Only one-third of the respondents reported belonging to any Hawaiian organization; yet 43 percent expressed the desire to join one. Thus there seems to be a need for assisting persons interested in joining an organization in doing so. Fewer Hawaiian elderly belong to organizations than do elderly in general.

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[1] Raw data generated for Alu Like from Corrections Research and Statistics Bureau, Department of Social Service and Housing, State of Hawaii, from a census of the offender population on Apr. 30, 1971.

SOCIOLOGICAL NEEDS

In 1970, the general fertility rate for those of Hawaiian ancestry was 221.7 compared to 96.4 for all ethnic groups in the State.[2] Ten percent of Hawaiian children are living in households with female heads as compared with 6 percent of all children in this situation.

Not all persons eligible for assistance programs are receiving services, especially for the elderly.

EMPLOYMENT AND FINANCIAL NEEDS

A considerable difference exists between the Hawaiian population and the State population by employment and economic indicators. The percentage of Non-Hawaiians in professional and managerial occupations is almost twice that of the Hawaiians (18 percent compared to 10 percent), but the percentage not in labor force is only slightly higher for the Hawaiians (38 percent compared to 36 percent). Within the Hawaiian group itself, the percentage of Part-Hawaiians in the professional-white collar occupations is much higher than that of the Full-Hawaiians (33 percent versus 14 percent), and the percentage not in labor force is higher for Full-Hawaiians (47 percent versus 31 percent).

The desire for upward economic mobility is apparent in the higher status occupations desired than the ones actually held by most of the Hawaiians surveyed. However, this upward mobility incorporates traditional Hawaiian modes of livelihood.

The median family income in 1972 for the State population was $11,650 but for part-Hawaiians it was $9,942 and for full-Hawaiians it was $9,699. Overall, 22.0 percent of Hawaiians received welfare aid in 1975 compared to 13.5 percent of all ethnic groups; and, within the Hawaiian group, more full-Hawaiians are on welfare than part-Hawaiians.

PROBLEM RESOLUTION NEEDS

There are varying numbers in the Needs Survey who are not aware of service programs, from 4 percent for welfare to 36 percent for HCAP. However, those who are aware of such programs do not necessarily understand how to use them. Also, data gathered from the area meetings indicated that the Hawaiian community does, in fact, feel a need for understanding what service programs are available to them and how one goes about utilizing these services.

INTERRELATEDNESS OF NEEDS

A component analysis of economic, social, and cultural data from the Needs Survey show that the Hawaiians are a heterogeneous population, that is, the population as a whole is not a "depressed" one, but segments of it are; however some problems are found in all Hawaiian groups.

While one-fourth of the population could be considered successful in terms of income, one-fifth have incomes below the poverty line, and one-third of the women interviewed receive two or more types of public or private assistance. While one half of the population report owning their own homes, many of these are quite modest and many are on subsidized land (fee-simple ownership is the exception in Hawaii and land costs are the highest in the nation).

Hawaiians are a working population with 80 percent of the adult men and over half of the women employed or looking for work. They are overwhelmingly family centered. Only a fifth of the men and an eighth of the women (nearly all of them young) have never been married, while about a third have had six or more children. Since the median income ranges from $11,869 to $13, 446 for the women and men interviewed, respectively, there is not much to spare. (These figures must be reduced by about 20 percent for comparison with the U.S. mainland.) Larger families report incomes that are inadequate.

Different categories of the population have different problems. The urban, higher income group, both men and women, lack adequate educational preparation for the better jobs that they want. One-third report a desire for housing that they cannot afford. The lower income urban group suffers from joblessness, an insufficient supply of low-cost housing in the urban areas, and consequent doubling-up of families. The rural group suffers from lack of job opportunities, a limited range of job choices, and, particularly on Oahu, a steady loss of access to natural resources.

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[2] Robert W. Gardner and Eleanor C. Nordyke. "The Demographic Situation in Hawaii." Papers of the East-West Population Institute, No. 31, Honolulu, June 1974.

From 30 percent to 90 percent of those interviewed (differing by island) reported obtaining at least some food by gardening, hunting, fishing, gathering, and sharing—even on Oahu—but this is becoming increasingly difficult as land is turned to urban uses and people are either evicted, or access to land for these purposes is denied.

Hawaiians in all groups frequently report loss of pride and bitterness resulting from the historic loss of their family lands and their homeland. Some three quarters desire to return to the self-sufficiency that they associate with living off the land and sea. Hawaiians in all groups are also frequently frustrated and angry about a system of public education that they see as largely irrelevant to learning how to make a living, one which contradicts their most cherished values of group cooperation and personal relationships, ignores their identity, traditions, and history, and is unresponsive to their individual efforts to effect changes. There is no evidence that the public school system so far has made major impact upon these problems at the elementary and secondary levels. At present, 15 percent of Hawaiian children are attending private schools, despite the strained finances of many of their families; while the 35 percent of adults who attended one or more private schools turn up as more successful occupationally by Western cultural standards.

Mr. KEALOHA. In our contacts with native Hawaiians throughout the State, we can confirm the frustration of native Hawaiians on the issue of land and reparations. Although there are still some differences among community groups on how best reparations can be accomplished, I believe that there is consensus among Hawaiians that a remedy for past wrongs to native Hawaiians is due through reparations. If this can be facilitated by the creation of the commission, we support immediate action.

I would like to add an observation. Over the nearly 100 years of U.S. control of Hawaii, the native Hawaiian has suffered emotional, social, cultural, and economic hardship with numerous negative consequences. Correcting the impact of the original wrongs may take almost as many generations as it took to develop problems. Therefore, section 3.(b) subsection (2) (A) and (E) relative to extinguishing of rights and exclusion of wardship or trusteeship appears to be discriminatory against the yet unborn generations of native Hawaiians who will still feel some of the negative impact in their lifetime. I hope that the Hawaiian Native Claims Study Commission will not be restricted in its deliberations by inclusion of those two extremely significant provisions. More latitude in arriving at Commission recommendations may be necessary to properly redress the wrongs.

Alu Like operates under Public Law 93–644, title VIII which is aimed at developing economic and social self-sufficiency for native Hawaiians and other native Americans. We support reparations efforts and creation of a study commission which will facilitate achieving that goal.

Mahalo for the opportunity to testify today, and our best wishes in your deliberations on behalf of native Hawaiians and the people of Hawaii Nei.

If you have questions, we will be happy to answer them.

Senator MATSUNAGA. You made it in 3 minutes.

Mr. KEALOHA. I have one more statement to read, my own, in 2 minutes.

STATEMENT OF GARD KEALOHA, CORRESPONDING SECRETARY, COUNCIL OF HAWAIIAN ORGANIZATIONS

Mr. KEALOHA. I am wearing another hat, as a member of the Honolulu movement, and also as the corresponding secretary of the Council of Hawaiian Organizations.

Generations of Hawaiians have passed patiently through years of waiting for just redress of a wrong officially recognized by a President of the United States. You have heard an undoubtedly long repeated litany of the pain and agony endured by our Hawaiian ohana, our people, and I need not add to what is already obvious.

I would like to concentrate on the present. As you know the statistics indicating social disparity among our Hawaiian people increase exponentially, particularly among our disillusioned young. The young we also know, hold an idealistic hope that can, when frustrated, explode.

The convictions of our young men who, propelled by a moral commitment and a rediscovery of Hawaiian values to restore the sacredness of our aina or land; the continued bureaucratic frustration endured by long lines of applicants for a place in the sun promised by the Hawaiian Homes Act of 1920; the totally irrelevant and insensitive educational curriculum placed upon our Hawaiian children that in itself violates the principles of sound educational practice; the materialistic and competitive values still insistently shoved onto the shoulders of a people whose ancestors took only what was needed and always left enough for another days sustenance for all to enjoy are very real barriers toward any futher accommodation and endurance.

The fact that this hearing itself is held during 1 day can be cynically construed as more legislative insensitivity. Gentlemen, our people hold jobs. They work and a great majority are not able to be present. Why was no consideration given to having a hearing held in the evening? And would you gentlemen, consider the extinguishment of any further claims by your children's children if you were native Americans? Would you take that awesome personal responsibility?

There is today, a great deal of worry and uneasiness on the unusual and odd behaviour of the people of aloha. There is talk of potential violence and there is evidence already of complete disregard for order and law and the sensible approaches toward problem solving. And while we know that clubs and mace and jail cells and police guns can effectively silence the extremists who are making and will continue to make the personal sacrifices, we also know that that kind of solution can only remain precarious and tentative.

It can never silence the beating of the hearts that yearn for justice and the simple right to be, native Hawaiians.

Thank you.

Senator MATSUNAGA. Thank you very much, Mr. Kealoha. In response to the question which you raised, I must say that we had really intended to move this bill without further hearings based on the extensive hearings which were held, you will recall, on H.R. 1944 and Senate Joint Resolution 155. But we were advised by counsel that we would need to hold some hearing, during which we could by reference incorporate the record of the previous hearings into the proceedings of this Congress.

Each Congress acts independently of others so that this Congress, the 95th Congress, had to at least hold 1 day of hearings in order to incorporate what was previously presented.

It's for that reason, to expedite matters, that we shortened these hearings. I would assure you that it was not a case of insensitivity, as you and others may have been led to believe.

Our next witness is Mr. Gail Prejean.

STATEMENT OF GAIL PREJEAN, PRESIDENT, HAWAIIAN COALITION OF NATIVE CLAIMS

Mr. PREJEAN. I'd like to pay homage to the people of the panel here and, again, Senator Abourezk.

We have had extensive dealings with the native Americans, the chairman of the Indian Policy Review Commission.

I hope you understand the urgency that was expressed by people such as Gard Kealoha, in hopes that we can attempt to properly remedy this ever-growing problem of Hawaiian injustice.

Kawaipunaonakoa will read the testimony and I will just say, "Aloha."

STATEMENT OF KAWAIPUNAONAKOA GAIL PREJEAN, DIRECTOR, HAWAIIAN COALITION OF NATIVE CLAIMS

Mrs. PREJEAN. To the august body and committee that is representing the Congress of the United States of America, and to you, the people of Hawaii, may I say with a gesture of aloha.

The AUDIENCE. Aloha.

Mrs. PREJEAN. I am Kawaipunaonakoa Gail Prejean, director of the Hawaiian Coalition of Native Claims.

I have come to provide testimony in hopes of awakening the full consciousness of the American people to the grave injustices along with savage and inhumane acts committed against an endangered race of compassionate and generous people, the original inhabitants of these islands, native Hawaiians, by which such acts were carried out by assassins of native liberties, rabid annexationists.

Justice and fair play for native Hawaiians have been tardy to say the least. The irony of being here today is uncanny. It is exactly on this day 79 years ago, July 6, 1898, that the joint resolution to annex Hawaii to the United States was carried in the Senate and approved on July 7, 1898 by President McKinley, the namesake of this high school that we are meeting in today.

The tragedy of McKinley's acceptance of the ceded lands from the illegal provisional government was that these lands were not theirs to give. He had legitimized a massive thievery that allowed the participants in the coup d'etat of 1893 to build tremendous empires on stolen property and resources from the unique aboriginal kingdom and constitutional government without the support nor consent of the aboriginal people.

Subsequent to the coup d'etat of 1893, native Hawaiians had been stripped of their identity and rightful place in the world family of nations, victims of a great national wrong.

A glance into Hawaiian history reveals formidable and irrefutable evidence of genocide, racism, class hatred and gross violations of human as well as native rights. Deliberate attempts to drive out the original stock from their ancestral homeland is illustrated in one instance by the Peonage Act of 1850 which allowed massive importation of Asiatic contract laborers, thus displacing and further alienating aboriginal natives from their lifegiving landbase.

Maj. Gen. John M. Schofield first sighted Pearl River lagoon, now known as Pearl Harbor, in 1873. The Reciprocity Treaty of 1887 allowed the creation of a coaling and repair station at Pearl Harbor.

This treaty was in effect and in fact violated when U.S. Minister John L. Stevens caused troops to be landed on Hawaiian land, in support of the conspiracy.

Now, 104 years after General Schofield's visit, the military claims ownership to 26 percent of this island of Oahu alone including 60 miles of its 180 mile coastline with choice fishing grounds, Makua Valley which was again burning out of control this past weekend, the entire island of Kaho'olawe, the eighth largest island in the Hawaiian chain, and over 100 other sites used for military purposes.

Understand the tremendous adverse propaganda that has been used against us, native Hawaiians, by big interest, including the military who has threatened the State with economic blackmail by pulling out of Hawaii. Our resources are meager in the face of such overwhelming odds, but it is our birthrights that we are asserting and not requesting gifts of charity.

We hope this will be a new day in justice for the native Hawaiian people; and that this demonstration today, at McKinley High School, will give backbone and diligence for those whose task it is to remedy and repair the great injustice done to our native Hawaiians.

Man can never duplicate or create the beauty of the Hawaiian Islands in any other place on this planet.

Hawaii has been the homeland of our ancestors and it's the home of many peoples and childrens from all over Hawaii. Aloha.

[Applause from the audience.]

Senator MATSUNAGA. Mahalo.

Our next witness is Louis Agard.

STATEMENT OF LOUIS AGARD, CHAIRMAN, SOVEREIGNTY COMMITTEE, COUNCIL OF HAWAIIAN ORGANIZATIONS

Mr. AGARD. Mr. Chairman, members of the committee, and ladies and gentlemen, good morning and Aloha.

Senator MATSUNAGA. Aloha.

Mr. AGARD. As the Sovereignty Committee to the Hawaiian Organizations we appreciate the opportunity to express our views at this hearing and we come to support the concept of Resolution 4.

We respectfully request that the resolution particularly address these important issues:

1. That no limitations be imposed prior to the findings, that is, no ceiling as in Resolution 155, and no termination, implied or otherwise, in the Resolution 4, as is;

2. That an enrollment be completed for the beneficiaries. This would have the advantage of finding out exactly how many people we are talking about when we are talking about reparations;

3. That an elective process be used to select commissioners. We feel that this would be the fairest approach and will be based on a formula such as our Con-Con, or the House of Representatives by population quantums, the representations divided therewith; and

4. That native Hawaiian sovereignty exists.

5. That the Commission's findings be ratified by native Hawaiians.

6. That past treaties be acknowledged.

7. That the definition of native Hawaiian is that used in title 8 of the native American programs.

Are there any questions at this time you'd like to have elaboration on?

I certainly would want to do so.

Senator MATSUNAGA. Any questions? Senator Inouye.

Senator INOUYE. How long will this process take?

Mr. AGARD. Well, Senator, I would expect that if appropriations were made for the purpose of enrolling the people that would be affected, it would take some time. I am not sure, but we are bringing this up for discussion as the most practical way to get a mandate.

We are searching for a mandate so that this settlement will be equitable in all areas.

Much testimony has been presented to date indicating that a settlement is in order. However, the foregoing points have largely not been touched upon. A most important point is No. 4, native Hawaiian sovereignty exists, because it is difficult to comprehend how in 1897 the ceremony of transfer of sovereignty could be accomplished by other than Hawaiians who did not posess or enjoy that sovereignty. Native Hawaiian sovereignty is an inherent right.

We further ask that other Hawaiian organizations efforts be considered also, particularly the efforts of the ALOHA Association for reparations. Reparations determined to be not less on a per capita basis than in the Alaskan settlement.

To expedite this hearing we ask to submit for the record as Exhibit No. 1. the correspondence between the Department of the Interior and the Sovereignty Committee on matters of paramount concern to Hawaiian heirs.

We also wish to submit for the record as Exhibit No. 2 testimony representing material reviewed by Hawaiian heirs for study commission consideration.

Lastly we wish to submit for inclusion as Exhibit No. 3 a criteria outline and guide to be refined for the selection of Commissioners on the Study Commission.This outline has been approved in concept by Hawaiian organizations for the foregoing purpose.

If there are any questions, gentlemen—

Senator MATSUNAGA. Without objection, the documents will be included in the record.

Mr. AGARD. Thank you, Mr. Chairman. If there are any questions, I shall be glad to try and answer them properly.

Senator MATSUNAGA. In short, you do endorse Senate Joint Resolution 4 and its counterpart, House Joint Resolution 526?

Mr. AGARD. Mr. Chairman, yes, that is true, we do accept the concept. We ask for the consideration of these points for discussion and hope that some reasonable arrangement can be concluded.

I thank you very much for the time. [Applause from the audience.]

[The exhibits to Mr. Agard's statement follows:]

[EXHIBIT 1]

THE COUNCIL OF HAWAIIAN ORGANIZATIONS,
January 21, 1977.

Mr. CECIL ANDRUS,
Secretary of the Department of Interior, C Street between 18th and 19th NW., Washington, D.C.

DEAR MR. ANDRUS: The Sovereignty Committee of the Council of Hawaiian Organizations believes that the two concerns expressed in the enclosed letter dated November 23, 1976 were not properly addressed in a response from your office dated December 27, 1976 included as enclosure (A).

As a consequence, we request the following:

1. Since a new administration has emerged under President Carter, we ask that the enclosure be re-received and re-evalutaed for more responsive action.

2. Since we are aware that yours is the department responsible for aiding native Americans in updating and promulgating their constitution we ask that your department provide us with the necessary procedures and related time table required to accomplish a local initiative referred to in paragraph two of enclosure (A).

We realize that long range correspondence will not always communicate our thoughts properly. Consequently, we suggest that heads of your department plan a trip to Hawaii in order to meet with our committee to discuss this matter in detail.

We would appreciate an early response to the stated requests and suggestion.

Sincerely,

LOUIS K. AGARD,
GAIL K. PREJEAN,
JOHN M. AGARD,
Sovereignty Committee,
Council of Hawaiian Organizations.

Enclosures: A, 1–6.

[ENCLOSURE A]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., December 27, 1976.

Ms. GAIL K. PREJEAN, and Messrs. LOUIS and JOHN AGARD,
Sovereignty Committee of the Hawaiian Nation, 116 South King Street, Suite 404, Honolulu, Hawaii.

DEAR Ms. PREJEAN and MESSRS. AGARD: Secretary Kleppe has asked me to reply to your letter of November 23, 1976, concerning the rights of the Native Hawaiians which you claim have been violated. It appears that you have seen a copy of our letter of September 28, 1976, to Mr. Gard Kealona, Corresponding Secretary, Hawaiian Coalition of Native Claims, on the same subject. There is really very little we can add to what we said in that letter.

It appears that the solution, if any, to the problems concerning which you write would be to seek an amendment to the Hawaii State Constitution. The procedures for doing this are set forth in Article XV of that document. Admittedly, consent of the U.S. Congress would be required if substantive amendments to Article XI of your Constitution, which deals with Hawaiian Home Lands, were involved. However, before the U.S. Congress could be asked to agree to amendments to the Hawaiian Homes Commission Act of 1920, as amended, see, Section 4 of Hawaii Statehood Act (73 Stat. 4), the people of the State of Hawaii should signify their desires for such amendments in accordance with Article XV of the Hawaii State Constitution. This, of course, would involve a totally local initiative in which, as we previously advised you, this Department would have absolutely no role.

Sincerely yours,

H. GREGORY AUSTIN.

NOVEMBER 23, 1976.

Mr. TOM KLEPPE,
Secretary of the Department of Interior, C Street between 18th and 19th NW., Washington, D.C.

HONORABLE SECRETARY KLEPPE: The Council of Hawaiian Organizations has reviewed your letter dated October 1976, and find that we need to clarify two concerns.

In our initial letter to your office dated September 1976, we made an attempt to obtain a commitment from your office to help us settle certain rights long overdue our Native Hawaiians.

The first concern deals with questioning use of revenues from lands illegally taken from Native Hawaiians in 1893.

Provided as Enclosure 1 is a page of the 1898 Treaty of Annexation for Hawaii. Contained within Article II of this document is a provision that assures Hawaiian natives educational and other benefits. We interpreted "inhabitants of the Hawaiian Islands" as "Native Hawaiians." We based this interpretation on the fact that only Native Hawaiian rights were violated following the illegal overthrow of the "Hawaiian Kingdom."

If this document is accepted as a legal paper, then we request that an explanation be provided telling us why the United States has failed in its fiduciary responsibilities in fulfilling this specific provision on behalf of Native Hawaiians.

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To illustrate this failure, we provided Enclosure 2 which is a 1976 publication on facts about the Kamehameha Schools. Information on page 9 shows that approximately 58,000 Hawaiian or part-Hawaiian children are eligible for the intended education, but only 2,600 or 4.5% actually receive a quality of education of their choice. This intolerable condition has existed in varying degrees from 1893 up to the present and has never been properly addressed.

To further support our case, we also question the failure of the 1900 Hawaii Organic Act and the 1959 Hawaii Statehood Act to honor the Treaty of Annexation provision specifically dealing with educational benefits for Hawaiian natives. We support this statement by referring to Enclosure 3 which includes pages CRS–35 and CRS–36 obtained from a 1973 study entitled "A History of the Alaska Native Claims Settlement of 1971; Together with a History of the Determination and Disposition of the Property Rights of Native Hawaiians, being a Comparison of These Two Situations in the Light of Proposing a Settlement of Hawaiian Native Land Claims." The study was prepared by the Library of Congress Legislative Reference Service. Enclosure 3 indicates that omission of Native Hawaiian rights in the Statehood Act has further deprived us of these inherent rights and therefore, under due process make us eligible for settlement of these long-overlooked educational rights.

If these two additional documents are accepted as legal paper, then we request that your office review, especially the 1959 Hawaii Statehood Act, with the intent to constitutionally revise that document to include the omitted Native Hawaiian rights. We are once again obviously implying here that we do not, with a clear conscious, accept these documents as legal and binding since Native Hawaiians did not have a part in the ratification process. We have taken the position that our rights have never been extinguished. Enclosure 4 is a copy of the act which illustrates the stated omission.

The second concern of paramount significance deals with the re-establishment of our 1887 constitution. We are seeking assistance from your office to update and promulgate our constitution which existed in 1893 and never repudiated by the legal representatives of the Hawaiian Kingdom. As a sovereign nation, we believe this constitution is still in effect, although it has been deliberately ignored and held dormant since 1893. We ask for equal treatment already extended other sovereign native Americans residing within the United States who have been advised to update their constitutions. Enclosure 5 is a copy of our 1887 constitution which is provided for your reference.

We have based the above updating request on the following historical incidents:

(1) An illegal act by the United States took place in 1893 which interrupted the internal affairs of our peaceful Hawaiian Kingdom. This established act is available in your office. This same act was the unlawful seizure of Hawaiian Kingdom powers while the 1887 Reciprocity Treaty was still in effect between the United States and the Hawaiian Kingdom. We believe that the treaty is still binding upon both sovereign parties and question the integrity of the United States who has violated the trust agreement in the treaty which is universally recognized as international law. Enclosure 6 is a copy of the existing treaty.

(2) President Grover Cleveland, acting as an agreed upon arbitrator in the 1893 incident, directed the insurgents to restore the Hawaiian Kingdom to the rightful possessors. The Provisional Government, who were largely non-native businessmen, refused to comply with President Cleveland's direction, and in our opinon, compounded the violation of international law. In using this compounded violation as a basis, we believe that legal documents approved since 1893, by governmental representatives other than Native Hawaiians who did not have input to these matters, are considered illegal. We refer specifically to the 1898 Treaty of Annexation for Hawaii, 1900 Hawaii Organic Act, and 1959 Hawaii Statehood Act. We want to point out that the apparent transfer of Hawaiian Nation sovereignty in 1898 could not have been legally accomplished by those usurpers of power who did not possess or enjoy the right to relinquish Native Hawaiian sovereignty. Consequently, we believe that Native Hawaiians, like other recognized native Americans, are still members of a sovereign nation unique to Native Hawaiians.

As a related matter, we believe that another trust status was established with the passing of the Hawaiian Homes Act of 1920. The fulfillment of this trust status and attainment of 1920. The fulfillment of this trust status and attainment of self determination will be pursued by us as sovereign native Americans. Achievement of these objectives are necessary to preserve the use, customs, culture, and lifestyle of our comparatively small Native Hawaiian population. We believe that we have, to a certain extent, integrated ourselves into today's ethnic society

but are convinced that we would be better able to cope with surrounding pressures within our community if afforded the opportunity to handle more of our own affairs as other native Americans have done.

In our opinion, it is expected that settlement on issues concerning the specified educational benefits, self determination and sovereignty for our Native Hawaiians will be decided prior to updating our Constitution of 1887. We envision the updating process being accomplished by conducting a plebiscite which would follow ground rules and operational guidelines established by Native Hawaiians.

We endeavored to clearly establish that a wrong was committed against Native Hawaiians which the United States is obligated to remedy. In our opinion, no such wrong can be fully rectified. We would appreciate your response to the two stated concerns along with responses to other points expressed above.

Sincerely,

LOUIS AGARD, JOHN AGARD, GAIL K. PREJEAN,
Sovereign Committee of The Hawaiian Nation.

Enclosures: six.

[ENCLOSURE 1]

TREATY OF ANNEXATION, 1897

ARTICLE II

"The Republic of Hawaii also cedes and hereby transfers to the United States the absolute fee and ownership of all public, government or crown lands, public buildings or edifices, ports, harbors, military equipments, and all other public property of every kind and description belonging to the government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining.

"The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition. Provided: that all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

ARTICLE III

"Until Congress shall provide for the government of such Islands, all the civil, judicial and military powers exercised by the officers of the existing government in said Islands, shall be vested in such person or persons, and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

"The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaty so extinguished, and not inconsistent with this treaty, not contrary to the Constitution of the United States, nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

"Until legislation shall be enacted extending the United States Customs laws and regulations to the Hawaiian Islands, the existing Customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

[ENCLOSURE 2]

Another interpretation of these statistics is illustrated by the table below, which indicates other extractions represented in our student body. Except for the exchange students from the mainland:

	Percent
Whole or part-Hawaiian ancestry	100
Part-Caucasian ancestry	85. 91
Part-Chinese ancestry	71. 52
Part-Japanese ancestry	26. 75
Part-Filipino ancestry	12. 24
Other ancestry	9. 33

NOTE.—Many of the students mention three or more racial ancestries; therefore the above percentages total more than 100 percent.

WHAT PERCENTAGE OF THE TOTAL HAWAIIAN/PART-HAWAIIAN SCHOOL AGE POPULATION DOES KAMEHAMEHA'S CAMPUS PROGRAM SERVE?

As nearly as we can estimate, some 58,000 Hawaiians and part-Hawaiians compose the current school age population of Hawaii. Of this number, Kamehameha serves about 2,600 in its campus program, approximately 4.5 percent of the total Hawaiian/part-Hawaiians of this age group. However, the extension program serves many thousands, most of whom are of Hawaiian ancestry.

HAS KAMEHAMEHA'S CAMPUS PROGRAM EXPANDED?

The Schools' enrollment 15 years ago was approximately 2,000. For the 1974–75 school year it was 2,600, an increase of 30 percent.

WHAT DOES THE WILL STATE ABOUT THE HIRING OF TEACHERS?

About the hiring of teachers for the Kamehameha Schools, Mrs. Bishop's Will directs " * * * that the teachers of said schools shall forever be of the Protestant religion, but I do not intend that the choice should be restricted to persons of any particular sect of Protestants." While teachers are to be Protestants, no such restriction is placed on students, who are accepted entirely on non-religious grounds. The students are free to attend the church of their choice. Sunday evening chapel, operated under the auspices of the Bishop Memorial Church, is required of boarding students.

[ENCLOSURE 3]

3. NO DISTINCTION WAS MADE BY THE HAWAII STATEHOOD ACT BETWEEN THE RIGHT OF THE HAWAIIAN PEOPLE TO TITLE TO PUBLIC LANDS IN THE STATE, AND THE RIGHT OF THE STATE TO SUCH LANDS; SUCH A DISTINCTION WAS MADE IN ALASKA

The State of Alaska was expressly prohibited by the Statehood Act of 1958 (85 Stat. 408) (Sec. 4) from claiming any right and title to land to which the natives claimed right and title. On the other hand, no such distinction between the rights of natives and the rights of the State was made in the Hawaii Statehood Act (73 Stat. 4) of 1959; titled to all public lands in Hawaii to which the United States held title immediately prior to the Statehood Act were (with specified exceptions) granted to the State of Hawaii (Sec. 5(b)). No special consideration of the natives was made. In short, the Hawaii Statehood Act did not distinguish the right of the Hawaii natives to title to public lands from the right of the State to such lands.

The fact that this difference exists could, however, be used to support an argument that such a distinction should have been made in Hawaii; and that because it was not, the natives were deprived of their land rights, and thus are eligible for (monetary) compensation in settlement of those rights. This action (compensation) might be supported by the declaration in the Constitution of 1840 that "all the land from one end of the islands to the other belonged to the chiefs and the people in common * * * " (Cf. p. 14 above).

[ENCLOSURE 4]

[Public Law 86–3]

AN ACT To provide for the admission of the State of Hawaii into the Union

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(c) of this Act, the State of Hawaii is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Hawaii entitled "An Act to provide for a constitutional convention, the adoption of a State constitution, and the forwarding of the same to the Congress of the United States, and appropriating money therefor", approved May 20, 1949 (Act 334, Session Laws of Hawaii, 1949), and adopted by a vote of the people of Hawaii in the election held on November 7, 1950, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

SEC. 2. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of this Act, except the atoll known as Palmyra Island,

together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters.

SEC. 3. The constitution of the State of Hawaii shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

SEC. 4. As a compact with the United States relating to the management and disposition of the Hawaiian home lands, the Hawaiian Homes Commission Act, 1920, as amended, shall be adopted as a provision of the Constitution of said State, as provided in section 7, subsection (b) of this Act, subject to amendment or repeal only with the consent of the United States, and in no other manner: *Provided*, That (1) sections 202, 213, 219, 220, 222, 224, and 225 and other provisions relating to administration, and paragraph (2) of section 204, sections 206 and 212, and other provisions relating to the powers and duties of officers other than those charged with the administration of said Act, may be amended in the constitution, or in the manner required for State legislation, but the Hawaiian home-loan fund, the Hawaiian home-operating fund, and the Hawaiian home-development fund shall not be reduced or impaired by any such amendment, whether made in the constitution or in the manner required for State legislation, and the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States; (2) that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for State legislation, but the qualifications of lessees shall not be changed except with the consent of the United States; and (3) that all proceeds and income from the "available lands", as defined by said Act, shall be used only in carrying out the provisions of said Act.

SEC. 5. (a) Except as provided in subsection (c) of this section, the State of Hawaii and its political subdivisions, as the case may be, shall succeed to the title of the Territory of Hawaii and its subdivisions in those lands and other properties in which the Territory and its subdivisions now hold title.

(b) Except as provided in subsection (c) and (d) of this section, the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title to all the public lands and other public property within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union. The grant hereby made shall be in lieu of any and all grants provided for new States by provisions of law other than this Act, and such grants shall not extend to the State of Hawaii.

(c) Any lands and other properties that, on the date Hawaii is admitted into the Union, are set aside pursuant to law for the use of the United States under any (1) Act of Congress, (2) Executive order, (3) proclamation of the President, or (4) proclamation of the Governor of Hawaii shall remain the property of the United States subject only to the limitations, if any, imposed under (1), (2), (3), or (4), as the case may be.

(d) Any public lands or other public property that is conveyed to the State of Hawaii by subsection (b) of this section but that, immediately prior to the admission of said State into the Union, is controlled by the United States pursuant to permit, license, or permission, written or verbal, from the Territory of Hawaii or any department thereof may, at any time during the five years following the admission of Hawaii into the Union, be set aside by Act of Congress or by Executive order of the President, made pursuant to law, for the use of the United States, and the lands or property so set aside shall, subject only to valid rights then existing, be the property of the United States.

(e) Within five years from the date Hawaii is admitted into the Union, each Federal agency having control over any land or property that is retained by the United States pursuant to subsections (c) and (d) of this section shall report to the President the facts regarding its continued need for such land or property, and if the President determines that the land or property is no longer needed by the United States it shall be conveyed to the State of Hawaii.

(f) The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of Native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended,

for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. The schools and other educational institutions supported, in whole or in part, out of such public trust shall forever remain under the exclusive control of said State; and no part of the proceeds or income from the lands granted under this Act shall be used for the support of any sectarian or denominational school, college, or university.

(g) As used in this Act, the term "lands and other properties" includes public lands and other public property, and the term "public lands and other public property" means, and is limited to, the lands and properties that were ceded to the United States by the Republic of Hawaii under the joint resolution of annexation approved July 7, 1898 (30 Stat. 750), or that have been acquired in exchange for lands or properties so ceded.

(h) All laws of the United States reserving to the United States the free use or enjoyment of property which vests in or is conveyed to the State of Hawaii or its political subdivisions pursuant to subsection (a), (b), or (e) of this section or reserving the right to alter, amend, or repeal laws relating thereto shall cease to be effective upon the admission of the State of Hawaii into the Union.

(i) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) and the Outer Continental Shelf Lands Act of 1953 (Public Law 212, Eighty-third Congress, first session, 67 Stat. 462) shall be applicable to the State of Hawaii, and the said State shall have the same rights as do existing States thereunder.

SEC. 6. As soon as possible after the enactment of this Act, it shall be the duty of the President of the United States to certify such fact to the Governor of the Territory of Hawaii. Thereupon the Governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue his proclamation for the elections, as hereinafter provided, for officers of all State elective offices provided for by the constitution of the proposed State of Hawaii, and for two Senators and one Representative in Congress. In the first election of Senators from said State the two senatorial offices shall be separately identified and designated, and no person may be a candidate for both offices. No identification or designation of either of the two senatorial offices, however, shall refer to or be taken to refer to the term of that office, nor shall any such identification or designation in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

SEC. 7. (a) The proclamation of the Governor of Hawaii required by section 6 shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in section 6 shall be chosen by the people. Such elections shall be held, and the qualifications of voters thereat shall be, as prescribed by the constitution of the proposed State of Hawaii for the election of members of the proposed State legislature. The returns thereof shall be made and certified in such manner as the constitution of the proposed State of Hawaii may prescribe. The Governor of Hawaii shall certify the results of said elections, as so ascertained, to the President of the United States.

(b) At an election designated by proclamation of the Governor of Hawaii, which may be either the primary or the general election held pursuant to subsection (a) of this section, or a Territorial general election, or a special election, there shall be submitted to the electors qualified to vote in said election, for adoption or rejection, the following propositions:

"(1) Shall Hawaii immediatley be admitted into the Union as a State?

"(2) The boundaries of the State of Hawaii shall be as prescribed in the Act of Congress approved _____, and all claims of this State to any
(Date of approval of this Act)
areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

"(3) All provisions of the Act of Congress approved _____
(Date of approval of this Act)
reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people."

In the event the foregoing propostions are adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Hawaii, ratified by the people at the election held on November 7, 1950, shall be deemed amended as follows: Section 1 of article XIII of said

proposed constitution shall be deemed amended so as to contain the language of section 2 of this Act in lieu of any other language; article XI shall be deemed to include the provisions of section 4 of this Act; and section 8 of article XIV shall be deemed amended so as to contain the language of the third proposition above stated in lieu of any other language, and section 10 of article XVI shall be deemed amended by inserting the words "at which officers for all state elective offices provided for by this constitution and two Senators and one Representative in Congress shall be nominated and elected" in lieu of the words "at which officers for all state elective offices provided for by this constitution shall be nominated and elected; but the officers so to be elected shall in any event include two Senators and two Representatives to the Congress, and unless and until otherwise required by law, said Representatives shall be elected at large".

In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this Act shall cease to be effective.

The Governor of Hawaii is hereby authorized and directed to take such action as may be necessary or appropriate to insure the submission of said propositions to the people. The return of the votes cast on said propositions shall be made by the election officers directly to the Secretary of Hawaii, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Hawaii, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 6 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Hawaii shall be deemed admitted into the Union as provided in section 1 of this Act.

Until the said State is so admitted into the Union, the persons holding legislative, executive, and judicial office in, under, or by authority of the government of said Territory, and the Delegate in Congress thereof, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Hawaii into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 8. The State of Hawaii upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided*, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13), nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U.S.C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

SEC. 9. Effective upon the admission of the State of Hawaii into the Union—

(a) the United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thence forth be a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States: *Provided, however*, That the terms of office of the district judges for the district of Hawaii then in office shall terminate upon the effective date of this section and the President, pursuant to sections 133 and 134 of title 28, United States Code, as amended by this Act, shall appoint, by and with the advice and consent of the Senate, two district judges for the said district who shall hold office during good behavior;

(b) the last paragraph of section 133 of title 28, United States Code, is repealed; and

(c) subsection (a) of section 134 of title 28, United States Code, is amended by striking out the words "Hawaii and". The second sentence of the same

section is amended by striking out the words "Hawaii and", "six and", and "respectively".

SEC. 10. Effective upon the admission of the State of Hawaii into the Union the second paragraph of section 451 of title 28, United States Code, is amended by striking out the words "including the district courts of the United States for the districts of Hawaii and Puerto Rico," and inserting in lieu thereof the words "including the United States District for the District of Puerto Rico,".

SEC. 11. Effective upon the admission of the State of Hawaii into the Union—

(a) the last paragraph of section 501 of title 28, United States Code, is repealed;

(b) the first sentence of subsection (a) of section 504 of title 28, United States Code, is amended by striking out at the end thereof the words ", except in the district of Hawaii, where the term shall be six years";

(c) the first sentence of subsection (c) of section 541 of title 28, United States Code, is amended by striking out at the end thereof the words ", except in the district of Hawaii where the term shall be six years"; and

(d) subsection (d) of section 541 of title 28, United States Code, is repealed.

SEC. 12. No writ, action, indictment, cause, or proceeding pending in any court of the Territory of Hawaii or in the United States District Court for the District of Hawaii shall abate by reason of the admission of said State into the Union, but the same shall be transferred to and proceeded with in such appropriate State courts as shall be established under the constitution of said State, or shall continue in the United States District Court for the District of Hawaii, as the nature of the case may require. And no writ, action, indictment, cause or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. And the appropriate State courts shall be the successors of the courts of the Territory as to all cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein, and all the files, records, indictments, and proceedings relating to any such writ, action, indictment, cause or proceeding shall be transferred to such appropriate State courts and the same shall be proceeded with therein in due course of law.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said State, but as to which no writ, action, indictment or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Hawaii in like manner, to the same extent, and with like right of appellate review, as if said State had been created and said State courts had been established prior to the accrual of such causes of action or the commission of such offenses. The admission of said State shall effect no change in the substantive or criminal law governing such causes of action and criminal offenses which shall have arisen or been committed; and such of said criminal offenses as shall have been committed against the laws of the Territory shall be tried and punished by the appropriate courts of said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the United States District Court for the District of Hawaii.

SEC. 13. Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Hawaii or the Supreme Court of the Territory of Hawaii in any case finally decided prior to admission of said State into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided prior to admission of said State into the Union, and any mandate issued subsequent to the admission of said State shall be to the United States District Court for the District of Hawaii or a court of the State, as may be appropriate. Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Hawaii and of the Supreme Court of the State of Hawaii as successor to the Supreme Court of the Territory of Hawaii, in any case pending at the time of admission of said State into the Union, and the United States Court of Appeals for the Ninth Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of said State into the Union.

SEC. 14. Effective upon the admission of the State of Hawaii into the Union—

(a) title 28, United States Code, section 1252, is amended by striking out "Hawaii and" from the clause relating to courts of record;

(b) title 28, United States Code, section 1293, is amended by striking out the words "First and Ninth Circuits" and by inserting in lieu thereof "First Circuit", and by striking out the words, "supreme courts of Puerto Rico and Hawaii, respectively" and inserting in lieu thereof "supreme court of Puerto Rico";

(c) title 28, United States Code, section 1294, as amended, is further amended by striking out paragraph (4) thereof and by renumbering paragraphs (5) and (6) accordingly;

(d) the first paragraph of section 373 of title 28, United States Code, as amended, is further amended by striking out the words "United States District Courts for the districts of Hawaii or Puerto Rico," and inserting in lieu thereof the words "United States District Court for the District of Puerto Rico,"; and by striking out the words "and any justice of the Supreme Court of the Territory of Hawaii": *Provided,* That the amendments made by this subsection shall not affect the rights of any judge or justice who may have retired before the effective date of this subsection: *And provided further,* That service as a judge of the District Court for the Territory of Hawaii or as a judge of the United States District Court for the District of Hawaii or as a justice of the Supreme Court of the Territory of Hawaii or as a judge of the circuit courts of the Territory of Hawaii shall be included in computing under section 371, 372, or 373 of title 28, United States Code, the aggregate years of judicial service of any person who is in office as a district judge for the District of Hawaii on the date of enactment of this Act;

(e) section 92 of the Act of April 30, 1900 (ch. 339, 31 Stat. 159), as amended, and the Act of May 29, 1928 (ch. 904, 45 Stat. 997), as amended, are repealed;

(f) section 86 of the Act approved April 30, 1900 (ch. 339, 31 Stat. 158), as amended, is repealed;

(g) section 3771 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section, the words "Supreme Courts of Hawaii and Puerto Rico" and inserting in lieu thereof the words "Supreme Court of Puerto Rico";

(h) section 3772 of title 18, United States Code, as heretofore amended, is further amended by striking out from the first paragraph of such section the words "Supreme Courts of Hawaii and Puerto Rico" and inserting in lieu thereof the words "Supreme Court of Puerto Rico";

(i) section 91 of title 28, United States Code, as heretofore amended, is further amended by inserting after "Kure Island" and before "Baker Island" the words "Palmyra Island,"; and

(j) the Act of June 15, 1950 (64 Stat. 217; 48 U.S.C., sec. 644a), is amended by inserting after "Kure Island" and before "Baker Island" the words "Palmyra Island,".

SEC. 15. All Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union shall continue in force in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawaii, except as provided in section 4 of this Act with respect to the Hawaiian Homes Commission Act, 1920, as amended; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States: *Provided,* That, except as herein otherwise provided, a Territorial law enacted by the Congress shall be terminated two years after the date of admission of the State of Hawaii into the Union or upon the effective date of any law enacted by the State of Hawaii which amends or repeals it, whichever may occur first. As used in this section, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, and the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (1) apply to or within Hawaii at the time of its admission into the Union, (2) are not "Territorial laws" as defined in this paragraph, and (3) are not in conflict with any other provision of this Act.

SEC. 16. (a) Notwithstanding the admission of the State of Hawaii into the Union, the United States shall continue to have sole and exclusive jurisdiction over the area which may then or thereafter be included in Hawaii National Park, saving, however, to the State of Hawaii the same rights as are reserved to the Territory of Hawaii by section 1 of the Act of April 19, 1930 (46 Stat. 227), and

saving, further, to persons then or thereafter residing within such area the right to vote at all elections held within the political subdivisions where they respectively reside. Upon the admission of said State all references to the Territory of Hawaii in said Act or in other laws relating to Hawaii National Park shall be deemed to refer to the State of Hawaii. Nothing contained in this Act shall be construed to affect the ownership and control by the United States of any lands or other property within Hawaii National Park which may now belong to, or which may hereafter be acquired by, the United States.

(b) Notwithstanding the admission of the State of Hawaii into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are controlled or owned by the United States and held for Defense or Coast Guard purposes, whether such lands were acquired by cession and transfer to the United States by the Republic of Hawaii and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Hawaii for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided*, (i) That the State of Hawaii shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Hawaii, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for Defense or Coast Guard purposes: *Provided, however*, That the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been heretofore or hereafter determined to be critical areas as delineated by the President of the United States and/or the Secretary of Defense.

SEC. 17. The next to last sentence of the first paragraph of section 2 of the Federal Reserve Act (38 Stat. 251) as amended by section 19 of the Act of July 7, 1958, (72 Stat. 339, 350) is amended by inserting after the word "Alaska" the words "or Hawaii."

SEC. 18. (a) Nothing contained in this Act shall be construed as depriving the Federal Maritime Board of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Hawaii and other ports in the United States, or possessions, or is conferring on the Interstate Commerce Commission jurisdiction over transportation by water between such ports.

(b) Effective on the admission of the State of Hawaii into the Union—

(1) the first sentence of section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1156), is amended by inserting before the words "an island possession or island territory", the words "the State of Hawaii, or";

(2) section 605(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1175), is amended by inserting before the words "an island possession or island territory", the words "the State of Hawaii, or", and

(3) the second paragraph of section 714 of the Merchant Marine Act, 1936, as amended (46 U.S.C., sec. 1204), is amended by inserting before the words "an island possession or island territory" the words "the State of Hawaii, or".

SEC. 19. Nothing contained in this Act shall operate to confer United States nationality, nor to terminate nationality heretofore lawfully acquired, or restore nationality heretofore lost under any law of the United States or under any treaty to which the United States is or was a party.

[ENCLOSURE 5]

CONSTITUTION

GRANTED BY KALAKAUA, JULY 6, 1887

WHEREAS, the Constitution of this Kingdom heretofore in force contains many provisions subversive of civil rights and incompatible with enlightened Constitutional Government:

And WHEREAS, it has become imperative in order to restore order and tranquility and the confidence necessary to a further maintenance of the present Government that a new Constitution should be at once promulgated:

NOW THEREFORE, I, Kalakaua, King of the Hawaiian Islands, in my capacity as Sovereign of this Kingdom, and as the representative of the people hereunto by them duly authorized and empowered, do annul and abrogate the Constitution promulgated by Kamehameha the Fifth, on the 20th day of August, A. D. 1864, and do proclaim and promulgate this Constitution.

ARTICLE 1. God hath endowed all men with certain inalienable rights, among which are life, liberty, and the right of acquiring, possessing, and protecting property, and of pursuing an dobtaining safety and happiness.

ARTICLE 2. All men are free to worship God according to the dictates of their own consciences; but this sacred privilege hereby secured, shall not be so construed as to justify acts of licentiousness, or practice inconsistent with the peace or safety of the Kingdom.

ARTICLE 3. All men may freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of that right, and no law shall be enacted to restrain the liberty of speech, or of the press.

ARTICLE 4. All men shall have the right, in an orderly and peaceable manner, to assemble, without arms, to consult upon the common good, and to petition the King or Legislature for redress of grievances.

ARTICE 5. The privileges of the writ of *Habeas Corpus* belongs to all men, and shall not be suspended, unless by the King, when in cases of rebellion or invasion, the public safety shall require its suspension.

ARTICLE 6. No person shall be subject to punishment for any offense, except on due and legal conviction thereof, in a Court having jurisdiction of the case.

ARTICLE 7. No person shall be held to answer for any crime or offense (except in cases of impeachment, or for offenses within the jurisdiction of a Police or District Justice, or in summary proceedings for contempt), unless upon indictment, fully and plainly describing such crime or offense, and he shall have the right to meet the witnesses who are produced against him face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel, at his election, to examine the witnesses produced by himself, and cross-examine those produced against him, and to be fully heard in his own defence. In all cases in which the right of trial by Jury has been heretofore used, it shall be held inviolable forever, except in actions of debt or assumpsit in which the amount claimed is less than Fifty Dollars.

ARTICLE 8. No person shall be required to answer again for an offense, of which he has been duly convicted, or of which he has been duly acquitted.

ARTICLE 9. No person shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law.

ARTICLE 10. No person shall sit as a judge or juror, in any case in which his relative, by affinity, or by consanguinity within the third degree, is interested, either as plaintiff or defendant, or in the issue of which the said judge or juror, may have, either directly or through such relative, any pecuniary interest.

ARTICLE 11. Involuntary servitude, except for crime, is forever prohibited in this Kingdom. Whenever a slave shall enter Hawaiian Territory, he shall be free.

ARTICLE 12. Every person has the right to be secure from all unreasonable searches and seizures of his person, his house, his papers, and effects; and no warrants shall issue, except on probable cause, supported by oath or affirmation, and describing the place to be searched, and the persons or things to be seized.

ARTICLE 13. The Government is conducted for the common good, and not for the profit, honor, or private interest of any one man, family, or class of men.

ARTICLE 14. Each member of society has a right to be protected in the enjoyment of his life, liberty, and property, according to law; and, therefore, he shall be obliged to contribute his proportional share to the expense of this protection, and to give his personal services, or an equivalent when necessary. Private property may be taken for public use, but only upon due process of law and just compensation.

ARTICLE 15. No subsidy, duty, or tax, of any description, shall be established or levied without the consent of the Legislature; nor shall any money be drawn from the Public Treasury without such consent, except when between the sessions of the Legislature, the emergencies of war, invasion, rebellion, pestilence, or other public disaster shall arise, and then not without the concurrence of all the Cabinet, and of a majority of the whole Privy Council; and the Minister of Finance shall render a detailed account of such expenditure to the Legislature.

ARTICLE 16. No retrospective laws shall ever be enacted.

ARTICLE 17. The Military shall always be subject to the laws of the land; and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by the Legislature.

ARTICLE 18. Every Elector shall be privileged from arrest on election days, during his attendance at election, and in going to and returning therefrom, except in case of treason, felony, or breach of the peace.

ARTICLE 19. No elector shall be so obliged to perform military duty, on the day of election, as to prevent his voting; except in time of war, or public danger.

ARTICLE 20. The Supreme Power of the Kingdom in its exercise, is divided into the Executive, Legislative, and Judicial; these shall always be preserved distinct, and no Executive or Judicial officer, or any contractor, or employee of the Government, or any person in the receipt of salary or emolument from the Government, shall be eligible to election to the Legislature of the Hawaiian Kingdom, or to hold the position of an elective member of the time. And no member of the Legislature shall, during the time for which he is elected, be appoined to any civil office under the Government, except that of a member of the Cabinet.

ARTICLE 21. The Government of this Kingdom is that of a Constitutional Monarchy, under His Majesty Kalakaua, His Heirs and Successors.

ARTICLE 22. The Crown is hereby permanently confirmed to His Majesty Kalakaua, and to the Heirs of His body lawfully begotten, and to their lawful Descendants in a direct line; failing whom, the Crown shall descend to Her Royal Highness the Princess Liliuokalani, and the heirs of her body, lawfully begotten, and their lawful descendants in a direct line. The Succession shall be to the senior male child, and to the heirs of his body; failing a male child, the succession shall be to the senior female child, and to the heirs of her body. In case there is no heir as above provided, the successor shall be the person whom the Sovereign shall appoint with the consent of the Nobles, and publicly proclaim during the Sovereign's life; but should there be no such appointment and proclamation, and the Throne should become vacant, then the Cabinet, immediately after the occurring of such vacancy, shall cause a meeting of the Legislature, who shall elect ballot some native Alii of the Kingdom as Successor to the Throne; and the Successor so elected shall become a new *Stirps* for a Royal Family; and the Succession from the Sovereign thus elected, shall be regulated by the same law as the present Royal Family of Hawaii.

ARTICLE 23. It shall not be lawful for any member of the Royal Family of Hawaii who may by law succeed to the Throne, to contract Marriage without the consent of the Reigning Sovereign. Every Marriage so contracted shall be void, and the person so contracting a Marriage, may, by the proclamation of the Reigning Sovereign, be declared to have forfeited His or Her right to the Throne, and after such Proclamation, the Right of Succession shall vest in the next Heir as though such offender were dead.

ARTICLE. 24. His Majority Kalakaua, will, and his Successors shall take the following oath: I solemnly swear in the presence of Almighty God, to maintain the Constitution of the Kingdom whole and inviolate, and to govern in conformity therewith.

ARTICLE 25. No person shall ever sit upon the Throne, who has been convicted of any infamous crime, or who is insane, or an idiot.

ARTICLE 26. The King is the Commander-in-Chief of the Army and Navy, and of all other Military Forces of the Kingdom, by sea and land. But he shall never proclaim war without the consent of the Legislature; and no military or naval force shall be organized except by the authority of the Legislature.

ARTICLE 27. The King, by and with the advice of his Privy Council, and with the consent of the Cabinet, has the power to grant reprieves and pardons, after conviction, for all offenses, except in case of impeachment.

ARTICLE 28. The King convenes the Legislature at the seat of Government, or at a different place, if that should become insecure from an enemy or any dangerous disorder, and prorogues the same; and in any great emergency he may, with the advice of the Privy Council, convene the Legislature in extraordinary session.

ARTICLE. 29. The King has the power to make Treaties. Treaties involving changes in the Tariff or in any law of the Kingdom, shall be referred for approval to the Legislature. The King appoints Public Ministers, who shall be commissioned, accredited, and instructed agreeably to the usage and law of Nations.

ARTICLE 30. It is the King's Prerogative to receive and acknowledge Public Ministers; to inform the Legislature by Royal Message, from time to time, of the state of the Kingdom; and to recommend to its consideration such measures as he shall judge necessary and expedient.

ARTICLE. 31. The person of the King is inviolable and sacred. His Ministers are responsible. To the King and the Cabinet belongs the *Executive power*. All laws that have passed the Legislature, shall require His Majesty's signature in order to their validity, except as provided in Article 48.

ARTICLE. 32. Whenever, upon the decease of the Reigning Sovereign, the Heir shall be less than eighteen years of age, the Royal Power shall be exercised by a Regent or Council of Regency, as hereinafter provided.

ARTICLE 33. It shall be lawful for the King at any time when he may be about to absent himself from the Kingdom, to appoint a Regent or Council of Regency, who shall administer the Government in His name; and likewise the King may, by His last Will and Testament, appoint a Regent or Council of Regency to administer the Government during the minority of any Heir to the Throne; and should a Sovereign decease, leaving a minor Heir, and having made no last Will and Testament, the Cabinet at the time of such decease shall be a Council of Regency, until the Legislature, which shall be called immediately, be assembled, and the Legislature immediately that it is assembled shall proceed to choose by ballot, a Regent or Council of Regency, who shall administer the Government in the name of the King, and exercise all the powers which are constitutionally vested in the King, until such Heir shall have attained the age of eighteen years, which age is declared to be the legal majority of such Sovereign.

ARTICLE 34. The King is Sovereign of all the Chiefs and of all the people.

ARTICLE 35. All Titles of Honor, Orders, and other distinctions, emanate from the King.

ARTICLE 36. The King coins money and regulates the currency, by law.

ARTICLE 37. The King, in case of invasion or rebellion, can place the whole Kingdom, or any part of it, under martial law.

ARTICLE 38. The National Ensign shall not be changed, except by Act of the Legislature.

ARTICLE 39. The King cannot be sued or held to account in any court or tribunal in the Kingdom.

ARTICLE 40. There shall continue to be a Council of State, for advising the King in all matters for the good of the State, wherein He may require its advice, which Council shall be called the King's Privy Council of State, and the members thereof shall be appointed by the King, to hold office during His Majesty's pleasure, and which Council shall have and exercise only such powers as are given to it by the Constittuion.

ARTICLE 41. The Cabinet shall consist of the Minister of Foreign Affairs, the Minister of the Interior, the Minister of Finance, and the Attorney General, and they shall be His Majesty's special advisers in the executive affairs of the Kingdom; and they shall be *ex officio* members of His Majesty's Privy Council of State. They shall be appointed and commissioned by the King and shall be removed by him, only upon a vote of want of confidence passed by a majority of all the elective members of the Legislature, (25) [1] or upon conviction of a felony, and shall be subject to impeachment. No act of the King shall have any effect unless it be countersigned by a member of the Cabinet, who by that signature makes himself responsible.

ARTICLE 42. Each member of the Cabinet shall keep an office at the seat of Government, and shall be accountable for the conduct of his deputies and clerks.

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[1] See Decision of Supreme Court, September 1892.

The Cabinet hold seats *ex officio*, in the Legislature, with the right to vote, except on a question of want of confidence in them.

ARTICLE 43. The Minister of Finance shall present to the Legislature in the name of the Government, on the first day of each Biennial Session, the Financial Budget, in the Hawaiian and English languages.

ARTICLE 44. The Legislative power of the Kingdom is vested in the King and the Legislature, which shall consist of the Nobles and Representatives sitting together.

ARTICLE 45. The Legislative Body shall be styled the Legislature of the Hawaiian Kingdom, and shall assemble, biennially, in the month of May. The first regular session shall be held in the year of our Lord Eighteen Hundred and Eighty-eight.

ARTICLE 46. Every member of the Legislature shall take the following oath: I solemnly swear, in the presence of Almighty God, that I will faithfully support the Constitution of the Hawaiian Kingdom, and conscientiously and impartially discharge my duties as a member of the Legislature.

ARTICLE 47. The Legislature has full power and authority to amend the Constitution as hereinafter provided; and from time to time to make all manner of wholesome laws, not repugnant to the Constitution.

ARTICLE 48. Every Bill which shall have passed the Legislature, shall, before it becomes law, be presented to the King. If he approves he shall sign it and it shall thereby become a law, but, if not, he shall return it, with his objections, to the Legislature, which shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration it shall be approved by a two-thirds vote of all the elective members of the Legislature it shall become a law. In all such cases the votes shall be determined by yeas and nays, and the names of the persons voting for and against the Bill shall be entered on the journal of the Legislature. If any Bill shall not be returned by the King within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature by their adjournment prevents its return, in which case it shall not be a law.

ARTICLE 49. The Legislature shall be the judge of the qualifications of its own members, except as may hereafter be provided by law, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as the Legislature may provide.

ARTICLE 50. The Legislature shall choose its own officers and determine the Rules of its own proceedings.

ARTICLE 51. The Legislature shall have authority to punish by imprisonment, not exceeding thirty days, every person, not a member, who shall be guilty of disrespect to the Legislature by any disorderly or contemptuous behavior in its presence; or who, during the time of its sitting, shall punish any false report of its proceedings, or insulting comments upon the same; or who shall threaten harm to the body or estate of any of its members for any thing said or done in the Legislature; or who shall assault any of them therefor, or who shall assault or arrest any witness, or other person ordered to attend the Legislature, on his way going or returning; or who shall rescue any person arrested by order of the Legislature.

ARTICLE 52. The Legislature may punish its own members for disorderly behavior.

ARTICLE 53. The Legislature shall keep a journal of its proceedings; and the yeas and nays of the members, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

ARTICLE 54. The members of the Legislature shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the Sessions of the Legislature, and in going to and returning from the same; provided such privilege as to going and returning shall not cover a period of over twenty days; and they shall not be held to answer for any speech or debate made in the Legislature, in any Court or place whatsoever.

ARTICLE 55. The Representatives shall receive for their services a compensation to be determined by law, and paid out of the Public Treasury, but no increase of compensation shall take effect during the biennial term in which it shall have been made; and no law shall be passed increasing the compensation of Representatives beyond the sum of two hundred and fifty dollars each for each biennial term.

ARTICLE 56. A Noble shall be a subject of the Kingdom, who shall have attained the age of twenty-five years and resided in the Kingdom three years, and shall be the owner of taxable property in this Kingdom of the value of three thousand

dollars over and above all encumbrances, or in receipt of an income of not less than six hundred dollars per annum.

ARTICLE 57. The Nobles shall be a Court, with full and sole authority to hear and determine all impeachments made by the Representatives, as the Grand Inquest of the Kingdom, against any officers of the Kingdom, for misconduct or mal-administration in their offices; but previous to the trial of every impeachment the Nobles shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence and law. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this Government; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment according to the laws of the land.

ARTICLE 58. Twenty-four Nobles shall be elected as follows: Six from the Island of Hawaii; six from the Islands of Maui, Molokai and Lanai; nine from the Island of Oahu; and three from the Islands of Kauai and Niihau. At the first election held under this Constitution, the Nobles shall be elected to serve until the general election to the Legislature for the year of our Lord 1890, at which election, and thereafter, the Nobles shall be elected at the same time and places as the Representatives. At the election for the year of our Lord 1890, one-third of the Nobles from each of the divisions aforesaid, shall be elected for two years, and one-third for four years, and one-third for six years, and the electors shall ballot for them for such terms, respectively; and at all subsequent general elections they shall be elected for six years. The Nobles shall serve without pay.

ARTICLE 59. Every male resident of the Hawaiian Islands, of Hawaiian, American or European birth or descent, who shall have attained the age of twenty years, and shall have paid his taxes, and shall have caused his name to be entered on the list of voters for Nobles for his District, shall be an elector of Nobles, and shall be entitled to vote at any election of Nobles, provided:

First: That he shall have resided in the country not less than three years, and in the district in which he offers to vote, not less than three months immediately preceding the election at which he offers to vote:

Second: That he shall own and be possessed, in his own right, of taxable property in this country of the value of not less than three thousand dollars over and above all encumbrances, or shall have actually received an income of not less than six hundred dollars during the year next preceding his registration for such election:

Third: That he shall be able to read and comprehend an ordinary newspaper printed in either the Hawaiian, English or some European language:

Fourth: That he shall have taken an oath to support the Constitution and laws, such oath to be administered by any person authorized to administer oaths, or by any Inspector of Elections:

Provided, however, that the requirements of a three years' residence and of ability to read and comprehend an ordinary newspaper, printed either in the Hawaiian, English or some European language, shall not apply to persons residing in the Kingdom at the time of the promulgation of this Constitution, if they shall register and vote at the first election which shall be held under this Constitution.

ARTICLE 60. There shall be twenty-four Representatives of the People elected biennially, except those first elected under this Constitution, who shall serve until the general election for the year of our Lord, 1890. The representation shall be based upon the principles of equality and shall be regulated and apportioned by the Legislature according to the population to be ascertained from time to time by the official census. But until such apportionment by the Legislature, the apportionment now established by law shall remain in force, with the following exceptions, namely; there shall be but two Representatives for the Districts of Hilo and Puna on the Island of Hawaii, but one for the Districts of Lahaina and Kaanapali on the Island of Maui, and but one for the Districts of Koolaulou and Waialua on the Island of Oahu.

ARTICLE 61. No person shall be eligible as a Representative of the people, unless he be a male subject of the Kingdom, who shall have arrived at the full age of twenty-one years; who shall know how to read and write either the Hawaiian, English or some European language; who shall understand accounts; who shall have been domiciled in the Kingdom for at least three years, the last of which shall be the year immediately preceding his election; and who shall own real estate within the Kingdom of a clear value, over and above all encumbrances, of at least five hundred dollars; or who shall have an annual income of at least two hundred and fifty dollars, derived from any property or some lawful employment.

ARTICLE 62. Every male resident of the Kingdom, of Hawaiian, American, or European birth or descent, who shall have taken an oath to support the Constitution and laws in the manner provided for electors of Nobles; who shall have paid his taxes; who shall have attained the age of twenty years; and shall have been domiciled in the Kingdom for one year immediately preceding the election; and shall know how to read and write either the Hawaiian, English or some European language, (if born since the year 1840,) and shall have caused his name to be entered on the list of voters of his district as may be provided by law, shall be entitled to one vote for the Representative or Representatives of that district; *provided*, however, that the requirements of being domiciled in the Kingdom for one year immediately preceding the election, and of knowing how to read and write, either the Hawaiian, English, or some European language, shall not apply to persons residing in this Kingdom at the time of the promulgation of this Constitution, if they shall register and vote at the first election which shall be held under this Constitution.

ARTICLE 63. No person shall sit as a Noble or Representative in the Legislature unless elected under, and in conformity with, the provisions of this Constitution. The property or income qualification of Representatives, of Nobles, and of Electors of Nobles, may be increased by law; and a property or income qualification of Electors of Representatives, may be created and altered by law.

ARTICLE 64. The Judicial Power of the Kingdom shall be vested in one Supreme Court, and in such inferior Courts as the Legislature may, from time to time, establish.

ARTICLE 65. The Supreme Court shall consist of a Chief Justice, and not less than two Associate Justices, any of whom may hold the Court. The Justice of the Supreme Court shall hold their offices during good behavior, subject to removal upon impeachment, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. Provided, however, that any Judge of the Supreme Court or any other Court of Record may be removed from office, on a resolution passed by two-thirds of all the members of the Legislature, for good cause shown to the satisfaction of the King. The Judge against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least ten days before the day on which the Legislature shall act thereon. He shall be heard before the Legislature.

ARTICLE 66. The Judicial Power shall be divided among the Supreme Court and the several inferior Courts of the Kingdom, in such manner as the Legislature may, from time to time, prescribe, and the tenure of office in the inferior Courts of the Kingdom shall be such as may be defined by the law creating them.

ARTICLE 67. The Judicial Power shall extend to all cases in law and equity, arising under the Constitution and laws of this Kingdom, and Treaties made, or which shall be made under their authority, to all cases affecting Public Ministers and Consuls, and to all cases of Admiralty and Maritime jurisdiction.

ARTICLE 68. The Chief Justice of the Supreme Court shall be the Chancellor of the Kingdom; he shall be *ex officio* President of the Nobles in all cases of impeachment, unless when impeached himself; and shall exercise such jurisdiction in equity or other cases as the law may confer upon him; his decisions being subject, however, to the revision of the Supreme Court on appeal. Should the Chief Justice ever be impeached, some person specially commissioned by the King shall be President of the Court of Impeachment during such trial.

ARTICLE 69. The decisions of the Supreme Court, when made by a majority of the Justices thereof, shall be final and conclusive upon all parties.

ARTICLE 70. The King, His Cabinet, and the Legislature shall have authority to require the opinions of the Justices of the Supreme Court, upon important questions of law, and upon solemn occasions.

ARTICLE 71. The King appoints the Justices of the Supreme Court, and all other Judges of Courts of Record. Their salaries are fixed by law.

ARTICLE 72. No Judge or Magistrate shall sit alone on an appeal or new trial, in any case on which he may have given a previous judgment.

ARTICLE 73. The following persons shall not be permitted to register for voting, to vote, or to hold office under any department of the Government, or to sit in the Legislature, namely: Any person who is insane or an idiot, or any person who shall have been convicted of any of the following named offenses, viz: Arson, Barratry, Bribery, Burglary, Counterfeiting, Embezzlement, Felonious Branding of Cattle, Forgery, Gross Cheat, Incest, Kidnapping, Larceny, Malicious Burning, Manslaughter in the First Degree, Murder, Perjury, Rape, Robbery, Sodomy, Treason, Subornation of Jerjury, and Malfeasance in Office, unless he shall have

been pardoned by the King and restored to his Civil Rights, and by the express terms of his pardon declared to be eligible to offices of Trust, Honor and Profit.

ARTICLE 74. No officer of this Government shall hold any office, or receive any salary from any other Government or Power whatever.

ARTICLE 75. The Legislature votes the Appropriations biennially, after due consideration of the revenue and expenditure for the two preceding years, and the estimates of the revenue and expenditure of the two succeeding years, which shall be submitted to them by the Minister of Finance.

ARTICLE 76. The enacting style in making and passing all Acts and Laws shall be, "Be it enacted by the King, and the Legislature of the Hawaiian Kingdom."

ARTICLE 77. To avoid improper influences which may result from intermixing in one and the same Act, such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in its title:

ARTICLE 78. Wherever by this Constitution any Act is to be done or performed by the King or the Sovereign, it shall, unless otherwise expressed, mean that such Act shall be done and performed by the Sovereign by and with the advice and consent of the Cabinet.

ARTICLE 79. All laws now in force in this Kingdom, shall continue and remain in full effect, until altered or replaced by the Legislature; such parts only excepted as are repugnant to this Constitution. All laws heretofore enacted or that may hereafter be enacted, which are contrary to this Constitution, shall be null and void.

ARTICLE 80. The Cabinet shall have power to make and publish all necessary rules and regulations for the holding of any election or elections under this Constitution, prior to the passage by the Legislature of appropriate laws for such purpose, and to provide for administering to officials, subjects and residents the oath to support this Constitution. The first election hereunder shall be held within ninety days after the promulgation of this Constitution, and the Legislature then elected may be convened at Honolulu upon the call of the Cabinet Council, in extraordinary session at such time as the Cabinet Council may deem necessary, thirty days notice thereof being previously given.

ARTICLE 81. This Constitution shall be in force from the 7th day of July, A.D. 1887, but that there may be no failure of justice, or inconvenience to the Kingdom, from any change, all officers of this Kingdom, at the time this Constitution shall take effect, shall have, hold, and exercise all the power to them granted. Such officers shall take an oath to support this Constitution, with sixty days after the promulgation thereof.

ARTICLE 82. Any amendment or amendments to this Constitution may be proposed in the Legislature, and if the same shall be agreed to by a majority of the members thereof, such proposed amendment or amendments shall be entered on its journal, with the years and days taken thereon, and referred to the next Legislature; which proposed amendment or amendments shall be published for three months previous to the next election of Representatives and Nobles; and if in the next Legislature such proposed amendment or amendments shall be agreed to by two-thirds of all the members of the Legislature, such amendment or amendments shall become part of the Constitution of this Kingdom.

KALAKAUA REX.

By the King:

W. L. GREEN, *Minister of Finance.*

HONOLULU,
Oahu, ss:

I, Kalakaua, King of the Hawaiian Islands, in the presence of Almighty God, do solemnly swear to maintain this Constitution whole and inviolate, and to govern in conformity therewith.

KALAKAUA REX.

Subscribed and sworn to before me this sixth day of July, A.D. 1887.

A. F. JUDD,
Chief Justice of the Supreme Court,
and Chancellor of the Kingdom.

[ENCLOSURE 6]

THE HAWAIIAN RECIPROCITY TREATY: ITS POLICY AND MERITS

Reviewed and Presented in the American Register by Th. W. Bartley, Editor

[From the American Register of Dec. 30, 1882]

THE HAWAIIAN RECIPROCITY TREATY

When the bill was pending in Congress providing for the execution of this reciprocity treaty, an exhaustive debate took place in the House of Representatives, presenting the whole subject in every possible aspect. General Garfield, having thoroughly investigated the subject on the Committee, presented his views on the 6th of April, 1876, from which we take the following extracts: (See Congessional Record of April, 1876, vol. 4, 1st Session, 44th Congress.)

General Garfield said:

"Mr. Chairman, there are two reasons why I specially desire the passage of this bill in its relation to the treaty. The first is on the ground of the duty which the nation owes to the Pacific coast; the second is on the ground of the general good of the whole country.

* * * * * * *

"Now, as we still desire to complete the work of amity for our Pacific brethren, we must get a foothold on the southern line of our western border.

* * * * * * *

"The other reason relates to the interests of the whole country. It seems to me that no man can look into the remote or even the near future of this country, remembering the vastly important relations which have sprung up between us and the two ancient kingdoms of the East, where the correlation of our young country has met the old in that strange union, which recent years have developed, and the quaint civilization of these old countries are pouring their influence upon us, and we answer back with our fresh young life; I say, no man thinking of that new and vast development of the relations of our country to these can be insensible to or neglectful of anything, however insignificant, that may be considered necessary to perpetuate the new relations of these two civilizations.

"Now, here is a group of islands midway between Asia and the United States, the resting-place for great caravans of the sea, the halting-ground whereon travelers on the ocean stop to re cruit their shattered ships it may be, or supply themselves with needed materials for carrying on the work of commerce. That group of islands, fortunately for us, is to-day dominated in all its influences by Americans, our own brethren. Their hearts warm toward us as their first choice in forming alliances. They are ours in blood and sympathy, and in this treaty they offer us the first place, an exceptionally favorable place, in our relations to them. And they are so situated that if we reject it they must go elsewhere for alliances. If we reject this treaty they will be compelled to go to England or to France. Both of these countries have for years and years been longing for just such an opportunity as we have to-day in reference to this group of islands. It is the simple logical result of the rejection of this treaty that before many months these islands will be taken, controlled, and dominated either by England or by France; and it is for us to say whether we shall consent to that alien union by rejecting this offer, or by closing with it ourselves make that other union impossible.

"I have heard no argument against this treaty that appears to me to have any considerable weight beyond the one of cost; and as applied to this bill, it is a strange one. It is not that cost that we must pay out of the Treasury from revenues we have collected as taxes from the people. It is only that cost that declines to tax. It is not an expenditure, but a remission of taxation, that the treaty calls for. It does not call for the appropriation of a dollar of any taxes collected. It simply calls for the repealing of taxes as to a class of our own citizens.

* * * * * * *

"I said in the outset of my remarks that one of my reasons for favoring this treaty was that it would obviate any necessity for annexing these islands. Let us make this alliance, and while it lasts the respect which the name of the United States carries with it among the nations of the earth will prevent any attempt on the part of any other nation to obtain control here. They will not undertake any scheme of annexation at the risk of quarrelling with the United States. But if we do not make this treaty, schemes of annextions will vex us from year to year until we shall be compelled to annex these islands as a matter of self-protection. This treaty will completely avoid such a result as that.

"In conclusion, I ask consent to submit a brief editorial article from the New York *Evening Post* of yesterday, written, as I am informed, by that honored poet and scholar, (*claram of venerable nomen,*) William Cullen Bryant, in which is stated, with great clearness and force, the grounds for believing that this treaty should be ratified. I have no doubt that members of this House will be glad of the opportunity to read the views of this distinguished citizen upon this subject.

"The article referred to is as follows:

"THE QUESTION OF TO-MORROW

"On Thursday the debate on the treaty which makes the Sandwich Islands ours without the expense and trouble of governing them is to be renewed. Their ports are to be opened to us if we accept the treaty, as they will be opened to no other nation in the world; the products of our industry are to be admitted there as freely as they are admitted in Florida; we are to be allowed to do the carrying trade between their marts and our own; we are to have a commodious and secure naval station in their sheltered waters, and we escape the result which otherwise threatens us of giving into the hands of Great Britain a station which, lying north of the equator, puts into her hands the key of the Pacific, completes the mighty chain of the dependencies from the remotest south to Vancouver's Island on the northwest coast of our continent, and links together the isles and coasts subject to her sway, forming them into a great ocean empire, inhabited by a hardy race of men accustomed to the sea, and having the same dominion over the Pacific which Britain once arrogated over the Atlantic. The possession of the Sandwich Islands—the virtual if not the nominal possession—is all that Britain now requires to make her supreme in those waters, and that she will have if we fail to carry the treaty into effect. For if we reject the treaty by refusing to conform our revenue laws to its conditions the authorities of the Sandwich Islands have already avowed their intention of entering into like arrangements with the austral possessions of Great Britain.

"It seems to us that this treaty ought to unite the votes of every class. The mill-owners ought to vote for it because it opens a free market for the products of their looms and forges; the ship-owners ought to favor it because it gives employment to their vessels; the friends of free trade ought to insist on giving it effect because it will bring the United States and he Sandwich Islands into those relations with each other which should prevail everywhere between all the nations of the earth. Those who look with apprehension on the enormous growth of British predominance in the Pacific, and those who simply desire that a convenient naval station should be obtained in that great waste of waters for the Navy of the United States, should unite their voices in favor of the treaty. As for the cultivators of the sugar-cane in Louisiana and Texas, they can well afford to bear a little competition on our western coast for the sake of giving cheap sugar to the millions who inhabit California and Oregon.

"In the course of years, when the Sandwich Islands shall have regained something like their ancient remarkable populousness, they will send us, if we take advantage of the treaty, large quantities of products peculiar to the lands which lie between the tropics, and which we shall receive with no other enhancement of the price than the cost of transportation. For it should be borne in mind that so temperate is the climate of those islands that the white race there can endure to perform field labor and keep their health and strength. There will come a time when we shall receive coffee from the islands equal to the Mocha, raised in spots too elevated to feel the blight which attacks the shrub in the lowlands. Then we shall import indigo, which there is literally a weed, and sandal-wood which grows wild; to say nothing of the sea-island cotton which grows in so few places on the globe, and of which the Sandwich Islands produce the best in the world. Let the treaty go into effect and American capital will accompany the migration of American adventurers to this new field, and these garden-isles of the Pacific will be essentially a part of our country.

"One great advantage of this measure is that it strengthens our power without causing a drain upon our Treasury. We build fortresses, we establish garrisons, we lay the keels of ships of war, we cast huge guns of a new construction, we forge muskets and small-arms by the millions, and all these at a vast expense, and claim that we are providing for defense against the possible attack of an enemy; yet here is a proposition to put into our hands, without the payment of a dollar, a stronghold in the depths of the Pacific, in the very track of the

power which threatens to be supreme in that quarter, and we hesitate at accepting the advantage. But it may be said that the advantage is not obtained gratuitously—it may be said that it will cost us the half million of dollars that would be levied in our ports on the Sandwich Islands sugar if the treaty should be rejected. Not a penny of it—the offered advantage will cost us nothing. If the half million dollars comes not to the Treasury in the shape of duties—a considerable part of which is always lost on its way thither—it will remain in its proper place, the pocket of the consumer; it will be left with its rightful owners, the people. Can the money that is not taken from the people in taxes be called so much money lost?

"Let us hope that the question of tomorrow will be rightly decided. To us it seems impolitic in a degree little short of madness to put by the advantages offered us of holding respectable maritime rank on the great ocean that bathes the beaches of our western coast. By rendering the treaty ineffectual we simply offer to Great Britain the advantage which we reject. The key-stone will then be fitted into the British possessions in that quarter; the portions now disunited will be firmly locked together for all coming time. We may not obtain from the British Parliament a vote of thanks for this service, but we shall amply deserve it."

[From the American Register of January 6th, 1883]

The Hawaiian Reciprocity Treaty

OBJECTIONS CONSIDERED AND REPELLED

A certain class of newspapers have engaged in the business of denouncing this wisely devised and valuable treaty as a swindle and a fraud. When journalism becomes a nefarious vehicle of falsehood, calumny, and scandal, it is a public nuisance instead of a public blessing. Now, these charges of swindling and fraud are barefaced falsehoods, easily exposed, and their turpitude easily thrown back upon their originators.

Wherein is the swindle? The treaty is a commercial reciprocity. While all the products of the people of the United States are admitted into the Hawaiian Islands free of duty, the products of the people of the islands are admitted into the United States free of duty. The chief products of the two countries being essentially different, the reciprocal exchange of their mutual products is a beneficent reciprocity. And while the products of the United States admitted into the islands free of duty by the treaty amount to one hundred and thirty-two different kinds, the products of the islands admitted into the United States free of duty are only twenty-three different kinds. And while by the express terms of the treaty, sugar, *both refined and unrefined*, produced in the United States is admitted free into the islands, only "brown and other *unrefined* sugar" produced in the islands is admitted free into the United States. Also by the 4th article of the treaty, the Hawaiian government is *restricted* "from imposing any lien upon any port, harbor, or other territory of the islands, or granting *any special privilege or rights* of use therein to any other power, state, or government, and also *from making 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." But *no such restriction* as this is by the treaty imposed on the United States for the benefit of the Hawaiian Islands. The treaty is therefore more favorable to the United States than it is to the islands. And it is not pretended, that the Hawaiian government or people have violated the treaty, or failed to keep good their plighted faith under it. Where then, we demand to know, is the "swindle"?

It is alleged that sugar is not any *cheaper* in our country, or even on the Pacific coast, in consequence of the treaty. The treaty does not stipulate to regulate the price of sugar within the United States. That was not its object, and is beyond the sphere of its operations. If by means of the monopoly of sugar refiners in this country combining with railway companies having control of the transportation of sugar, the price of sugar is kept up notwithstanding the treaty, that is not the fault of the treaty, which has not undertaken, and could not undertake, to regulate prices and internal trade in the United States, and control monopolies here. It is the business of our own municipal laws, and not the treaty, to protect our own people from their own monopolies. The charge of a swindle, therefore, against the treaty, is a barefaced and palpable fallacy.

Does the charge of fraud stand on any better foundation? The charge is, that the sugars of China and Manila are fraudulently transformed into Sandwich Island sugar and brought in under this treaty. The late much-lamented Elisha H. Allen, who had been at first a representative from the United States at these islands, and afterwards their Minister Plenipotentiary to the United States, and in whose probity and fairness all persons knowing him placed implicit confidence, showed and demonstrated before the committee in Congress, in his communication of last March, that this charge of fraud was not only *utterly groundless*, but such thing *an absolute impossibility;* that such were the existing circumstances, that no vessel could possibly land on the islands with China or Manila sugar without the fact being known to the consuls, or other representatives and agents of the United States, leading directly to exposure and detention. The resident minister of the United States, with his aids and assistants, and the consul and vice-consul, and their aids and assistants, beside the Hawaiian revenue officer, have a constant supervision over all the islands, and all shipping thereto and therefrom. So that this charge of fraud is wholly groundless, and has its origin solely in the prurient imaginations of evil-disposed persons.

The objections made to the treaty are not only fallacious and futile, but contradict themselves. While the treaty is objected to because it has not reduced the price of sugar in the American market, the sugar producers of Louisiana object, because by reducing the price of sugar it tends to interfere with their monopoly of the market.

It is true, that by means of the treaty the United States loses the revenues which would be otherwise collected from the imports from these islands, estimated at less than a half a million of dollars—a comparatively small matter in the annual collection of the whole revenues of between three and four hundred millions of dollars. But this loss in the sources of revenue is more than made up in the benefits of a free market the Sandwich Islands for all kinds of products of the people of the United States. The advantages of this free market for our own products constitute a growing equivalent, which must in time far exceed the loss of this source of revenue. As a commercial reciprocity, the United States certainly loses nothing by the treaty.

THE PUBLIC AND NATIONAL VIEW OF THE TREATY

But there are other points of view in which this treaty is of paramount importance to the United States. Without this treaty the annexation of these islands to the United States would become a necessity, not only in view of our great growing commerce across the Pacific Ocean, but also as an outpost for national defense. And the treaty imposes none of the vast burdens and expenses which would be unavoidable in case of the annexation of the islands to the United States.

To the United States the control or a foot-hold on these islands is essentially important; indeed, is the key to the commerce of the Pacific Ocean. In the middle of the great Pacific these Islands furnish the only place for coaling, repairing, and replenishing on the long voyage; and as an outpost for national defense in the Pacific Ocean they are indispensable. Of this, authentic public records furnish ample proof. Every Secretary of State of the United States, commencing with Daniel Webster, in 1842, down to the present time, has borne testimony to this fact. In 1843 England attempted to take forcible possession of these islands; and a few years later France made a similar attempt, on the occasion of which Mr. Webster made his remarkable declaration:

"I trust the French will not take possession, but if they do, they will be dislodged, if my advice be taken, if the whole power of the government is required to do it."

Either the annexation of these islands to the United States, or a reciprocity treaty with them, was recommended by many officials of the United States, and had been under consideration for many years before this treaty was adopted. General Schofield of the Army, who had been sent out to make an examination, reported on this subject as follows:

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,
San Francisco, Calif., December 30, 1875.

DEAR SIR: Knowing your interest in the subject, I venture to give you my views in respect to the Hawaiian treaty, which is soon to come before Congress for legislative action.

The Hawaiian Islands constitute the only natural outpost to the defense of the Pacific coast.

In the possession of a foreign naval power in time of war, as a depot from which to fit out hostile expeditions against this coast and our commerce on the Pacific Ocean, they would afford the means of incalculable injury to the United States.

If the absolute neutrality of the islands could always be insured, that would suffice; but they have not, and never can have the power to maintain their own neutrality; and now their necessities force them to seek alliance with some nation which can relieve their embarassment.

The British Empire, through its North Pacific and South Sea colonies, stands ready to enter into such an alliance, and thus complete its chain of naval stations from Australia to British Columbia. We cannot refuse the islands the little aid they need and at the same time deny their right to seek it elsewhere. The time has come when we must secure forever the desired control over those islands, or let it pass into other hands.

The financial interest to the United States involved in this treaty is very small, and if it were much greater it would still be insignificant when compared to the importance of such a military and naval station to the national security and welfare.

I am, dear sir, yours very truly,

Hon. J. K. Luttrell, M.C.,
J. M. Schofield,
Washington, D.C.

Admiral Porter addressed a letter to the Hon. Mr. Wood, which is incorporated in his speech on this subject in 1876, (see Cong. Rec.,) in support of the treaty, in which he fully sustains the views of General Schofield. The naval officers who have visited the islands have been in accord on the subjet of intimate commercial relations with the islands, always bearing in view their future destiny.

The London *Times* thus refers to a harbor at the islands:

The maritime power which holds Pearl River Harbor, on the islands, and moors her fleet there, holds the key of the North Pacific.

Sir George Simpson, in his travels around the world, says:

That this archipelago is far more valuable on this account that it neither is nor can be shared by a rival.

These are the only islands which can form an outpost to the defenses of the Pacific States. There are no others. They have no rival; and in this consists their great value. They are totally unlike a single island in the West Indies as an outpost of defense.

Mr. Seward, in a speech in the Senate, on the subject of the commerce of the Pacific, said:

Who does not see that henceforth, every year, European commerce, European politics, European thought, and European activity, although actually gaining greater force; and European connections, although actually becoming more intimate, will, nevertheless, ultimately sink in importance, while the Pacific Ocean, its shores, its islands and the vast region beyond will become the chief theater of events in the world's great hereafter.

The following extract from a recent report of Commodore R. W. Shufeldt, of the United States Navy, on the commercial importance of the Corea, present and future, in its relation to America, will be found to be of great interest:

The acquisition of Alaska and the Aleutian islands, the treaties with Japan, Sandwich Islands, and Samoa, are only corollaries to the proposition that the Pacific Ocean is to become at no distant day the commercial domain of America. The Atlantic, either by force of circumstances or national indifference, has been given over to foreign flags, backed by the immense weight of European capital, but under natural laws the flow of commerce, as of emigration, is from the east toward the west, and the geographical position of the United States, in conformity with this law, points to the Pacific Ocean as the main highway of trade, and our country as the source from which the Oriental nations must obtain whatever they need in the way of commercial exchange. In all probability, within the next half century, the United States will find its largest market in Asia rather than Europe.

There are three powerful commercial nations that have large interests in the North Pacific besides the United States, viz., Great Britain, Russia, and China. France and Germany are a power in the South Pacific. Jarvis, the historian of the Hawaii, says:

That they hold the key of the Pacific Ocean, for no trade could prosper or even exist while a hostile power, possessing an active and powerful marine, should send out its cruisers to prey upon commerce; but once firmly established on them it might put at defiance any means of attack which could be brought to bear against them. Hence the commercial countries have been jealous lest some one of them should have a superior influence.

All history shows that commerce, when based upon equitable principles, will add to the wealth of every country, more especially when the exchange is made in the raw material for manufactures, and without competition in home production.

Hawaii has no manufacturers, and desires to exchange her raw products for such articles of merchandise as she may require.

The United States has all the advantage of the profits of freight, machinery, and skilled labor, together with all the other advantages incident to the nation that has the wealth to do the business.

The following extract is from a report made by Mr. Comly, minister of the United States, resident at Honolulu, to the Secretary of State of the 6th of June, 1881:

The influence of the reciprocity treaty upon the increase of our carrying trade between the Hawaiian Islands and the Pacific coast, and upon the still larger increase of our ship-building for Hawaiian owners, has been one of its most gratifying results. * * * Three years and a half ago, when I first reported for duty at this post, there was but one island steamer; now there are eight, and more ordered, every one of them but one American-built. The increase in sailing vessels has been still larger. * * * It is but fair and just to admit that probably all this increased demand for American ships and ship-building grew out of the reciprocity treaty, and would never have existed except for its generative power. This generative power is reflex as well as direct. It creates a magnificent increase of island products; this creates both demand and capacity for a large increase of the import trade from the United States; and these combined create the demand for carriers under the American flag and for American factors, agents, bankers, insurers, and producers of almost every kind.

The trade with the islands is but a drop in the bucket. But compare the total amount of her exchanges between the Hawaiian Islands with those between all other countries and the United States, then apply to this last the same ratio of increase in our carrying trade and ship-building which we have gained here, the result, it seems to me, would show that, under like conditions of prosperity everywhere, all fear of the American flag disappearing from the sea might be abandoned. * * *

If our commercial policy with the Sandwich Islands is to be taken as only part of a great system intended to take in and bind together all the two great continents and their adjacent islands on our side of the world, it seems to me that there are such grand possibilities to the near future of the United States in such a scheme as would make the reciprocity treaty with these islands a conspicuous landmark in our commercial history.

When the reciprocity treaty was under discussion in the House of Representatives in Congress, in 1876, Mr. Money, from Mississippi, said in his speech:

Gentlemen insist this release of duty on sugar is simply a bounty to the Sandwich Islands sugar-plantations. I must confess, Mr. Chairman, that I have never heard so narrow a view taken of so great a question. If we are to be deterred from the favorable consideration of a bill offering us superior advantages to those of any other nation by the fact that some agriculturists in the Sandwich Islands will be profited by that treaty, why, sir, we would reject every treaty brought up for our consideration; for it is impossible for us to believe that any country would offer us a treaty with the advantages all on our side. But does that lessen the advantages to be derived from this treaty, because some other people may profit by it? Is trade to be stopped because only one party can win? The very idea is preposterous, and not to be entertained seriously by this committee.

* * * * * * *

And again, on the same occasion, he further said:

If any members of this committee will turn to the map showing the ocean currents and trade-winds, they will see that the Hawaiian Islands dominate as completely the commerce not only of the North Pacific, but of all the nations of Eastern Asia, as did one of the robber fortresses of the barons of the feudal ages dominate the peaceful valleys and commercial highways that wound below. Sir, a bold, enterprising people on that island, with no other territory than its seven

thousand square miles and with an active marine, would completely despoil the commerce of the Pacific, as completely as the eagle from his eyrie overawes the birds of the air. In the future consideration of this question we are called upon from a regard for the highest duties of legislators, who are here not representing sections, not representing to-day simply, but the whole country and the future, to give our assent, and by our legislative action put into operation this law establishing these relations between the United States and the Hawaiian Islands.

General Garfield, in the course of his speech in support of the treaty, in 1876, said:

"And now, Mr. Chairman, in the absence of that knowledge of the details of this subject which a man ought to have before he speaks with much particularity, I will ask the Clerk to read a letter which has been addressed to me within the past few days by a gentleman of ability and distinction, an honorable soldier in our late war, and now connected with one of the most flourishing educational institutions of Virginia. He was for twenty years a resident of the Sandwich Islands, a merchant and successful business man there. He left there long ago, and now speaks from no personal interest, but only from the interest of an American citizen on a great question. I ask the clerk to read the letter of General Marshall, of Hampton, Virginia.

"The Clerk read as follows:

"HAMPTON NORMAL SCHOOL,
"*Hampton, Va., March 31, 1876.*

"DEAR GENERAL: I am very familiar with the history of the Hawaiian Islands. I resided there twenty years as an American merchant, during which period I held various posts of honor and trust under the Hawaiian Government.

* * * * * * *

"I have no sort of personal interest involved in the action of the House upon the Hawaiian treaty now before it, and I therefore feel justified in asking your attention to some reasons why that treaty should be promptly passed.

"The important position of this group has made it an object of interest to all commercial nations. England and France especially have each made repeated efforts to secure its possession, and Hawaiian history is full of outrages and intrigues on the part of these powers, or their representatives and citizens, the object of which was to involve this feeble nation in hopeless complications that should compel the surrender of its sovereignty.

* * * * * * *

"Any foreign naval power in possession of this group will dominate the commerce of the North Pacific.

"Our trade with China and Japan is yearly increasing, and the Hawaiian group is the half-way house from our western coast to these ports. It is of vital importance that we secure a paramount influence at this group, and the treaty gives us this. Under its provisions no other power can obtain like privileges, and while annexation would entail needless expense and complications, for which there is no corresponding advantage that is not equally secured by the provisions of this treaty, we can obtain annexation if we wish it hereafter by terminating it at any time after seven years. The prosperity which will result under its provisions will depend upon its continuance, and if it is terminated there will be no escape from ruin on the part of the islanders, except through annexation.

"The rejection of the treaty will force the group to seek other help, not from choice but necessity; and, having repeatedly rejected their overtures for a closer alliance, we can hardly refuse them the right to go elsewhere.

"This is the third treaty of reciprocity that has been negotiated between Hawaii and the United States. The first, undertaken at my suggestion in 1856, failed of confirmation in the Senate through the opposition of the Louisiana Senators, Slidell and Benjamin, whose fears that the interests of the Louisiana sugar groves would be injuriously affected by it, were, in my judgment, affected by it, were, in my judgment, utterly groundless."

The question of maintaining this treaty rises above all ordinary matters of politics or finance. It involves the most enlarged views of the future greatness of this country. The trade of our people with the five hundred millions of people on the other side of the Pacific Ocean, who can furnish markets for the varied products of this country far surpassing the markets of Europe, is involved in this question. These islands supply not only an outpost essential to our national defence, but also, as has been said, the key to the commerce of the Pacific Ocean. And the question is, whether the treaty shall continue with the islands, or whether they shall be left to seek protection and alliance with some other country.

[EXHIBIT 2]

THE COUNCIL OF HAWAIIAN ORGANIZATIONS,
April 14, 1977.

Senator DANIEL K. INOUYE,
U.S. Congress, Washington, D.C.

DEAR SENATOR INOUYE: The Sovereignty Committee of the Council of Hawaiian Organizations requests that SJR 4 provisions pertaining to the appointment process of commissioners be replaced with our provisions.

Since commissioners will make critical decisions involving the destiny of our people, we believe it is our right to insure that the appointment process is acceptable by us. Consequently, the Sovereignty Committee is providing as enclosure (1) a proposed Criteria for Appointment of Hawaii and Federal Commissioners.

Please carefully consider this proposed replacement and inform us on your consideration before the scheduled July 1977 senate hearing is conducted.

Sincerely,

LOUIS K. AGARD,
GAIL K. PREJEAN,
JOHN M. AGARD,
Sovereignty Committee,
Council of Hawaiian Organizations.

Enclosure.

[EXHIBIT 3]

CRITERIA FOR APPOINTMENT OF HAWAII AND FEDERAL COMMISSIONERS

HAWAII COMMISSIONERS

We propose that appoointment of these commissioners be accomplished by an elective process conducted by the 'He Hawaii Au' people ('I AM HAWAII' or those having native aboriginal blood). This process will be accomplished in the following five phases:

Phase 1. A Screening/Advisory "Board" will be established.

1. The "Board" will be comprised of designated representatives from approximately 125 'He Hawaii Au' organizations who have published goals and objectives specifically benefiting Hawaiian people. It will also include individuals not belonging to any organization but one who is able to obtain valid supporter signatures from other 'He Hawaii Au' people.

Phase 2. The primary function of the "Board" is to select names of 'He Hawaii Au' people who will be elected to serve on a nomination committee.

1. The "Board" will insure that selection of prospective nomination committee nominees must come from all segments of the 'He Hawaii Au' community.

2. Qualified 'He Hawaii Au' nomination committee nominees will be determined by self declaration. Questionable nominees will be reviewed by the "Board".

3. Prospective nomination committee nominees will submit a resume and photograph to the "Board" which are to be made available to registered 'He Hawaii Au' voters.

4. A ballot containing two nominees each from Hawaii, Kauai, Lanai, Maui, Molokai, Niihau, Oahu and two "at-large" nominees from out of state will simultaneously be made available to registered 'He Hawaii Au' voters.

NOTE.—The "Board" will also serve in an advisory capacity to the elected nomination committee. It will also serve as a monitoring body to the elected commissioners which means that the "Board" will remain in existence throughout the life of the study commission.

Phase 3. A Primary Election will be conducted to elect a nomination committee comprised of 16 'He Hawaii Au' members.

1. Only registered 'He Hawaii Au' voters will be permitted to participate in the nomination committee election process. Out of state 'He Hawaii Au' members will be encouraged to register and vote for a nominee of their choice.

2. Elected nomination committee members must agree to eliminate themselves from being elected to serve as a commissioner.

3. The "Board" will publish results of the election following a deadline date of vote submissions.

Phase 4. Once elected, the nomination committee will select names of 'He Hawaii Au' people who will be elected to serve as commissioners.

1. The nomination committee will insure that selection of prospective commissioners must come from all segments of the 'He Hawaii Au' community.

2. Qualified 'He Hawaii Au' commissioner nominees will be determined by self declaration. Questionable nominees will be reviewed by the nomination committee.

3. Prospective commissioner nominees will submit a resume and photograph to the nomination committee which are to be made available to registered 'He Hawaii Au' voters.

4. Each prospective commissioner will be required to provide a history of their involvement relative to 'He Hawaii Au' issues or programs and have had demonstrated a legitimate interest in advancement of 'He Hawaii Au' people.

5. Each candidate will publicly campaign showing reasons as to why the candidate should be elected. Presentations should include how the candidate can help determine proper 'He Hawaii Au' claims.

Phase 5. Finally, a General Election will be conducted to elect commissioners.

1. Only registered 'He Hawaii Au' voters will be permitted to participate in the commissioners election process. Out of state 'He Hawaii Au' members will be encouraged to register and vote for the commissioner nominee of their choice.

2. The nomination committee will publish results of the election following a deadline date of vote submissions.

MISCELLANEOUS

1. The nomination committee election and commissioner election processes will be supervised by a recognized and qualified election oriented body.

2. All administrative duties and responsibilities will be performed by paid 'He Hawaii Au' workers who must agree to eliminate themselves from being elected to serve as a nomination committee member or study commission member.

3. In compliance with Congressional statutes, acceptable representatives from the Department of Interior (including United Nations, Indian Nations, and Alaska) will be invited to monitor both election processes to insure for correctness of form, accuracy and justice.

4. An adequate budget of expenses not to exceed four million dollars will be submitted to the Department of Interior so that all proposed processes can be accomplished.

5. Names of elected commissioners will be submitted to the Governor for forwarding to the President who will make the appointments of Hawaii commissioners.

FEDERAL COMMISSIONERS

This category deals with acceptable appointments by the President of seven federal commissioners who are to accomplish the desired objectives "FOR" the 'He Hawaii Au' people. We propose that Presidential appointments of federal commissioners be based on the following guidelines:

1. Each prospective appointee must provide a voting record which demonstrates favorable actions towards native American problems.

2. Each prospective appointee must show evidence that the appointee was involved in native American issues dealing with their own constituency.

3. Each prospective appointee must illustrate their familiarity with native American problems.

4. Each prospective appointee must submit a declaration of intent as to objectives sought as a commissioner.

5. Due to the importance of obtaining a fair and honorable adjudication, we request that three representatives from the United Nations, Indian Nations, and Alaska be part of this federal commissioner appointments.

6. Due to the sensitivity of appointing suitable and qualified federal and other commissioners, the 'He Hawaii Au' Nation reserves the right to reject any federal appointee who is considered un-acceptable.

Senator MATSUNAGA. Our next witness will be Mrs. Alma Cooper.

STATEMENT OF ALMA COOPER, HILO, HAWAII

Mrs. COOPER. Mr. Chairman, Hon. Senator Matsunaga and Hon. Daniel Akaka and members of the U.S. Senate and House of Repre-

senatives Joint Committee on Energy and Natural Resources hearing these joint resolutions for us today.

I want to first say that I was very appreciative of your opening statement and in the language of ourselves here in Hawaii, I thought "Right On." I am hearing the statements coming across clear, and that is the way it ought to be. On the other hand, as I read the Senate Joint Resolution 4, I experienced a very discomforting feeling that certain statements, emphases, and omissions appeared to reduce the immense realities of a lawless act committed 84 years ago, its devastating impact upon the native citizens of this land and the expectations I see as a native Hawaiian in this movement for fair and just reparations from the U.S. Government. I have difficulty finding the appropriate words that fittingly describe what it means for a native people to see the complete and total annihilation of their independent and sovereign Hawaiian nation by the "unauthorized intervention of the United States" and later by the "authorized intervention of the United States" through representative persons in the U.S. Government, Armed Forces, and Congress. Our Queen Liliuokalani was coerced to "surrender her sovereignty"; our people were disposed of their "liberties, civil rights, native rights, livelihood, and nationality." And in the presence of the lawless dethronement of their constitutional sovereign nation and the nullification of their inalienable rights as an indigenous people, the Hawaiian natives were law-abidng as they awaited word the Congress and President of the United States would restore their independent autonomy as a constitutional monarchy.

Chairperson and members of this hearing committee, you will agree with me, I am certain, that the immeasurable consequences of the usurpation of the Hawaiian nation and upon the Hawaiian natives may never be fully determined in any day and age. However, I do experience a sense of betrayal to my ancestors when I read a document that uses language that glosses over the immense and infinited wrongs committed in 1893 and every year thereafter and for 84 years and for as long as a settlement by the U.S. Government is not finalized with the Hawaiian people.

I found the use of the term "remedy" particularly misleading. The dictionary defines "remedy" as "something, such as medicine or therapy, that relieves pain, cures disease, or corrects a disorder; a legal means of preventing or correcting a wrong or enforcing a right." Tell me, do you really believe that when a small and friendly nation is obliterated by a powerful national government that 84 years later, the Congress of that powerful national government ought to be treating this matter as a "disorder" which can be relieved by remedies?

I suggest that as a Hawaiian native I perceive the intense severity of the unlawful act of the United States against the Hawaiian nation and its native people as a matter that requires each of us to look for the proper "restitutions." Restitution means, "returning to the rightful owner what has been taken illegally from him or giving back something of equal worth." I feel that in the name and cause of justice that Hawaiian people must receive fair and equitable restitutions. And for opening statements on any discussion as to what constitutes fair and equitable restitution, I suggest talks begin where our Queen and our

ancestors began. Namely, I would repeat the voices of 8,000 legal voters of the Hui Aloha Aina—Hawaiian Patriotic League—that:

> Right, justice and honor prevailing, Hawaii, our home and country, be allowed again to enjoy the blessings of the independent autonomy and constitutional regime which were so infamously subverted on the 17th day of January last; . . .

And from this beginning, I for one would not be seeking tokens of remediation for the Hawaiian natives but rather the proper restitutions for ourselves. And I would like to emphasis that the Hawaiian people ought to be given what was taken away illegally or that which are of equal worth. To agree to anything less than what constitutes fair and just restitutions would be to deny our mana—power—as our own people, a people who ruled independently in a sovereign nation, a people suppressed in this present society, and a people struggling for a future in our own homeland.

I ask that the term remedy be strickened from the resolution and that the term restitution be used instead.

I further found the list of recommendations as stated in the resolution threatening and adding insult to injury. The previous resolution for which an earlier Senate hearing was held here in Honolulu did not include a list of recommendations. I would prefer that this be the case in this resolution. I for one can not agree that some external power should determine for me, or other Hawaiian persons who may share my feelings, that as stated in (D) "the preservation and enhancement of Hawaiian native culture and the education of Hawaiian natives as principal purposes of any such remedy." I believe the purposes of the restitution, not remedy, ought to be determined by the Hawaiian persons placed in trust and responsibility for engaging the funds, lands and so forth. There is a note of arrogance when the party who owes a group of people for illegally taking away property, life, and nation includes a list of recommendations in a resolution. I see the various recommendations establishing parameters for the committee and they also can constrict dialog. Furthermore, as a lay person, I am not able to understand the full meaning of a number of the recommendations nor do I know what the consequences of their inclusion in resolution 4 can mean for a committee that ought to be determining what constitutes fair and just restitutions.

I also believe there are 11 intelligent, knowledgeable, and well intended persons of Hawaiian ancestry who could undertake the responsibilities and tasks of the Commission. I feel strongly that the matter of a final settlement of claims of the Hawaiian natives for the deleterious action of the United States in 1893 and through out the ensuing 83 years along with its instrumentatal manifestations of poverty, alienation, deprivation, and total disregard for the welfare of the indigenous people who lost a nation, land, home, and inalienable rights, ought to be between Native Hawaiian persons acting on behalf of the Hawaiian people and the U.S. Congress.

As written, I would not be able to endorse the resolution. I would suggest that the resolution be rewritten for the language of a resolution and the provisions therein are very important and will determine the outcome of that Commission's responsibilities.

I see that when we begin things correctly, those things will end correctly. I would also like to correct our senior member's statement, Senator Lyman's statement, that Hawaii was discovered by Captain

Cook. These islands were discovered by our ancestors in the fourth century, and we should always remember that and that is what makes us the native people of Hawaii and the native people of America.

Senator Abourezk, I am very happy you are here and your being here, I think, is a plus factor in our knowing that the native American Indian will also know that we are native Americans. I attended a meeting of native American Indians and they used the term "native American," but largely to mean only the American Indian. There is a great deal of education that needs to go into their knowing that we who are in Hawaii and across the ocean are nonetheless also native Americans.

I am pleased that you are here. Thank you, gentlemen.

Senator ABOUREZK. A native American as applied to Indians is a term that Indians don't use very much. It is a term used by liberals a lot when they think there is something bad about the word Indian, so they use American.

Mrs. COOPER. I have attended several of their conferences and have heard the American Indians use the term "native American" and excluding the Native Hawaiian and the Alaskan Native. I see this as being, establishing a reference point from which other kinds of decisions are reached, and I am happy that you are here because you are in a very responsible position to do something about that.

Senator ABOUREZK. May I ask a question?

Did I understand you to say that you supported a concept of a commission to determine reparations?

Mrs. COOPER. A concept of a commission and not necessarily the way it has been presented in this resolution.

Senator ABOUREZK. I have talked to some of the, I don't know what you call aboriginal people, the Hawaiian natives, whatever, out in the hallway out here a little while ago when I went out to smoke. There's some people who think, or some of the Hawaiians, who believe that the Commission is not the way to approach it.

I have heard kind of a mixed bag of testimony here all day today and I am a bit confused right now.

Mrs. COOPER. I think that is the reality of our situation, that there are those divisions amongst Hawaiian people.

Senator ABOUREZK. Well, there was one statement I think that said that if you pass a bill, not to include any extinguishment of the rights to the land or to reparation by future generations.

First of all, I'd like to ask you how you feel about that.

Then, second, I just want to make a comment about that point.

Mrs. COOPER. There is a part of me that says that unless the reparations received are in fact totally and fair and warrant then the extinguishment of further need for reparations, this is fine.

Otherwise, I would not be comfortable with any provision that states beforehand that there ought to be extinguishment of further reparation or claims.

Senator ABOUREZK. Well, I think, just again from a view of political realities as to what might make it through Congress and through the President's signature, if you don't say this is an extinguishment claim, whatever the amount, and how much land comes in a package as recommended by the Commission, if you don't do that, I don't think it would pass Congress.

Mrs. COOPER. I can understand that.

Senator ABOUREZK. I think the reason for that now is that the Indians on the mainland are becoming very successful in their lawsuits and some of the people in the States where the Indians are becoming successful are coming to the Federal Government saying, "For God's sake. They have got us down. We need help from the Feds. We can't afford to give them our land. We can't afford to pay them money, so it's a Government responsibility."

I acknowledge that it probably is a Federal Government responsibility.

Yet, as I talk to different Members of Congress and I am a very strong advocate of Indian claims, I am going around talking to various ones. I think the sympathy is still there to pay reparations to the native people, the Hawaiians, Indians, whatever; but they want to know, "When do we stop doing this? If we pay a certain amount now, the Hawaiian claim, are we going to have to come back 20 years later and do it again?"

They feel, even though it is not their money, once in awhile they feel responsible for the Treasury [laughter], not all that often as my colleagues will attest; but that's the kind of talk you get.

I didn't come here to give a lecture on political reality, but it comes down to that in some cases.

Mrs. COOPER. Yes, I understand that and also see your point.

Senator MATSUNAGA. Any further questions?

Thank you again. [Applause from the audience.]

The next witness is Mrs. Peggy Ha'o Ross. Peggy?

STATEMENT OF PEGGY HA'O ROSS, PRESIDENT, HAWAIIAN SECURITY COUNCIL, OHANA o HAWAII

Mrs. Ross. Thank you. I am going to refer to you gentlemen as Mr. America. We seem to have a good note there. I think it creates a picture that there is a difference between the Native Hawaiian.

I, Peggy Ha'o Ross speaking in behalf of 35,989 Native Hawaiians of the Ohana o Hawai'i acting as their pro tem queen and president of the Hawaiian Security Council, the members of which are chieftans representing their families—Ohana or tribes—acting in their behalf as their representatives and advisors over their affairs and concerns. Each member in the Ohana has been identified genealogically and their family ties clearly established with the aboriginal Native Hawaiians prior to 1778. All members with the exception of 820, lives in Hawai'i;

Come before the 95th Congress, 1st Session, Senate Joint Resolution 4 in the Senate of the United States, July 6, 1977, in Honolulu, Oahu, Hawai'i, to strongly oppose the Senate Joint Resolution 4 in its entirety because:

1. The wrongs which you are so gracious to admit as herein mentioned of the Senate Joint Resolution 4, is a declaration and an admission of guilt. Guilty of gross conspiracy, treasonous and criminal acts knowingly committed against a friendly, charitable and loving peoples;

2. These criminal acts was done to a sovereign monarchial kingdom, a constitutional and legal form of government governed by a race of

people long established before the birth of the United States of America; Reference: King Kamehameha I in the 1700's conquerored the Hawaiian Islands to rule and reign under one king. The king overthrew each island which was ruled by kings, queens, chieftans and priests, providing evidence to the fact that the Hawaiian Island was ruled by a monarchial and Ohana system hundreds of years prior to 1700.

This means, any enactment by the United States of America following the illegal overthrow of the Hawaiian Islands constitute an illegal act which in any language and by any definition is completely without remedy that can be fashioned by this United States Congress or future Congresses. The United States cannot proclaim its own guilt and then sentence itself. To do this would render the U.S. Constitution and Declaration of Independence completely unconstitutional.

This Senate Joint Resolution 4, is resolved to shut us up and take away all rights to the aboriginal Native Hawaiians to the Hawaiian Islands. The laws of the United States of America don't make sense at all, that I, Peggy Ha'o Ross, a qualified aboriginal Native Hawaiian must receive permission from a thief to return what was stolen from me, and, that I must prove what was stolen is mine, although the thief has openly admitted that he did do me wrong—and admittingly claims he has stolen what is mine—but then to get it back from the thief it must be done on his terms. In the meantime while I am supposingly to be going through the process of proving all this, the thief has sold and/or done whatever he pleases with it. This is what this Senate Joint Resolution 4 is all about. To put the Native Hawaiians under control of the sweaty armpits of the United States Congress along with our American Indian brothers. This is another illegal and conspiracy act.

Mr. America, I sent a letter to you, Inouye. We have gotten together with all the organizations, that this resolution be killed. I oppose even the Hawaiian Claims Act because of the definition of Hawaiian, Native Hawaiian, an aboriginal Hawaiian, defines to me three different things. In the Hawaiian Organic Act of 1900, April 30th, included 731 Chinese and 3 Japanese to be citizens of the territory, and were all naturalized to be Native Hawaiians. Any definition of native means that anyone born in Hawaii on this land is native, so the definition Hawaiian native has been used so much throughout this Resolution 4, implies that everyone who was born here is an Hawaiian native.

A Native Hawaiian is proscribed by the Hawaiian Homes Commission Act, that Native Hawaiians have to prove their identities since 1778. If that is the case, then we are aboriginal by this definition.

Mahalo, gentlemen.

Senator MATSUNAGA. Thank you very much. Any questions of Mrs. Ross?

Mrs. Ross. There is another thing I want to add to this. A letter has been sent to the United Nations. We already have a committee up there in the United Nations.

Strongly, we feel that this is so long anticipated delay and you pay attention and listen very closely. We go through this kind of process at every hearing. This is the third hearing and often enough we, who are the true aboriginal Native Hawaiians, are left on the tail end of that list.

It seems to me that you should take on all the State officials, take on all the Federal officials, take on all the city, in one meeting, and let them have their say.

Then us, the roots of the native people have one day to themselves with you. We continually have to be at the tail end of this hearing. Twist that around. Change the paper around and give us the prerogative, the voice of the people. There are a lot of these people who come forward here to testify, some of which have a lot of good ideas, but those ideas have never been exercised.

I went through the bureau exercise and started with scratch, with nothing. Six years have passed and 35,989, 21 are all legal voters. This is creating voting power. We have a lot of chiefs, no bodies.

I have assumed that responsibility because, by doing so, you get to the roots of the situation, the roots to all the answers which have been coming across from here to there, there to here, and our grassroots people are trying so hard to meet some compromise.

I want to thank you, gentlemen.

Senator MATSUNAGA. Thank you very much, Mrs. Ross. I appreciate your testimony and we will take it into consideration.

Mrs. Ross. Could I have a minute more?

I would like to introduce my husband who is an American Indian. We have been very involved with the Indian affairs up in America. He is a legal adviser to the council. May I have a minute?

Senator MATSUNAGA. One minute is granted.

[Applause from the audience.]

STATEMENT OF FREDERICK DONALD ROSS

Mr. Ross. My name is Frederick Donald Ross. Kaue Kaui [phonetic spelling] is my real Hawaiian name. Senator Matsunaga, you said a while ago that the Japanese on the mainland got 10¢ on the dollar. I would like to bring you up to date on something.

I was raised on the reservations in Idaho and Oregon and Montana, where we were pulled off our reservation. We were not allowed to have water out of the Snake River or out of the Salmon River. We were pulled off of it. The Japanese from California, Japanese from Hawaii were put on our land. The U.S. Government put $7.5 million into a water pumping system out of the Snake and out of the Salmon, which pumped up over 300 feet in the river bed to the top of the mountain, 300 feet, and that takes a pretty big engine to do this.

We lost our land and you say that 2,500 Hawaiians or Japanese only got 10¢ to the dollar.

Senator MATSUNAGA. Nobody mentioned 2,500.

Mr. Ross. I am saying in our little town, that 10¢ on the dollar, I think it was $10 to the 10¢ that they got in return.

Senator MATSUNAGA. Well, I fail to see, Mr. Ross, what this has to do with the hearing.

Mr. Ross. I am showing you what you told one lady this morning, that the, the Japanese only got 10¢ to the dollar. I wanted to bring it out that I am one Indian that——

Senator MATSUNAGA. That has nothing to do with these hearings.

I will talk to you privately afterward, Mr. Ross, because you are taking time away from other witnesses.

Our next witness is Kamuela Price.

STATEMENT OF KAMUELA PRICE, MEMBER, HOU HAWAIIANS ADVISORY COUNCIL

Mr. PRICE. Mr. Chairman, honorable members of the Reparations Committee. My name is Kamuela Price. I am on the Advisory Council to the Hou, an Hawaiian tribal body.

The Hou contend in order for there to be moral persuasion in a native Hawaiian reparation program, we must first, in a fair and equitable manner, decide exactly who is to be the beneficiary of such a complete and final determination.

On the surface the reparations document approved by a joint resolution of the House and Senate appears to be of good intent. There are, however, some critical areas that need considerable clarification.

The initial paragraph refers to a small group of non-Hawaiians including U.S. citizens who overthrew the indigenous lawful government of Hawaii.

The Hou would like some insurance this means that reparations are intended to benefit the aforementioned indigenous people who are defined in the Hawaiian homestead provisions of the Statehood Admission Act as those of one-half Hawaiian blood or more.

Otherwise, of course, we would only be promulgating another situation whereby those of little or no Hawaiian blood would again be usurping the birthrights of the indigenous people.

The document's subsequent paragraphs that so graphically support the opening allegations are practically meaningless unless we define in a clear and concise manner exactly how reparations will alleviate the plight of the living indigenous Hawaiian people.

This brings up a question regarding a section 3 subtitle which reads in part—emphasis would not be placed on individual grants but a corporation would be formed in which such Native Hawaiian held a share.

This raises a most perplexing question—which definition of Native Hawaiian applies to reparations. The homestead definition of 50-percent Hawaiian blood or more or the almost completely absurd idea that anyone with a drop of aboriginal blood stands on the same footing as the indigenous people. Based on such irrationality, in a very few years there would be hundreds of thousands of Hawaiian claiments with just a touch of aboriginal blood. The trap to be avoided in this dilemma is a compromise agreement of 25 percent aboriginal blood. This would have the effect of breaking the back of the only legal rights the indigenous people currently possess, the Hawaiian Homestead Act of 1920 as amended. Such a fiasco of unenforceable terminology would be even a greater miscarriage of justice than the original overthrow.

To resolve this matter equitably, the Hou strongly recommends that the proposed Maui Loa amendment to Public Law 93–644 be applied to reparations. In brief, this amendment would mandate by law 20 percent of reparation benefits would go directly to the indigenous people as defined in the Hawaiian Homestead Act of 1920 as amended.

For your study and support, copies of the Maui Loa amendment are attached to this testimony.

To the indigenous Hawaiian people of the Hou, reparations means an opportunity to obtain enough land for self-sufficiency farming. We contend this modest end could be accomplished by granting one-half

acres of land per eligible applicant. This land could come from either Hawaiian Homestead holdings or other State and Federal lands covered in the reparations agreement. The funding for improvements on the land should also be included in the reparations settlement.

The intentions of the U.S. Government to fulfill their promise for an opportunity to reinstate on the land should be spelled out in the reparations resolution as a birthright of the indigenous Hawaiian people as defined in the Statehood Compact.

All the indigenous people of the Hou are asking from reparations are a piece of land large enough to sustain a family and improvement funding repayable at a low interest rate. The reparations resolution underscores the importance of education. The Hou responds in kind—educate us on how to obtain our land and then teach us the ways of our ancestors how to be self-sufficient on the land.

For those indigenous people who already possess one-half acre of land or those part-Hawaiians of less than 50 percent aboriginal blood, the Hou have no objection to the Hawaiian organizations corporate shareholding concept in the resolution.

The indigenous people of the Hou, however, should never again be placed in a position whereby they are led to believe in their entitlement to benefits wherein, in reality there are none.

We have two prime examples of such disappointments. There is the Hawaiian Homestead Act of 1920 as amended, which promised to reinstate the native Hawaiian on the land and then tricked our people by not providing the necessary funding to meet a hidden improvement clause requirement.

The other example of complete disillusionment for the indigenous Hawaiian people has only recently come to light. In this case, it reflects what can happen with a benevolent corporate structure. Most everyone in the Islands has been under the impression that Princess Bernice Pauahi Bishop's will was to fund the Kamehameha schools for the specific purpose of educating her people, the indigenous Hawaiians. For many years, the estate encouraged this illusion by requiring a person to be a full-blooded Hawaiian for admittance. Then, with the amending of the Homestead Act of 1920 in compliance with Federal law, the entrance requirements were dropped to one-half Hawaiian blood or more.

With the passing of time, under one pretense or another, the blood requirements were gradually lowered until they reached the far-fetched concept of any quantum of native blood.

The administration has now taken the legal position that the beneficiaries of the Bishop Estate-Kamechameha schools are not as everyone had been led to believe, the Native Hawaiians, but the children of the world. Since the children of the world, for all practical purposes, are unlimited in number, the court has held there are too many of these folks for the estate to be responsible to any individual beneficiaries.

The Hou would like Alu Like-ONAP, the federally appointed advocacy agency for Native Hawaiians to challenge this decision in the courts. Unfortunately for us, the board of directors of Alu Like-ONAP are the same folks who administer the Bishop Estate-Kamehameha schools.

So you see, honorable members of the committee, for the Hou to be party to a reparations agreement, the benefits to the indigenous people

must be spelled out. Just like when you're 65 years old, you qualify for social security; when your income is under a certain amount you are entitled to medicare or a tax rebate.

In other words, if you are an indigenous Hawaiian, you are entitled to one-half acre of Homestead, State or Federal land with an improvement loan at a low interest repayment rate. It should be the birthright, not the decision of some corporate entity whose directorship may be prejudiced against an otherwise qualified applicant.

The Hou trusts this honorable body in their reparations deliberations will extend President Jimmy Carter's human rights policies to the tiny minority of indigenous Hawaiian people represented by the Hou.

Thank you.

Senator MATSUNAGA. Thank you very much, Mr. Price.

[The Maui Loa amendment follows:]

MAUI LOA AMENDMENT TO PUBLIC LAW 93-644

MAUI LOA PROVISIONS

Recommended by the Hou Hawaiians for inclusion in the rules and regulations governing Native American and Hawaiian Reparation Programs.

Section 1 of 1336—1 (U): Definition

Native Hawaiians are divided into two (2) categories:

(a) *Indigenous Hawaiian* means any descendant of not less than one half part of the blood of the races inhabiting the Hawaiian Islands prior to 1778.

(b) *Part Hawaiian* means any individual, any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

Section 2: Disbursements of benefits to indigenous and part Hawaiians

(a) *Indigenous Hawaiians.*—The U.S. Congress or their constituted authority mandate that 20 percent of all disbursements earmarked for native Hawaiians in Native American Programs be administered by and go directly to the benefit of the indigenous Hawaiians as defined in Section 1a.

(b) *Indigenous and part Hawaiians*—The U.S. Congress or their constituted authority mandate that the remaining 80 percent of disbursement earmarked for native Hawaiians in Native American Programs be administered by Alu Like and/or any other recognized non-profit Native Hawaiian organizations.

RATIONALE FOR MAUI LOA PROVISIONS RECOMMENDED BY THE HOU HAWAIIANS FOR INCLUSION IN THE RULES AND REGULATIONS GOVERNING NATIVE AMERICAN PROGRAMS

Credentials

The Hou Hawaiians are a non-profit organization dedicated to the survival of the indigenous Hawaiians as a culturally identifiable people. The Hou Membership has two (2) classifications:

(1) Indigenous Hawaiians—voting members.

(2) Friend of the Hou—non-voting members.

For the purpose of our membership, indigenous Hawaiians are defined in conformity with the Hawaiian Homestead Act of 1920. In essence, this means those of 50 percent Hawaiian blood or more.

The Hou Hawaiians are the organization that initially petitioned the Secretary of Labor and the United States Congress to include native Hawaiians in Native American programs. The Hou were supported in our efforts by Governor Ariyoshi, both Houses of the Hawaiian Legislature and all our representatives in the U.S. Congress. (See attached copy of telegram from Governor Ariyoshi to Secretary of Labor. Also see copy of follow-up resolution from both Houses of the Hawaiian Legislature). [Retained in committee files.]

Catch-all definitions is not desirable

In the studied opinion of the Hou Hawaiians, supported by written testimony from the majority of Hawaii's U.S. Congressional representtaives, it would be a tragic miscarriage of remedial justice to enact into law a catchall definition of

native Hawaiian that excludes protective measures for the indigenous people. (Please see attached letters from Senator Inouye and Representatives Mink and Matsunaga.) [Retained in committee files.]

Commonsense

National ethics dictate there should be measures written into the rules and regulations governing Native American programs that protect the birthrights of indigenous Hawaiians as defined in the Hawaiian Homestead Act of 1920. In essence, this act defines native Hawaiians as those of 50 percent Hawaiian blood or more.

Why 50 percent for indigenous Hawaiians? Why not 25 percent or some other percentage?

The Hawaiian Homestead Act of 1920 set the precedent in its definition. Native Hawaiian means any descendant of not less than one half part of the blood of the races inhabiting the Hawaiian Islands prior to 1778.

Failure of the Homestead Act

For one reason or another, the Hawaiian Homestead Act never fulfilled beyond the barest tokenism, its obligations to the indigenous Hawaiian people. Most of those eligible for the promised homestead land have either died or are still waiting patiently to be called. Part of the problem may stem from the fact that the Hawaiian Homestead Commission is politically appointed rather than chosen by the indigenous people themselves. The exclusion of protective measures in Native American Programs for indigenous Hawaiians as defined in the Hawaiian Homestead Act of 1920 would have the effect of compounding past grievances and injustices.

Why the name Maui Loa provisions?

Maui Loa, the founder and President of Hou Hawaiians, has demonstrated his dedication to the survival of the Hawaiian people as an identifiable culture. Traditionally the Hawaiians credit an act to the person who originates the concept. More than this Maui Loa's namesake is a legendary Hawaiian demigod that both the indigenous and part Hawaiians can historically relate to with cultural pride.

HOUSE OF REPRESENTATIVES,
THE NINTH LEGISLATURE,
Honolulu, Hawaii, April 29, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C.

SIR: I transmit herewith a copy of House Concurrent Resolution No. 56, which was adopted by the House of Representatives and the Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1977.

Very respectfully,

GEORGE M. TAKANE,
Clerk, House of Representatives.

[H.C.R. No. 56, H.D. 1]

[House of Representatives, Ninth Legislature, 1977, State of Hawaii]

House Resolution requesting the U.S. Congress to enact legislation to compensate or to make reparation to Hawaiians for damages suffered by them at the time of annexation.

Whereas, by the Great Mahele of 1848, all the lands in the Hawaiian Kingdom were divided and distributed to wit: One-third (⅓) for the public called "Public Lands"; One-third (⅓) to the Chiefs; and

Whereas, prior to the reign of Kamehameha V the Crown Lands were considered to be the private domain of the King, and he could sell, mortgage or otherwise deal with such land as his private property without any limitation; and

Whereas, during his reign, King Kamehameha V declared Crown Lands to be inalienable, and it appears that it was so regarded and thereafter, King Lunalilo, King Kalakaua and Queen Liliuokalani were deemed to have been only entitled to use of the income from the Crown Lands; and

Whereas, upon the abdication of the throne by Queen Liliuokalani, the Crown Lands were deemed to be part of the public land of the Hawaiian Republic; and upon the annexation of Hawaii by the United States of America, crown lands thereby became part of Public Lands of the United States of America; and

Whereas, it appears that person or persons who were or should be entitled to the Crown Lands were deprived of their property or property rights in the Crown Lands; and

Whereas, Aborigine or Native Hawaiians were deprived of certain property or property rights upon the annexation of these islands by the United States of American; now, therefore, be it

Resolved, By the House of Representatives of the Ninth Legislature, State of Hawaii, Regular Session of 1977, that the Congress of the United States of America be respectfully requested to enact legislation to compensate the family or families who would be considered to be the highest among the chiefs and would have been considered the presumptive heirs to the throne and the Hawaiian Kingdom for the Crown Lands so taken and damages suffered, and the aborigine or Native Hawaiians for damages suffered by them at the time of the Annexation of the Hawaiian Islands to the United States of America; and be it further

*Resolved, That the Con*gress of the United States of America be respectfully requested to amend Senate Joint Resolution No. 4 entitled "Hawaiian Aboriginal Claims Settlement Study" now pending, by specifically including therein all Crown Land claims and authorizing direct grants of payment as compentation for settlement of Crown Land claims; and be it further

Resolved, That duly certified copies of this Resolution be transmitted to the President of the United States of America; the Vice-President of the United States of America; the President Pro-temp of the Senate of the Congress of the United States of America; the Speaker of the House of Representatives of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the Senate of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the House of Representatives of the Congress of the United States of America; to the Honorable Daniel K. Inouye, and Honorable Spark M. Matsunaga, senators from the State of Hawaii and to Honorable Daniel K. Akaka and Honorable Cecil Heftel, representatives from the State of Hawaii of its United States of America.

[House of Representatives, Ninth Legislature, 1977, State of Hawaii]

[H.C.R. No. 56, H.D. 1]

HOUSE CONCURRENT RESOLUTION requesting the U.S. Congress to enact legislation to compensate or to make reparation to Hawaiians for damages suffered by them at the time of annexation.

Whereas, by the Great Mahele of 1848, all the lands in the Hawaiian Kingdom were divided and distributed to wit: One-third (⅓) for the public called "Public Lands"; One-third (⅓) for the King for his use, designated as "Crown Lands; and One-third (⅓) to the Chiefs; and

Whereas, prior to the reign of Kamehameha V the Crown Lands were considered to be the private domain of the King and he could sell, mortgage or otherwise deal with such land as his private property without any limitation; and

Whereas, during his reign, King Kamehameha V declared Crown Lands to be inalienable, and it appears that it was so regarded and thereafter, King Lunalilo, King Kalakaua and Queen Liliuokalani were deemed to have been only entitled to use of the income from the Crown Lands; and

Whereas, upon the abdication of the throne by Queen Liliuokalani, the Crown Lands were deemed to be part of the public land of the Hawaiian Republic; and upon the annexation of Hawaii by the United States of America, crown lands thereby became part Public Lands of the United States of America; and

Whereas, it appears that person or persons who were or should be entitled to the Crown Lands were deprived of their property or property rights in the Crown Lands; and

And, whereas, Aborigine or Native Hawaiians were deprived of certain property or property rights upon the annexation of these islands by the United States of America; now, therefore.

Be it resolved, by the House of Representatives of the Ninth Legislature, State of Hawaii at the Regular Session of 1977, the Senate concurring, That the Congress of the United States of America be respectfully requested to enact legisla-

tion to compensate the Aborigine or Native Hawaiians for damages suffered by them at the time of the Annexation of the Hawaiian Islands to the United States of America; and

Be it further resolved, That the Congress of the United States of America be respectfully requested to amend Senate Joint Resolution No. 4 entitled, "Hawaiian Aboriginal Claims Settlement Study" now pending, by specifically including therein all Crown Land claims and authorizing direct grants of payment as compensation for settlement of Crown Land claims; and

Be it further resolved, That duly certified copies of this Concurrent Resolution be transmitted to the President of the United States of America; the Vice President of the United States of America; the President Pro-temp of the Senate of the Congress of the United States of America; the Speaker of the House of Representatives of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the Senate of the Congress of the United States of America; to the Chairman of the Interior and Insular Affairs Committee of the House of Representatives of the Congress of the United States of America; to the Honorable Daniel K. Inouye, and Honorable Spark M. Matsunaga, senators from the State of Hawaii and to Honorable Daniel K. Akaka and Honorable Cecil Heftel, representatives from the State of Hawaii of its United States of America.

Mr. PRICE. Maui Loa would like to testify.

STATEMENT OF MAUI LOA, CHIEF, HOU HAWAIIANS

Mr. LOA. OK. I'd like to make it short. The amendment is on the back of this testimony. Mr. Chairman, honorable members of the Senate committee, brother and sister Hawaiians, excuse me. This is my makua lime (spelled phonetically), my mother. Kamuela is my makua kane, my father.

This is ohana, the family came down together.

I'd like to continue.

My name is Maui Loa. I am Chief of the Hou.

In conformance with the rules and regulations governing the Office of Native American Programs, the Hou hereby exercise their constitutional rights of self-determination by representing themselves before this honorable body as a separate and distinct Hawaiian tribal entity.

Our avowed purpose in presenting ourselves as a tribal body is to help make certain any final reparations settlement contains protective provisions for indigenous Native Hawaiian people as defined in the Hawaiian Homestead section of the Statehood Admission Act.

A careful reading of Resolution 4 uncovers the document's sensitivity to the Hawaiian Homestead Act's definition of Native Hawaiian. Six of the eleven members of the Study Commission shall be of one-half degree or more of native blood. We assume this means as defined in the Hawaiian Homestead provisions in the Statehood Compact. However, in the remaining text, we have a new term Hawaiian native left completely undefined.

The Hou are deeply troubled that the catchall definition of native Hawaiian contained in Public Law 93–644 which states in essence anyone with a drop of aboriginal blood is a Native Hawaiian, might be applied in toto to reparations.

The Hou content in order for a Reparations Study Commission to be a moral action, Congress should amend the definition of Native Hawaiian in Public Law 93–644 prior to the convening of a Reparations Study Commission.

For the record, the Hou are submittting a copy of our proposed amendment to Public Law 93–644. We recommend this amendment

be applied to reparation and all other remedial aid programs for Native Hawaiians.

In brief, our amendment proposes 20 percent of the benefits in any reparations program be mandated by law to go directly to the Native Hawaiian as defined in the Homestead Act of 1920 as amended.

This honorable body is hereby notified that the Hou will never be party to a final reparations settlement that does not contain protective provisions for the indigenous Hawaiian people in whose name such legislation is being enacted.

For those who may question the credentials of the Hou, we are an organization that initiated the action responsible for bringing Native Hawaiians into ONAP. Admittedly, we are disappointed in the turn of events that redefined native Hawaiian without benefit of testimony from the indigenous Hawaiian people whose birthrights were being diluted.

In view of these circumstances of legislation without representation, the Hou humbly submit at least two of our membership be appointed to the reparations committee of eleven.

You may ask exactly for whom do the Hou speak. Our constituency represents the vast majority of indigenous Hawaiian people who, although eligible, never received their promised homestead land. These folks, innocent victims of an industrialized society, are often institutionalized or forced by circumstance beyond their control, onto the welfare rolls. We speak for the poor, the needy and culturally deprived among our indigenous people. The Hou have no quarrel with our brother and sister Hawaiians who have been fortunate enough to make a satisfactory adaption to the modern society. All that we ask is that you allow the voice of the Hou to be heard where it counts most, on the reparations committee. The Hou, which translates the rebirth, prays this honorable committee can appreciate that the indigenous Hawaiian people are a valuable natural resource of our great country and for that matter this world.

Traditionally our people do not read written testimony. Therefore, I ask your indulgence to take a moment to present my "manao" thoughts from the heart.

If I may say something from my heart.

Senator MATSUNAGA. Will you do it in 1 minute, less than 1 minute?

Mr. LOA. Yes.

First, I would like to thank the ALOHA Association for this opportunity to express my manao. For Louisa Rice and her son, they came down as ohana. Also, for Peggy Ross, who is truly a kapuna like my mother.

You folks are the alii. You hold the destination for our people. Kuhio Kalanianaole, who died, who never really got the chance to see his people being returned to the land. We hope you get there before our kapuna's are gone so when they go to the island in the sky they will know in their hearts that we have a place in our native land.

We do not number many people, the indigenous people. We will continually be getting smaller in the future. We don't want to betray our brothers on the mainland, the Indians, and tell them that we number 100,000 because, in fact, we only number 2,000 pure Hawaiians and 20,000 indigenous Hawaiians, half-Hawaiian blood or more.

We don't want to betray them. We want this legislation to be honest when it goes back to them because we know they are concerned with us, that our plight is the same plight as their's.

I leave this in your hands because you are the alii nui. Mahalo nui loa, malama ohane [spelled phonetically]. Thank you. Mahalo. [Applause from the audience.]

Senator MATSUNAGA. Our next speaker is Miss Karen Brown. I might say this before you begin, Miss Brown, that we still have 15 witnesses and if we were to give each one 5 minutes each, that will total 75 minutes. That will be 1 hour and 15 minutes. That will take us 1 hour and 15 minutes beyond what we had planned, but I'd be willing to stay here to listen for the committee, provided the statements are limited to 5 minutes, no more than 5 minutes. We should trim it down to 3 minutes because we do have other engagements. I am sure that those who wish to testify, who have been waiting patiently, have other plans, too, and I wouldn't want to interfere with their plans; but I am going to impose at this time a 5-minute limitation so that after your 5 minutes are up, I am going to have to pound the gavel and request that you submit the remainder of your statement which you have not yet read for the record. Is that satisfactory?

STATEMENT OF KAREN BROWN, STUDENT, UNIVERSITY OF HAWAII SCHOOL OF LAW, HONOLULU, HAWAII

Miss BROWN. Aloha, distinguished guests, napua ka aina [spelled phonetically], the people of the land, who have waited so patiently.

Welcome. My name is Karen Brown. I am part Hawaiian, Japanese, Scotch, English, Irish.

I came here today to support the reparations bill that is being proposed to be put into legislation.

I figure it is long overdue, but I am glad it is being done. If only we can all hold together to see this thing go through.

I would like to share with you some of my thoughts. I am a student at the University of Hawaii School of Law. I have 1 more year to go. I did a research project last semester and I would like to have this project submitted in the record to be part of my testimony.

Senator MATSUNAGA. How long a document is it?

Miss BROWN. I am not going to read it.

Senator MATSUNAGA. How many pages is it?

Miss BROWN. It's 57 pages long.

Senator MATSUNAGA. It will be made part of the files of the committee.

You may proceed.

Miss BROWN. Ou ahia is the word that was pronounced by Keauunamoku, a Hawaiian prophet of the 1700's. In that word he charged to the Hawaiian people.

He said, "Hold on. Hold fast to our heritage."

This is part of why I am here today, to follow Keauunamoku's charge. It is readily apparent that from the Captain Cook visit to the Hawaiian Islands in 1778, the Hawaiian culture has been subjected to 200 years of continual and often devastating pressure, which has resulted in what may be termed cultural genocide.

Americans as missionaries, or government officials, or plantation owners controlled the social and economic decisions in Hawaii.

We native Hawaiians were intended victims of official discrimination and displacement. Our sacred beliefs, way of life, and cultural heritage were labeled deficient. Our language was looked upon by the dominant culture as contaminated; our beliefs as pagan; our land system as archaic; our attitude as drifting and lazy.

Discrimination as second-class citizens in our own land touched upon all aspects of our lives.

This widespread demoralization and distintegration of Hawaiian culture heritage is amply portrayed by present-day social, economic, and educational statistics.

During 1973–1974, 27.6 percent of the adults and children on the welfare rolls were Hawaiian. In 1973, 49.5 percent of the adults incarcerated were Hawaiians. Although Hawaiians compose about 18 percent of the total population, they account for 45 percent of the youngsters appearing in family court, and more than 60 percent of the youth in Hawaii correctional facility.

Hawaiians occupy 37 percent of public housing units and are the largest racial group of residents that receive 35.7 percent of all welfare aid. Hawaiians are employed in the lower level of local government and comprise the majority of construction laborers. Although Hawaiian children comprise 30 percent of the population and the Hawaiian community comprises 18 percent of the total population, there are only 6.9 percent Hawaiian teachers and 2.9 percent Hawaiian public school administrators.

The House of Representatives is composed of 14 percent Hawaiians and the Senate retains 12 percent Hawaiians. This is State government. Only 9.9 percent of registered voters are of Hawaiian ancestry. Only 2.9 percent of the State bar–licensed attorneys and only 1.1 percent of the licensed physicians are Hawaiian.

These statistics are illustrative of the dire unrepresentation of the Hawaiians in the professional fields as well as their concentration at lower levels of the labor force.

Although 30 percent of the children in school are Hawaiian, only 5 percent of the graduating seniors are Hawaiian. Hawaiians constitute 18 percent of the total school population. Yet, there are only 2.9 percent enrolled at the University of Hawaii.

Hawaiians constitute 5 percent of the student population at the University School of Medicine and 10 percent of the student population in the School of Law.

Hawaiians comprise 4 percent of the master's degree candidates in the school of nursing, 9 percent of the master's degree candidates in the school of social work, and zero percent in the school of political science.

On the other hand, Hawaiians comprise 54 percent of the only State program which aids social, economic, and educationally disadvantaged students at the University of Hawaii, and comprise 60 percent of the students enrolled in the minority graduate program in the school of social work, and 35 percent of the students in the school of medicine, special remedial and——

Senator MATSUNAGA. Your 5 minutes are up. You may submit the remainder of your statement for the record. It will appear as though you testified in person. [Not received.]

Senator MATSUNAGA. Our next witness is Mrs. Barbara Lundy.

STATEMENT OF BARBARA LUNDY, PUBLIC RELATIONS OFFICER, WOMEN CARE

Mrs. LUNDY. Mr. Chairman, members of the reparations committee, and all the concerned people who are here today. I would like to ask a favor of you. Would you please tell me before, you know, about half a minute before my time is over?

OK, thank you very much.

I am public relations director for Women Care, a national movement of conscientious women who have organized to demonstrate that women do care. We care what happens to the poor, the needy, and culturally deprived among our fellowmen. Our avowed purpose is to help educate the public to the socioeconomic problems facing culturally deprived native Americans. The 1977–78 statewide project is to organize study groups to explore the history—the story of the Hawaiian people and their spirit and to disseminate this information and educate the people of Hawaii, the people of the United States, and the people of the world through research, writing and publishing, sponsoring seminars and lectures. For your further edification, we study the works of Hawaiian historians, examine the files of Old Island newspapers and learn from talking with the Kupuna to get a "living picture" of the Native Hawaiian's way of life.

Now that reparation discussions are a reality, Women Care wants to be certain that the moneys and benefits allocated or a portion thereof go directly to the poor, needy, and culturally deprived among the indigenous Hawaiian. We explicitly do not want to see all these moneys and benefits filtered down through corporate structures used up in corporate salaries and administration costs. The record indicates that indigenous Hawaiian's are not inclined to cope with all this folderal. We would like to point out here that there are inherent dangers in concentrating too much power, by putting millions of dollars into a corporate structure, that might lead to abuses of the political system. For the record, attached is a copy of an article from the May 19, 1977, issue of the Hawaiian Observer which made this same point.

[The article follows:]

[From the Hawaii Observer, May 19, 1977]

REPARATIONS OR RIP-OFF RATIONS

Native Hawaiian reparations are based on some very subtle ramifications.

For example, claimants of royal descent expect to be justly compensated for the loss of ancestral land grants, "ahupuaas." These properties that reputedly reached from the mountains to the sea on today's market would be worth an oil shiek's ransom. Grantees of lesser rank separated from their smaller "kuleana" lands are asking for proportionate settlements.

The all-powerful Bishop Estate-Kamehameha Schools-Alu Like ONAP hierarchy apparently considers reparation negotiations an opportunity to strengthen their political ties. These folks openly discuss ways and means for a satellite organization, Home Rule, to nurture suitable candidates for governmental office.

Presumably, everyone has been so busy pursuing his own ends that, inadvertently, reparation demands fail to include any protective provisions or specific benefits for Native Hawaiians as defined in the Homestead Act of 1920.

In essence, this act's beneficiaries, those of 50 percent aboriginal blood or more, are the heart of the Hawaiian culture.

Since most descendant of the Great Mahele Chiefs are less than a half Hawaiian, one can readily understand their reluctance to make blood quantum a necessary qualification for reparations.

By the same token, Alu Like ONAP has opted for Federal grants on a per-capita basis. In other words, from their standpoint, the less Hawaiian blood, the "mo' betta." Most important to them, this translates into the more heads counted, the more money.

Home Rule, to be a viable political influence, must attract followers from the widest possible base. Under these circumstances of mass appeal, they soft pedal any talk about blood requirements for Hawaiian reparations. The same situation exists for activist and a myriad of other organizations being popularized in their wake.

Historically, the Native Hawaiians' sense of pride and dignity has prevented them from stepping forth and speaking out regarding their plight.

The Hou, in trying to bridge the cultural gap in this delicate situation, proposes that at least 20 percent of the benefits in reparations and/or any other Native American program be mandated by law for Native Hawaiians as defined in the Homestead provisions of the Statehood Compact.

In our humble opinion, to do less changes the intent of moral action like reparations to a despicable act best described as rip-off rations for the long suffering Native Hawaiian.

Mrs. LUNDY. In studying the testimonies of Hawaiian people in the reparation hearings before the Committee on Interior and Insular Affairs in 1976, our group was particularly moved by the text. The one thing that rises again and again is the undeniable message that the essence of the indigenous Hawaiian is his land and self-sufficiency. Therefore, in order that we can be assured that some benefits and moneys go directly to the indigenous Hawaiians' specific needs, Women Care recommends (1) that reparations address the problem of reinstating the indigenous people on the land as promised in the Homestead Act of 1920—that this human rights promise be kept. The Homestead Act of 1920 is paramount to a treaty, a pact made in good faith and goodwill; it should not be taken lightly, ignored, tokenized, or set aside by new legislative reparations promises. Moreover the State of Hawaii is obligated by law as a condition of Statehood, as defined in the Statehood Admissions Act, to do everything in their power to protect the intent of the Homestead Act of 1920; to protect the well-being of the Native Hawaiian; to rehabilitate and reinstate Native Hawaiians on the land, thereby, giving them a chance to live according to their own cultural values. Put the indigenous people on their land! Give them direct benefits. Fund the homestead Act. This should be a primary purpose of reparations. Women Care would like to see the 5,000 eligible indigenous Hawaiian families waiting on the Homestead list receive their rightful heritage and birthright: Their land.

In the respect, primary concerns are:

First, that a clause be included in Senate Joint Resolution 4 that reparations will not in any way reduce the blood requirement now necessary for Homestead eligibility. This specification should remain enforceable until all those who are currently eligible have received their land.

Second, that reparations be basically aimed at the poor, needy, and culturally deprived indigenous Hawaiian.

Third, that a reparations program make a concentrated effort to get the Homestead Act properly funded so that all eligible beneficiaries will be awarded their leases within a 5-year period.

Fourth, since section 3(B) refers to additional land as a possible reparations remedy, we recommend that all homestead grants be at

least one-half acre of land with improvements funded from reparations—by way of comment, for the life of me, I cannot understand how so much land—thousands of acres of homestead lands—plus surplus Federal and State lands can be unoccupied while the majority of indigenous Native Hawaiians have no land.

Women Care further recommends (2) that any reparations bill and/or resolution include the application of the Maui Loa amendment with its protective provisions for indigenous Hawaiians. This amendment mandates by law that the indigenous people, as defined in the Hawaiian Homestead Act of 1920, receive at least 20 percent of the benefits in ONAP or any other Federal programs including reparations. Women Care feels that the Maui Loa amendment will insure that some benefits go directly to the culturally deprived native Hawaii.

If the reparations committee is willing to clarify in Senate Joint Resolution 4, their intent to protect the integrity of the Hawaiian Homestead Act of 1920 as included in the Statehood Admission Act and to apply the Maui Loa protective provisions for the indigenous people defined therein; then, the establishing of the Hawaiian Native Claims Settlement Study Commission would make moral sense to Women Care.

In the event a study commission is established, Women Care recommends (3) that the Hou Hawaiians have representation among the 11 committee members. We recognize and support the right of the Hou Hawaiians to present themselves as a separate tribal body. In our opinion, this may be the best way to prevent a unilateral action that would exclude the birthrights of the Indigenous Hawaiian people as represented by the Hou. For reparations to be a final settlement, all concerned parties, including the Hou, should be signatures to the agreement.

Women Care would like to thank the ALOHA Association and all other Hawaiian organizations and their friends for addressing themselves to the problem of righting the wrongs of the past that the U.S. Government has inadvertently been party to. In particular, our prayers go with this committee that they will follow the dictates of their conscience, see their duties clearly and not be swayed by vested interests of any kind.

In conclusion, let it be known that whatever course this honorable legislative body takes will go down in history, documented in the files of the U.S. Archives. And if the right thing is not done and done immediately for the benefit of the few remaining indigenous Hawaiians, it would be an abomination on the conscience of the people of the United States of America and would rise up like a ghost of the past, even as the ghost of the American Indian so eloquently described in our literature still haunts the minds of our truth-seeking youth.

Senator MATSUNAGA. Thank you very much. Our next witness is Mr. Henry Lindsey.

STATEMENT OF HENRY K. LINDSEY, CONGRESS OF THE HAWAIIAN PEOPLE, HONOLULU, HAWAII

Mr. LINDSEY. Mr. Chairman, honorable members of the committee, staff and friends, my name is Henry K. Lindsey. I am one of the directors of the Congress of the Hawaiian People, and my testimony

is not necessarily the views of the Congress of the Hawaiian People. It is offered to help speed justice and to protect our Hawaiian people against pending hazards that are now casting their ugly shadows, which are becoming more and more evident.

"Great events cast their shadows before they happen." This axiom speaks for itself, but let me repeat it for emphasis.

We, as a Nation, including the U.S. Congress, the War Department, and military leaders are making some of the same mistakes that occurred around the time of the bombing of Pearl Harbor in 1941.

When the Roberts Commission asked General Martin, commander of the Air Force at Hickam what measures and precautions he took to avoid the disastrous loss of his aviation or planes, he unraveled his plans and maps on the table and said, "Gentlemen, these are the plans that were submitted to the War Department and which were also submitted to Congress. Nevertheless, these plans were turned down for financial reasons."

The approval and execution of these plans would have avoided the disastrous loss of vitally needed planes. These plans entailed the dispersion of our aviation and airfields.

We are making some of the same mistakes because we are keeping a large part of our naval and Air Force facilities close to each other in the vicinity of Pearl Harbor.

World War III is inevitable. An attack on Pearl Harbor. More than a third of the city of Honolulu destroyed.

At the time I wrote to Senator Fong last year, there were no sure signs of war. Today, these shadows are more obvious.

When I was transferred from Mitchell Field, L.I., in the summer of 1941, there were signs that the United States would be drawn into World War II. We held secret memorial services for our fellow officers who joined the Royal Canadian Air Force to help fight the battle over Great Britain and were killed in that terrible battle. They relinquished their U.S. citizenship so as not to implicate America. When I arrived at Hickam Air Base, these previous sad recollections hung heavily on my mind. Along with these were coupled the sad experiences pertaining to losing some of our valuable men and flyers who were helping General Chenault with the Flying Tigers. I am purposely leaving out many details in the interest of time.

When I arrived at Hickam, I paid my respects and made a courtesy call to General Fathing of the Hickam Air Base. I met the general in the living room while he was listening to his shortwave receiver. After introducing myself, he immediately asked me to sit down and listen to what was going on over the shortwave radio broadcast from Japan. He asked me for my reactions, whereupon I unloaded those things that were dwelling heavily upon my mind, and I said I am sure we will be fighting with Japan soon. He said that is exactly correct.

In the summer of 1932, we were in officer training at Schofield Barracks at which time General Wells addressed us and said, "Young men, you shall see war within 10 years," and surely enough, 9 years later we saw war.

I told my men the pay day before Pearl Harbor to shape up because before long the Japanese will be attacking us. The Saturday before

the bombing, I voiced my concern before my commanding officer while on a field trip to locate a radio station site. On Thursday before the attack, we were on a triple A alert, and about noon on Saturday it was called off. Had it continued, it would have made a big difference.

I am stating these facts to show how we are making the same mistake and that these mistakes will defeat every effort that the United States is trying to make to correct the wrongs that were perpetrated upon the Hawaiian people. I am attempting to show how these matters will affect us as a Nation and the people of these islands. So, allow me to return to a little more pertaining to the mistakes that we are making that will surely lead to disaster.

After we defeated the Japanese at the Battle of Midway, the U.S. Engineers under the command of General Lyman, were deeply concerned about spending millions of dollars in continuing the building of the underground tunnels at Waikakalaua Gulch and at Kunia, so we went to the Iolani Palace to see General Emons. The officer in charge laid the plans on his table and requested the general to render a decision whether we should continue these projects in the light of the victory at Midway, and the tables were then turned.

General Emons meditated for a moment and shot frank question, "Do we need these installations for World War III?" And we chimed with a clear "Yes, Sir!" His decision was, "Go right ahead and build it, or it will never be built."

Why all this background? Simply because they proved to me that we are making some very serious mistakes when we allow the Air Force and Pearl Harbor to keep a large part of their facilities side by side, and also scrapping the Kunia underground facilities, which were meant to protect the important communications facilities and military command.

Today, I hear the crazy and absurd plans to convert Kunia into a fuel storage. I say without any equivocation that unless the military and Congress make the right decisions, we will be in for some very sad results. These serious mistakes will endanger the security of our Nation and the people of Honolulu. You may not believe the seriousness of this matter or these predictions, nor the prophecies pertaining to these dangers, but I do even more now than I felt before the bombing of Pearl Harbor in 1941.

If this warning is not heeded, I can say that all our efforts to gain reparation, sovereignty, or other redress or restitutions from the United States will all be in vain or be of no avail.

What must be done?

1. Avoid making the same mistakes.
2. Disperse our military forces.
3. Our military and naval command posts should be protected by Kunia or other underground installations.
4. Adequate communication facilities should be safely installed underground to maintain communications with the dispersed forces and submarines.
5. Create an intensive or a large fishing fleet which will create wealth or be self-sustaining and at the same time be a very effective arm against enemy submarines, bombers, naval craft, and for early warning purposes.

6. Let the Hawaiian people take pride in the defense of their country rather than being oppressed or suppressed as the situation now exists.

Unless these measures are undertaken it will be too late to meet the oncoming threat.

The people of Hawaii should demand their rights to survival and well-being which include the peace of mind, rather than be living in fear knowing that we will be very vulnerable if proper measures are not taken.

Greed for money gains through military payrolls and spending should not be permitted to endanger the safety of our people.

The question has been asked, "What can the United States do to repair the wrong or damage done to Hawaii by the overthrow of its kingdom?"

I would rather say what can we do to help the United States? Turning the other cheek in this situation would bring about 10 times better results than a settlement of $1 billion which would amount to an insignificant benefit to our descendants five generations from now. Money without the return of property or sovereignty will bring upon our heads the condemnation of future generations.

In the light of the foregoing estimates of the situation as pertaining to our national security and the safety of those who live around Pearl Harbor, I would say that I believe our Hawaiian people would gladly cooperate in the defense of our Nation if the military would correct the situation that will lead to real disaster. Yes, it is sure as night follows day.

In my letter to Senator Fong in 1976 and to the local newspapers who never published my letters, I suggested that to help make things right we should join hand in hand to help each other. Let our people protect our Nation by employing a fishing fleet that will be self-sustaining, capable of producing wealth and a wide tax base to compensate for the loss revenue of the military payroll and spending.

The nature of this large fishing fleet consisting of fishing boats and dirigibles, besides fishing will be used to search and in wartime to destroy enemy submarines, enemy naval ships, and bombers that attempt to operate in the Pacific Ocean.

A large extensive fishing fleet operating with mother ships will be more sensible because it will be creating wealth and employment, and a very large industry to feed the people.

I will not be discussing all the ramifications pertaining to the injustices done to our people, native rights, sovereignty, et cetera, because I believe these areas have already been covered or will be covered by others, but in case some pertinent data may be overlooked, I am hereby submitting microfilm evidence which can be examined in depth in future investigations. I am submitting in microfilms for committee use since it would be more authentic as to documentation and original forms or as it was reproduced through documentary reproduction means. These will include information on crown lands and their descriptions, native rights, including water rights and other rights which have been wrongly taken away from the Native Hawaiians.

In summary, the purpose of my testimony, as hereby submitted, was mainly directed to possible solutions and to help provide answers as to how or what could we do to mutually help each other in resolving the problems facing us as a nation and as a people in our sincere effort to reach these solutions without imposing a heavy financial burden.

I have seriously considered the national security aspect because it is vitally important in view of present-day shadows cast by inevitable or pending disasters, and I have, therefore, coupled these solutions to the Hawaiian question of reparation and sovereignty in order to avoid additional financial burden outside of our defense budget.

The large amount spent for defense running into $100 or more billion can be channeled in some adequate way to provide a dual nature fishing fleet that will sustain itself, produce wealth, food, and at the same time perform a vital efense or offensive function in regards to our national security.

A figure of $7 billion or more for a fishing fleet will be of greater value than any direct $1 billion settlement to the Hawaiian people, because the proposed plan benefits the whole Nation and the Hawaiian people for many future generations.

Conversely, if we make the same mistakes by turning down a defense measure of this nature to protect our Nation, we will all be losers. Our Nation will be crippled and millions of people will lose their lives. We will not be defeated, but we will be vulnerable.

We must be very earnest to meet and find the necessary solutions immediately because World War III is around the corner. It is inevitable.

Great events of pending disaster are now casting their ugly shadows. Those who are trained to see will see. Those who are so blind will never see.

So why should our Hawaiian people wait until it is too late? We cannot afford to delay because time is against us and the people of Honolulu will not be around after the impending disaster strikes. It is very unfair to expose us to danger and at the same time deprive us of our rights.

We must, as a people, press forward with every effort short of violence. If needs be, we will of necessity exert every legal right at our command to bring immediate attention to our needs.

We hope we will never have to resort to extreme measures, but if no satisfactory cooperation or the foregoing measures are not considered important enough to merit immediate consideration, then we may have to strike at once, and we shall wield the sword of justice in defense of our rights, and for the welfare of the people of the United States of America as a whole.

We firmly believe in the proposition that in a true democracy that sovereignty lies with the people and not with the head of state. Congress, War Department, or any single group, or powerful money controlled agents.

Our native Hawaiians have come to view every offer, help or intention whether it be good or bad with suspicion, because they have become adversely conditioned by today's modern "dog eat dog" society. They will not accept a settlement that does not extend worthy benefits to their offspring, ohana, or descendants because of their deepseated spirit of love and aloha.

Sovereignty is the only system that matches this deep-seated love or ingrained spirit of aloha. It is their inborn or inherent nature which they have inherited from their Hawaiian progenitures. Sovereignty is his free agency or free will and the right to act for himself or as a group. This right cannot be guarded with more jealous care than is bestowed upon it by God Himself. It is man's inherent or God-given

right. "The only freedom which deserves the name, is that of pursuing our own good in our own way," by John Stuart Mill.

Deprive man of his free agency or sovereignty, he then becomes a mere animal. A bull is a powerful animal, but when you place a ring in its nose and attach a stick to it, then you can very easily lead the bull by its nose. This is what happens when your sovereignty or franchise of freedom is taken away from you. Patrick Henry said, "Give me liberty or give me death."

In closing, may I say any harshness of tone or expression of words are only indicative of our firm resolution for a fair and just solution, and we will not wait another 75 years, nor depend upon promises that were never meant to be fulfilled, like the agreements contained in the Treaty of Annexation.

So, please understand why we Hawaiians are seeking our own sovereignty which can be allowed in similar terms now enjoyed by native American Indians. This inherent right or sovereignty was immorally taken away from us, and in the name of justice it should be rightfully restored or we must take up the sword of justice and wield it with all our might with God's help. So be it, Aloha.

Thank you very much.

Senator MATSUNAGA. Mr. Lindsey, thank you.

Mr. LINDSEY. I have three rolls of microfilm pertaining to this matter. I'd like to introduce them in the record.

Senator MATSUNAGA. It will be made part of the official files.

Senator MATSUNAGA. Our next witness is Kuuipo Pimental.

No response? All right. Our next witness is Col. Arthur B. Chun. Colonel?

STATEMENT OF COL. ARTHUR B. CHUN, U.S. ARMY RETIRED, HONOLULU, HAWAII

Colonel CHUN. I flew in from Kailua-Kona last night to testify and I asked earlier for a copy of the Joint Resolution; but somehow or other it never reached me before, so I was not able to prepare.

My testimony, which I think will be material, will take a little longer than 5 minutes since I will also dwell on the Federal law that set up us as a Federal Commission, and perhaps I could wait until the last, until everybody has testified, so that I won't take anybody's time. Maybe I might run a little over 5 minutes, and it might not be too bad then. Is that all right?

Senator MATSUNAGA. Well, if there is no objection, we will do that for Colonel Chun; since Mr. Pimental was not here, we could give a little of his time to Colonel Chun.

Is there any objection?

Hearing none, you may proceed.

Colonel CHUN. Thank you very much, sir.

My name is Col. Arthur B. Chun. I am from Kailua-Kona, and I will be speaking as an individual, although I am Chairman and was Chairman of the Federal Honokaa Commission, which was set up by Federal law in 1972, and which is on page 78 of this report.

Now, I do not have copies for all of you, which is a sad thing for me because this is the only Federal report by a Federal Commission comprising Hawaiians in the last 75 years, but you can get a copy by going

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to the National Park Service and by asking them to give you the report that was transmitted to Congress.

I wish to call particular attention to Public Law 92–346, which is found at page 457. It was initiated as House Resolution 11774, which was cosigned by our Senator Matsunaga at the time he was the Representative along with Patsy Mink.

In this resolution, or rather in this public law, a commission of 15 members was set up. Of the 15, by law, it required that at least 10 members must be native Hawaiians. There were 15, and at least 10.

I would, therefore, like to recommend change one in your Senate resolution that your Commission members be increased to 15, and that where your phraseology says 6 of them, that it be change to at least 10 of whom must be Native Hawaiians.

Now, the reason for this is, if this Commission is going to articulate for the Hawaiian people, it must be comprised not just of the majority of the Hawaiian people, but it must be comprised of sufficient Hawaiians so that each one of you may be on adifferent island will feel that you are directly represented.

The other way, you will have five or six islands and have one, and all you have is this six and the others may or, rather, the others have to be non-Hawaiians because the way the resolution reads now says six and no more than six. The other way it says 15, at least 10 of whom.

Now, in our report, which is on the third page, if you look at it, it was submitted May 18, 1974.

The key to the whole report, signed by all the Hawaiian members with the assistance of the National Parks Commission Director and his regional director in California for Western States, Mr. Chapman, and the staff here, the key to it is we say, "We take special pleasure in presenting this study," because perhaps for the first time Hawaiians have been able to tell their story and to tell it their own way.

That is the key to this whole report.

You can only say that when you articulate this report. It is not just the majority of them, but the composition of them must be made up of most of them.

Otherwise, I doubt whether when the Commission submits a report, we will have sufficient input from the Hawaiian people, so that the report can get through Congress and it does us no good if a commission is appointed and we can't get their report to really articulate for that Hawaiian.

Now, there are various other sections in the act that are very weak and I would like to point them out to you in order.

The first is you require no public hearings, and this is absolutely essential, right?

VOICE FROM THE AUDIENCE. Right.

Colonel CHUN. If they do not have public hearings, are required to have public hearings, in which these people may again rise to the Commission and articulate their desires, you might as well fold up shop.

VOICE FROM THE AUDIENCE. Right.

Colonel CHUN. We were not required to hold public hearings, but I said we are going to, and we had to go back to the Council and go through extensive redtape and I had to fly to Washington at my own

expense to explain to the Secretary of the Interior and to the Council that if we were not going to have public hearings, then we might as well fold up shop before we even do this.

So, he said, "Now, Colonel, you can get through this one way. You can hold your meetings on different islands, publish it in the Federal Register, and at the beginning of the meeting arbitrarily permit in your agenda input," but that was a way around it. I would get up and explain to each one at each hearing that I could not conduct a public hearing, but I was requiring at this time to ask the people who were present to speak; but here in this law, in this Commission, you should require public hearings, right?

VOICE FROM THE AUDIENCE. Right.

Colonel CHUN. The next point is, you say distinguished Hawaiians will be appointed.

Well, the reason these people have very, very mixed emotions about that, and they are mixed, is that we have now in the community what they call coconut-Hawaiians. These are distinguished Hawaiians who are brown on the outside, white on the inside, right?

VOICE FROM THE AUDIENCE. Right.

Colonel CHUN. And it is they, that they all of a sudden find on these commissions and they sit there and they say, "Here we go again."

They want all the coconut-Hawaiians on the Commission because they are distinguished. It used to be that people used to call them "educated;" but as soon as you said that a person was educated, the person waved his hand and said, "My gosh."

So, you have got to somehow or other take the word distinguished out and write in there some other phraseology that we have in our, in the—I say our meaning in Public Law 92–346, which requires you to have real down-to-earth knowledge and contact with the Hawaiian people, not distinguished Hawaiians.

The next one is where you say that the report has to be submitted or it should be submitted within 1 year.

You will need 2 years. We had 1 year to submit our report. We did not get paid. This provides a salary or rather compensation of $100 to each member.

We did not have that. We had no salary, but we met and we found that even with an accelerated speed-up requiring us to have public hearings, we could not get our report in, in 2 years. So, in a roundabout way, we went to Congress and they said in an affectionate way, "You are continued [sic] in your lifetime to continue this."

I don't want to see this happen to this Commission, so I suggest that the modification be put in so that they have at least 2 years.

The recession is just about being lifted up in the continental United States now. With that, a better economy with provide for a little broader thinking of the claims when the Hawaiian people go in.

I recommend that strongly, that 2 years instead of 1 year.

Now, earlier in the testimony Mr. Hoke and the captain from Hilo, Rose, articulated this tight down where the Commission could not recommend other things than investments and purchase of the land. I concur with them. You have got to leave a wider operation for them, not to just find it.

Now, we found that the strict terms of the law were interpreted by counsel from the mainland or counsel that you may appoint here and

we found difficulty with the language even though ours was broad and I recommend that you make this as broad as possible so that the Commission has leeway.

Senator MATSUNAGA. The colonel has consumed 9 minutes. You have 1 minute.

Colonel CHUN. I think I will take just 1 more minute and then, if I have any more, I will fly to Maui and finish.

You are not going to be able to extinguish the Hawaiian claim for rights. If the findings or if this Commission does not articulate and come out with something that goes to the ordinary person and if they just provide for a corporate set-up without giving something to the people, you are not going to be able to extinguish it.

The Hawaiian people would rather see it die. I say it again, the Hawaiian people would rather see this die than to have their rights extinguished, if they do not feel they are being rightfully taken care of.

Am I right?

VOICE FROM THE AUDIENCE. Right.

Colonel CHUN. I just have 30 seconds more and I would just like to mention that I feel for the Hawaiian people and I agree with both Hoke and Rose, that we are going on a collision course where we are going to have blood shed in a few years if somehow or other we are not able to take care of this. Rose is at the fingertips of law enforcement and he feels it. Hoke does also.

I do not want to see that. Two deaths on Kaho'olawe should telegraph to all of us that the Hawaiian of yesterday is not the same as the Hawaiian of today and tomorrow.

Thank you very much.

[Applause from the audience.]

Senator MATSUNAGA. Our next witness is Mr. William Tagupa.

STATEMENT OF WILLIAM TAGUPA, HONOLULU, HAWAII

Mr. TAGUPA. I would appreciate my written part be incorporated as part of the record.

Senator MATSUNAGA. Without objection, it is so ordered.

Mr. TAGUPA. I'd just like to address my comments to two major issues.

Upon reading of the actual resolution, and that is that I see two major problems that were also encountered in the Alaska Settlement Act, and that is beneficiary implication.

In the controversy which occurred between Alaskan Natives, the Aleuts were left out simply because many of them did not reach the minimum quarter-blood requirement.

Unfortunately, many of the other Alaska Native groups had vetoed their petition to be included in the light of the fact that they were not at least one-quarter Aleut. I would not like to see this repeated in this bill. There are several reasons.

First of all, quarter-blood, for most American Indians, is a political act. That is, that most of the tribal codes of the American Indian tribes, recognized tribes, require a quarter-blood simply for political reasons. This reason, of course, has been extended into the Constitution that Congress can regulate commerce between States and the In-

dian tribes, not Indian individuals. So, what we have is that a tribal concept is a political one as well as a socioeconomic one.

The situation is not the same in Hawaii, so I don't think that the blood requirement that was put in the last claim should be incorporated into the Hawaiian counterpart.

I might also add that the political nature of tribal identification enabled the Supreme Court to use the tribal status of American Indians to, in effect, over-ride the title 7, 1964, Civil Rights Act.

So, what we have here in Hawaii is not a political act or political settlement. It is something much more than that.

The second issue that I would like to address is that no one, to my knowledge, has addressed the needs to requirements and status of Hawaiians living outside of Hawaii.

I think that any Commission that intends to address the resolution should have some substantive representation from Hawaiians living outside of Hawaii, and there are many.

So I think that the committee should closely scrutinize having some meaningful representation from Hawaiians living outside of Hawaii.

If the committee has any questions, I will take them up.

Senator MATSUNAGA. Thank you very much. We certainly appreciate your statement which will be made part of the record. I might point out that the questions which you have raised relative to quantum, of course, will be addressed by the Commission in its report to Congress after holding public hearings. It was intended that public hearings should be held by the Commission and its recommendation, of course, will be what the Congress will most likely go by.

Thank you very much.

[The prepared statement of Mr. Tagupa follows:]

LEGAL AND LEGISLATIVE CONSIDERATIONS IN NATIVE HAWAIIAN REPARATIONS

by

William Tagupa
UH Law School

Among the more invisible of the nation's ethnic minorities are the Hawaiian Americans, the aboriginal Polynesians whose once independent kingdom was overthrown by expatriate Americans and Europeans in 1893. Following the formal annexation of the islands to the United States in 1898, the Hawaiian-American population underwent traumatic social, economic, political, and demographic changes.[1] The continued decline of the Hawaiian population was accompanied by significant socio-economic disruption as evidenced in the Congressional hearings on the Hawaiian Homes Commission Act of 1920.[2] Expropriation of Crown lands and konohiki fishing grounds by the Organic Act of 1900 seriously eroded the land and life support base of the Hawaiians.[3] As with many other American ethnic minorities, the Hawaiian-Americans were subject to the same conformist pressures exerted by the dominant society of the continental nation-state.

> One difficulty with the nation-state is that racial minorities are either rejected by the state or forced to lose their identity and become a part of the dominant group. Language, customs or religion of the minority must be changed to that of the predominant nationality within the state before full citizenship is complete.[4]

Ethnic adjustment by Hawaiian-Americans to the

dominant group mores was less than successful even in their own milieu, the resultant effect being, for the most part, socio-economic maladjustment and psychological ambivalence.[5] It has only been in recent years, howvever, that the Hawaiian-American community has reacted in any semblance of collective fashion against the gradual yet very real process of social disenfranchisement.

In 1972, a movement arose as a result of the initiatives of one particular Hawaiian-American, Louisa Rice, which galvanized the feelings of many members of the Hawaiian-American community into a response concerning their present and future status. Rice,a taxi driver by occupation, has purchased on impulse a copy of Hawaii's Story, the memoirs of the last Hawaiian monarch Queen Lili'uokalani at a tourist stop. Later she had parked her car in a garage at a Waikiki hotel, and during her absence, her car had mysteriously burned and the interior was virutally incerated, all except the book. Rice, as well as many others, had been so impressed by the incident that she interpreted it as a sign on behalf of the late queen for some form of righteous vindication of the monarchy's overthrow. Her initial attempts were disappointing and at times embarrassing, being confined to sidewalk solicitations and inquires to passing Hawaiian-Americans. After hearing of the success of the Alaska Native Claims Settlement Act,

Rice became determined to use it as precedent for similar action on behalf of the Hawaiian-American community. It was at this point that she contacted Alaskan attorney, Stanley McCutcheon, for help on the matter. McCutcheon accepted the offer, and with support from Hawaiian-Americans in the travel industry, his transportation to Hawaii was arranged. From such a remarkable set of circumstances, the Aboriginal Lands of Hawaiian Ancestry(ALOHA) repartions movement was initiated.[6]

Hawaii congressional members soon gave their support to the reparations movement, probably because it was an attractive issue which had some promise of success in view of the Alaska settlement act. H.R. 15666 was introduced into the 93rd Congress by Representatives Spark Matsunaga and Patsy Mink, but the bill died in committee, only to emerge in modified form in the 94th Congress in 1975 as H.R. 1944. Termed the Hawaiian Native Claims Settlement Act, the bill called for a

> ... fair and just settlement now be made of all claims by Natives and Native groups of Hawaii, which claims are based on the lawless, fraudulent, and forceful acts the lawful and sovereign government of the Kingdom of Hawaii was overthrown, dominion and domain over the people and lands of Hawaii was ultimately assumed by the United States, and thus the independence and sovereignty of the Hawaiian people as a collective social, political, and economic entity was perminently terminated.[7]

During congressional subcommittee hearings, acrimonious testimony was directed at the role of U.S.

Minister John L. Stevens for his collaboration with the expatriate revolutionaries in securing the landing of American marines from the U.S.S. Boston to "protect American life and property," which added considerable if not deceisive impetus to the success of the 1893 revolution.[8] After the historical events were recounted by many witnesses, testimonial attention focused on the disposition of the Crown lands which were legislatively expropriated by the Provisional Government (later the Republic of Hawaii), and later transferred to the territorial and federal government as public domain under the Organic Act of 1900.[9] Several years later, Liliuokalani attempted to regain personal possession of the Crown lands. The U.S. Court of Claims rejected the Queen's claim on the basis that such lands belong to the "office" of the sovereign rather than the sovereign as a person and thus the Crown lands had passed from the monarchy to public domain.[10] Court decisions concerning similar situations in American history seemed to indicate that such property expropriations had no legal remedy. In Cessna vs. United States, the Supreme Court held that the United States could not be held liable for the confiscation of property to which it was not an original party.[11] In Tee-Hit-Ton Indians vs. United States, the Supreme Court remarked legislative remedies through Congress are "a matter of grace, not because of legal liability."[12] Though the

Court did not examine the benefits accruing to the United States as a third party beneficiary to such land confiscations, the Court made it particularly clear in both decisions that Congress was the appropriate forum for redress.

Among the noteworthy aspects of H.R. 1944 is the specific provision calling for a rapid settlement of the claims

> ... without litigation, in conformity with the existing economic and social needs of the Hawaiian Natives, with maximum participation by Hawaiian Natives in decisions affecting their rights and property, and without creating a wardship or trusteeship on the part of the United States Government.[13]

There are two important ethnic values operating within such a provision. First is the "self-esteem" notion which is characteristic of many Hawaiian-Americans, reflecting in part the belief that were it not for American intervention in the events of 1893, national sovereignty would have been preserved and the Hawaiian people would have been able to control their own destiny.[14] Consequently, reparations have been construed not so much as "compensation" but as a remedial vehicle for effecting social, economic. and educational readjustment similar to veteran's readjustment legislation. It is therefore not difficult to explain the rejection of the "ward-guardianship" doctrine applied to the American Indian tribes since the Cherokee Nation vs. Georgia decision.[15]

Another ethnic value present in H.R. 1944 is the intrinsic suspicion of government and governmental agencies in the administration of any social or economic functions relevant to the Hawaiian-American community. Such attitutes were especially evident in Hawaiian-American perception of the educational system.

> ... formal education remains the primary channel for gaining cultural competence required for coping with the economic, political, legal, and social institutions in which the people ... are inextricably emeshed. It is therefore a great tragedy that, despite the fact that our studies indicate no inherent impediments in the Hawaiian-American learning style, the majority of educators are so unfavorably disposed toward it. The unfortunate result has been a continuous battle between teachers and students for control of classrooms, with the teachers attempting to structure them according to their own ideological predilections and the children resisting.[16]

It is not surprising therefore that H.R. 1944 should make specific references to education as a policy objective of reparations in serving as a remedial measure controlled by Hawaiian-Americans themselves.

Among the most controversial and potentially devisive aspects of the reparations bill is the proper identification of the beneficiaries. As defined by H.R. 1944, a "Hawaiian Native" is a citizen of the United States possessed of the blood of ancestors who were living in the Hawaiian Islands prior to 1778.[17] In properly certifying a personal claim as a "Hawaiian Native," the bill, through implication, requires only a bona fide genealogy,

the absence of which could be overcome if the claimant id "generally acknowledged by Hawaiian Natives acquainted with him to be a Native Hawaiian."[18] One particular infirmity with this provision is the citizen requirement, which may be a simple oversight resulting from a close reading of the Alaska bill which has a similar provision. The framers of H.R. 1944 overlooked the possibility that some Native Hawaiians, albeit a very small minority, would be ineligible for reparations benefits even though it could be proved that their ancestors may have been equally affected by the events of 1893. Such Native Hawaiians, by virtue of marriage, occipation, or situs of birth should not, as a matter of policy, be excluded as beneficiaries.

Another aspect of the bill's requirements which deserves comment was raised by attorney Clinton Ashford, a non-Native Hawaiian whose ancestors supported the monarchy against the usurpers. Ashford argued that at the time of annexation, the entire citizenery, "Hawaiians and non-Hawaiians alike ... suffered the loss" of the monarchy's overthrow and that the bill was founded on the questionable premise that reparations should be paid only to Hawaiians.[18] Ashford's arguments are indeed compelling. The issue and purpose central to the whole concept of the bill is compensation of those who suffered from the "lawless, fraudulent, and forceful acts of agents of the United States " Though the non-

Hawaiian supporters of the monarchy would, on its face, be included, the question does not end there. Instead, it continues over into the area of socio-economic and cultural decline of an aboriginal group under a new political and legal order. It can be easily seem and demonstrated that Native Hawaiians, as an identifiable ethnic group, suffered considerable social and economic losses after the overthrow of the monarchy than their Anglo-American counterparts.[19] Such differences in experiences can be explained by the fact that Anglo-American residents were secure in property tenure and socio-economic status when compared to the Hawaiians and that change for Anglo-Americans was merely political and not cultural.[20]

Relevant to the subject of beneficiary identification is the decisive advantage resident Native Hawaiians have over non-resident Native Hawaiians. No convenient mechanism was provided for non-residents of the islands in the decision-making process and in the future allocation of benefits. Such an issue was raised in the Alaska bill by the Washington Branch of the Alaskan Native Federation, whose members were not part of the enumerated regional organizations designated as beneficiaries. Such an intial oversight was remedied by the creation of a "thirteenth corporation" which included those Alaskan Natives residing outside of Alaska.[21] Clearly then, a similar provision should be

included to encompass the several thousand Native Hawaiians living on the mainland.[22] In this particular respect, Congress must be especially thorough in specifically including those Native Hawaiians not resident in Hawaii in view of the Supreme Court decision Delaware Tribal Business Committee vs. Weeks.[23] In that decision, the Court excluded the Kansas Delawares from the benefits issued by the Indian Claims Commission awards on the basis that the ancestors of the appelants had"severed their relations" with the original group of relocated Delawares. On this basis alone, the Court concluded that the appellants were not denied equal protection under such circumstances.

The controversy over the blood quantum requirement is both a political and practical matter. Senator Inouye favored following the Alaskan paradigm as being more acceptable to Congress.[24] On the other hand, most Native Hawaiian organizations opposed any blood quantum requirement on the basis that it would work to exclude the children and grandchildren of mixed-marriages, as well as being contrary to the central purpose of the reparations movement. An examination of the Alaskan situation would illuminate the controversy.[24] The Aleuts had opposed the blood quantum requirement for the same purposes as the Native Hawaiians. Though many mixed-blooded Aleuts lived in the Aleut way, they lacked the minimum quarter-blood requirement to qualify as beneficiaries. Their objections, unfortunately,

went unheed by other Native Alaskan groups. Admittedly, Senator Inouye's concern is indeed valid. There are, however, notable aspects which distinguishs the different situations and experiences of both native peoples. First, the Alaskan Natives (with the exception of Aleuts and Eskimos) were tribally organized at the time of the transfer of sovereignty in 1867.[25] In fact, the very nature of Alaskan Native social organization was based on blood and affinal organization and relationships and it was conceivable that reparations should be made on such a basis. Though perhaps some exception should ahve been made for the Aleuts, the veto power of other Native Alaskan groups made the blood quantum requirement an integral part of the reparations act. Under such circumstances, the Alaskan precedent should not be controlling for the Native Hawaiian situation. Blood dilutions following foreign contact was significantly evident preceding annexation and it has been a long-standing social policy of the Hawaiian community to accept ethnic identification of Hawaiian claimants without a specific blood quantum minimum.[26] There is some legal precedent in this latter respect. In United States vs. Flager County Schools District, the Fifth Circuit Court of Appeals confronted the issue of ethnic identification for the purposes of school desegregation.[27] The court merely accepted the

the defintion formulated by the Department of Health, Education, and Welfare which stated in part that blacks were "persons considered by themselves, by the school or the community to be of African or Negro origin."[28] More recently, the same Department likewise formulated a rule concerning Native Hawaiians pursuant to the Native American Programs Act of 1974. The rule stated:

> "Native Hawaiian" means any individual, any of whose ancestors were prior to 1778, natives of the area which consists of the Hawaiian Islands.[29]

Such a definition makes the Flager County decision applicable in the case of Native Hawaiians.

The aforementioned aspects of the Hawaiian Native Claims Settlement Act do not necessarily reflect a high degree of unanimity among Hawaiian-Americans. Many "veto-group" organizations within the Native Hawaiian community have serious misgivings about resurrecting the ignominities of the purposes of obtaining financial compensation.[30] It appears at first glance that the social philosophy of such "veto-groups" are "assimilationist" in character and view the reparations movement as a scheme to "obtain something for nothing." The arguments of such groups overlook the equity of (or lack of it) in compulsive assimilation, both social and political.

Island society has made cultural expression more difficult for many Native Hawaiians. Though there are a few opportunities for genuine cultural expression on a spontaneous basis, most Native Hawaiians have been

compelled to assume a bicultural role within a society which at times becomes hostile to traditional values and customs.[31] Secondly, it can be forthrightly asserted that the loss of political leadership and leadership institutions of the Native Hawaiian community has been one of the more important social forfeitures to Anglo-American society, largely because the democratic nature of modern society does not tolerate aristocratic notions sometimes associated with Native Hawaiian leadership.

> ... the disappearance of the chiefly class in Hawaii and the lack of traditionally validated defpendence of the individual have left the modern Hawaiian leaderless at a time when native leadership might well have formulated and pursued a vigorous policy of culture conservation.[32]

In dealing with the relationship between the American Indian and the aggressive and expanding colonist society, Chief Justice John Marshall, in Johnson vs. McIntosh , remarked:

> Humanity ... has established, as a general rule, that the conquered shall not be wantonly oppressed, and that their condition shall remain as eligible as it is compatible with the objects of the conquest. Most unusually, they are incorporated with the victorious nation, and become subjects or citizens of the government with which they are connected. The new and old members of the society mingle with each other; the distinction between them is gradually lost, and they make one people. Where this incorporation is practicable, humanity demands, and a wise policy requires, that the rights of the conquered to property should remain unimpaired; that the new

> subjects should be governed as equitably as the old, and that the confidence in their security should gradually banish the painful sense of being separated from their ancient connections, and united by force to strangers.[33]

More recently, the Supreme Court was confronted with the issue of Amish socio-religious resistence to Anglo-American acculturative education in Wisconsin vs. Yoder.[34] In resolving the controversy, the Court was compelled to scrutinize the problem of cultural submission by a conservative but unique society to the well-meaning demands of the dominant group society. The Court commented that Amish children were subjected to

> ... an environment hostile to Amish beliefs with increasing emphasis on competition in class, work and sports and with pressure to conform to the styles, manners, and ways of the peer group.

In ruling in favor of the Amish, the Court added that:

> As society around the Amish has become more populous, urban, industrialized, and complex particularly in this century, government regulation has been correspondingly become more detailed and pervasive. The Amish mode of life has thus come into conflict increasingly with the requirements of contemporary society exerting a hydraulic insistence of the conformity to majoritarian standards.[35]

The situation for many Native Hawaiians lies somewhere between the dicta of the McIntosh and Yoder decisions. In submitting reluctantly to annexation and partially resisting acculturation, the Native Hawaiian has undergone a less than gracious metamorphosis tandem with socio-political changes in the twentieth

century. Legal and legislative recognition of cultural uniqueness and the right of various cultures to be free from needless and unwarranted impositions of the dominant group society is an important argument for Native Hawaiian reparations.

Currently, the most feasible strategy to this end is the creation of a Hawaiian Aboriginal Claims Settlement Commission under Senate Joint Resolution 155.[36] The Commission, composed of a total of eleven members would

> ... make a full and complete study with a view to determining with finality and certainty, the nature of the legitimate claims of, and the extent of the injuries to, the Hawaiian aboriginals.
> ... submit a final report to the Congress setting forth the findings and results of such a study, including the recommendations of the Commission as to the manner in which, and to the extent to which, such claims should be settled by the Federal government so as to meet the economic and social needs of the Hawaiian aboriginals.[37]

Such methods are analagous to the Indian Claims Commission Act of 1946 and would include comprehensive studies and administrative determinations on a sometimes elusive problem. Historical reconstruction of socio-economic "injuries" is clearly no easy task which must pass the political scrutiny of the money-conscious Congress.

NOTES

1 Lawrence H. Fuchs, Hawaii Pono: A Social History, (New York: Harcourt, Brace & World, Inc., 1961) 68-78 See also the remarks of Senator Daniel Inouye on amendments to Comprehensive Employment and Training Act of 1973, S. 858 Congressional Record — Senate (March 2, 1977)

2 U.S. Congress, Senate Committee on Territories, Hawaiian Homes Commission Act, 1920, Hearings to Provide Government for Hawaii, As Amended, to Establish Hawaiian Homes Commission and for Other Purposes, 66th Cong. 3rd Session, 1920, 39-40.

3 Neil M. Levy "Native Hawaiian Land Rights," California Law Review, 6:4 (July, 1975), 848-885.

4 Joseph B. Kelley, "National Minorities in International Law," Denver Journal of International Law and Policy, 3:2 (1973), 254.

5 "Recent Partial Socio-Economic Data Relative to the Hawaiian and Part-Hawaiian Population in Hawaii," in U.S. Congress, Senate Committee on Interior and Insular Affairs, Establishing the Hawaiian Aboriginal Claims Settlement Study Commission, 94th Cong. 2d Session, 1976, 49-50 (hereafter cited as Claims Settlement Commission), Thomas W. Maretzki, The Hawaiians in Hawaii," People and Cultures in Hawaii, eds, John F. McDermott Jr., Thomas W. Maretzki, Transcultural Psychiatry Committee, Department of Psychiatry, University of Hawaii School of Medicine (Honolulu: 1976), 44-56.

6 Carmen E. Oliveira, "ALOHA Association, Inc.; A Nativistic Millenarian Movement," (1975), 7-10 unpublished manuscript.

7 U.S. Congress, House of Representatives Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, Hawaiian Native Claims Settlement Act, Part I, 94th Cong, 1st Session (1975) 29-44. Hereafter cited as Hawaiian Native Claims)

8 Ibid. 45-50.

9 Organic Act of 1900 §§ 99, 72, 73 31 Stat, 161.

10 Liliuokalani vs. United States, 45 Ct. Cl. 418 (1910).

11 Cessna vs. United States, 169 U.S. 185 (1897)

12 Tee-Hit-Ton Indians vs. United States, 348 U.S. 272 (1955)

13 H.R. 1944 §2(b), Hawaiian Native Claims, op. cit. 14.

14 Ibid., 93.

15 Cherokee Nation vs. Georgia, 5 Pet. 1 (1831)

16 Alan Howard, Ain't No Big Thing: Coping Strategies in a Hawaiian American Community (Honolulu: The University Press of Hawaii, 1974), 223.

17 Hawaiian Native Claims, op. cit. 14.

18 Ibid.

19 Ibid., 134.

20 Foreign Relations of the United States 1894; Affairs in Hawaii, The Executive Documents of the House of Representatives, 53rd Congress, 3rd Session (1895), 134-135, 138-139, 258-265, 997-1003.

21 Alaska Native Claims Settlement Act, §3(b) P.L. 92-203, 85 Stat. 688, 43 U.S.C. §1601.

22 Hawaiian Native Claims, op. cit., 114.

23 Delaware Tribal Business Committee vs Weeks, ___ U.S.___ (1977) 45 U.S.L.W. 4202 (U.S.February 23, 1977)

24 U.S. Congress, Senate Committee on Interior and Insular Affairs, Alaska Native Claims, 92d Cong. 1st Session, (1971) 563.

25 Ibid., 577.

26 Robert C. Schmitt, Demographic Statistics of Hawaii; 1778-1965, (Honolulu: University of Hawaii Press, 1968), 113-114.

27 United States vs. Flager County School District, 457 F.2d 1403 (5th Cir. 1972).

28 Ibid.

29 47 U.S.C. §2991 et seq. , 42 Fed. Reg. 3782, 3785 (January 19, 1977)

30 The "vet-groups" referred to are, for the most part, the various Hawaiian Civic Clubs, composed primarily of urban middle-class Hawaiian Americans. Only one such organization officially endorsed H.R. 1944. Honolulu Advertiser, August 6, 1973. See also Ramsey Pedersen, "The Ad Hoc Committee for a Hawaiian Trustee," (1972), 34-35, 150-151 (unpublished Master of Arts thesis, University of Hawaii).

31 Howard, op. cit., 240-245.

32 Ernest Beaglehole, "Some Modern Hawaiians," University of Hawaii Research Publication No. 19 (1937) 101.

33 Johnson vs. McIntosh, 8 Wheat. 543 (1823)

34 Wisconsin vs. Yoder, 406 U.S. 211 (1972)

35 Ibid.,222

36 Claims Settlement Commission, op, cit., 7-8

37 Ibid.

Senator MATSUNAGA. Our next witness is Mr. Sid Quintal.

STATEMENT OF SID QUINTAL, STUDENT, LAW SCHOOL, UNIVERSITY OF HAWAII

Mr. QUINTAL. I had a prepared text originally and I kept changing it a little, according to what had been said before, and putting in some new things.

I am a candidate for a doctorate of law at the University of Hawaii Law School. I have another semester to go. I have been employed by various Native Hawaiian groups to do research, and I just finished a contract with the anthropology department of the Bishop Museum.

I am very interested in Hawaiian history and what has been going on with Native Hawaiians. With regards to the Study Commission, I am in favor, personally in favor, of the establishment of the Study Commission.

I think it is long overdue and I think that the Commission will document the wrong that has been done to native Hawaiian people and I think that there will probably be recommended a large number of Federal programs to aid in their benefit and in their rehabilitation and their general and social benefit, hopefully in education and employment and job-related fields.

I'd also like to recommend that this committee look into a co-bill along with the Study Commission to allow jurisdictional statute that would waive the sovereignty and latches and those kinds of things that would allow Native Hawaiians to use the Federal Government for the ceded lands that were taken from the Hawaiian nation in 1893.

I think the Indians and the Alaska Natives have been successful in demonstrating their sense of wrong through lawsuits and through the judiciary, and I think that the Hawaiian people should have this avenue of recourse also.

So I would like to recommend that the Congress consider, and if a bill could be introduced, to establish jurisdiction, that would allow the Native Hawaiians to clarify their property rights with regard to the ceded lands as well as the trust responsibility of the land.

I'd also like to recommend that the Commission hold a hearing to the Admission Act of 1959, section 5, specifically section 5(F), which was the section that the Federal Government granted these ceded lands to the State government, be held as a public trust.

It only named beneficiaries as being those Native Hawaiians. In the years since 1959, since the State has been administering this land, it's a little over 1,590 million acres.

Very little of this land has been used to better the Hawaiian people.

The land has not been used to better the Hawaiian people and the proceeds and income have not been used to better the Hawaiian people.

There is a clause, section 5(F), that allows the Federal Government to bring a lawsuit against the State for breaches of trust, and I think that should be looked at also, along with the Study Commission.

I'd like to—one of the things that I have been writing on is the Revolution, the so-called Revolution of 1893, and I take exception to many of the statements to say that the act was done by Minister Stevens without the knowledge of the President or Congress.

I think there is no doubt historically that there was a deal made in 1892 or actually before 1892, between Thurston, lord of the sugar interests, and Secretary Tracy (spelled phonetically) and President Harrison.

I think it culminated with the occurrence in January 1893. I direct the Commission's attention also to the proclamation that was filed January 17, 1893, by the Provisional Republic, the date of the Revolution, the date of the so-called Revolution, that said they were the owners of nine-tenths of the private property, and that they were establishing the Provisional Republic to last just so long as the terms of union are established with the United States, and the Treaty of Annexation was taken immediately in January and February of 1893 to Washington and was put before the Senate, which rejected it because President Harrison was a lame duck and President Cleveland came in when he had this 4-year problem.

I think if it wasn't for the political climate of Washington, D.C., Hawaii would have been annexed in 1893, and the Hawaiian people would not have had the problem, was it a legitimate Republic or was it really a front?

I'd like to draw the Commission's attention to the treaty of 1862, which was a treaty between the Hawaiian people and the U.S. Government.

I'd also like to draw attention to the three other treaties, including the treaty in 1887 that was in existence in 1893.

I think that both these two treaties were violated by the acts of war by the United States.

I would also like to draw the attention of the Commission to look into the reasons that the United States acquired Hawaii, and it seems that General Schofield coming here in 1873 and the United States desires for military strength in the Pacific area, specifically Pearl Harbor and Schofield, was the motivating factor, so the Federal Government got hundreds of thousands of acres free of charge by the ceded land and they didn't want to give it back to the State.

Thank you very much.

Senator MATSUNAGA. Thank you very much, Mr. Quintal. We are really happy to note that you are a student at the Law School at the University of Hawaii.

So far, we have had three as witnesses, including yourself, which makes me rather proud of the fact that in a way I had a role in creating that law school.

Mr. Rory Toomey is our next witness.

STATEMENT OF RORY TOOMEY, STUDENT, LAW SCHOOL, UNIVERSITY OF HAWAII

Mr. TOOMEY. Mr. Chairman, members of the committee, I grew up in Hawaii, graduated from the University of Hawaii with a degree in history, completed 1½ years of graduate work in history.

I am currently a second-year law student at the University of Hawaii.

I'd like to share with you my considered opinions on on what should be done toward Hawaiian reparations.

The crown lands of Hawaii were a private property and set aside during the Great Mahele in 1848, and by legislation in 1865, approved by King Kamehameha the Fifth. This original intent was reinforced and the motion was, Mr. Chairman, was formally made. Therefore, as a result of the revolution of 1893, people that were hurt were the heirs, the Queen herself, the heir apparent, and the presumptive heirs, or the high chiefs, to the throne of Hawaii.

Therefore, Mr. Chairman, I believe, and I won't take any more of your time than is necessary, that serious consideration should be given these people their just reparations.

Thank you very much.

Senator MATSUNAGA. Our next witness is Mr. Francis Lee. Is Mr. Francis Lee in the audience? If not, we will go to our next witness.

Our next witness is Miss Carmen Oliveira.

STATEMENT OF CARMEN OLIVEIRA, ON BEHALF OF OAHU COUNCIL, CONGRESS OF HAWAIIAN PEOPLE

Miss OLIVEIRA. Honorable congressional Senators Daniel K. Inouye and Spark M. Matsunaga, members of the Senate Committee on Energy and Natural Resources, and friends, my name is Carmen Ewalaniki'eki'e Oliveira. I am testifying today for Oahu Council of the Hawaiian People. I am its education chairman and second vice-president. I am a lecturer at Honolulu Community College.

The Oahu Council of the Congress of the Hawaiian People goes on record as supportive of the basic concepts of Senate Joint Resolution 4, establishing the Hawaiian Native Claims Settlement Study Commission. We appreciate the efforts of Senators Daniel K. Inouye and Spark M. Matsunaga who introduced this joint resolution on January 10, 1977.

It is heartwarming to know that after 83 years, two Senators from Hawaii have embarked on a great task to rectify the wrongs perpetrated on January 10, 1893 by revolutionists in Hawaii. These illegal acts which led to the overthrow of our Queen and government who had been kind to them were supported by Military Forces of the United States under the direction of U.S. Minister John L. Stevens.

We hope that the kokua by our Senators to establish a Hawaiian Native Claims Study Commission will awaken in our fellow Americans, especially those in Congress, an awareness of a great wrong. Perhaps the words of President Cleveland as cited in this resolution that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation" will finally come to pass after these 83 years.

In studying the resolution, there are some changes which we would like to see made. For instance on page 1, paragraph 1, we would like to see deleted the phrase: "acting wholly without the authority or knowledge of the Congress or the President." This phrase may give some congressmen and fellow Americans second thoughts such as "Why should we settle this claim if the U.S. Military Forces and Minister John L. Stevens acted without authority or knowledge of Congress or the President?"

In paragraph 2, page 1, we would also like to see deleted the phrase "also acting without authority". Our reason is the same as mentioned in regards to the previous paragraph.

On the composition of the Study Commission: We feel that of the 11 members, 8 instead of 6 should be aboriginal Hawaiian natives selected from a list of 12 names submitted to the President by the Governor of Hawaii. These 12 names should have been previously selected by an election process conducted in the counties of Hawaii, Honolulu, Kauai, and Maui. Each county shall elect one candidate. Eight at-large candidates will also be elected. All 12 shall be knowledgeable in Hawaiian native culture, history, or language. We feel that it is not necessary to have a member qualify because of his or her knowledge of Federal and State laws which affect aboriginal Hawaiian natives. An attorney or expert in these matters can be hired by the Study Commission when and if this is necessary.

On page 3, line 22: we would like to substitute the term "aboriginal Hawaiian blood" for "natural blood".

On page 3, beginning with line 22 and continuing on to page 4, lines 1 through 3: we wish to substitute "All 12 candidates for the 8 positions on the Study Commission should be of at least one-eighth blood quantum of aboriginal Hawaiian blood."

Of the other three Study Commission members to be selected by the President, three should have a background in native rights which pertain to American Indians or Alaskan Natives. At least one should be a Member of Congress.

On page 7, after section (B), section (C) should include a study of all native rights such as minerals, geothermal energy, water, fishing, beach and land access, and all commercial use of Hawaiian words.

The Congress of the Hawaiian People commends Senators Inouye and Matsunaga for including financial reparations and return of lands in this resolution.

We know that this resolution cannot completely satisfy all of us Hawaiians but that it is a step in the right direction.

Aloha nui loa.

Senator MATSUNAGA. Thank you very much. Miss Oliveira, in fairness to the two members of the House of Representatives, you should know, if you do not already know, that they did introduce House Joint Resolution 526, which is——

Congressman HEFTEL. However, it is our two Senators who initiated the resolution and we, in turn, copied it. [Laughter.]

Miss OLIVEIRA. Thank you all for your attention.

Senator MATSUNAGA. Thank you very much, Miss Oliveira.

Our next witness is Elmer Miller. You may proceed.

STATEMENT OF ELMER MILLER

Mr. MILLER. I have done a study of the Crown Lands for about 6 years, for a group of families, and I'd like to call attention to the fact that it is significant to note that the oligarchic constitution of 1894 that illegally confiscated the Crown Lands—article 95—was never ratified, nor were its convention delegates chosen by the people. On the other hand, what was ratified that I did find, since August 19, 1850, was a treaty that stated in article I:

> There shall be perpetual peace and amity between the United States and the King of the Hawaiian Islands, His heirs and Successors.

Yet as President Grover Cleveland saw it:

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

Why then shouldn't Senate Joint Resolution 4 specifically include an intensive and extensive study of Crown Lands' claims, which may well be the strongest claims for reparations the Hawaiian people have? And the Crown Lands today are worth billions. This is just one of a number of reasons why Senate Joint Resolution 4 ought to be amended.

With reference to the petition presented today by Kazuhisa Abe, a former Justice of the Supreme Court of Hawaii, Justice Abe is right. In fairness to everybody, the entire question of Native Hawaiian rights needs to be settled for once and all.

Queen Liliuokalani, in her private capacity had heirs, in her political capacity she would have had successors. In default of proclaimed successors there would have been the Royal Boarding School students, publicly listed as "princes and chiefs of rank eligible to rule," and groomed to be future rulers. These intended beneficiaries of the Crown Lands trust lost for all time with the overthrow their political birthright. Here, the guidelines recommended by Senate Resolution 393 wisely and effectively would facilitate a settlement with finalty of all native rights of sovereign chiefs and people.

The Hawaiian people have nothing to lose and all to gain by the amendment of Senate Joint Resolution 4 to specifically include all current Crown Lands' claims. I'm confident the strong legal basis of Crown Lands' claims will supplement and strengthen the position of all Native Hawaiian reparations claims.

There is one point I'd like to make.

I'd like to correct an earlier statement that I heard regarding the Crown Land trust. The Crown Lands were private property of Kamehameha the Third during the Great Mahele, introduced to maintain the royal office of the successor and this is not to be confused with the later purpose of the trust lands after annexation, which was to benefit Native Hawaiians.

Any questions?

Senator MATSUNAGA. Thank you very much, Mr. Miller. We certainly appreciate your testimony.

Calvin Ontai? Calvin? I don't see him. Is he here?

If not, our next witness is the Reverand Leilani Hiaa Kalae Loa, or more commonly known as Mama Loa.

STATEMENT OF REVEREND LEILANI HIAA KALAE LOA

Mama LOA. My fellow citizens, distinguished gentlemen from the Congress of the United States of America, the senior and the junior line of the Hawaiian ancestry, friends and strangers alike, Aloha nui loa.

I am thrilled at this moment to testify as a newly-appointed Kuhina Nui [spelled phonetically] because of my plight of being arrested for claiming the land that is over at Heiakea [phonetic spelling].

I discovered some documents by this unknown man that I had never known before, and because of this, I want to correct all the statements and testimonies that have been presented before this body and Representatives from Congress of the United States of America.

I gave a copy of my, supposed to have been, my key testimony, when I went to the convention in Kauai. I had a wonderful, enjoyable time there when the Aloha Association had their convention. That was my first time as a member that I had joined this body.

More or less, I was chastising the organization. I am not a respecter of persons. Never have been.

I honor people who do good things and good work.

I was born under the convenant as a Native Hawaiian, borne to two wonderful parents of pure Hawaiian ancestry. I am pure Hawaiian of the senior line.

There are still records to be found in the caves that bring out the history of our people. I want to honor this book, the "Book of Mormon," where the plight of the Lost Tribe who migrated from Jerusalem to America, now called the American Indians. Also, Helen [phonetic], who left the coast of South America to migrate into the South Pacific, Isles of the Sea.

It's also documented in my testimony a year ago February, when I submitted my ancestry in the documents, that we are from the Lost Tribe of Israel, through Joseph by way of Manassa [phonetic].

That is my genealogy.

Because of this, three of my sisters broke away. I am the fourth generation. We broke away and intermarried with other races of people. My beloved son, the seventh child, Maui, that you heard, who was given the name of Doctor Nui Loa Rice when he was born, is my seventh child. He is 50 percent Hawaiian, 50 Jewish.

He was born here in Hawaii.

I am a mother of 10 beautiful, blessed children, 6 girls and 4 sons.

I have mothered many, many children of all races, colors and creeds throughout my lifetime, and I am 56 years of age.

When I was about 3 years of age, I was dedicated to the Fire Goddess Pele, in 1925, when she erupted. My life has been a mystery, so my roots are really embedded here in Hawaii. Many times I have wanted to leave Hawaii because of the hardship upon the whole condition; but when I received my patriarchal blessing, I knew that it was more than what I was worth.

Senator MATSUNAGA. One minute left.

Mama LOA. The life of the Hawaiian people were brought here for God's sake. By the way, sir, may I have the other 5 minutes of the other person that was not present?

Senator MATSUNAGA. We will give you 2½ minutes of it.

Mama LOA. Thank you.

You know, Kaelahi (phonetic) Point, not to change the subject, is a very sacred ground.

Ahu o Laka (phonetic) is out there in the sand dunes and underneath of the cave belongs to the God of the Sea. Because of this, as I read the documents, there is only one man who enters Hawaiian Archipelago today.

May it be recorded.

Within the 5 years statute of limitations, any Hawaiian, aboriginal decendant, could have registered their claim to Hawaii, but no one did but this one gentleman, His Royal Highness Harold Caftcart (phonetic), descendant of Kamehameha the Second.

Now, because I was told, "Don't listen to him because he is a crackpot and he is not in his right frame of mind," my heart was pierced because these are the things and wrote that I said about myself.

He is a very retiring person. He is not an extrovert like I am. But he did honor me by saying that he appointed me as his Kuhina Nui, which means that I am an adviser, in an advisory capacity, to the Honorable King.

Now, these conditions that are the truth are not being said publicly so that all the Hawaiian people can know their heritage or their rightful rights. I denounce the Hawaiian Homestead Act. It is an abominable, simple condition that suppressed the Hawaiians to degradation.

Senator MATSUNAGA. One minute.

Mama LOA. Also, gentlemen, I am against the Commission to direct the affairs of the Hawaiian people. It must be by peerage, the same rank as I am, that I will give up my rights to tell me what is good for myself and my posterity. I am a very jealous woman, like God.

If those that are now here, that are now present in Hawaii Nei, there will be a new movement, you must be God fearing. You must come here to believe in the things that the Hawaiian people believed in the days of old, or you must go to the place where you come from.

We can't go anywhere but back to Jersusalem if we are to leave here. I can't claim any other place but America and I want to say this, gentlemen. I was in California about, a few days ago, and my brother-in-law, who is the movie actor Woodrow Stroad (phonetic), is part Indian. He said that they had just passed the resolution that all the Hawaiians and the American Indians are classified as heirs. So, if we cannot take care of our business here, our brothers from across the sea, the Americans Indians, will come here.

Before I close, I want to honor the Yakima (phonetic) Indians. They are still a sovereign nation. I, too, claim to be a sovereign nation. I say this humbly in Jesus' name. Amen.

Senator MATSUNAGA. Thank you very much.

Our next witness is Mr. John Agard, who is now testifying as the president of the Congress of Hawaiian Organizations, although he did earlier act as moderator for the ALOHA Association.

Mr. JOHN AGARD.

STATEMENT OF JOHN AGARD, PRESIDENT, CONGRESS OF HAWAIIAN PEOPLE

Mr. JOHN AGARD. Distinguished members of the committee and faithful ones, Aloha. Due to the length and in the interest of time, I request that this oral and attachments of my testimony be submitted in toto in the record.

Senator MATSUNAGA. Without objection, is so ordered.

Mr. JOHN AGARD. Today as State President, I am testifying on behalf of the Congress of the Hawaiian People. Our membership is composed of over 5,000 members scattered througout the State, the Mainland, and foreign possessions.

The Congress of Hawaiian People has taken the position to support Senate Joint Resolution 4, and its counterpart, House Joint Resolution 526, in concept.

Our conceptual support stems from recognizing two favorable factors as follows. Initially, we are pleased with the primary intent of Senate Joint Resolution 4 preamble, which is designed to clearly establish an admission by the United States that a substantial wrong was committed against the Native Hawaiian people and, as a consequence, the United States is now willing to vindicate its honor and its sense of justice by atoning for the wrong.

Second, after extensive deliberations, we presently see merit in establishing an elective type of study commission, to determine the extent of atonement. I will elaborate on this subject a little later.

We would like to address three provisions contained in Senate Joint Resolution 4.

The first provision of concern involves section 3(B), 2(A), pertaining to the establishment of the Study Commission.

We cannot support the method of appointment as described. We sincerely believe that if someone is to decide our destiny, we must have someone on the Study Commission who is placed there by the people whose destiny is being decided.

We further believe that we need an elected representative to serve a nation of Native Hawaiian heirs, similar to a representative of Congress.

We also believe that this substitute method will, in part, avoid unnecessary pressure placed on our Governor since he will only need to forward a list of Native Hawaiian names from the proposed elective process to the President for appointment.

In essence, this means that the Governor would be relieved of locally fulfilling possible political obligations.

Consequently, we have provided attachment 2, which is intended to replace the method of appointments described in Senate Joint Resolution 4.

It is entitled, "Criteria for Appointment of Hawaiian and Federal Commissioners."

This, incidentally, has already been submitted by my brother.

The second provision of concern involves section 3(B)1(A), pertaining to the appropriation of funds.

As a matter of record, the Congress of Hawaiian People will not support the inclusion by any interested party of any monetary amount such as $100 million, relative to a settlement, seeing commonsense dictates that a predetermined settlement ceiling obviously completely defeats the purpose of this study commission, who is mandated to make that determination at the conclusion of the study.

The third provision of concern involves section 3(B) 2(A), pertaining to the final settlement, which extinguishes all future claims of Native Hawaiian heirs and the Congress of Hawaiian people cannot support this provision as stated. We do not believe that native Hawaiian heirs should be expected to accept extinguishment without having prior say in the finality.

We are aware that there are at least five major concerns which need to be considered by the Study Commission when deciding a final settlement.

They are, one, payment of damages and injury to the Native Hawaiian heirs for wrongs committed; two, retroactive payment for Native Hawaiian heirs for use and occupancy of lands taken illegally; three,

retroactive payment of royalties to Native Hawaiian heirs from items and/or products sold out of operations conducted within the Hawaiian Archipelago; four, return to Native Hawaiian heirs approximately 2.5 million acres of land taken illegally, with special attention directed to the possible inclusion of Hawaiian Home Lands; and, five, recognition of a Native Hawaiian sovereignty and related, inherent, rights.

The only way the Congress of Hawaiian People will agree to support the stated provisions is by Native Hawaiian ratification of the proposed settlement, relative, basically, to the stated five major concerns.

An alternative possibility of accepting the stated provisions would be considered by the Native Hawaiian heirs of the attached criteria for appointment is included as an amendment to S.J.R.4.

We imply here that we would be willing to support this provision if commissioners were appointed by use of the attached criteria for appointment.

Recognition of sovereignty had not been finally addressed and these comments are for the record. It has not been fully addressed in the past. Again, for the record, the Congress of Hawaiian people wishes to share a few thoughts on this little-known subject so that we might understand certain aspects of sovereignty as related to Native Hawaiian heirs.

To begin with, we have accepted the definition of sovereignty as follows: sovereignty is the inherent right of a nation to govern itself. Sovereignty is a power that brings people together to form a nation and govern themselves. Sovereignty is a supreme power from which all specific political powers are derived.

To continue, dominion rights and soverign rights could be considered as synonymous which means that either word can be used to describe the one thing we as native Hawaiian heirs share in common, and should be preserved for the sake of complete unity of spirit, mind and body.

Additionally, under the sovereign Kingdom of Hawaii, these rights actually existed at the time of the overthrow and have remained dormant over 84 years until now.

This statement on existence is based on the fact that treaties between the sovereign United States and the sovereign Hawaiian Kingdom, and also between other sovereign nations, have never been officially dissolved.

Consequently, we simply believe that since the negotiated treaties identify the partners of sovereign nations and since our treaties are still in existence, then native Hawaiian heirs are still a sovereign nation.

Attachment 4, which is a resolution approved by the ALOHA Association at its annual convention in Kauai on June 4, 1977, provides references to three existing treaties.

Attachment 4 also provides a list of inherent sovereign rights and powers commonly exercised by every sovereign nation. In referring to these powers we do not want to leave the impression that by exercising the listed powers, it means that native Hawaiian heirs will replace the existing government structure of Hawaii.

Actually, it is envisioned that the native Hawaiian sovereignty structure be patterned after other native Americans who presently enjoy the privileges of sovereignty without replacing the existing government structure.

For example, the Yakima Indian, which was just mentioned, which are a sovereign nation contained within the sovereign State of Washington who, in turn, is contained within a mother sovereign of the United States.

This simple description illustrates a three-level sovereignty structure which is workable, but in our case, must be approved by the majority of native Hawaiian heirs before it is implemented.

I think I'd like to conclude my remarks at this time.

Thank you very much.

Senator MATSUNAGA. Thank you very much, Mr. Agard. I have one question, and I raise this only because others have suggested, as you have, Mr. Agard, an election of the members of the Commission. The question arises: who is going to be eligible to vote, the Hawaiians of a quarterblood, halfblood, or any blood? What about the process of enrolling the voters? How are we going to do this? This may take a year or 2 years or 3 years or more, and it raises some extreme difficulties.

I, as an elected officeholder, know this. It takes a lot of money, too, and then it is going to end up that the ones who can spend the money to be elected are the ones who are going to be elected. It is really tough.

How would this strike you? Supposing we amend the resolution to provide that nominations will be made by various aboriginal Hawaiian organizations to the Governor, from which list the Governor will then make his recommendation to the President?

Mr. JOHN AGARD. Well, I am not quite sure if I can answer all of the questions that you introduced; but, to begin with, as far as a blood-quantum is concerned, those of us that have designed the elective process do not feel that we should be strapped by any quantum.

The reason for that is that it is not our approach to settling our problems.

We look upon the definition of title 8, the latest definition of a Hawaiian, it does not have any quantum. It only traces a Hawaiian back to ancestors prior to 1778, and that is what we are using.

We do not feel that we like to discriminate against any Hawaiian who has any kind of quantum, to vote in this process.

So, to answer your question, we prefer all Hawaiians to have that privilege, so as not to discriminate against anyone. As long as they can trace their ancestry back, prior to 1778, those are the people we'd like to have vote.

Senator MATSUNAGA. Then you have a problem of registration and making a roll of the qualified voters. Do you see this as easily overcome?

Mr. JOHN AGARD. Well, I can only base that type of action on what was done in Alaska. We know that they did it, and if Alaska can do it, we can do it. That is all I can say.

Senator MATSUNAGA. It took them 2 years.

Mr. JOHN AGARD. Perhaps, but we can learn from the mistakes they made. Actually, they were quite fractionalized in the fact that they had 12 different regions and it was very difficult to travel because of inclement weather. This is the kind of report I have received.

Senator MATSUNAGA. Well, of course, my main concern, and I am sure others share my concern, is in trying to expedite this matter. For that reason, we included in the bill a 1-year limitation for the Commission to complete its inquiries and to submit its report to Congress.

That may be a little too short. I don't know. But, as you well know, the Alaskans are still going through the enrollment process. They haven't completed it yet. It has been going on for 5 years now. It raises all kinds of problems.

I think our emphasis at this time really should be in providing for the creation of a Commission, which would be mandated to consider who the beneficiaries of native claims would be, and make its recommendations to Congress.

If Congress should subsequently act on the recommendations of the Commission in mandating the payment of damages to specified beneficiaries, and if at that point we should establish a ruling body for the administration of whatever funds are provided, such as for the education of the children of aboriginal Hawaiians, then perhaps we might be in a position to hold elections for such an administrative body.

My concern right now is in expediting the passage of this resolution, by which action we will achieve the first major, essential step of having the Federal Government admit its 1893 wrong.

If, by action of the Congress, it admits that it did wrong and sets up this Commission, we have really taken a major step toward final reparation or restitution, as was suggested here earlier.

I am a little fearful that the election of commissioners will delay the matter so much that we will probably take another 5 years before we can really achieve any goals. If we provide for the selection of commissioners on the basis of appointments by the President by recommendation of the Governor, who in turn will seek the recommendation of all aboriginal Hawaiian organizations as was suggested by Mr. Crowell earlier today, then we might be able to expedite the matter.

Mr. JOHN AGARD. Mr. Chairman, obviously, we can cite all kinds of obstacles regarding this matter; but we don't want to lose sight of the purpose of conducting an elective process. Due to the fact that it is almost an impossibility for us to rid ourselves of the extinguishment clause, the overriding factor of this election process is to assure that we are not extinguishing our rights by the fact that we do have people on the Commission.

That is one of the alternatives, that we have representatives that we have selected. We don't want to lose sight of that.

Senator MATSUNAGA. With regard to the extinguishment of rights, we are not proposing the extinguishment of all rights of aboriginal Hawaiians. What we are saying here, and I quote from the resolution itself, which may need amending to project its full intent, is that any such recommendations, that is, from the Commission, shall, to the extent possible, and I emphasize, "To the extent possible," be designed to insure that any such remedy will be a final settlement which extinguishes all claims of Hawaiian natives against the United States arising from the actions set forth in the preamble of this resoluton.

In other words, what we have referred to specifically here is the wrong which came about because of the overthrow of the Queen in 1893 and the takeover of the government by non-Hawaiians.

Mr. JOHN AGARD. I am confused, Mr. Chairman. Are you saying then that if settlement is forthcoming as a result of the Study Commission's recommendation to Congress, and it is approved, that there will be, that there can be further requests for reparation?

Senator MATSUNAGA. It depends on what the Commission recommends, but the resolution provides that insofar as is possible, whatever recommendations the Commission comes up with shall be designed to provide for a final extinguishment.

In other words, the Commission's recommendations should be aimed at the full satisfaction of claims which could arise out of the wrong which was done to aboriginal Hawaiians in the overthrow of the monarchy in 1893.

Of course, as an earlier witness so ably pointed out, we do state in our own resolution, here in the preamble, and I quote: "That no such wrong as this committed 84 years ago in far different circumstances to a specific people, few of whom survive today, can be fully rectified in this or future Congresses."

We seek to have the Congress admit this. So, by that admission, you see, we leave open any justifiable claim which may arise subsequent to the action of Congress on any recommendations forthcoming from the Commission.

This is always possible. This has been the history of American justice. There has never been a case, so far as I know, where the Congress has said, "This is final and nothing further."

When a case has come up which justified reopening, no Congress has refused, no Congress, to look at it from the point of view of equity. As you know, our laws are taken from the British laws. Under English law, which had courts of law and courts of equity, where the law failed to provide justice, the court of equity stepped in.

Under our system, we have combined both courts of law and courts of equity, and this is not only a principle within our judicial system, but in our legislative system as well.

Mr. JOHN AGARD. Then, am I to interpret what you just said, that a provision contained in Senate Joint Resolution 4 can be ignored as far as mandates are concerned, when the Commissioners decide on a final settlement?

Senator MATSUNAGA. Well, we are trying to arrive at some language which will give broad powers to the Commission to make its recommendation. We may have to amend the resolution as it is presently written. You seee, the reason this resolution was introduced as presently written is that this was the resolution which was approved the Interior Committee, last year.

American justice always looks to equity and if final equity is not done by the action of a Commission and by the Congress, subsequent Congresses can look toward proper restitution if there need be. Or, you can always go to the courts, but we are hoping that you won't need to go to court.

I want to thank you all for coming.

[The prepared statement of Mr. John Agard follows:]

STATEMENT OF JOHN AGARD, PRESIDENT, CONGRESS OF HAWAIIAN PEOPLE

Honorable Chairman, Senator Spark Matsunaga; Senator Dan Inouye; Senator James Abourezk (from the Subcommittee on Public Lands and Resources of the U.S. Senate Committee on Energy and Natural Resources); Representative Dan Akaka; Representative Cec Heftel; staff members; distinguished public officers; members of the press; and concerned citizens of Hawaii, Aloha auinala, aloha kakou.

My name is John Agard. I am part Hawaiian. My European part originated in Denmark and England and subsequently settled in New York and Australia. As an American citizen, I'm proud of my European part. I am equally proud of my Hawaiian part and currently as an active member of the "Hawaiian Movement", I find myself sadden from our painful past, distressed about our present, and concerned about our future.

Due to its length and in the interest of saving and sharing time, I request that this oral and attached testimony be submitted in total for the record.

Today, as State President, I am testifying on behalf of the Congress of the Hawaiian People. Our membership is composed of over 5,000 members scattered throughout the state, mainland, and foreign possessions.

The Congress of the Hawaiian People has taken the position to support SJR 4 (and its counter part HJR 526) in concept. Our conceptual support stems from recognizing two favorable factors as follows: Initially, we are pleased with the primary intent of the SJR 4 preamble which is designed to clearly establish an admission by the United States that a substantial wrong was committed against the native Hawaiian people (heirs) and as a consequence, the United States is now willing to vindicate its honor and its sense of justice by atoning for the wrong. Second, after extensive deliberations, we presently see merit in establishing an "elective type" study commission to determine the extent of atonement (settlement). I will elaborate on the subject of this "elective type" later.

As a matter of information the Congress of the Hawaiian People is providing Attachment No. 1 which contains other recommended changes to SJR 4. Hopefully, these changes will be considered for amendments to SJR 4.

Initially, the Congress of the Hawaiian People will address three provisions contained within SJR 4 and subsequently address additional points for questioning and future consideration by the appointed study commission.

The first provision of concern involves section 3(b)(2)(A) pertaining to the establishment of the study commission. We can not support the method of appointment as described. We sincerely believe that if someone is to decide our destiny, we must have someone on the study commission who is placed there by the people whose destiny is being decided. We further believe that we need an elected representative (to serve a nation of native Hawaiian heirs) similar to a representative of Congress.

We also believe that this substitute method will in part avoid unnecessary pressure placed on our Governor since he will only need to forward a list of native Hawaiian names from the proposed elective process to the President for appointment. In essence this means that the Governor would be relieved of locally fulfilling possible political obligations. Consequently we have provided Attachment No. 2 which is intended to replace the method of appointments described in SJR 4. It is entitled Criteria for Appointment of Hawaii and Federal Commissioners which is a guideline for an elective and conditioned appointive process. We strongly urge this guideline be considered for an amendment to SJR 4. We want to point out that registration for voting is not to be confused with registration for benefits.

The second provision of concern involves section 3(b)(1)(A) pertaining to appropriation of funds. As a matter of record, the Congress of Hawaiian People will not support the inclusion (by any interested party) of any monetary amount (such as 100 million dollars) relative to a settlement ceiling. Common sense dictates that a pre-determined settlement ceiling, obviously completely defeats the purpose of the study commission who is mandated to make that determination at the conclusion of the study.

The third provision of concern involves section 3(b)(2)(A) pertaining to final settlement which extinguishes all future claims of native Hawaiian heirs. The Congress of the Hawaiian People cannot support this provision as stated. We do not believe that native Hawaiian heirs should be expected to accept extinguishment without having prior say in the finality. We are aware that there are at least five major concerns which need to be considered by the study commission when deciding on a final settlement. They are:

1. Payment of damages and injury to native Hawaiian heirs for wrongs committed.

2. Retroactive payment to native Hawaiian heirs for use and occupancy of lands taken illegally.

3. Retroactive payment of royalties to native Hawaiian heirs from items and/or products sold out of operations conducted within the Hawaiian archipelago.

4. Return to native Hawaiian heirs approximately 2.5 million acres of land taken illegally (with special attention directed to the possible inclusion of Hawaiian Lands) and

5. Recognition of native Hawaiian sovereignty and related inherent rights.

Another related concern involves a need for the study commission to investigate the failure of performing fiduciary responsibilities by the United States. This charge relates to noncompliance with Article II of the 1898 Treaty of Annexation pertaining to complete disregard of using revenues for educational and other purposes for the benefit of native Hawaiian heirs. This fiduciary failure has continued since 1898 up to the present time. The stated provision (elaborated) is currently found in section 5(f) of the 1959 Hawaii Statehood Act.

Following are options any of which if included as an amendment may cause us to support the above stated extinguishment provision:

1. Include the (attached) Criteria for Appointment of Hawaiian and Federal Commissioners as an amendment to SPR 4 (and HJR 526).

2. Just prior to the submission of the recommendation for final settlement, native Hawaiian heirs be permitted to ratify the recommendations relative basically to the satisfactory settlement of the five major concerns stated above.

3. A proviso be added indicating that native Hawaiian heirs be permitted to subsequently pursue courses of action through the courts if all five stated concerns had not been fairly and properly settled.

For the benefit of the proposed study commission, we will elaborate on the five major concerns previously mentioned by providing the following:

1. We basically equate payment of damages directly to the thrust on reparations initiated by the ALOHA Association. For the record, we wish to publicly recognize and commend the ALOHA Association for introducing this thrust to Congress in January 1975 on behalf of native Hawaiian heirs. Since the introduction of SJR 155 (now SJR 4) in December 1975, we have come to the realization that the initial thrust has significanty broadened in scope as evidenced, for example, by the five major concerns.

Consequently, we recommend that the study commission look beyond this concern when considering final settlement. A suggested consideration for our damages settlement should be directed towards precedence established by the Alaskan settlement. The formula used there was: $1 billion payment divided by 700,000 Alaskans, equally $14,300 per person. Based on this formula and in our desire for equality of treatment as native Americans, we believe that our damages settlement should not be less than the precedence figure of $14,300 per person. Consequently, the following formula should be used for us: (Approximately 150,000 native Hawaiian heirs times $14,300 per heir equals an estimated settlement figure of $2,100,450,000. The 150,000 estimate would need to be verified by enrollment of beneficiaries which would probably cost around $5 per heir or something like $750,000 all total.

2. We have included use and occupancy retroactive payments for consideration simply because the lands taken illegally have been used, rent free, for over 84 years by those not owning the land which in our option violates the law of trespass.

3. We realize that to a large extent retroactive royalty payments relate primarily to state operations. However, we are aware that income producing operations have been consumated over the years by the federal government regarding sale of some lands illegally taken. This concern applies to past, present and future payments resulting from restitution of dormant dominion (sovereign) rights previously enjoyed by native Hawaiian heirs. It is intended that certain resources taken by commercial operators from the land and surrounding water areas within the established Hawaiian archipelago be subjected to an applicable royalty charge on annual gross income. Specific resources include fresh water, coral jewelry, geothermal energy, manganese nodules, fish and crustacea, lumber and sand.

4. It is our considered opinion that the request for return of 2.5 million acres of land is a reasonable one since native Hawaiian heirs are asking for return of what was rightfully ours only and nothing more. This statement is based on the fact that this is the approximate amount of land that was taken illegally. How the amount is arriged at can be illustrated by use of historical events and data from the "Great Mahele" book.

Attachment No. 3 attempts to provide this pictorial background. While on the subject and for the record, I would like to clarify a statement made in testimony on SJR 155. In response to the chairman's question, I indicated that the 1976

fair market value of 2.5 million acres totaled approximately 34 billion dollars. Apparently, the chairman took that amount for a possible cash settlement. This was not the intent because it was given in response to a direct question showing value of the taken land. In reality, it was understood that we preferred the return of all negotiable lands with the outside possibility of receiving payment for the remainder of lands under lease or sale agreements. Land exchanges were and are also open for negotiations.

5. Recognition of sovereignty has not been fully addressed in the past. Again, for the record, the Congress of the Hawaiian People wishes to share a few thoughts on this little known subject so that we might understand certain aspects of sovereignty as related to native Hawaiian heirs. To begin with, we have accepted the definition of sovereignty as follows:

1. Sovereignty is the inherent right of a nation to govern itself.

2. Sovereignty is the power that brings people together to form a nation and govern themselves.

3. Sovereignty is the supreme power from which all specific political powers are derived.

To continue, dominion rights and sovereign rights could be considered as synonymous which means that either word can be used to describe the one thing we as native Hawaiian heirs share in common and need to preserve for the sake of complete unity of spirit, mind, and body. Additionally, under the sovereign kingdom of Hawaii, these rights actually existed at the time of the overthrow and has remained dormant over 84 years until now. This statement on existence, is based on the fact that treaties between the sovereign United States and the sovereign Hawaiian kingdom and also between other foreign sovereign nations have never been officially dissolved.

Consequently, we simply believe that since negotiated treaties identify the partners of sovereign nations and since our treaties (the binding force of international law) are still in existence then native Hawaiian heirs are still a sovereign nation and want to be recognized as such. To be more specific, we want our sovereign status and rights to be clearly reinstituted. We consider this action to be reasonable since we are asking only for what was rightfully ours and nothing more. Attachment No. 4, which is a resolution approved by the ALOHA Association at its annual convention in Kauai on 4 June 1977, provides references to three existing treaties. Attachment No. 4 also provides a list of inherent sovereign rights and powers commonly exercised by every sovereign nation. In referring to these powers, we do not want to leave the impression that by exercising the listed powers, we will replace the existing government structure of Hawaii.

Actually, it is envisioned that the native Hawaiian sovereignty structure be patterned after other native Americans who presently enjoy the privileges of sovereignty without replacing the existing government (in this case, state) structure. For example, the Yakima Indians are a sovereign nation contained within the sovereign state of Washington who in turn is contained within the mother sovereign of the United States. This simple description illustrates a three level sovereignty structure which is workable but, in our case, must be approved by the majority of native Hawaiian heirs before implementation. While on the subject of sovereignty, the Congress of the Hawaiian People would also like to provide, for the record, considerations relative to the establishment of the Hawaiian archipelago water surface boundary which encompasses what is commonly known as a sovereign economic zone. We recommend that a strong position be taken by the native Hawaiian heirs to encircle this area (as described under section 3 definition of the proposed senate bill submitted for the record by the ALOHA Association) which is bordered by an invisible line and when measured (in a circularized manner) would be equidistant from other surrounding sovereign lands in the Pacific Ocean. This invisible line can be pictorially illustrated by use of a roughly drawn chart included as Attachment No. 5. This innovative approach will obviously not cause encroachment of rights on any of the surrounding sovereign lands but would need the blessing of the Law of the Sea Conference delegates who represent the United Nations. Finally, in reference to preservation of resources contained within the Hawaiian archipelago economic zone, we have taken the position that as native Hawaiian heirs, we of all people should be the most well qualified people to protect our environment just as our ancestors did by using only what is needed and subsequently providing the opportunity for nature to replenish the used resources.

At this point we would like to explain why the word "heir" was frequently used throughout this testimony. It relates to an unrecognizable status enjoyed

by every living and yet unborn native Hawaiian. It is found in King Kamehameha III Privy Council Rules 1 and 2 dated 18 December 1847 which states:

1. His majesty, our most gracious lord and king, shall in accordance with the constitution and laws of the land, retain all his private lands as his own individual property, subject to the rights of tenants, to have and to hold to him, his heirs and successors forever.

2. One third of the remaining lands of the kingdom shall be set aside, as the property of the Hawaii government subject to the direction and control of his majesty, as pointed out by the constitution and laws, one third to the chiefs and konohikis in proportion to their possessions, to have and to hold, to them, their heirs and successors forever, and the remaining third to Tenants, the actual possessors and cultivators of the soil, to have and to hold, to them, their heirs and successors forever. These are the inalienable rights left to our native Hawaiian heirs which un-questionably points out that all illegally ceded lands still belong to native Hawaiian heirs since the United States can not produce acceptable documents showing (clear) fee title to taken lands.

In conclusion, the Congress of the Hawaiian People respectfully requests once again that recommended amendments be considered for inclusion to SJR 4 and that the contents of our submitted attachments be considered by the proposed study commission when determining settlement of our native Hawaiian claims. **Finally, in the words of an honest and compassionate President Grover Cleveland** who stated: "Upon the facts developed it seems to me the only honorable course for our United States government to pursue is to undo the wrong that had been done and to restore as far as practicable, the status existing at the time of our forcible intervention." These words are our prayer and are also words of challenge to all those who will participate in deciding a final settlement for our native Hawaiian heirs.

MAHALO and ALOHA.

ATTACHMENT 1–1

1. Throughout SJR 4: Recommend "Hawaiian Native" be switched to "native Hawaiian". Recommended change will eliminate mis-interpretation of definition as indicated in testimony by Peggy Ross.

2. Preamble, page 1, para 2, lines 3 and 4: Recommend . . . acting wholly without the authority or knowledge of Congress or the President . . . be deleted. This phrase does not strengthen the establishment of gilt.

3. Preamble, page 1, para 2. line 7: Recommend . . . indigenous, lawful, and constitutional government of Hawaii; and . . . be used to replace the existing line for a more accurate description.

4. Preamble, page 1, para 3, line 5: Recommend . . . indigenous, lawful, and constitutional government; . . . be used to replace the existing line for a more accurate description.

5. Preamble, page 2, para 1, lines 3 and 4: Recommend . . . consent of the native Hawaiians or of the lawful & constitutional government of Hawaii . . . be used to replace the existing lines for a more accurate description.

6. Preamble, page 2, para 2, line 12: Recommend the word "reparation" be replaced with "restitution" for a more accurate description.

7. Preamble, page 2, para 3, line 1: Recommend . . . to the *native* Hawaiian . . . be used to replace the existing line for a more accurate description.

8. Preamble, page 2, para 4, lines 2–4: Recommend the following be underlined for emphasis . . . by such annexation, among other things, the United States illegally (added) acquired ownership of vast landholding that had been common property of the native Hawaiians . . . .

9. Preamble, page 3, para 1, line 1: Recommend "eighty-three" be replaced by "84" for accuracy.

10. Page 3, lines 6–8: Recommend . . . as this committed against the native Hawaiians can be fully rectified . . . be used to replace the existing lines.

ATTACHMENT 1–2

11. Page 4, lines 1–11: Recommend these data lines be replaced with the recommended elective process submitted as Attachment #2.

12. Page 5, line 7: Recommend . . . or until after the election process of selecting the native Hawaiian commissioners . . . be added after the word "resolution". This addition is intended to accommodate the inclusion of Attachment #2.

13. Page 5, line 9: Recommend . . . *with approval of commission members* . . . be inserted between words "chairman" and "shall" for obvious reasons.

14. Page 6, line 1: Recommend . . . *state and* . . . be inserted between words "Each" and "Federal" for obvious reasons.

15. Page 6, lines 3 and 4: Recommend . . . the chairman with approval of commission members may request . . . be inserted after the word "Chairman" for obvious reasons.

16. Page 6, line 6: Recommend . . . the date of the first meeting of the study commission . . . be used to replace the existing line for obvious reasons.

17. Page 6, lines 18–20: Recommend . . . in equal increments over a period of years as a component of any such remedy . . . be deleted. Since Hawaii was taken in a day by one fell swoop, we believe settlement should be one lump sum.

18. Page 7, lines 21–24(E): Recommend this paragraph be reworded to indicate that no blood quantum be established for eligibility to receive benefits. It is our firm belief that all native Hawaiians should be eligible regardless of blood quantum (to eliminate the discrimination factor). This is based on the fact that we are all "heirs" and we no longer wish to be a divided people because of a foreign practice imposed on those of us who have suffered enough from influences exerted by those who supposedly know what is best for us.

ATTACHMENT 2–1

CRITERIA FOR APPOINTMENT OF HAWAII AND FEDERAL COMMISSIONERS

Hawaii Commissioners. We propose that appointment of these commissioners be accomplished by an elective process conducted by the 'He Hawaii Au' people ('I am Hawaii' or those having native aboriginal blood). This process will be accomplished in the following five phases:

Phase 1.—A Screening/Advisory "Board" will be established.

1. The "Board" will be comprised of designated representatives from approximately 125 'He Hawaii Au' organizations who have published goals and objectives specifically benefiting Hawaiian people. It will also include individuals not belonging to any organization but one who is able to obtain valid supporter signatures from other 'He Hawaii Au' people.

Phase 2.—The primary function of the "Board" is to select names of 'He Hawaii Au' people who will be elected to serve on a nomination committee.

1. The "Board" will insure that selection of prospective nomination committee nominees must come from all segments of the 'He Hawaii Au' community.

2. Qualified 'He Hawaii Au' nomination committee nominees will be determined by self declaration. Questionable nominees will be reviewed by the "Board".

3. Prospective nomination committee nominees will submit a resume and photograph to the "Board" which are to be made available to registered 'He Hawaii Au' voters.

4. A ballot containing two nominees each from Hawaii, Kauai, Lanai, Maui, Molokai, Niihau, Oahu and two "at-large" nominees from out of state will simultaneously be made available to registered 'He Hawaii Au' voters.

NOTE: The "Board" will also serve in an advisory capacity to the elected nomination committee. It will also serve as a monitoring body to the elected commissioners which means that the "Board" will remain in existence throughout the life of the study commission.

Phase 3.—A *Primary Election* will be conducted to elect a nomination committee comprised of 16 'He Hawaii Au' members.

ATTACHMENT 2–2

1. Only registered 'He Hawaii Au' voters will be permitted to participate in the nomination committee election process. Out of state 'He Hawaii Au' members will be encouraged to register and vote for a nominee of their choice.

2. Elected nomination committee members must agree to eliminate themselves from being elected to serve as a commissioner.

3. The "Board" will publish results of the election following a deadline date of vote submissions.

Phase 4.—Once elected, the nomination committee will select names of 'He Hawaii Au' people who will be elected to serve as commissioners.

1. The nomination committee will insure that selection of prospective commissioners must come from all segments of the 'He Hawaii Au' community.

2. Qualified 'He Hawaii Au' commissioner nominees will be determined by self declaration. Questionable nominees will be reviewed by the nomination committee.

3. Prospective commissioner nominees will submit a resume and photograph to the nomination committee which are to be made available to registered 'He Hawaii Au' voters.

4. Each prospective commissioner will be required to provide a history of their involvement relative to 'He Hawaii Au' issues or programs and have had demonstrated a legitimate interest in advancement of 'He Hawaii Au' people.

5. Each candidate will publicly campaign showing reasons as to why the candidate should be elected. Presentations should include how the candidate can help determine proper 'He Hawaii Au' claims.

Phase 5.—Finally, a General Election will be conducted to elect commissioners.

1. Only registered 'He Hawaii Au' voters will be permitted to participate in the commissioners election process. Out of state 'He Hawaii Au' members will be encouraged to register and vote for commissioner nominees of their choice.

2. The nomination committee will publish results of the election following a deadline date of vote submissions.

ATTACHMENT 2–3

MISCELLANEOUS

1. The nomination committee election and commissioner election processes will be supervised by a recognized and qualified election oriented body.

2. All administrative duties and responsibilities will be performed by paid 'He Hawaii Au' workers who must agree to eliminate themselves from being elected to serve as a nomination committee member or study commission member.

3. In compliance with Congressional statutes, acceptable representatives from the Department of Interior (including United Nations, Indian Nations, and Alaska) will be invited to monitor both election processes to insure for correctness of form, accuracy and justice.

4. An adequate budget of expenses not to exceed four million dollars will be submitted to the Department of Interior so that all proposed processes can be accomplished.

5. Names of elected commissioners will be submitted to the Governor for forwarding to the President who will make the appointments of Hawaii commissioners.

Federal Commissioners.—This category deals with acceptable appointments by the President of seven federal commissioners who are to accomplish the desired objectives "For" the 'He Hawaii Au' people. We propose that Presidential appointments of federal commissioners be based on the following guidelines:

1. Each prospective appointee must provide a voting record which demonstrates favorable actions towards native American problems.

2. Each prospective appointee must show evidence that the appointee was involved in native American issues dealing with their own constituency.

3. Each prospective appointee must illustrate their familiarity with native American problems.

4. Each prospective appointee must submit a declaration of intent as to objectives sought as a commissioner.

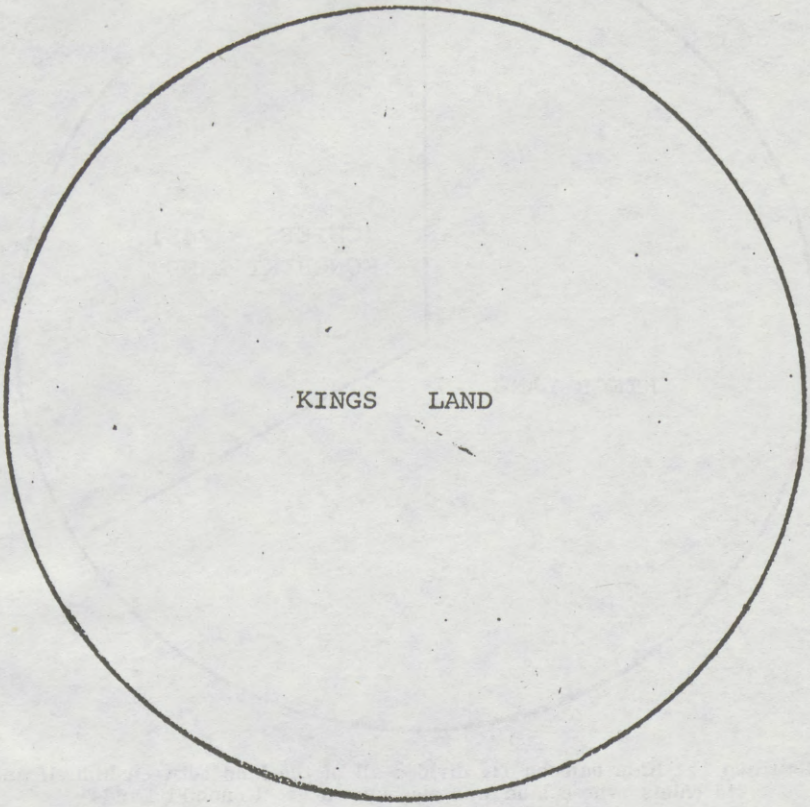
ATTACHMENT 2–4

5. Due to the importance of obtaining a fair and honorable adjudication, we request that three representatives from the United Nations, Indian Nations, and Alaska be part of this federal commissioner appointments.

6. Due to the sensitivity of appointing suitable and qualified federal and other commissioners, the 'He Hawaii Au' Nation reserves the right to reject any federal appointee who is considered un-acceptable.

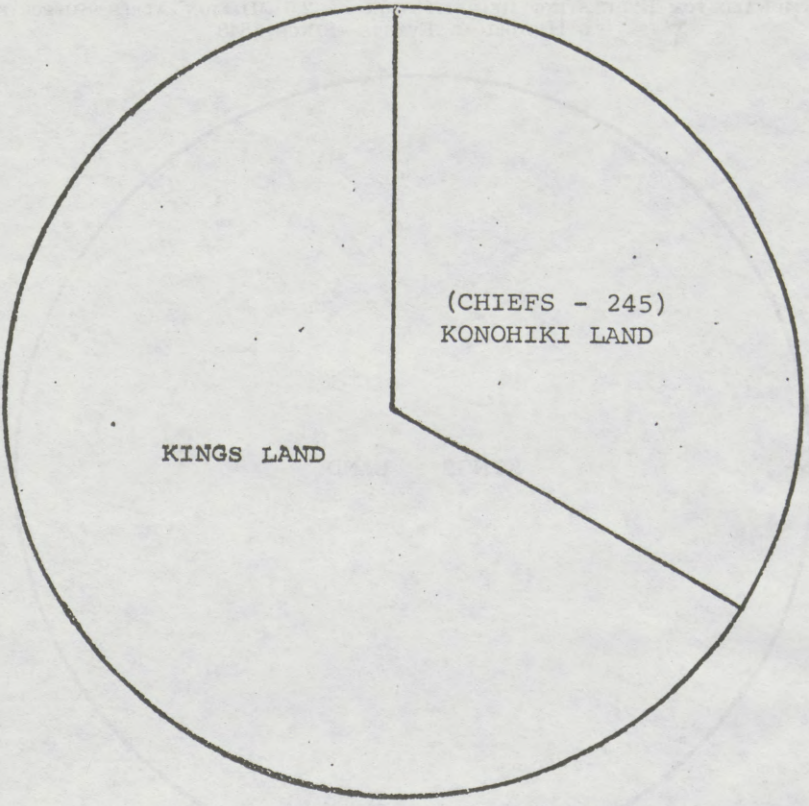
ATTACHMENT 3–1

RATIONALE FOR REQUESTING REINSTITUTION OF 2.5 MILLION ACRES SUPPORTED BY HISTORICAL EVENTS—SINCE 1848



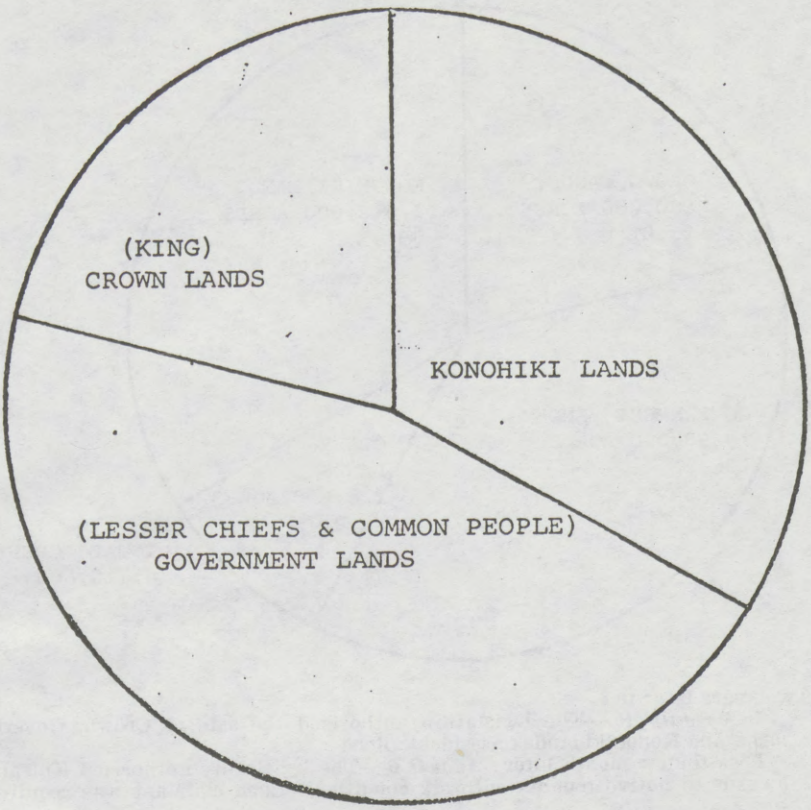
Introduction: Imagine that this pie shaped circle represents the total land area in Hawaii amounting to approximately 4.1 million acres (4,110,600)

ATTACHMENT 3–2



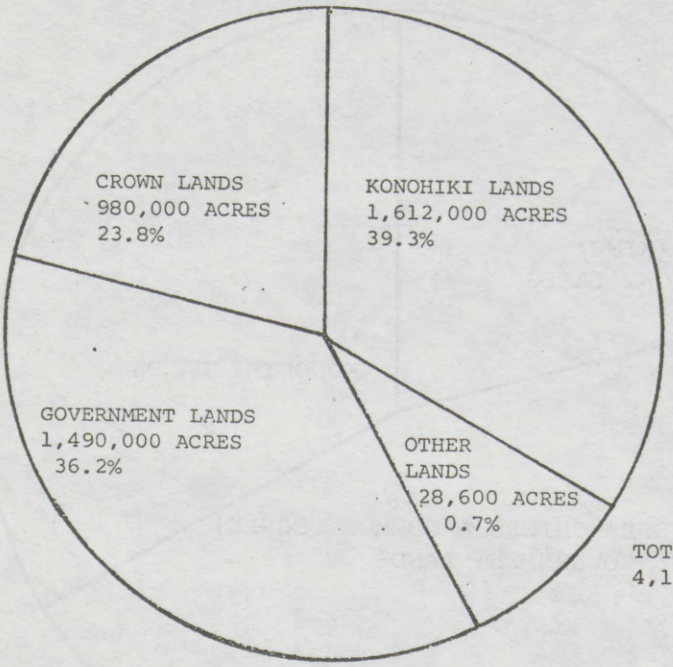
1848 (Step 1) : Kamehameha III divided all of the land between himself and 245 chiefs, whose land was also known as "Konohiki Lands"

ATTACHMENT 3-3



1848 (Step 2): Subsquently, Kamehameha III subdivided his lands into two portions. He declared his private lands as "Crown lands" for himself, his heirs and successors. The other portion was awarded to lesser chiefs and common people of his kingdom. This portion became known as "Government lands." The king administered Crown lands through an agent who sold or leased Crown lands. Sale of Crown lands were documented as Kamehameha deeds

ATTACHMENT 3–4



Two years later in:

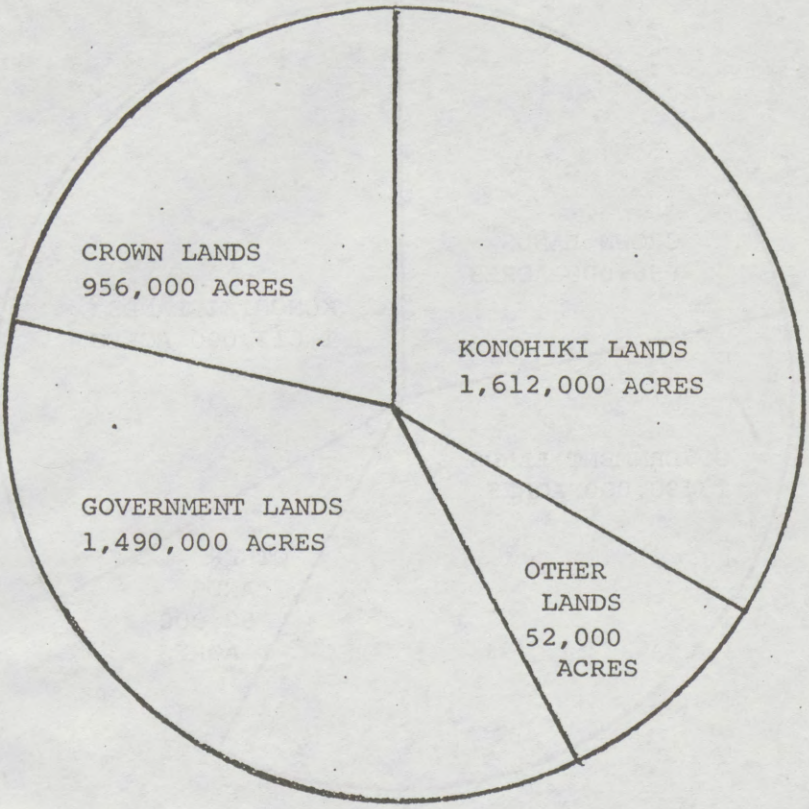
1850: *July 10.*—The legislature authorized the sale of Crown, Government, and Konohiki lands to resident aliens

Less than a month later: *August 6.*—The legislature authorized Kuleana awards to native tenants with six conditions. Each claimant was required to:

1. Provide evidence of cultivation of the land for subsistence only.
2. File a written application.
3. Support his claim with two witnesses.
4. Have no counter claims by others.
5. Pay for land commutation, and
6. Receive final issuance of a "Royal patent" by the Ministry of Interior.*

*NOTE: A total of 13,514 Kuleana claims were filed but only 9,337 were actually awarded by the Land Commission appointed by Kamehameha III in 1845. A total of 4,177 claims were denied.

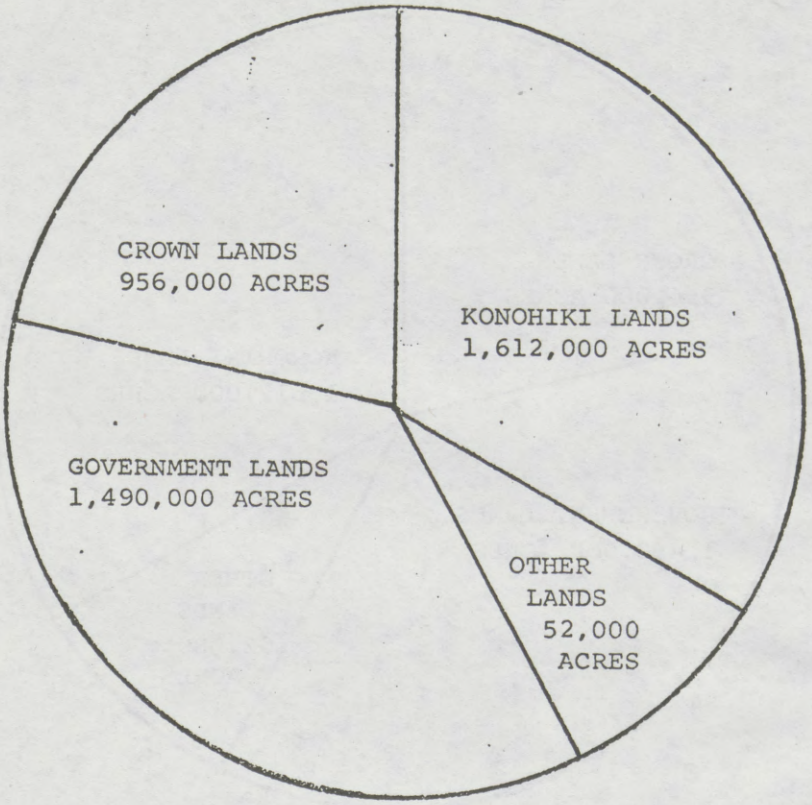
ATTACHMENT 3–5



32 years later in:

1882: The legislature authorized the conveyance of 24,000 acres of Crown lands in Wailuku to Claus Spreckels on condition that he relinquish all claims on the remainder of the Crown lands. His claim was based on his payment of $10,000 to Princess Ruth Keelikolani in 1880 for her alleged but unfounded "Right, title and interest in and to Crown lands". The conveyance reduced the Crown lands to 956,000 acres.

ATTACHMENT 3–6

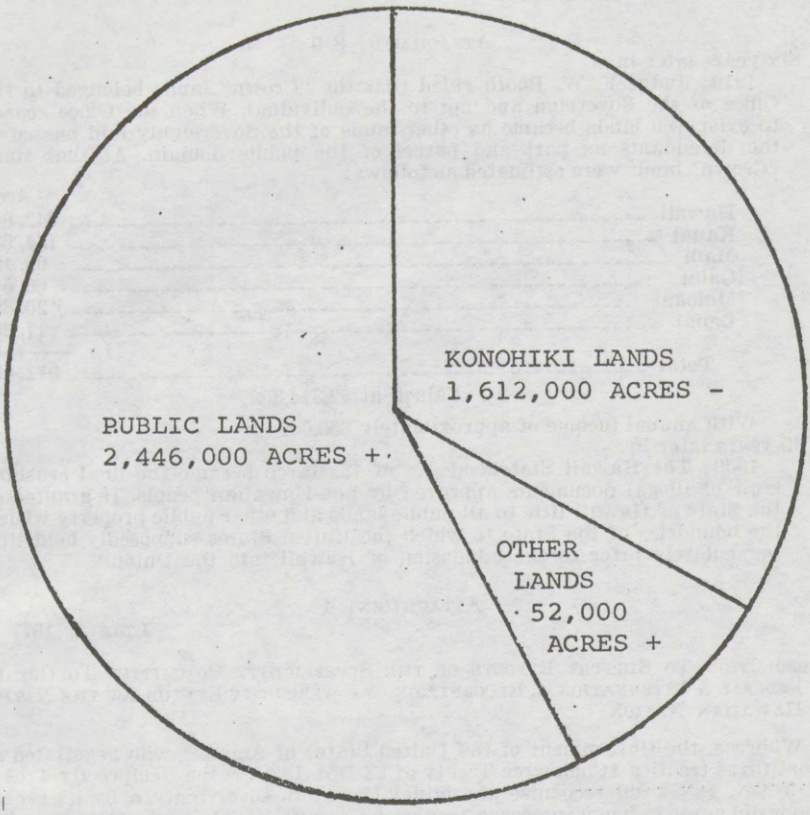


11 years later in:

1893: Queen Liliuokalani was dethroned and was succeeded by a provisional government. The Crown lands continued to be administered by a three member board of commissioners created by the legislature in 1865. The Government lands were administered by the Ministry of Interior. The estimated **Crown and Government land area totaled approximately 2,446,000 acres.**

NOTE: Records indicate that some of the unclaimed "Konohiki" lands were returned to "Crown" or "Government" lands which increased the combined "Crown" and "Government" area to approximately 2.5 million acres.

ATTACHMENT 3–7



Two years later in:

1895: The Republic of Hawaii constitution declared that "Crown" and "Government" lands would be merged and collectively designated as "Public lands", amounting to approximately 2,446,000 acres worth approximately $6 million.

ATTACHMENT 3–8

Three years later in:

1898: The treaty of annexation (approved by joint resolution) declared that the Republic of Hawaii cedes and transfers to the United States all "Public" (formerly "Crown" and "Government") lands. This was the initial document, approved by the U.S. Congress, which illegally took the 2.5 million acres that should be returned to the native Hawaiian Nation.

Two years later in.

1900: The U.S. Congress Organic Act for the territory of Hawaii created the position of a Commissioner of Public Lands and provided that . . . "The public property ceded to the United States by the Republic of Hawaii shall remain in the possession, use and control of the territory of Hawaii, until otherwise provided for by Congress, the President, or the Governor of Hawaii. We do not recognize this non-Hawaiian approved act as a legal document either, based on the nonpayment for taken lands.

Four years later in:

1904: Queen Liliuokalani brought suit in the U.S. Court of Claims, claiming the right of income from the "Crown" lands during her life. She asked for a $10 million settlement.

ATTACHMENT 3–9

Six years later in:

1910: Judge F. W. Booth ruled that the "Crown" lands belonged to the Office of the Sovereign and not to the individual. When the Office ceased to exist, the lands became as other lands of the Sovereignty and passed to the defendants as part and parcel of the public domain. At that time, "Crown" lands were estimated as follows:

	Acres
Hawaii	642, 852
Kauai	154, 636
Maui	69, 121
Oahu	66, 593
Molokai	20, 892
Lanai	17, 369
Total	971, 463

Valued at $2,314,352

With annual income of approximately $50,000.

49 years later in:

1959: The Hawaii Statehood Act of 18 March became the final crushing blow of illegal documents approved by non-Hawaiian people. It granted to the State of Hawaii title to all public lands and other public property within the boundries of the State to which the United States supposedly held title immediately prior to the admission of Hawaii into the Union.

ATTACHMENT 4

JUNE 4, 1977.

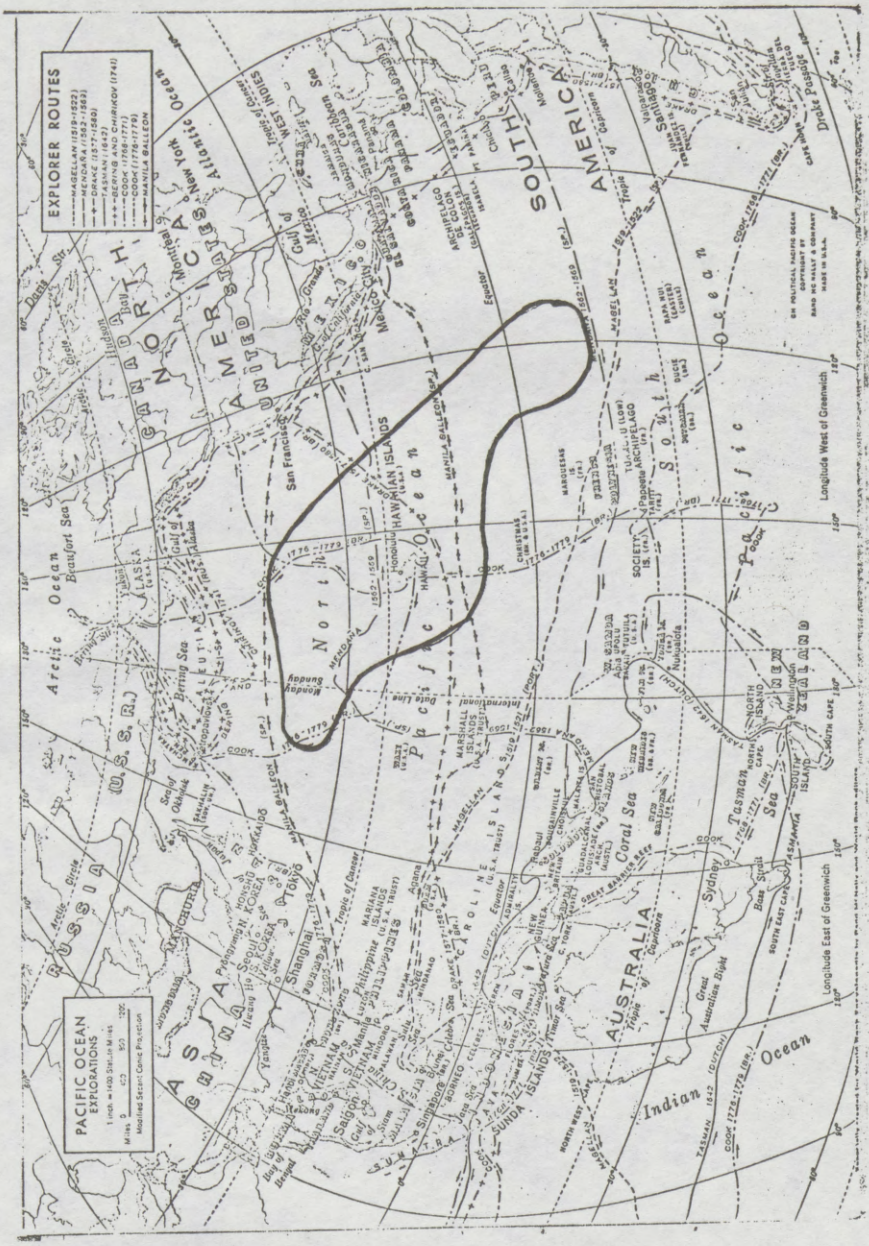
RESOLUTION TO SUPPORT EFFORTS OF THE SOVEREIGNITY COMMITTEE TO OBTAIN FEDERAL & INTERNATIONAL RECOGNITION OF SOVEREIGNTY STATUS FOR THE NATIVE HAWAIIAN NATION

Whereas, the Government of the United States of America who negotiated at least three treaties (Commerce Treaty of 23 Dec. 1826; & the Reciprocity Treaty of 9 Nov. 1887) did recognize aboriginal Hawaiian sovereignty & by its sacred honor did agree to honor, preserve, protect & guarantee to the sovereign Hawaiian nation those inherent sovereign rights & power of self government & self determination afforded every sovereign nation of the world including: the power to make laws; the power to impose and enforce laws; the power to define and regulate the use of its territory; the power to determine membership or citizenship; the power to regulate trade within its borders, among its members and between its members and those of other nations; the power to impose and collect taxes; the power to appropriate monies; the power to regulate domestic relations (including marriage, divorce, adoption); the power to regulate property; the power to establish a monetary system; the power to form alliances with foreign nations through treaties, contracts and agreements; & the power to make war and peace &

Whereas the Government of the United States of America did accept an obligation to assure a trust responsibility to honor, enforce, preserve, protect, & guarantee without interference the inherent sovereign rights & powers of self government to the recognized & specified aboriginal Hawaiian nation: Therefore, be it

Resolved, That the Aloha Association ask the Government of the United States of America & the United Nations to "recognize" & "honor" the sovereignty & rights of the aboriginal Hawaiian nation & honor the inherent sovereign status of the aboriginal Hawaiian nation which appears to have been terminated as a result of the 1893 illegal overthrow of the constitutional government established by the sovereign Hawaiian nation.

ATTACHMENT 5



Senator MATSUNAGA. We are already 15 minutes overtime. I thank you for your participation. The hearing is now recessed until tomorrow, when the joint committee will convene in Maui.

[Whereupon, at 4:45 p.m., the hearing was recessed, to reconvene, July 7, 1977, at Wailuku, Maui.]

98-830 O - 78 - 16

HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION

THURSDAY, JULY 7, 1977

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES,
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS AND PUBLIC LANDS,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Wailuku, Maui, Hawaii.

The subcommittees met, pursuant to notice, at 10:30 a.m., in Wailuku, Maui, Hawaii, Hon. Spark M. Matsunaga presiding.

Present: Senators Matsunaga, Abourezk, Inouye, and Representative Akaka.

Also present: Steven P. Quarles, counsel.

OPENING STATEMENT OF HON. SPARK M. MATSUNAGA, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator MATSUNAGA. The joint meeting of the Committee on Energy and Natural Resources of the U.S. Senate and the Committee on Interior and Insular Affairs of the U.S. House of Representatives will come to order.

As you know, today we are continuing 2 days of hearings here in Hawaii on 2 identical joint resolutions of the greatest importance to Hawaii. Senate Joint Resolution 4, introduced in the Senate by Hawai's two Senators, and House Joint Resolution 526, introduced in the House by Hawaii's two Congressmen, provide for establishing a Hawaiian Native Claims Settlement Study Commission.

Yesterday in Honolulu the committee held lengthy hearings on these 2 bills. We started at 9:30 a.m. and went on until 5:30 p.m., 1½ hours later than scheduled because there were many who had not indicated earlier that they would want to testify and who showed up at the hearing and requested that they be put on the witness list.

I would suggest to those who wish to testify and who have not yet indicated their desire to testify, to get hold of either Barbara Sakamoto or Ed Case.

If you wish to do so, please indicate your desire to testify. We would like to give every person an opportunity to testify, but time is an element. Some of you may raise the question, as one person did at yesterday's hearing, "Why can't you hold 2 or 3 days of hearings?" What we are trying to do is to expedite the matter. As a matter of fact, as a member of the Energy and Natural Resources Committee of the Senate, which has jurisdiction over this matter, I thought of pro-

ceeding without any hearings this year, taking the record of the two previous hearings held here in Hawaii. As you know, in 1975 I was out here with Congressman Lloyd Meeds to conduct 6 days of hearings on my Hawaiian native claims bill, at which time many of you whom I see in the audience testified.

And, last year, Senator Inouye brought Senator Bennett Johnston, a member of the Energy Committee, to Hawaii to hold 3 days of hearings on his bill which was nearly identical to the bills this committee is considering. Because none at those hearings were held on Maui, Senator Inouye promised that if hearings were held this Congress, they would be held on Maui, I accepted to his wishes that we hold hearings not only in Honolulu, but on Maui, so that at least he could keep his promise.

I am happy to see so many of you here this morning, this being a work day. We didn't wish to really impose on you, but I am certainly glad to see that so many of you were interested enough in this vital matter to attend.

Serving as cochairman of this joint committee is Hawaii's own Daniel K. Akaka, sitting to my left. He was designated by the chairman of the House Interior and Insular Affairs Committee, Morris Udall, to represent that committee at these joint hearings. And, of course, we are fortunate to have as an ad hoc member of this committee, our senior Senator from Hawaii, Hon. Daniel K. Inouye.

We are also very fortunate to have with us a member of the Energy and Natural Resources Committee of the Senate, Hon. James Abourezk of South Dakota, who sits to the extreme left.

I might say something about Senator Abourezk. He has long been a champion of native Americans, and the foremost advocate of their needs in the Senate. In recognition of his dedication to the cause of native Americans, he was recently named chairman of the Senate Select Committee on Indian Affairs, a special committee for the American Indians and native Americans. So, he is indeed a special person to have with us, and we know that he will be able to contribute a lot to these joint hearings and to the effort to get the joint resolutions passed in Congress.

Again, we are making every effort to expedite these hearings. We all know that the record is already established that the cause is just. It's a matter of getting it to the floors of the Senate and the House. That's how optimistic we are about this matter.

I would like now to call upon our cochairman for his opening statement.

STATEMENT OF HON. DANIEL K. AKAKA, A U.S. REPRESENTATIVE FROM THE STATE OF HAWAII

Congressman AKAKA. Thank you very much, Senator Matsunaga, my colleagues here and citizens of Maui County. Aloha.

I am very pleased to be here on Maui today to continue our hearings on legislation which will establish the Hawaiian Native Claims Settlement Commission. From listening to the witnesses who testified yesterday at McKinley High School in Honolulu, it is highly evident that the issue of the Native Hawaiian claims is a vital one to the people of Hawaii.

It is my strong feeling that Senate Joint Resolution 4 and House Joint Resolution 526 will provide the means to redress some of the wrongs committed when the government of Queen Liliuokalani was overthrown in 1893. The establishment of the Hawaiian Native Claims Settlement Commission would reflect the proper attention and priority given this matter by both the Congress and the people of Hawaii.

As many of you know, Senate Joint Resolution 4 and House Joint Resolution 526 will establish a commission to conduct an in-depth examination of Native Hawaiian claims, and report back to the Congress within 1 year its recommendations for remedial legislation. These measures will mandate that the Commission will be composed of 11 members appointed by the President, of whom 6 shall be from a list of not less than 12 names submitted by the Governor of Hawaii. Representatives from Hawaii, Honolulu, Kauai, and Maui counties will serve on the Commission. We hope you will express your feelings about the Commission.

As I mentioned yesterday, I have a strong hope that the legislation we will be discussing today will be enacted into law. I am particularly encouraged by the fact that the chairman of the House Interior and Insular Affairs Committee, Morris Udall, as well as the chairman of the Subcommittee on Indian Affairs, Teno Roncalio, have personally selected me to represent the interests of the Interior Committee here this week. I intend to pursue this matter to the fullest extent and make every effort possible to demonstrate the importance of Native Hawaiian claims to my colleagues in the House of Representatives.

Through the hearings today in Maui, and by working with my colleagues in the Senate, I have high hopes that this legislation will be passed by the Congress and the issue of Native Hawaiian claims will receive the priority it deserves.

Thank you very much.

Senator MATSUNAGA. Senator Abourezk, we would be happy to hear from you with your opening statement.

STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. Very briefly, I want to express my thanks to Senator Inouye and Matsunage, and Congressman Dan Akaka for the invitation to come here. As Sparky said, I have long had an interest in American Indian Affairs and this is my first exposure to aboriginal Hawaiians. I find a lot of similarities in the nature of the claims, which I deal with; American Indian Claims, a great deal on the mainland. And, there is a great deal of similarity and I would be interested in hearing the views expressed by the people on Maui.

Very honestly, after listening to testimony yesterday, there seemed to be a great deal of division amongst the witnesses who testified as to the correct approach to take. I would be interested in hearing the views of the witnesses today as to what you believe is the right way to do it.

I am in support of this resolution. I think it is one good approach and that is not to say that it is the only approach, but it's I think perhaps, the best one that your Congressional delegation has been able to come up with. And, it's the one that I think is a good way to go. If anybody has different ideas, I would be very happy to hear them.

I want to thank, once again, Senator Matsunaga and the other members of the delegation.

Senator MATSUNAGA. Thank you, Senator Abourezk.

Now, we are privileged to have an opening statement from Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUYE, A U.S. SENATOR FROM THE STATE OF HAWAII

Senator INOUYE. Thank you very much, Congressman Akaka and Senator Matsunaga.

The resolution which is the subject of these hearings achieves three goals. First, it will provide a clear statement by the Congress of the United States that a wrong has been committed by representatives of the U.S. Government against the Hawaiian people.

Second, it will clearly set forth that that wrong has never been redressed.

Third, it will provide a vehicle, the Hawaiian Native Land Claims Settlement Commission, which will recommend the extent of the Federal obligation which is outstanding and the means by which that obligation can be met.

Mr. Chairman, for very tragic historical reasons, some of our Hawaiian native people are understandably suspicious of placing their trust in the Federal Government for a righting of the wrongs which have been done against them as a people. The record to date has been far from impressive. But I am convinced that the cause is right and the Members of Congress will respond once the issue has been brought fully to their attention in an appropriate and rational manner.

Since last year's hearings the issue of Kahoolawe has reached new and increasingly pressing dimensions as an important part of the claims of the Hawaiian people against the Federal Government. The continued use of that island as a bombing range by the Navy is but a part of that claim albeit an important and highly emotional one.

The undertandably strong sentiments of many Hawaiian people about that island has resulted in some violating the law and, most tragically, in the death of others. It is my fervent hope that the Commission, envisioned in the legislative measure considered here today, can serve as a vehicle for addressing the issue of Kahoolawe in a peaceful and productive manner as an important aspect of the overall problem.

I know that the witness this morning and this afternoon will establish the historical record in the course of these hearings. I think that record is clear and will fully support that position taken by President Grover Cleveland in his message to the Congress on December 18, 1893 when he refused to send the annexation agreement up for ratification. I know that we have heard this message many times, but I think it is worthy of repeating.

In that message, the President said:

> Thus it appears that Hawaii was taken possession of by the United States forces without the consent or the wish of the government of the islands, or of anybody else so far as shown, except the United States Minister.
>
> It has been the boast 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 national 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.

This is what the President said.

Previous efforts to repair that wrong have been futile. It is my fervent hope that the time is right; that the Congress will now respond affirmatively and provide that just measure of reparations which is the Hawaiian's due. I stand ready to be of help and I appreciate the interest which is being demonstrated by the presence of so many witnesses today.

Thank you, Mr. Chairman.

Senator MATSUNAGA. Thank you very much, Senator Inouye.

Seated on my right is our counsel to the joint committee, Mr. Steven Quarles.

Before I call upon the first witness, I would like at this time to call upon Mr. John Kalakanapuna to give the opening prayer.

[Whereupon, a prayer was given in Hawaiian by Mr. John Kalakanapuna.]

Senator MATSUNAGA. Thank you very much, Mr. Kalakanapuna.

Mr. Charles K. Maxwell will now make his presentation.

Mr. MAXWELL. Mr. Chairman, before we begin, I would like to call upon Richard Hoopii and Nina Maxwell to perform the song "Kalananapua" which was written in 1893, and this, Mr. Chairman, I would like to add to the record of this testimony as the words and testimony of the people in 1893.

[Whereupon, a song was sung by Richard Hoopii and a hula performed by Nina Maxwell.]

STATEMENT OF CHARLES KAULUWEHI MAXWELL, PRESIDENT, MAUI CHAPTER, ALOHA ASSOCIATION AND BOARD OF DIRECTORS OF THE STATE ALOHA ASSOCIATION

Mr. MAXWELL. Senator Spark Matsunaga, Senator Dan Inouye, Senator Abourezk, Congressman Dan Akaka and other honored guests, I would like to welcome you to this island of Maui.

I am especially happy to see that this committee came here to Maui because the last committee that came to Hawaii on this Senate joint resolution, could not make it here to Maui.

I am Charles Kauluwehi Maxwell, a resident of Pukalani, born in Napili, a district of Lahaina, and the president of the Maui Chapter of the ALOHA Association and a board of director of the State ALOHA Association. I am five-eighths Native Hawaiian and the rest is of halole blood. And, for you, Senator, that means white.

The remarks that I make do not necessarily reflect the offices that I hold or my members.

First of all, I would like to say that I am in support of Senate Joint Resolution No. 4, with some strong concerns. The only reason I am

supporting the Senate Joint Resolution No. 4 is because I was told by Senator Matsunaga that this is the only way the Native Hawaiian people of Hawaii will succeed in having the United States of America admit to the wrongs that were perpetrated against our loving Queen Liliuokalani. Also, by passage of this resolution, the Hawaiian native people will eventually realize some kind of reparations.

One of the major concerns of this resolution is that once this proposed Commission is formed, they will make a report to Congress and the President after 1 year. If the report is not favorable to the Hawaiian native people, there is nothing that we would be able to do about it.

If the report from the Commission, which is sanctioned by the House and the Senate, says that as an example, we Native Hawaiians should receive a small amount of money for education purposes and a small portion of land to build a cultural center, then this is what we are going to get. This report would stifle any attempts by the Native Hawaiians to seek larger reparations.

I would like to express my deep-rooted feelings to this honorable committee and maybe then you can understand why we feel the way we do.

We are direct descendants of the Ka Poe Kahiku, the "People of Old." Our lives would be considered simple in the haole's eyes. We lived close to nature, the land and the sea were gifts from our gods. The land was a gift for us to live on and not to destroy. The sea was the maau of our being, the source of our life.

When the white men came to our lands, we welcomed them with open arms and provided for their needs. We treated these people like brothers and sisters. We were only following our nature as being kind, loving people, sharing with everyone. The word share is when you give something to someone and retain some for yourself. Let us be realistic in analyzing this plight of the native Hawaiian people. Because our ancestors had the so-called Aloha Spirit, and shared their land, culture and Hawaiianes, we, the present-day Hawaiian, suffer from what is called the three P's—poverty, prison, and loss of pride.

The same people that we shared with does not know what the word means. They use our land to make more riches, they use our culture to attract more people to stay in their hotels and condominiums, and use the Native Hawaiians to entertain them while they stay here, to make their stay pleasant. We do not own the land, nor enjoy profits of these buildings, and are not even qualified to get top-paying jobs in their establishments. In sharing with them, we even gave them the right to pollute our ocean, the most valued treasure that was handed down to us by our ancestors. We native Hawaiians should go around wearing signs saying "We gave."

Honorable members of this committee, express to your fellow colleagues in Washington the plight of our people. Tell them that we have waited 84 years for justice to be done. Tell them that we are tired of waiting for justice from this great Nation which purports to live by justice and equality. Tell them also of the great unrest that has begun with the Hawaiian native people. How our people are protesting and demonstrating their native rights over Kahoolawe, the Hawaiian Homes Act and other issues involving Hawaiian native rights.

They have been shown, through the Indian movement and the black movement, that the only way to accomplish a goal such as ours, is to demonstrate and make the world aware of our problems.

Tell them how we feel like strangers in our own Hawaii Nei. Ask them to make us feel proud that we are Americans, as I am now very proud to be a Mau'li Hawaii, a blooded Hawaiian.

Thank you for listening to me, Mahaloa nui loa kakoa. [Applause.]

Senator MATSUNAGA. Thank you very much, Charlie. If you will stay there, we have some questions which members of the panel may wish to put to you, but let me say this in response to some of those statements which you made. Really, under the provisions of the resolutions, nothing could stifle, as you say, attempts by Native Hawaiians to seek larger reparations. This same fear was expressed by other witnesses yesterday. I might say for your information that the first Native Claims Act which was introduced for the Alaskan Natives provided for only 10 million acres as a settlement. That passed the Senate, and it was not until the Alaskans, themselves, formed a lobbying group and went down to Washington and lobbied very strenuously and very appealingly, that the land reparations were raised to 40 million acres. This is the largest reparation ever made to any minority group.

Similarly, if the Commission makes a recommendation, the Congress will not necessarily accept it. The Congress can modify it and pass it. Or, it could reject the recommendations completely.

So that what we propose to do in both Joint Resolution 4 and House Joint Resolution 526 is to provide for a Commission, which will then hold public hearings to determine what the actual damages were, what reparations should be made, and in what form, monetary-wise, land-wise, or other means. And, as you know, the resolutions provide for a majority of the Commission members to be aboriginal Hawaiians, so that they would have an input into what the recommendations would be. For that reason, I strongly recommend to you, Charlie, and to the members of the ALOHA Association when you were gathered on Kauai last month in the State convention, that you endorse this means of seeking reparations.

I am confident and very optimistic that as a consequence of the hearings we have held in Hawaii, as a consequence of the effort on the part of the Hawaii congressional delegation and of Members of Congress such as Senator Abourezk who look sympathetically upon your cause, we will be able to accomplish this first major step toward obtaining reparations.

I do hope that you and the ALOHA Association will continue to support the bill despite your reservations. I myself, in looking through the resolution, have certain reservations, but we introduced that resolution because it was the one which was adopted unanimously last year by the Senate Interior Committee, which had held the hearings in Hawaii.

Before I go further, I want to congratulate you and Richard Hoopii and Mrs. Maxwell for the wonderful performance that you put on. Sometimes you can say it better in dances.

Mr. MAXWELL. Mr. Chairman, I don't know if you got the whole meaning of what I was getting after, but, from what I understand, the Alaskans got $10 million as a proposal, yes, in the form of a bill, but what I am saying is——

Senator MATSUNAGA. That's 10 million acres of land.

Mr. MAXWELL. Ten million acres of land.

Senator MATSUNAGA. Forty million, as passed by Congress.

Mr. MAXWELL. It was'nt a joint resolution, Senator, was it?

Senator MATSUNAGA. It was a joint resolution, yes.

Mr. MAXWELL. A proposal for a joint resolution. What I am saying here is that——

Senator MATSUNAGA. A commission on the Alaskan native claims issue was created by a joint resolution. Its final report consisted of 600 pages, and it was this document of 600 pages which led to convincing the Congress that the Native Alaskans did have a just cause.

Similarly, we hope that as a consequence of the hearings held by the Commission, and as a consequence of the report by the Commission which Senate Joint Resolution 4 and the House Joint Resolution 526 will create, that the Congress will be convinced and pass reparations legislation for native Americans.

Mr. MAXWELL. Senator, all I wanted to say is that you are aware of the fact that the only reason why the Eskimos got their 40 million acres and almost $1 billion was because of the oil. Whether it was just or unjust, they would probably get what the Commission had proposed. However, I am saying here if we had oil in Hawaii, Senator, we—you would have to have hearings on our other bill that's in Congress. But, we have no oil here. So, I am saying the fear is that if this gets in, where do we have our influence to get another reparations bill in. That's all I am saying. It's hard.

Thank you Senator.

Senator MATSUNAGA. Any questions?

Senator ABOUREZK. Is what you are saying, Charlie, that the section putting a lid, not a lid, but extinguishing all future claims should be taken out of this bill?

Mr. MAXWELL. Right. You see, myself, personally, as an individual would extinguish the right that I don't want to rule myself, but if, like I said, this Commission comes up—which is sanctioned by both Houses, reports back to you that we should have a little reparations and not even enough to spread around, then how are we, as Hawaiian people, not having proper representation in Congress, to get future reparations? This is what I am saying. This could ruin us forever.

Senator MATSUNAGA. I might also point out, Charlie, that I know which provision you are referring to. It's on page 8, line 9, where it says:

> Any such recommendations shall, to the extent possible, be designed to insure that any such remedy will be a final settlement, which extinguishes all claims of Hawaiian Natives against the United States arising from the actions set forth in the preamble of this resolution.

This does not mean that whatever recommendations of the Commission the Congress might enact will be final. Even the Alaskan claims are now being renegotiated for further reparations. The history of this country has been that whenever justification could be shown for additional reparations, we have done it either through legislation or through the courts.

We have, I think, the most equitable government in the history of mankind. And, I might say this also, that I, for one, voted for the Alaska Native Claims Act, but, not because there was oil there, but because I knew that the claims were just. I was not guided by the pros-

pects of oil up there. And, I am sure Senator Abourezk who voted for it, as I did, and Senator Inouye who voted for it, as I did, were not guided by the oil interests in Alaska.

So, I think, Charlie, I know deep down you have a little more faith in mankind than——

Mr. MAXWELL. Well, if I don't have to wait another 84 years, Senator. [Laughter.]

Senator MATSUNAGA. Thank you.

Our next witness represents Maui County. Mayor Elmer Cravalho. The mayor expressed his inability to testify before this committee, but we have Mr. Paul R. Mancini testifying in the mayor's behalf.

You have your hand up. Is it Mr. Walter Ritte?

Mr. RITTE. Senator, I was wondering if we are going to have an opportunity to clear up a few questions we have about——

Senator MATSUNAGA. Oh, yes. After we have—I believe you will be testifying.

Mr. RITTE. Yes, before we testify, just a few questions so we can better understand the resolution itself. It is kind of a confusing thing for us. There's a few questions that we have concerning it. Not many, but a few.

Senator MATSUNAGA. We have a rather lengthy list of witnesses. If you have any particular questions, I would be happy to have the counsel go out into the hall with you to explain the specific provisions. But, I suppose as the witnesses do come up to the witness stand, if they have any specific questions they may raise such questions. But, our counsel, who is very familiar with the resolution, Mr. Quarles, will be happy to answer questions for you out in the hallway. Senator Abourezk is out there also, and, he would be happy to help. He is out there because he has to have his cigar once in a while.

We would be happy to hear from you, Mr. Mancini.

STATEMENT OF PAUL MANCINI, CORPORATION COUNSEL, ON BEHALF OF MAUI COUNTY MAYOR ELMER CRAVALHO

Mr. MANCINI. Mr. Chairman, committee members, my name is Paul Mancini and I am corporation counsel of the County of Maui and I am speaking in behalf of Mayor Cravalho today.

Although on behalf of the County of Maui, we come before you today to ask our Congress to right some wrongs, to ask for some empathy for our people of Hawaii and to reflect upon some of Hawaii's past, we cannot in true conscience, indicate that we are totally happy to support the resolution under consideration.

Senate Joint Resolution No. 4 proposes to recognize the validity of claims against the United States by Native Hawaiians based upon the actions of the United States in 1893; and further, it seeks to establish a commission to conduct a study of the nature of the wrongs committed against and the extent of the injpries to Native Hawaiians by reasons of those activities. The Commission is required to report back to Congress within 1 year with regard to its recommendations for reparation legislation.

Our dismay and our concern develops each time the Federal Government or any government looks to conduct a study on matters which have been studied and studied and studied. I think our Native Hawaiian people have been studied just about to death and further studies

will bring no relevant knowledge, insight or revelation; but merely add to delay and frustration in the path that we seek toward justice.

I am sure you will recall June 27, 1974, when a bill was submitted to the U.S. House of Representatives to provide for the settlement of claims to Native Hawaiians. This bill sought to establish a Hawaiian native fun of $1 million, to be deposited in 10 equal yearly amounts, to be administered by the Secretary of the Interior. It proposed one corporation to be empowered to make distributions from the fund to benefit Native Hawaiians. The board of directors were to be elected by all full-blooded or part-blood Hawaiians. Much of this initial movement did stem from people here on Maui who organized themselves around the ALOHA movement.

The Native Hawaiian's land claims can be compared to the U.S. compensation for lands of North American Indian tribes. Where Indian title to land had been recognized, it had been held that the taking of such land could only be by consent, such as a treaty or by compensation. Despite the words of the fifth amendment of the U.S. Constitution, jurisdiction to hear the claims of the Indian tribes was removed from the U.S. Court of Claims in 1863. Congress had to pass a special jurisdictional act for each Indian claim, until 1946, when Congress adopted the Indian Claims Commission Act. That act vested jurisdiction in the Indians Claims Commission and waived defenses based upon sovereign immunity of the passage of time. More than 300 claims had been presented under that act.

Native Hawaiians do not have standing to present claims under that legislation. It is obvious that Native Hawaiians have not yet received compensation for the treatment they have suffered in the past. It appears clear that uncompensated taking of title to government and crown lands of the United States at the time of annexation can support a compensation claim. In the past, there have been two objections voiced to such a claim. First, some of the lands taken were crown lands, therefore, it is argued that compensation for them should go to the heirs of Queen Liliuokalani. However, the Court of Claims denied compensation to the Queen, partly on the grounds that such lands should not be treated as private property.

Second, much of the land taken by the United States after annexation was returned to the State of Hawaii at the time of statehood. Nevertheless, the Federal Government today retains title to approximately 400,000 acres within the State of Hawaii. Moreover, at the time of statehood, Native Hawaiians comprised only a minority of the citizenship, unlike the majority status at the time of annexation. This delay in exchanging Federal title for State title cost Native Hawaiians the power to control the use of the returned lands.

The 1974 Settlement Act introduced in Congress placed a dollar value on the Native Hawaiian land claim, rather than establishing a claim procedure. Native Hawaiians could thus avoid the issues that have complicated other compensation litigation, for example, the judicial determination of the value of the land at the time of governmental taking. The proposed 1974 act also sought to avoid a premature decision on whether a compensation fund should be distributed per capita to the claimants or used for cooperative development. Funds under such act were to be turned over to the Hawaiian Native Corporation, which was to be empowered to use the funds for either purposes.

The proposed legislation in 1974, while by no means perfect, was a start. It was a focal point upon which consensus could develop, upon which compromise could materialize and upon which hope could be founded. The resolution under consideration may be a step backward, but if it is the only step to be taken, possibly it is necessary.

Compensation to Native Hawaiians serves essentially an ethical rather than a legal issue. Annexation removed from Native Hawaiians the opportunity to assert sovereignty over a homeland.

The Hawaiian Native Claims Settlement Act which was introduced in 1974, sought to allow native Hawaiians to reestablish some degree of cultural autonomy. It is our hope that this is our process today.

We are not in disfavor with the substance of Senate Joint Resolution No. 4, nor with its intent or the legislation it proposes. Our dismay is that Congress seems to be taking a circular process in this path of justice and concentration on the initial legislation introduced in 1974 would seem to serve the purposes of Native Hawaiians more than the proposed study.

The essential theme of Hawaiian history during the past two centuries has been the continual displacement of native Hawaiians from control and ownership of the lands in Hawaii. Recent pressures against Native Hawaiian landholdings are posed by increases in migration and commercial growth. Just as displacement of native Hawaiians was accomplished primarily through manipulation of a legal system, so, too, legal action is necessary to assure Native Hawaiians a future within the State.

Structural changes are also necessary if Native Hawaiians are to fully utilize Bishop Estate Hawaiian-owned lands. One catalyst or change which could be a major award from the United States in compensation for lands taken in the past. But, without a concomitant commitment by the legal system to preserve the land base of the Native Hawaiians, their future on the very island that nurtures their culture is bleak.

On December 18, 1893, in a message to Congress, President Cleveland did report fully and accurately on the legal actions in the past. He stated that "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 a feeble but friendly and confiding people has been overthrown," that "* * * substantial wrong has thus been done with regard to our national character as well as the rights of the injured people." He said, "The United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation."

Such was true in December of 1893 and such is true in July of 1977.

Proposals for the restrictions on immigration; limitations in commercial development; subsidies to the sugar industry and the entire gamut of our social welfare legislation, while necessary for certain sectors of Hawaii's economy and lifestyle, do not address the needs of our Native Hawaiian people today. This is a need for land, a need that was true and real for the American Indians and Eskimos, and a need that is real and basic for our Native Hawaiian people today.

Although a commission to further study the issue of reparations may be procedurally necessary for Congress, it may also carry a connotation to some that it is a tactic of delay or it is justice denied.

Although no one can be certain of the meaning of justice, we all can be certain about the meaning of injustice.

The energy, the faith, the sensitivity and devotion that I think we all bring to this endeavor will be the true monument to our State and our heritage. It will be our monument to justice.

I thank you very much.

Senator MATSUNAGA. Thank you, Mr. Mancini. Any questions?

[No response.]

[Applause].

Senator MATSUNAGA. Our next witness is a councilman from the Maui County Council, the Honorable Abraham Aiona.

STATEMENT OF HON. ABRAHAM AIONA, COUNCILMAN, MAUI COUNTY COUNCIL

Mr. AIONA. Thank you, Senator Matsunaga, Senator Inouye and Representative Daniel Akaka.

I am Councilman Abraham Aiona, representing myself and I also serve on the Maui County Council.

With your permission, Senator Matsunaga, I would like to read from your newsletter which was published on June 22d:

> The purpose of these short hearings, therefore, is to reemphasize to the new administration and to the new members, both of the Energy Committee and of the Senate as a whole, the full and complete support which exists in the Native Hawaiian community and among the people of Hawaii in general, for the enactment of reparations legislation. The more this support is made evident to the Congress, the easier it will be to effect the passage of Joint Resolution No. 4.

I have a very brief prepared statement and I would like to read it with your permission.

Senator MATSUNAGA Please proceed.

Mr. AIONA. I am here to testify on behalf of Senate Joint Resolution No. 4, establishing a Hawaiian Native Land Claims Commission.

I am three-fourths Hawaiian and one-fourth Chinese. My father was a fullblooded Hawaiian who was born on the Island of Hawaii in 1867. My mother was one-half Hawaiian and one-half Chinese and was born on Maui in 1877. Both have passed on.

I am proud to say that the children of their very long marriage, six daughters and two sons, have contributed much to our communities in our own ways. We have been hard working and industrious people and, I believe, have made our marks in life.

Some people would want you to believe that Hawaiians are not too interested in their welfare and well-being. Such is not the case and I would like to dispel that line of thinking by my own example. I am a product of a Hawaiian home, a very strong Christian home believing in a Supreme Being and practicing the Golden Rule. I retired from police service last year after 22 years and 3 months with the Honolulu Police Department, and 6 years and 8 months as Chief of Police of the Maui Police Department, a total of 29 years of public service. Because of my interest and my desire to serve the people, I ran for elective office and was elected to the Maui County Council in 1976, serving a 2-year term.

What I am trying to say is that it takes a hell of a lot of hard work to get what you want to do in life.

I am extremely happy that the resolution provides for the establishment of the Hawaiian Native Claims Settlement Study Commission composed of 11 members appointed by the President, 6 of the blood of natives of the Hawaiian Islands prior to 1778. I am also happy to see that the four counties shall be represented on the Commission by a member of native blood who resides in the country. This will provide for meaningful representation for our people.

I agree with Senator Inouye that these hearings will achieve three goals. And, Senator, I would like to quote what you just mentioned earlier. Maybe this might be redundant, but I think it is clear what the resolution will do.

First, it will provide a clear statement by the Congress that a wrong has been committed by Representatives of the U.S. Government against the Hawaiian people.

Second, it will clearly set forth that that wrong was never redressed.

Third, it will provide a vehicle, the Hawaiian Native Land Claims Settlement Commission, which will recommend the extent of the Federal obligation which is outstanding and the means by which that obligation can be met.

I want to thank you for allowing me to speak on behalf of the resolution and I stand ready to help in my official capacity as a member of the Maui County Council and above all, as a Native Hawaiian.

Mahalo.

I have to get downstairs because we have three committee meetings going and I know my colleagues want to get downstairs, but I certainly appreciate the opportunity to say a few words.

Thank you very much.

Senator MATSUNAGA. Thank you very much.

[Applause.]

Senator MATSUNAGA. Our next witness is the Honorable E. Loy Cluney, councilman, Maui County Council.

STATEMENT OF HON. E. LOY CLUNEY, COUNCILMAN, MAUI COUNTY COUNCIL

Mr. CLUNEY. Thank you very much, Senator Matsunaga, Congressman Akaka and Senator Dan Inouye.

I am pleased to be here this morning. Before I start going any further, I had better tell you my name.

I am E. Loy Cluney, I am a resident of Hoolehua, Molokai, which is part of Maui County and, I am here this morning to support Joint Senate Resolution 4. I don't think there is any doubt in anybody's mind that there has been a wrong. We feel very strongly that it should be corrected.

I think that this is the vehicle by which this wrong can be corrected. Also, I would like to mention that I am one-half Hawaiian, although I don't appear so, but those are the facts. [Laughter.]

I know you have a long day, Senators, and I am going to make my statement very brief.

I am going to ask the Senators here today and the Congressmen here, including our friend from the mainland, to go back and support Senate Joint Resolution No. 4. We know we can depend on you people

sitting before us today. But, what we need is the kokua and the help of the other people on the mainland. The other Senators and the other Representatives, who are not truly familiar with the problems that existed here or what really happened in 1893.

I think it is incumbent upon our Senators and our Congressman to bring this to the attention of all the people in Congress. I think by those means and with a little Aloha spirit that you people can spread around in Washington, D.C., I think that Senate Joint Resolution 4 will come through.

I'm sorry I have taken up your time, I know you have a busy day, but I thank you very much and I appreciate the kokua you have given me.

Senator MATSUNAGA. Thank you very much, Councilman Cluney. I might say that I may not look it, but I can claim to be one-quarter Irish because I have a half-Irish grandson.

[Laughter.]

Senator MATSUNAGA. Thank you very much, mahalo.

[Applause.]

Senator MATSUNAGA. Our next group of witnesses is the panel from the ALOHA Association. Of course, Mr. Maxwell has already testified. Richard Hoopii, are you going to testify?

Mr. HOOPII. Yes.

Senator MATSUNAGA Charlie, are you——

Mr. MAXWELL. The panel part of it is on Honolulu, so it might come in later in the day.

Senator MATSUNAGA. I see. So, that you wish to have them testify individually then? Right now?

Mr. MAXWELL. Yes.

Senator MATSUNAGA. Then, we will hear from Mr. Richard Hoopii.

Will you state your name, your position with the association, etc., and then proceed.

STATEMENT OF RICHARD HOOPII, STATE DIRECTOR, ALOHA ASSOCIATION

Mr. HOOPII. Thank you very much, Senator Matsunaga.

I am Richard Hoopii from Kahakuloa, Maui and I am speaking on behalf of the ALOHA Association, being a Director—a State Director for the past 5 years. I have been to the White House concerning Resolution No. 4.

I would just like to start off by saying on behalf of the people of Maui, and all the Hawaiians and all of the people of this Hawaii Nei to welcome the Senators and the Congressman back home. I know that this particular session that we are having today is going to open up the way for the Hawaiian people. Especially because of the past year and a half, the ALOHA Association has been, as rumors go, down in the dumps and other organizations have been carrying on. But, knowing in our hearts it's been a workable thing as far as Senator Inouye and Senator Matsunaga have done.

And, today, our people can be proud that this has become a reality by having this Senate Joint Resolution No. 4 being introduced. And, I know that the people of Hawaii Nei will agree with us, although we can't agree 100 percent on this particular resolution, that there is some

good and good that we must take and hopefully our Senators and Congressmen will go back to Congress and carry this to the 477 people up there and get them to say, "Yes, we are for this too."

First of all, I would like to say that if there is any possibility of amending a portion in there which says that six representatives from Hawaii and five from the President and six from the Governor—I would like to say that I don't see anything in there that has a pureblooded Hawaiian. If there is any possibility of putting this stipulation in there—putting in there that out of these 11 people to have a fullblooded Hawaiian on this, we would appreciate this. After all, in 1893 there were a lot of pureblooded Hawaiians. I, myself, got jammed up with Chinese. My father was a pureblooded Hawaiian but he married and we got jammed up there.

Naturally I could stand proudly being 100 percent Hawaiian, but I think I am about 87 percent Hawaiian. More so by the opu and by the waha. I am very proud.

I never meant to take so much of your time and I don't have any statement written down, but I speak from my heart and for the feelings of my people and myself as representing personally one of the oldest villages, I think, today which is untouched, Kahakuloa. And, that on the Island of Maui as you see it is just about the neck or the head and we got a lot of brains in the head. [Laughter.]

Thank you very much, Senators, Congressman and Senator Abourezk. Mahalo nui loa.

Senator MATSUNAGA. Thank you very much. [Applause.]

The next witness is Ms. Christine Teruya. Will you start by stating your name and position and the capacity of which you are appearing before us.

STATEMENT OF CHRISTINE TERUYA, ALOHA ASSOCIATION

Ms. TERUYA. I am Christine Teruya and I am affiliated with the Hawaiians which was concerned over the Hawaiian homestead programs. And, also with the ALOHA Association.

I am here to speak in favor of the joint resolution. Not in its entirety. To me, I interpret it to have a twofold purpose. I have, in my affiliation with the Hawaiian people, the community at large, have the feelings for most of us that we would like also to have voice over our lands and whatever rights due us.

And, this part of the resolution I read here, section 2, B–1, "The Commission shall be composed . . ." I am also seeking for my human rights to make decisions. And, I feel gathered from a Hawaiian concerned group that takes the—that have taken from the population of our Hawaiian race here throughout the State, that we now have reached 35,000 part-Hawaiians. I am sure amongst us all we have capable people with the manao to make decisions. We are able to merge together, all interested organizations, to decide for ourselves who should pick the Commissioners. And, whom should sit upon it.

Many of our Hawaiian organizations, since the Hawaiians was formed came the Aloha and and there are still others that are forming that work tediously, dedicatedly looking into this rights of the Hawaiian people. They have done tremendous research work.

I do not accept this resolution in its entirety. And, I would caution you people about it. It has a twofold purpose to me. Again, I do not

wish to be given a gift—let's say we receive compensation for the wrong. And, yet, at the same time telling me how I am supposed to use this gift. This is what it implies to me. The Commission shall do this—it shall be of so many, it shall. It's not to say that I will not consider it as a recommendation from your committee, Honorable Congressman.

I think we Hawaiians should consider this as a recommendation, but not insert it in the Senate Joint Resolution. Too long we Hawaiians—I still feel that we are prisoners of war. We don't have the rights to speak up. In fact, today we hear throughout the nation, throughout the world unconstitutionality, civil rights, human rights to decide have been taken away from people. And, this is the reason for my not accepting this in its entirety.

I thank you for the time allowed. [Applause.]

Senator MATSUNAGA. Thank you very much, Ms. Teruya. You can rest assured that the suggestions which are being made today will be taken into serious consideration by the joint committee. I am sure that the resolution will not be written exactly as it was introduced when it was reported out by the Senate committee and the House committee.

Ms. TERUYA. Thank you.

Senator MATSUNAGA. Our next witness, I understand, is not yet here, Mr. Henry Kekoanui. Oh, he is?

FROM THE FLOOR. I would like to ask you about the dialogue when you are saying—you said native aboriginal and Hawaiians, whereas, in the Indian bill, it says American Indian. Could you give me your definition of why you say Native Hawaiian aboriginal. Would the Chair explain that, please?

Senator MATSUNAGA. Will you state your name for the record so that we will know who you are?

Mr. ABBEY. I am Bill Abbey and I am living on crown land in Kula. My folks are from this island. I am a retired merchant marine officer of 25 years and over 30 years at sea. Is that enough?

Senator MATSUNAGA. Yes; thank you.

I might point out that the Alaskan Native Claims Act also specified "native Alaskans," for the reason that if they were just called "Alaskans," or "Americans," then there would have been a confusion between those who were actually of aboriginal stock, and those who were born in Alaska of foreigners who had immigrated to Alaska. For the same reason, If we used the plain terms "Hawaiians" or "Americans," we would have a confusion between the indigenous aboriginal Hawaiians, and those who are descendants of foreigners who came here subsequent to 1778. Such people, because of their birth on Hawaiian soil, frequently refer to themselves as "Hawaiians," or, because of their birth or even naturalization in Hawaii, can claim to be Americans. It is simply for the purpose of clarification, so that there won't be any error or misguidance in the law, that we use the term.

As as a matter of fact, yesterday we had one witness who objected to the use of the term "native Hawaiian" and suggested in very emphatic terms that the word "aboriginal" be substituted for "native." So it is merely for the matter of clarification and distinction that we use the terms.

As you know, in any law, we have a definitions section where the terms used in the law itself are given definite meaning, and this is all that the use of the term "native Hawaiian" is intended to do. Let me assure you that there is no intent at all to use this term in a derogatory manner.

Mr. ABBEY. I was not speaking of derogatory. You speak of native New Yorkers, native Californians, and anyone born here is a native Hawaiian, regardless, you know. And, as far as the law goes, the law was always—but, I mean, if you are going to put things in certain terms, let's have it in certain terms.

Thank you.

Senator MATSUNAGA. Mr. Kekoanui, will you be needing an interpreter?

Mr. MAXWELL. He is going to read what he wants to say in Hawaiian and then he'll translate himself as best he can.

Senator MATSUNAGA. All right. Mr. Kekoanui, you may proceed.

STATEMENT OF HENRY KEKOANUI

Mr. KEKOANUI. Senator Inouye, Senator Matsunaga, and Representative Akaka, welcome to our island.

[Whereupon, Mr. Kekoanui gave his testimony in Hawaiian.]

Barbara Sakamoto, Office of Daniel K. Inouye, 1833 Kalakaua Avenus, Room 414, Honolulu, Hawaii 96815. Hawaii Native Claims.

My name is Henry Kekoanui. I am submitting a written statement in behalf of myself and my wife and two sons. We are full-blooded Hawaiian. This is concerning our Hawaiian Native Claims Settlement, bill H.R. 1944.

I have received background facts regarding the Hawaiian claims. I know them to be true. We have been robbed of our land and rightful heritage. I can testify to the things I have seen and experienced.

During the second world war, when it ended, the lands were never returned to us. I have served in the honor guard 19 years, in both the National Guard and the Naval Reserve. I have a great respect for our country and I believe in justice and principles. Our land should be returned to our Hawaiian people in paradise. If not, the United States should be subject to violation of one of the "Ten Commandments of God."

Let us, everyone, remember and live by our Congress' motto, "E Pluribus Unum, In God We Trust, as one Nation under God, indivisible with Liberty and Justice for all."

Aloha and mahalo. [Applause.]

Senator MATSUNAGA. Our next witness is Mr. Albert C. Lagunero. Mr. Lagunero is the executive director of Lokahi Pacific, Inc.

STATEMENT OF ALBERT C. LAGUNERO, EXECUTIVE DIRECTOR, LOKAHI PACIFIC, INC.

Mr. LAGUNERO. Mr. Chairman, though I represent Lokahi Pacific an an executive director, I do not speak for Lokahi Pacific. I am the club president for Central Hawaii Hawaiian Civic Club and I also do not speak for them at this time.

My task is to listen to the testimonies provided by the supporters for the Senate Resolution 4, and to report back to our membership and have a decision from our policymakers as well as from our membership before we respond.

Therefore, I am submitting testimony on behalf of myself and my family.

Honored representatives of the people of Hawaii, Senator Inouye, Senator Matsunaga, and Congressman Akaka, Aloha and welcome home.

Before proceeding with specific comments on Senate Joint Resolution 4, I want to commend and thank you for an expeditious presentation of the matter concerning Hawaiian reparations to the Congress of the United States

Overall, the resolution is acceptable and one which seeks to provide an organized method, supported by Government funds, to provide the Congress with a full report on what we Hawaiians feel we need and how we can meet our needs. I support your bill, but would like your committee to consider the following comments:

On Senate Joint Resolution 4, page 3, section 2(b)(1), I quote,

> The Commission shall be composed of eleven (11) members appointed by the President, of whom six (6) shall be from a list of not less than twelve (12) names submitted to the President, by the Governor of Hawaii.

My comments are, the Governor of Hawaii should be asked to form a screening committee, whose tasks should include the recruitment of potential commissioners by Hawaiian organizations throughout the State, specifically: AluLike, Inc., the State Association of Hawaiian Civic Clubs, the Congress of Hawaiian People, the Hawaiian Coalition, Ohana O Hawaii, the Protect Kahoolawe Association, the Hawaiians, the Order of Kamehameha, and the Kaahumanu Society.

The Governor's list which is submitted to the President, should not be limited to Hawaiians residing within the State of Hawaii, but Hawaiians who may be willing to relocate to the State of Hawaii for a minimum of 1 year, or until the tasks are completed.

On page 4, line 14 through 16, "Six members of the Commission shall constitute a quorum, but a small number, as determined by the Commission, may conduct hearings."

My comments to those line are to insure that the outer islands are represented, the quorum should call for at least six, three of whom shall be members of the Commission as follows: One each from Kauai, Hawaii, and Maui counties.

On page 8, section 3, paragraph (G)(2), lines 9 through 10: "Any such recommendation shall, to the extent possible, be designed to insure that any such remedy . . .

My comments are, to insure that the recommendations do not remain as recommendations alone, I suggest that it be amended to read:

> Any such recommendations accepted and fully honored by the U.S. Government to the proposed beneficiaries of any reparations shall, to the extent possible be designed to insure that any such remedy . . .

And, that's the end of my suggestion there.

On page 8, section 3(G)(2) paragraph (F), lines 22 and continued on page 9, beginning from line 1 to 4:

> Will not replace or diminish any right, privilege or obligation of the Hawaiian natives as citizens of the United States of Hawaii; and will not relieve, *replace*,

or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Hawaiian natives as citizens of the United States of Hawaii.

My comments are: The word "replace" as emphasized above, should be omitted. If it be the recommendation of the commission that certain kamaaina privileges remain with the Native Hawaiians and these be modified for clarity through legislation, then, they should have the prerogative of doing so. Also, if the commission recommended privileges to be extended to the proposed beneficiaries above those of other citizens within the State, then Congress should weigh these matters.

On page 9, section 5, I quote there,

Constituting a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims of, or other matters with, any native organization or any tribe, band or identifiable group of American Indians.

My comments are: This area is not clear to me. It seems to me that we may be imposing limitations upon the plights of other native organizations, tribes, bands or identifiable groups of American Indians, who we do not know and who now may be preparing cause for a form of reparation by the U.S. Government, or whose future needs are unknown.

There are no other comments I have. I am hereby submitting eight copies of my testimony for members of my immediate family, and their sons and daughters. I list them as I speak on their behalf to provide you and the committee an increased logging of the support your bill has.

From all of us, mahalo a nui loa to you all for your support on the issue of Hawaiian reparations. I remain in support.

Senator MATSUNAGA. Thank you very much, Mr. Lagunero.

[Applause.]

Senator MATSUNAGA. Our next witness is Mr. Clarence Kamai.

Mr. KAMAI. The following statement is based on the *text* of Senate Joint Resolution 4, to——

Senator MATSUNAGA. Would you initially state your name and the capacity in which you appear before this committee, Mr. Kamai.

STATEMENT OF CLARENCE KAMAI, PRESIDENT, HAWAIIAN HOMES COMMUNITY ASSOCIATION, MAUI, HAWAII

Mr. KAMAI. My name is Clarence Kamai and I state in my statement here that I represent all the Hawaiians on this Earth. [Applause.]

Senator MATSUNAGA. You may proceed.

Mr. KAMAI. The following testimony is based upon the text of Senate Joint Resolution 4, to establish the Hawaiian Native Claims Settlement Study Commission, introduced in the U.S. Senate on January 10, 1977, by Senators Spark Matsunaga and Daniel K. Inouye.

To the Honorable Members of the Congress of the United States of America, aloha.

Senator MATSUNAGA. Aloha.

Mr. KAMAI. On behalf of all the Hawaiians on this Earth, I feel honored to testify at this hearing, Thursday, July 7, 1977, on the Island of Maui in the State of Hawaii.

Why all the Hawaiians on this Earth? Because our people are scattered all over the Earth today. Some do not know they are Hawaiians, but, they shall profess their heritage when the Congress of the United States of America makes the award in moneys and in lands to the Hawaiian people.

To substantiate my comments, and statements before this esteemed and distinguished body, I sincerely believe it proper to give a brief report on my background or status. Please note the relationship or relativity of the positions to the activities concerned. In no wise is it my intentions or desires to be vain or egotistical, but, rather, humble and loving at all times under God as our great country was founded.

My father was from Waimea, Kauai and my mother was from Hanapepe, Kauai. I was born and raised on the island of Oahu; moved to Maui Island January 1974. Thank God for this beautiful place which I now proudly claim my home.

In 1964, I retired from the U.S. Army after completing over 20 years of service. During my tour of service with the U.S. Army, I was privileged to travel, meet and live with many, many different peoples of our country and the world. My Hawaiian livelihood was an asset to me and those I met, and that was sharing the aloha spirit.

In 1972, I was elected as president of the Retired Enlisted Association, Pacific. An outfit comprised of retirees only, from all branches of the military service. Its objectives were to improve and assist all retirees for and of that which they earned in serving their country. On the national, as well as the State and local levels. To become worthy members of the civilian communities after so long being absent.

In 1975, I was elected to be the president of the Hawaiian Homes Community Association on the Island of Maui, located in Paukukalo, Wailuku District, of which, I am still its president. Our objectives are to be an integral part of the whole community on Maui. Primarily, to help our Hawaiian peoples in all ways for the betterment of ourselves, the Hawaiians, in sharing and receiving that which God has given us.

I thank God for such folks as this committee. People of integrity and ability, who acknowledges the truth after 84 years of the U.S. Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholy without the authority or knowledge of the Congress or the President, unlawfully conspired with a group of non-Hawaiian residents to overthrow the indigenous or native and lawful government of Hawaii. This article is found in the first paragraph of the Senate Joint Resolution 4.

The Hawaiians, as with all people all over this Earth, is simply seeking justice. Eighty-four years is a long time, but, patience is a virtue, and it certainly is a gift of God. Justice is slow and yet is positive. Truth shall always prevail.

We thank this congressional people for allowing this opportunity and privilege for us to speak our hearts and minds.

Again, I wish to repeat our heartfelt thanks. [Applause.]

Senator MATSUNAGA. Thank you very much. As one who lived in Hanapepe, Kauai, and one who went to school in Waimea, I am happy to know that your parents came from Waimea and Hanapepe, Kauai.

Senator Inouye, do you have any questions?

Senator INOUYE. No, nothing.

[Off the record.]

Senator MATSUNAGA. Our next witness is Momilani Porras. Is Momilani here?

[No response.]

Senator MATSUNAGA. We will then proceed on to Mr. Manu Goodness. Mr. Goodness.

[No response.]

Senator MATSUNAGA. Our next witness is Alika Cooper. Mr. Alika Cooper. Will you state your name and the capacity in which you appear for the record, before you proceed.

STATEMENT OF ALIKA COOPER, HILO, HAWAII

Mr. COOPER. My name is Alika Cooper from Hilo, Hawaii. I am appearing for myself and my family.

I want to skip the first paragraph here. I would like to start on the second paragraph.

In your Resolution 4, the fifth paragraph states—

> The United States acquired ownership of vast land holdings that had been common property of the Hawaiian nation prior to the overthrow of their indigenous government . . .

This is correct, I want you to keep this in mind, for we want all these lands back, not tokenism. [Applause.]

I believe the Commission should be made up of all Hawaiians, the most intelligent, knowledgeable, cultural Hawaiians, who know what the problems are and what has transpired in Hawaiian affairs in all these years. This Commission, if the right people are on it, is the key issue. I hope politics will not play any part in this Commission. If this Commission is not made up of the right people, it can be disasterous.

Under section 3(a) 1 and 2, a time study. I think at least a year and a half should be alloted for the study. The chairman should be a full-time employee on the committee and, I know, the chairman should be paid.

Under D. Please include lifestyle of the Hawaiian people.

Under E. Blood qualifications. Precedence has already been set by Congress to the Alaskan Natives.

Under A. A final settlement, there can never be a final settlement until all aspects are included and worked out. We have our aboriginal rights which every Hawaiian is entitled to, which include in part, the land rights, agricultural rights, ocean rights, the rights of our seven oceans, our fishing rights, natural resource rights, including mineral rights, water rights, geothermal rights, air rights, trail rights and many more. I believe these are very important.

I feel the bill is poorly written and does not have the total interest of the Hawaiian in heart. The bill could help us and yet it could be very bad for us, depending on the committee and their final report. I hope, if it is not a success, speaking of the bill, there are other avenues we can pursue.

All lands that were taken in 1893 by force should be returned to the Hawaiian nation within 18 months. The reciprocity treaty should be respected. All of the Indian treaties have been respected. The reciprocity treaty has never been respected.

All Federal and State lands should be returned to the Hawaiian nation within 18 months. The Federal and State lands that are needed for defense and Federal buildings et cetera, would be appraised by the Hawaiian nation appraiser and by yours. A standard national average of interest rate would be paid to the Hawaiian nation, being reevaluated every 10 years.

Back rentals of State and Federal lands ought to be collected for the last 20 years, plus interest.

The national parks in the Hawaiian Islands be returned to the Hawaiian nation, with sufficient money to restore the Hawaiian cultural and historical sites to their highest standards.

All water rights, geothermal, air rights, ocean rights, et cetera, that were previously mentioned will be administered by the Hawaiian nation.

There ought to be a tax break like the American Indians have, who pay no or little taxes.

A glaring example of mismanagement of land is the Hawaiian Homes bill of 1920, which started with 219,000 acres of land inventory to rehabilitate the Hawaiian people. At present the land inventory is 189,000 acres; some 30,000 acres are not accountable for. The Department of Interior gave the power to the State of Hawaii to manage the Hawaiian Homes Lands. These two bodies are responsible and accountable for the missing 30,000 acres, or probably more like 42,000 acres of land, due to exchanges of choice lands to non-Hawaiians. Both the Department of Interior and the State of Hawaii must be held accountable for the money of these 42,000 acres have produced, plus interest for all these years.

Examples of some of these lands taken by executive order by the Governors of Hawaii without any exchange or fair exchange or monetary value:

1. 90 percent of Hilo Airport lands, including the new $26 million terminal and all the new subdivisions around the terminal.
2. 100 percent of the Molokai Airport land.
3. 100 percent of the Kamuela Airport land.
4. 100 percent of Kawaihae Harbor port facilities.

As of 3 years ago, these four parcels of land brought an annual payment to the State of Hawaii of better than $3,850,000, yet Hawaiian Homes has never received a cent of this money. This is Hawaiian Homes' land by the act of 1920.

How much money is coming from the additional 40,000 plus acres? The 42,000 acres not accountable in the Hawaiian homes inventory must be accountable for. The Hawaiian people must have an accounting. At present, only a little over 40,000 acres are being used by Hawaiian homesteaders, the rest is leased out to other private interest groups. Is this how we rehabilitate our people?

I have just returned from Micronesia. It is hard for me to understand why $75 million a year have been pumped into Micronesia by America. After 30 years of running Micronesia, it seems like only Van Camp in Palau is a viable industry. America has been throwing money at the Micronesian people for the last 30 years, and they have learned to catch it.

But, here in Hawaii, where America actually overthrew the Hawaiian kingdom by force in 1893, taking all of the kingdom's lands, de-

priving the Hawaiian people, setting standards that are unrealistic and foreign on the Hawaiian people, giving the Hawaiian a little tokenism, but that is all. What a sad situation. What a disgrace for America.

Now, America has a chance to give the Hawaiian nation and the Hawaiian people a fair and just settlement. The key to this bill is the knowledge and quality of your committee, America's sincerity and fairness. Please grant the Hawaiian people the return of the lands and their independence.

If I can be of any help, please advise.

Aloha A Nui Loa Kakou. [Applause.]

Senator MATSUNAGA. Thank you very much, Mr. Cooper.

Our next witness is Mr. Carl Mowat of Molokai. Is Mr. Mowat here?

STATEMENT OF CARL MOWAT

Mr. MOWAT. My name is Carl Mowat, and I represent myself. I don't have anything written, because the word was out too late.

I am pretty much confused as to all of the articles in the resolution, whatever number it is. For us, you know, the biggest problem is the education on what is really reparations. What do you feel is reparations, what do we feel is reparations?

Now, you know, all I can say is there is a lot of sadness, a lot of sorrow with the current events of what's been happening in Hawaii today. The people have to die for what they believe in, and the insensitivity of everyone around them. It is very sad, these things aren't supposed to happen. These kinds of things are going to keep happening and—yeah, the natives are restless. Very restless.

And, what can we say? How do you correct the wrong? Do people have to continue to die? All I can say is Ua-Mau-Ke-Ea-O-Ka-Aina-I-Ka-Pono. Remember, that, live by that and go for it. [Applause.]

Senator MATSUNAGA. Thank you, Mr. Mowat.

Our next witness is Mrs. Mary Lee. Is Mary Lee here?

[No response.]

Senator MATSUNAGA. Mrs. Clara Ku. Is Clara Ku here?

FROM THE FLOOR: Senator Matsunaga, Mary Lee is here.

Senator MATSUNAGA. OK, Mary Lee. Will you state your name and the capacity in which you appear before this committee.

STATEMENT OF MARY WAIHEOKALANI SILVA LEE, MAUI, HAWAII

Ms. LEE. My name is Mary Waiheokalani Silva Lee. I am a native of Maui, born and raised in Waikapu, Maui.

In this year 1925, my father and mother, of which I was the only child and four hanais besides, decided to seek elsewhere to live. We had our own place in Waikapu, a kuliana that was inherited by my mother from the Waikuli family, although she was Keliako [phonetic spelling], daughter of Moses Keliako.

And, therefore, we lived on Molokai all these years. They have both gone and, I am here to support this group in the back, the group that are called the Kahoolawe Activists.

I would like to speak in Hawaiian, but I would waste much of your time and you may not understand.

Well, when you have worked so hard all of your life with your parents and they raised nine besides me. When my father's sister died, they took all of the children that were orphans and raised them from the aina. The aina in Waikapu raised these nine children.

And, we never had no fancy traveling things. The clothes were all handed down, but I loved every one of those hand-me-downs from my cousins. The Karmo [phonetic spelling] children who had girls and boys that as they came back from Honolulu, they left the clothes for the next neighbor, to the ohana. We still have the ohana on Molokai. We are the kupunas supporting our opio, because it was an adventure for us, the kupunas.

When you've spent so many years working in the hospital and then you retire, what is left? The children are all big and they are on their own. They have children and that's not grandma's responsibility. Grandma's all pau, she just grabs the children and scolds them and then they go off.

Then our young people come to ask us for this—this is along the same line with what you are here for. We appreciate your concern, showing that you care. Care for us, the Hawaiian people. Whatever we can say to get something for it. Mahalo.

And, so we went on that memorable night to Kahoolawe. All the leaders are there, the young people the same age as my sons. I have five sons and two daughters. And, a couple of them work for the Navy. When they saw their mother's picture splashed in the paper, that she was an activist on Kahoolawe, phone calls came. And, they said. "You are not doing the right thing." I said, "Disinherit me, I disinherit you." "You are on your own; you raise your own family and let mama go do what she wants, after she retires."

So, it was in part the way they were fighting me and against me, but it was something to show people outside of Molokai that we cared. Just as the land reparations now—that you cared. Like you came here and said, "What do you want?" "You want money for the education of the children put aside? A big lump sum." Maybe my children will benefit from that amount of money. If there is a big bulk of money. Not my grandchildren, not my great grandchildren, but maybe the future of my fourth, fifth, sixth generation will be benefited from that amount of money, they are putting away for the education of the Hawaiian children.

We always find that whenever they speak of—whenever you hear dope, the police, they want to look at the name—"That's those Hawaiian children the schools come out with." "The Hawaiians are so hard to teach." Now, do they understand how Hawaiian children—if they have little means of education from their parents are down. They are hurt along the line of education. If they are not, they are on welfare and their means of support is so small and meager. Maybe no lunch. But, if this thing should come out that there is money instead of the big land, whatever is given to us, there will be a better, brighter future.

I can't speak much what I want to, because it's the young people. I'm retired. Maybe just another 2 or 3 years and we've gone down into the west. I'll say the Kupunas, they are going towards the sunset of the day. I mean, they are headed Aloha make.

[Whereupon the witness spoke in Hawaiian.]

Whenever there is a fruit you receive, a grandmother will keep that fruit until she gets home and divide it with the moopuna. It's been that way in Waikapu. The best, the choicest mango was kept for the youngest, for the three or four younger ones. The older ones, "Never mind, you can go find your own mango." But, the moopuna that mango was divided and given to the younger moopunas. We know that, so it is the same that you come here—with the land that is coming today, maybe not the biggest land, but we sit back.

It's a shock that I have been called to come here. I am honored to be here and called upon as the Kupuna of Molokai, but, Maui is my roots. I still love Maui, Waikapu. My parents sold the land. My father sold the Kuleana land of my mother about 15 years after she died. He had an accident. Can I tell you that story? It's very short.

It's not for the land, but it concerns the aina. When we wanted to sell the land. He came to Maui because of an accident and he needed money to pay Dr. Litner [phonetic spelling], who was up at Puunene and he wrote to me. He said:

[Whereupon the witness spoke in Hawaiian.]

Your mother has gone, her bones remain on Molokai and so will be mine, alongside of her. That the land is no good to us. That's not ever come back. We have taken Molokai and it's our land and there we shall live until we die.

I laid them to rest alongside each other, by their side.

So, he said, "Sign the deed." I was the only heir. I got the deed, I counseled with my husband, we had our children, you know, and my husband said. "Don't give up the land of Waikapu, you keep it." But, my father was asking me. What could be greater than you honor your parents? I hold my husband, "A husband I can always find, remember, but a father and a mother, only one time." So, my mother is gone and this is my father asking me. You can have only one father and one mother.

My husband, as always, a darling, looked at me in the eyes and said, "You go ahead do what you want." I signed the deed and mailed it back to Maui, so his bills can be paid.

Then he said, "take $60 if you would like to buy one car." It was a junk car for $60. It was all we had.

But, this I am trying to bring to you the way I put it—this that you have to choose, it's a choice, so I chose my father. Because my mother had gone, my husband was here and what I had to tell him, "I can find some more husbands but I cannot find another father."

Thank you for your time. But, I am here to support the young—our young people of Molokai. And, Aunty Clara and I and Aunty Rose. Aunty Clara with her cane and I have my cane. My feet are bad now, so I can't go without my cane.

But, we are here and mahalo to you for all of your kokua. Maybe among you I have ohana.

Senator MATSUNAGA. Mahalo nui loa.

Mrs. Lee, could you tell us how old you are?

Mrs. MARY LEE. I am very young. I am going to be 70 years soon.

Senator MATSUNAGA. Seventy years. Well, I am certainly happy to know that at seventy you are still an activist. [Applause.]

Na ke Akuae ho'o maikai mai.

Mrs. LEE. [Whereupon the witness spoke in Hawaiian.]

May the good Lord guide your footsteps in whatever you do. [Applause.]

Senator MATSUNAGA. Our next witness is Clara Ku. Clara? This will be our last witness for the morning session. After Mrs. Ku has testified, we will recess until 2 o'clock.

Those of you who have not as yet testified, will be given the opportunity to do so. The first witness as soon as we reconvene will be Mr. Walter Ritte, followed by Ms. Cathy Davis and Glenn Davis, Kaui Kapuni and Liko Grambusch.

If there are any others who have not been listed and who want to testify this afternoon, would you please see either Mr. Ed Case or Ms. Barbara Sakamoto, so that you will be given the opportunity to testify if you wish to do so.

Mrs. Ku, you may proceed. Will you start by stating your name and the capacity in which you appear before the committee?

STATEMENT OF CLARA KU

Ms. KU. My name is Clara Ku, and I am a widow from Mapulehu, Molokai, and I am here to support all our ohanas over there. As you all will see in the paper, the ohana protest Kahoolawe. Ohana, that is our oha'as. Oha'a means the young, little taro, the small taro, and then the word, ohana. So, we have all the oha'as over there and that is why we are here. We are called the activist Kupunas. I will be 66 this year. That is why I am so proud of the oha'as. It took these oha'as for me to come in here and see you lovely Congressman over here. You handsome gentlemen over here. You are very handsome.

I was told to put leis on Senator Matsunaga. Now, I am going to lower myself down. Can they come to me and then I will put the leis on them.

So, thank you for allowing us to come here. I did not know I was going to be one of the witnesses here, but nevertheless—you can be up on the stage. When the spirit moves you, you can come here for them. Really, it is so beautiful to see lots of our Hawaiian people over here.

[Off the record.]

Ms. KU. You guys come down here and I will give you guys the leis, OK? So, excuse the, what do you call it? The language, but nevertheless, you can understand, it comes from my heart. That is the main thing. When I talk it comes really from my heart. If it doesn't come out of my heart, I got to get Mr. Webster over here. Mr. Webster, you know—you cannot understand me. When words come from your own heart it is beautiful, beautiful because I know my youngest son graduated from—excuse me—you know, when I put my hands on my hips I can get a grip and I can talk more better. And, you can understand more better.

So, when my youngest son went to Kam School, and then one day when he heard that I was going to be supporting all my, you know, the oha'as over here, when they started to call kapunas. He called me one day and said, "Mother", and I said, "Hi, Boy." And he said, "Hi, my rebel mother." I said, "Wow!" "If you say so, that is her speaking to you." What more you want? It's me. That's your rebel mother. But, nevertheless, as we heard all testimonies from way down there—how do I say? What you call—[indicating], from the right down to the left,

beautiful testimonies. Sure we like the land back, we like everything back. [Laughter.] Because like me, I am getting old and the leg is all numb. And, I was going to tell you if you was going to call me to talk, I was going to ask you, "May I speak from there?" But gee, I said, you know, I better be bold and walk down there. Even if it's going to cripple up your leg, walk down there and show your Congressmen because you guys come to Molokai and we shake your hands in Molokai at election time. So, why not today?

When you come to Molokai we say, "Mr. Matsunaga, Aloha. How you folks?" We give you folks a big hug, you know. Because we are working for you guys. Hey, I voted for you guys. I did, I did, I did. I think that's why I got the guts to come up here today. I thought I was going to be crippled but gee, I'm up here. So, God gives us strength. God gives us strength if we want to say something worthwhile for the people of Hawaii. And, that's why we are here.

We support these opio. These opio took us all over—all around the place. So, April 14, 1977 the helicopter took me to Kahoolawe. And people all make fun of us, "Hey Clara when you going to Kahoolawe?" And, I said, "A day will come when the helicopter is going to take us to Kahoolawe." So, I did—I saw one of your second speakers up here who was representing Cravalho. And, I think I saw Dan Inouye's aide in here. But I don't see Mr. Akaka's aide in here. Because I remember you had one of your aides that went on the same plane with me on April 14 to Kahoolawe. To me, Kahoolawe was such a beautiful island which I had never seen and people always say, "You going to Kahoolawe? You going by Smuggler's Cove? Oh, boy, so beautiful."

Just like—come and help me. Just like—all stretch arms out calling, "Come, come." And, you can see the beautiful white sand. I went there to see the beautiful white sand and I got to see it.

Am I going off the subject? Or, are you interested in hearing what I got to say?

Senator MATSUNAGA. Say whatever your heart dictates.

Mrs. KU. Mahalo.

So, I sat with Admiral Gravely and he sat on my left and we had Heftel. We had other people too, had most of the aides there then. That day we went, April 14. And, to me, as I got to Kahoolawe, and there was a beautiful circle surrounding and then we put our kookupu in the center and I was asked to pray. Would you like to know what hookupu is? Hookupu means a gift. So, we took coconut plants that our oha'as gave us to go and take to Kahoolawe. Because we say take over there, not to bring out. Take, because Kahoolawe needs our help. We went to Kahoolawe and I offered the prayer. And then when it came to Mr. Gravely's time to talk, Admiral Gravely, he said that he was so thankful that we had a circle prayer. Because he comes from a religious family. But, I am not going to go into details because you all heard all of the testimonies of the beautiful ohaas. The beautiful kupunas who gave testimony about what you are here, the reparations of Hawaii.

So, we thank you so much and I don't know whether I played a trick on them—you know, I had a package of codfish that one of the oha's gave us to make sure—you know, "When you go so you won't get hungry." So, they gave us a package of codfish and I had it in my pocket. And, you know, after we were around the circle, you know, I

was getting hungry so I brought out this little package and I started to go—went that way first [indicating] and Admiral Gravely said, "No, go this way." So, I went to the left side. And, Admiral Gravely didn't take any and it went down, down, down the line. So, it came to Captain Crockett and he didn't take any. Go down, down, down the line and everybody took a piece. OK, I still had some more. So, I gave another turn again. So we went through—Crockett, it came Crockett's time, and wow, he took kind of plenty, you know. He took kind of plenty from the package. [Laughter.] He thought, "Oh, that thing must be ono." He saw the others eating, so it must be ono, so he took plenty. After everything got through, I was thinking to myself, "I wonder what these guys must be thinking about me?" Maybe they think I was making some kind of kahuna or some kind of Houdini, by passing this package around. I say, "No, no, I don't think so." Nobody told me anything. So I said, "That was my good spirit." I had the package and why should I eat all alone. I'm in the circle and I just gave the big prayer, so I passed the package around. And, we had a nice time with those people.

Too bad I didn't get Akaka over there and you, Sparky Matsunaga, and you, Mr. Inouye. But, your aides were there, so we shook their hands in place of you.

So, thank you so much. And, thank you for allowing us to come up here and talk a little. I didn't know I was going to be up here, man. Man, this is something. Wait till I tell my kids. They are going to say, "Hey ma, you never graduate from high school." I'm going to tell them," I don't have to graduate from high school. I went to the eighth grade, I know how to spell and I know how to read and write." But, only when you get bigger kind words, then I have to use Mr. Webster.

So, I don't want to take too much of your time, so Mahalo. You handsome men, I got to give you guys leis.

[Whereupon Mrs. Ku presented leis to the panel.]

Senator MATSUNAGA. Mahalo nui loa, Aunty Clara. I appreciate your kind expression. And, as keiki O ka aina, I am sure Senator Inouye and I feel deeply touched.

We will now recess for lunch and be back here at 2 o'clock. So, the committee stands in recess.

[Whereupon at 12:40 p.m., the committee recessed, to reconvene at 2 p.m.]

AFTERNOON SESSION

Congressman AKAKA [presiding.] We are continuing the hearing that was started this morning at 10 o'clock. We are certainly happy to have received such meaningful, helpful testimony and are looking forward to hearing the witnesses we have on our list for this afternoon.

Presentations will be made by only those persons who have not yet testified. For those present who have already testified but wish to provide additional comments, we'd certainly be happy to receive any written statement that you may have.

We have here on my right for those who have just come this afternoon, cochairman of the committee, our Senator Sparky Matsunaga. And, on my left, is another member of the committee, Senator James Abourezk.

As our first witness, may I call at this time, Mr. Manu Goodness, to the stand.

STATEMENT OF FRANCIS GUY KULAMANU GOODNESS, KAHULUI, HAWAII

Mr. GOODNESS. I am here testifying to my overall support of the Senate Joint Resolution 4 sponsored by Senators Matsunaga and Inouye.

I am speaking on my own behalf as a citizen of Hawaii and my comments should not necessarily be construed as reflecting the attitudes of any governmental or community organization of which I am or have been a member.

Although I am in support of this bill, there are a few points concerning its enactment I wish to raise.

Congressman AKAKA. May I please ask you to state your name.

Mr. GOODNESS. My name is Francis Guy Kulamanu Goodness.

The strength of this proposed commission rests in its power to make official recommendations to Congress. On page 3, section 2, item b–1, vague guidelines indicate the Commission's composition. I am not necessarily opposed to the gray area contained here. I imagine that good judgment has at least a 50 percent chance of occurring as may poor judgment when flexibility of this type is made available. For example, within the flexibility contained herein, the islands of Molokai, Lanai, and Niihau can still receive an equitable measure of representation on this Commission.

Also in this section, I would assume that six is only the minimum number of Hawaiians which could be appointed to this body. I would guess that more Hawaiians can be appointed since, by parallel, similar terminology on page 4, section 2, item b–3 indicates that six members constitute a quorum.

As the backgrounds, value orientation, and aptitude for justice of the Commissioners will determine the quality of this body's final recommendation, as important will be this Commission's willingness to optimize the directive contained on page 8, lines 9, 10, 19, and 20 indicating that any such remedy is fashioned and will be implemented with the maximum participation of Hawaiian natives.

I see this Commission providing easy access to our many Hawaiian communities and organizations, large and small for the purpose of turning the statistical and documented research of the Hawaiian people into clearer perspective of our great human potential and value as a Hawaiian people.

Also before presenting their final report to Congress, I imagine that statewide, this Commission will permit the Hawaiian people the accessible opportunity of providing a public reaction. And, should any reaction to any or all of the recommendations be strong, then in all fairness, by petition if necessary, I would expect this Commission to permit the inclusion of counter recommendations in their final report to Congress indexed as originating from the Hawaiian communities.

I am here because I feel that this congressional hearing represents a continuing legacy. It is the legacy of our children's future. My spiritual inheritance is that of a native. I know that a number who have come before you feel similarly.

Rooted in nature, the Hawaiian race emerged out of the ocean, living in a natural way on their islands, developing out of their love and respect for each other.

I believe that Alu Like—Office of Native American Programs, can provide you with documentation indicating that since 1778, a sense of cultural frustration has become an entrenched facet of our lifestyle. I worry that this will also become a facet of our children's inheritance. You have shared in our experiences. Our fathers welcomed visitors from all lands. More recently, I imagine that you fought after school in cane fields like we did; fished, played in the waves, smelled the rain in the valleys, and shared such other experiences. I imagine that the red dirt in Kaunakakai and Wailuku looks much like the soil in Kauai.

Our genes and experiences pass from preceding generations to our young. As congressional Senators from Hawaii, I believe it is a little different for you. You are presently establishing a tradition of authority and service for the people of Hawaii and of the United States. The Hawaiian people have lived in trust and good faith for generations. Although I may wish to support this bill with that attitude, more importantly, however, I believe that the time for awareness and action to proceed is now.

As our Congressmen, we are more than your constituents, we are your legacy. That the Commissioners will faithfully mirror the need of our people; that the Commission will listen intensely and with openness to us; that the final recommendations will adequately reflect the best interest of our children; and so that another generation will not endanger their civil liberties because of their anguish over inequities involving education, economic opportunty, and land and water rights; your responsibility embodied in this resolution is great.

Thank you.

Congressman AKAKA. Thank you very much, Mr. Goodness.

Senator MATSUNAGA. Mr. Goodness, in your statement, in the last paragraph you say 1978 there in that second sentence of the last paragraph.

Mr. GOODNESS. I'm sorry, 1778.

Senator MATSUNAGA. Oh, that's 1778. A correction will be noted.

Congressman AKAKA. Thank you very much, Manu.

At this time may I call Walter Ritte, Jr. of Molokai, to testify.

STATEMENT OF WALTER RITTE, JR.

Mr. RITTE. My name is Walter Ritte, Jr., from the Island of Molokai. I am here representing myself and my family.

The overthrow of our Queen was illegal and one of force. Two, involved a handful of non-Hawaiians, sons of missionaries. Three, the primary force being the U.S. military under Minister Stevens.

The overthrow of our Queen is on the lips of all Hawaiians today. The overthrow of our Queen has become a deep emotional feeling for many Hawaiians today. The seriousness is shown as some have recently gone to prison claiming the illegality of the very legal system, who hangs proudly the picture of Sanford P. Dole as one of the great judges of its courts. Sanford P. Dole, the president of the new illegal revolutionary government which overthrew our Queen.

They, those who have gone to prison, have claimed the Native Hawaiians to be a legal sovereign nation due to the illegal overthrow of

our Queen and thus the courts, which were illegally born, thus have no jurisdiction over Native Hawaiians. To say this is one thing, to go to jail for it shows the growth of serious concern, since the conception of the ALOHA Association.

I am mentioning these things to show the growth of serious concern for the overthrow of our Queen since the birth of the ALOHA Association and talk of reparations.

As one who has been very actively involved for the past 3 years in the Hawaiian community, I cannot overemphasize how strongly the feelings now run about the overthrow of our Queen.

I want at this point to congratulate the ALOHA Association and Mr. Charles Maxwell for getting me involved, and especially Mrs. Louise Rice for shedding the light on this important part of our Hawaiian history, of which the majority of us were ignorant.

I am in strong support of making the wrong done in 1893 right. I am in strong support of a step-by-step solution because of the seriousness of the overthrow, which I have only very recently come to realize. I was like everyone else who first heard of reparations, "Wow, let's get a couple billion bucks and call it even, I need the bread." After more education on the overthrow, I have come to realize the magnitude and far-reaching consequences the uncorrected illegal overthrow has.

I have also come to realize how ignorant the majority of us are about the overthrow. Thus, I strongly feel a very important ingredient is missing from the Joint Resolution No. 4 and that is specific provisions for education of the truth and facts of the overthrow of our Queen and the eventual annexation to the United States.

If the intentions are honest to get to a solution, agreeable to both Native Hawaiians and Congress, an immediate educational package for both young and old about the overthrow of 1893 to annexation in 1898 is a must. The proposed Commission will not get a true feeling from the Native Hawaiians without getting to them the necessary facts, which have been mysteriously hidden all these years and kept out of public education.

Much resentment will follow in years to come as the facts are learned through personal investigation as I have done and feelings of being shortchanged by this reparation bill will surely prevail. Everyone should be given the opportunity to learn the facts and realize the magnitude of this illegal act.

Therefore:

One, moneys should not only be spent for Commissioners, but for an educational package concerning the overthrow to annexation, to include audio, visual, and written materials.

Two, the implementation should be immediate.

The way Native Hawaiians have been kept ignorant of the facts concerning the overthrow of their Queen is amazing, to the point of being very suspicious. It is because of this, I feel education on this issue, which some have already gone to jail for, is a must for an honest remedy towards an agreeable reparations.

Education, then Reparations.

Some of the things I have read on resolution No. 4, that I have some feelings about is that, the wording concerning who the Commissioners are going to be and what part of Hawaiian blood they are going to be is very confusing. To make matters very simple, I would like to say

that all the Commissioners should be of Hawaiian blood. And, whether they be Hawaiian-Chinese, Hawaiian-Filipino, Hawaiian-Japanese is all right. But, I think they should all have Hawaiian blood.

I would like to ask a question as to why a 1-year date was set for the Commission?

Congressman AKAKA. Mr. Ritte, everyone has expressed frustration over the time that has already gone by, some 84 years. One reason this joint session has been provided for is to expedite this matter and we are trying to move ahead as fast as we can. Believe me, we are trying to expedite it.

I guess we could say 2 years, it could well take 2 years. But, we are saying 1 year so that maybe the Commission will work twice as hard to complete its task.

Mr. RITTE. If they are not ready in 1 year, does that mean the whole Commission will be dismantled?

Congressman AKAKA. Well, the mandate would be for them to complete in 1 year and we hope that it can be done.

Maybe Senator Abourezk can better answer your question.

Senator ABOUREZK. Most commissions that don't finish, and very few of them do finish within their allotted time, come back to the Congress and ask for an extension. And, they have never been denied. But, I think it's—in my experience, it's been good to have a deadline like that so that they'll work toward the deadline. If you give them a 2-year deadline, it will be that much slower. They generally will finish it a short time after the allotted time.

Senator MATSUNAGA. I might add that last year the original commission resolution which was introduced in the Senate provided for a 2-year period of study. This length of time was questioned by many of the witnesses who appeared before the hearings attended by Senators Inouye and Bennett Johnston. Both Senator Johnston and Senator Inouye felt that because of the frustrations expressed by the witnesses, particularly those of Hawaiian ancestry, the Commission should be mandated to complete its work in 1 year.

And, as has been stated by Senator Abourezk, other commissions which have been deadlines and which were unable to meet deadlines have always been given extended periods of time to complete their studies and report by the Congress. So, I would see no difficulty if the Commission needed more time in obtaining such an extension.

However, I agree with Senator Abourezk that if we mandate a deadline of 1 year, perhaps we can get the Commission to move faster. If they can't possibly perform the work during that time, we may extend the period.

Mr. RITTE. Thank you.

I understand that at the first ALOHA Association meetings that we went to, that everybody wanted reparations to be finished yesterday. And, my only concern now is that the more you learn about the overthrow of our Queen, the more serious it seems the situation is and more things are being let out of Pandora's box.

So, now I am very concerned about putting together something that our future generations won't be very mad at us about. And, right now—I'm sorry Mr. Inouye is not here—Senator Inouye is not here. I read in the papers of his comments concerning the island of Kahoo-

lawe and its role in reparations and I want to say that I am very glad that it has been brought up as a possible land reparations deal. But I also want to point out that its very impossible for us to sit patiently back and wait for 1 year for a commission to get together and then, possibly several years for the Congress to sit through this thing. And, it is hard for us to sit back and daily watch our culture being bombed, and daily watch our history being destroyed. And, that is my only comment as far as Kahoolawe is concerned.

I would like to talk about something which has brought over 12 of us from the island of Molokai to come here today. I want to talk about Molokai, the Hawaiian stronghold.

On this issue, I not only represent myself, but many people from Molokai who could not afford to pay the plane fare to come to this hearing.

No. 1, the majority of our population on Molokai is Hawaiian natives.

No. 2, known as the last living Hawaiian culture, if you read your tourist brochures.

No. 3, Molokai has been extremely active in the statewide Hawaiian community. In fact, a pace setter in Hawaiiana.

No. 4, Molokai was the first island to initiate the Hawaiian Homestead Settlement Act, in Kalamaula, Molokai in the early 1920's.

No. 5, Molokai is an entire island, separated from Maui by the Pacific Ocean. With a lifestyle unique and different from Maui or any other island.

No. 6, Molokai people have been treated as second-class citizens as a natural act, because we are a separate island and the decisionmakers and lawmakers live on Maui.

No. 7, we are denied equal representation as an entity, we are denied equal representation as a individual and we are denied equal representation as an island, Molokai.

The years of frustration is reflected in this bill Joint Resolution No. 4, as once again Molokai, an entire island with immense Hawaiian culture, history and majority population of Native Hawaiians, is again left out and not represented in a bill for Hawaiian reparations.

No. 9, we will hear from this committee the same old stagnated excuses, always given to the Hawaiians on Molokai as to why an entire island—Molokai cannot be represented. We don't believe any of them anymore for we have heard them over and over and studied them, and they are but poor excuses. Or, we will hear from a fresh, intelligent, innovative, constructive committee, who now has been presented with up-to-date information and concerns for Molokai and will make one minor by very important change in Joint Resolution No. 4. A representative from Molokai.

Many of us have flown all the way from Molokai today to share this deep and real concern. It is very important as a precedence setter, also as a beginning of an upgrade from second-class citizens. The Hawaiians on Molokai want to be counted.

Mahalo. [Applause.]

Congressman AKAKA. Mr. Ritte, we have some questions. Senator Matsunaga or, Senator Abourezk.

Senator ABOUREZK. Yes, I have a couple of questions.

First of all, I think the idea of an education program, Mr. Chairman, is an excellent one that Mr. Ritte has proposed. And, I suggest that we ask the staff to prepare report language and I think it's advisable, perhaps, even a sentence in the bill saying that the work of the commission shall also include public information about the Hawaiian claims.

Steve, do you think that would be appropriate?

Mr. QUARLES. Yes.

Senator ABOUREZK. And then expand on that in the report somewhat. Does that meet with the concurrence of the committee?

Congressman AKAKA. Without objection, so ordered.

Senator ABOUREZK. And, secondly, I would like to ask a couple of questions on the point of representation that Mr. Ritte brought up.

As I understand it, you have concern about how the delegates or the commission members will be selected.

Mr. RITTE. Yes, I have.

Senator ABOUREZK. Now, can I ask you, do you think it would be better to select them on a geographical basis than the method that has been laid out in the bill?

Mr. RITTE. Definitely.

Senator ABOUREZK. Why do you say that? Why would it be better?

Mr. RITTE. Because what the United States of America—when they put their constitution together, they did not foresee a State who had a group of islands. And, Molokai is always taking a lot of gas because whenever we want representation, it is not done geographically, it's done with population. And, we are always faced with that fact, that we don't have enough population to warrant any kind of representation.

And, I think this is a lot of shibai, because geographically we are an entire island. We have entity, we have our own personality sitting out there in the ocean. And, all these years we have been having to be faced with the fact that Maui controls our destiny. Not that we have anything against Maui but we—you know, we feel we are grown up enough on the Island of Molokai to have representation.

I think that if we do it now in this reparations bill, we'd be setting precedence to start looking at the geographics of Hawaii, where we have entirely separate islands. And, especially in this reparations bill where we are talking about Hawaiian issues.

Senator ABOUREZK. How many islands are populated with aboriginal Hawaiians at this point? Is it six? Or, is it seven?

Mr. RITTE. Seven.

Senator ABOUREZK. Seven. Then, would you suggest that perhaps the legislation be changed to have proportional representation, but at a minimum from each one of the islands to represent that——

Mr. RITTE. Yes. I definitely do. I was waiting whether I should speak for Lanai or for Niihau and I felt that I shouldn't speak for the other islands since I am from Molokai. But, deep down inside I think representation should be from each of the islands, including Niihau which is—has an entire dialect all of its own, the Hawaiian language.

Senator ABOUREZK. Now, you don't happen to know—maybe if you don't know, we can find out I'm sure—the number of aboriginal Hawaiians on each one of the islands. Does anybody know that, here right now?

Mr. RITTE. Mr. Manu would be the one who could come closest to that.

Senator ABOUREZK. Who is that?

Mr. RITTE. Mr. Manu Godness.

Senator MATSUNAGA. I believe a representative of Alu Like might be the only one.

Senator ABOUREZK. Mr. Chairman, if I can indulge the committee in this question because I think it's important to know it at this time, so that we can discuss whether or not it ought to be done on a population——

FROM THE FLOOR. Senator, the Alu Like does not have full aboriginals. I'm not on it and many of my relatives are not on it. So, they do not have an authentic statistic.

Senator ABOUREZK. All I am asking for is if anybody has the statistics of how many aboriginal Hawaiians——

FROM THE FLOOR. I would say the Hawaiian Homestead has more of the Hawaiians listed.

Senator ABOUREZK. Well, we can find out. Nobody here has it though?

FROM THE FLOOR [same woman]. Not the Alu Like.

FROM THE FLOOR [gentleman]. There is a 1975 census update.

Senator ABOUREZK. Yes; we can get it. But, Mr. Ritte, let me just ask you then a hypothetical question, because we don't know the exact figures now. Say that on the island of Molokai, which has you say the biggest native population of all the islands.

Mr. RITTE. No. What I said is that the majority of the population of Molokai are Hawaiian natives.

Senator ABOUREZK. Well, let's just assume that there are 5,000 aboriginal Hawaiians living on Molokai. And, 10,000 on Maui. I don't even know if these figures are close, but I am just using them as examples. Do you think then that there ought to be one representative from Molokai and two from Maui, based on that? Or, would you just say let's take two from Molokai, two from Maui, two from Oahu and so on? What do you think is the best way to do it, that would provide the best representation?

Mr. RITTE. I would say that if we are going to get past Congress, we should accept population as one of the main ingredients. You would probably have to go one for Molokai and two from Maui.

Senator ABOUREZK. So, your suggestion would be a mixture of population and geographic locations?

Mr. RITTE. That's what I feel would pass, but my main concern is that we start treating Hawaii as a State with separate islands as far as when you start talking about representations. The geographics definitely be included into the concerns for representation.

Senator ABOUREZK. So, then, would you be satisfied with an apportionment that would say at least one member of this commission from each island and the other—that would make what, seven members? Are we talking about seven? That would fill up seven commissioners. Then, the other four commissioners or seven, or six, or whatever the final total would be, should be picked on the basis of population from the islands?

Mr. RITTE. Yes, I would be satisfied with that.

Senator ABOUREZK. So that every island would have at least one and an island with a larger aboriginal population might have two. Would that be satisfactory as far as representation is concerned?

Mr. RITTE. Yes, sir.

[Off the record.]

Congressman AKAKA. Any other questions?

Senator ABOUREZK. I have one other question.

What are your ideas about how these commissioners are to be selected?

Mr. RITTE. I feel that the ALOHA Association has started something the Maka-ai-nana or the grassroots people have really grabbed a hold of. They can really feel. I also see what we call the high makamaka sending in their lawyers trying to get a piece of the action. If we would leave it the way it is setup, in the natural realm of politics, I feel that because most of the maka-ai-nana of native Hawaiians are not really politically motivated. But, definitely a lot of these people are going to be left out and we are going to have a high representation of what we call the upper high makamaka section and the low income—I hate to use the word low income, but the maka-ai-nana people of Hawaii will not be represented as history has proven itself over and over to have done.

So, I feel that some type of wording within this resolution is going to have to try and address itself to the grassroots type of people, because that's the majority of the Native Hawaiians and they are the ones that are doing a lot of the work and have the concern for reparations. Not with lawyers but with their very actions.

Senator ABOUREZK. Thank you, Mr. Ritte.

Congressman AKAKA. Any other questions?

Senator MATSUNAGA. No questions.

Congressman AKAKA. Thank you very much, Mr. Ritte for your testimony.

At this time I would like to call on Cathy Davis of Molokai.

STATEMENT OF CATHY DAVIS

Ms. DAVIS. Aloha. After reading through the resolution, I agree reparations are long overdue. But, there are a lot of questions I have. It seems that one of the most impotant point in the resolution is there is a lot of talk about money and there is one small section that talks about land. And, in 1893, 50 percent of the land in the State of Hawaii was already controlled by private landowners. The remaining 50 percent—a small percentage, 3 or 4 percent, I'm not sure—was retained by Hawaiian families. Kuliana lands. The remaining percentage of between 47 and 50 percent of lands were taken illegally. No money for us. We didn't have money, we had land and we had Aloha.

They took our lands, they stole them and, our Aloha, they are selling. The aina to the Hawaiian people is the source of all their physical needs and all their spiritual needs. And, the way Hawaiians feel about land—the way I feel, I'm speaking for myself—the creator breather life into all things. The aina is alive, the oceans are alive, the air is alive. This is what was taken from the Hawaiian people. The source of their existence, the source of all of their physical and spiritual needs. So, to replace it with—how can you replace something like a heritage that has been lost. You can't do it with money. At the very least to make a valid and sincere attempt to make amends for these things taken from us. At the very least, you must return the source—and, adequate revenue to reestablish our people upon their lands.

I, also, like Mr. Ritte, have qestions about—there doesn't seem to be direct representation guaranteed on the commission. From Molokai, we have places like Kalaupapa and we have the people on the east end. We have Hawaiians who live on the west end. There is no guarantee that all of these people will be represented.

And, as things that have happened in the past, everytime Maui County does something, Maui County does it on Maui. And, Molokai will hear about it after it has happened. They just come and tell us, "This is how it is."

There is a big difference between islands in the State of Hawaii. Every island is unique, every island has its own identity and on that island, different districts have their own identity also. You also have differences between grassroots people, Hawaiian people and Hawaiians who have been raised in the Western society to the point where those are their attitudes, Western attitudes and that is their lifestyle, Western lifestyle.

So, it has to be reworded somehow to guarantee that grassroot Hawaiians who are going to live on the islands and who are going to really implement Aloha aina and perpetuate their culture for their children, are taken care of.

I asked Mr. Abourezk about how much land the U.S. Government would be willing to think about returning. It would really be right to return everything that was taken. I don't see much problem in this as the return of vast lands to the Hawaiians could be beneficial to the economy of the State.

The Western culture which is running things now bases everything on money, on industry, on military and on tourism. Hawaiians who base their use of the aina, not misuse, but on the concepts of Aloha aina and agriculture and aquaculture and moving in that direction. Somebody has to feed the tourists.

The life of the land is not perpetuated by tourist bucks or military bucks or industry. It is perpetuated in righteousness.

Mahalo. [Applause.]

Congressman AKAKA. Thank you very much, Cathy.

At this time I would like to call on Glenn Davis of Molokai.

Mr. DAVIS. I would just like to—I have some questions in my mind which is the same thing Walter was following up on——

Congressman AKAKA. Glenn, may I ask you, for the record, to please state your name.

STATEMENT OF GLENN DAVIS

Mr. DAVIS. I am Glenn Davis and I have questions on the representation that Walter was explaining and my wife before.

We have pretty strong Hawaiian organizations in Molokai which, you know, we have been trying to let everybody else know of the decisions which have also been made outside of Molokai. And, reparations are of such importance that it cannot be described right now. We have to, the people themselves—the grass roots people have to have a direct input into the decisions that are made.

Say, in the event that somebody makes the decisions on the committee, you know, that decisions shouldn't stand without the people at least having some feedback on it or some direct input into it. If they

don't have nothing to say about it and these guys go ahead and accept the reparations, you know, and file their—if they file what they feel is beneficial to the Hawaiian people and a lot more people don't agree, it is just going to start picking up the whole battle again.

And, it's always you know—sometimes politicians or the Government itself, they try and show money to us. And, there are a lot of things that money—no matter how much money you can throw, it's not going to buy back my heritage. It took me so many years, you know, just coping with the Western culture and now I'm just learning about reparations. Anyway, money is not the big thing. It is just that the Government knows that they did a great injustice to us and after 83 years—or, 84 years we have been suffering trying to learn who we are—you know, at least we have a chance through the Aloha Organization to say something. You know, not for the Aliis to say something but for the grass roots people, the ones who really need it.

I can't see any reparations coming in the way of a handout or something. Like they put us on some kind of welfare where you got your social worker and asking them for money and after that when you get the money—you know, "You guys are poor people. What's the matter you guys lazy or something." Which is not the case.

So, I can't—you know, for myself, the commission has—it's been set up and everything like that. I would like to see, at least—you know, have some different people have input into it. Not just 12 people running around and looking around but not looking at the real poor people. The ones who have to work hard, work on the ania. And just feel that, "Give them some money and at least you make them happy." Or, put them on welfare programs. But, you will find outside that the poor people that have the chance, a lot of them work and try their best. And, at least we should have the alternative to live the way we like, regardless of being poor or what. That's all.

Mahalo.

Congressman AKAKA. Mahalo nui loa. [Applause.]

At this time I would like to call on Kaui Kapuni, also of Molokai.

STATEMENT OF KAUI KAPUNI, MOLOKAI, HAWAII

Ms. KAPUNI. Kaui Kapuni of Molokai.

I remember when I used to go to school at my elementary school, we had to recite the Pledge of Allegiance every morning. I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. With liberty and justice for all.

They came over, they overthrew our government and they locked up my Queen. The United States of America is a powerful country. You politicians are here to help us and I am earnestly asking for you to help. We have suffered enough. I think this is one race that went from one disappointment to another. And, I don't know how we all handled.

My grandmother says, "Hoomanawanui," which means be patient. But, I don't know how long can you be patient? How long can you sit down and say, "Yeah, OK, that's the Government. You can't fool around with the Government." You have to just accept it. It's hard to accept things which are wrong.

And, what I am primarily saying is to be serious with us, to be serious and sincere. I just hope that this Commission will not be a disappointing one for us. We have had too many already. We have suffered enough.

I think money—money cannot replace all that we have lost. We have so much to do. You guys must be tired hearing these Hawaiians. You must think, "My goodness the grumbling." But, I think it is about time that we did grumble. Not necessarily grumble, I think it is about time us Hawaiians should stand up and talk and say, "Hey, we know this is wrong. You guys better help us."

I just say give us a break, give us Hawaiians a break. Mahalo. [Applause.]

Congressman AKAKA. A very simple but effective appeal.

At this time we call on Liko Grambusch also from Molokai.

STATEMENT OF KAMAKANA GRAMBUSCH, MEMBER HUI ALALOA-OHANA MOLOKAI

Mrs. GRAMBUSCH. Senator Matsunaga, Senator Abourezk, and Representative Akaka, my name is Mrs. Wilma Likolehua Kamakana Grambusch of Kewela, Molokai. I am a member of Aui Alaloa–Ohana Molokai.

I am here to testify on your Resolution 4. First of all, the commission appointments. It is the purpose of Hui Alaloa–Ohana to go on record that all of the members of the commission be of Hawaiian blood. And, that in order to meet the ethnic representation of the commission, that this mixture be represented within the Hawaiian himself. For example, Hawaiian-Japanese, Hawaiian-Filipino, Hawaiian-Portuguese, and so forth. The root will be Hawaiian.

Hawaiians need to determine their destiny. Second, Hui Aloloa–Ohana Molokai wishes to go on record to recommend very strongly that a member from Molokai be a part of the commission. The reason for this recommendation is obvious.

What has been discussed today between Senator Abourezk and Walter Ritte will need further investigation on a recommendation from Hui Alola as far as how the appointments will be made. Whether they will be elected by apportionments or some other——

Senator ABOUREZK. Excuse me, can I interrupt you a minute?

Mrs. GRAMBUSCH. Certainly.

Senator ABOUREZK. I don't know the exact timetable in passing this Bill, but, if you've got other ideas on how they ought to be selected, you probably ought to get them to Senator Matsunaga or Congressman Akaka very shortly, because once it's passed, it's over with.

Mrs. GRAMBUSCH. I think what is in the Bill now is questionable, because it is highly political and I think we talked about this out in the hall. That minority groups such as Hawaiians are very naive in the political arena. And, since the names that will be submitted to the President will be by the Governor, now, this is a whole area of education that Hawaiians will have to deal with. The political arena, that is what is stated.

Senator ABOUREZK. Yes; but the commission may be selected before you get around to educating everybody. In other words, if you want this thing to move fast, and I'm sure that everybody does, that I think

it ought to be decided fairly shortly exactly how these people are to be picked.

We talked a minute ago about a mixture of both geographical representation and also representation based on population. Do you find that troublesome or do you think that is all right?

Mrs. GRAMBUSCH. I agree with both, except—I want to reiterate the importance of representation from Niihau and Molokai.

Senator ABOUREZK. There would be a minimum of one from every island.

Mrs. GRAMBUSCH. Yes, definitely.

Senator ABOUREZK. And then, you would have a few more based on population.

Mr. Chairman, may I just go ahead and ask——

Senator MATSUNAGA. Yes.

Senator ABOUREZK. What do you think about the method of selection? What if we included a provision in the Bill that went something like this, "In making the selection, the President shall, or his representative shall consult with the aboriginal Hawaiian community in each geographical location." Now, that means that he is not bound by what is recommended to him, but he has to consult with them. And, that would mean that it would be a system of concensus.

We talked out in the hallway, if you recall, about the difficulty of running an election. It might be subject to lawsuits and the whole idea of the commission might be thrown into question if you tried that. But, what do you think about requiring that the President or his representative consult with the Hawaiian community in each geographical area or each island?

Mrs. GRAMBUSCH. That sounds like a good idea.

Senator ABOUREZK. I mean, that's probably not the best idea, but——

Mrs. GRAMBUSCH. We don't have time to go into—we really haven't had time to go into this, you know, we just got the resolution last night.

Senator ABOUREZK. What I am saying is there may be better ideas, but I can't think of one right now.

Mrs. GRAMBUSCH. We are also in support of the reprsentative from Niihau. We are also in support of Alika Cooper's statements. And, we wish to request that this Honorable committee assist in acquiring the commitment of Kamaaina witnesses to be a part of the archaeological team now studying Kahoolawe. This request was made to the Navy and Captain Cockett has denied this request.

We feel that it is very important that we have kamaaina witnesses be a part of the team of the study on Kahoolawe.

Thank you. [Applause.]

Congressman AKAKA. Thank you very much, Liko.

I now call on Annie Ruhnke of Kihei, Hawaii, as our next witness.

STATEMENT OF ANNIE RUHNKE, KIHEI, MAUI, HAWAII

Ms. RUHNKE. My name is Annie Ruhnke and I currently live in Kihei, Maui.

Honorable Senators and Representatives, we have heard the testimony of the Hawaiian people. They have shown us their heart is with their lands. I hope you take this into consideration when you try to

decide who is best qualified to govern their land. You have heard their requests for amendments to the Senate bill and I urge you to carefully consider their requests. If more people of the world would speak from their hearts as the Hawaiian people, what a wonderful insight to each other we might all have.

I, myself, have been on my ancestral island only once. My maternal grandparents left the Island of Ireland because of famine. There now there is war and armed guards in the streets. But here there is peace. The Aloha spirit is still alive. This is what we must preserve. The goodness of our island home and the rights of its ancestral people.

But, because of the dawning of the electrical age, the telephone, radio and television, the need for more direct communication for the people that this Senate bill seeks to represent, I therefore would like to propose that video tape be used as a tool—be employed by the commission. The video communication be kept throughout the research of the commission. Such compelling evidence as we have seen in the faces of the people can be lost between the pages of type-written evidence. The dances, songs and stories, the very communication of the Hawaiian people should not be lost to mainland Congress or people. The beauty of the land, the very plight of the people can be captured in its entirety. The concerns for and against can best be kept and gone over by the Commission members, by the use of video tape.

Therefore, I would like to conclude by saying that I would like some response from the Congressmen as to this request. If they feel this would bea viable consideration to an amendment.

Congressman AKAKA. Ms. Ruhnke, I would say that we are accepting all of the testimonies and that they are all being recorded. Every statement will be considered.

Ms. RUHNKE. Let me urge you that issues be brought together, would be more viable for the consideration of all of the members of the Commission as they can go over—also, I would like to say that from my own knowledge, the use of video equipment is very easy and someone could show each of the members or be there to assist them in shooting whatever they wish to record.

I would also like to say to the Hawaiian people, your plea is being heard and your trust and faith will surely be answered as well as those who have abused your land, with justice.

Mahalo.

[Applause.]

Congressman AKAKA. Thank you very much, Ms. Ruhnke.

May I call now on John Bose. He comes to use from Haiku.

STATEMENT OF JOHN BOSE, HAIKU, HAWAII

Mr. BOSE. My name is John Bose and I live in Haiku. I am a pure Haole and I am ashamed of what my people have done to your people.

When I saw Charlie Maxwell at noon today, I told him that I intended to send in a written testimony more or less backing up his cautious stand on this Senate resolution and Charlie urged me to appear here as a witness. So, I'm doing this and I would like to read an article I wrote for the Lahaina Sun in 1973 when the Aloha organization was just being formed and when I first became aware of the history of the

plight of the Hawaiian people and some of the things that have happened to them.

In 1820 there were about 150,000 persons of native ancestry living in the Hawaiian Islands. One hundred years later, after a century of disease and deprivation resulting from the ever increasing encroachment by white settlers, their numbers had been reduced by 85 perecnt. Many of the 22,500 Hawaiians remaining in 1920 had become tenement dwellers in the white man's cities, alienated from their lands and their way of life.

Prince Kuhio, who had been elected delegate to the U.S. Congress in 1902, was disturbed by the plight of his fellow Hawaiians. In 1910 he called a conference to develop some plans he could take to the Congress in Washington to rescue his people and their way of life.

During the ensuing ten years of studies and discussions, the Hawaiian Civic Club emerged as an active voice for the Hawaiians. It was determined that a 'back to the land' policy was the best means of bringing about self help for the natives. In other words, let the Hawaiians live like Hawaiians.

No concept could be simpler, but execution was and is an entirely different matter.

From Prince Kuhio's conference and the efforts of Hawaiian and haole leaders, the Hawaiian Homes Act of 1921 was finally born. This Congressional Act, which set up the Hawaiian Homes Commission, was designed to make amends for some of the injustices of the past by establishing a pattern of "rehabilitation" for those Hawaiians determined by the commission to be suitable candidates for a decent existence.

In addition to being at least 50 percent pure-blooded Hawaiian, applicants were selected on the basis of demonstrating appropriate "character, conduct, and aptitude for farm work." To those selected, the commission was authorized to lease (not to sell), "the right to use and to occupy tracts of Hawaiian Home Lands." Shore lands and acreage in sugar production were excluded, which meant that the Hawaiians were expected to change their traditional living patterns.

Initially, the act was set up for a five-year experimental period. The program got off to an encouraging start, and in 1923 Howard D. Case reported in Thrum's Annual that, "The work that has been done to date in placing of Hawaiians back upon the lands that were once so profitably tilled by their forebears has demonstrated clearly that it can and will be a succeses. The start has been made, and comparatively smooth sailing from now on is anticipated by the members of the Hawaiian Homes Commission."

Governor Wallace R. Farrington, serving as Chairman of the Hawaiian Homes Commission took pride in the "no haste" approach which assured that roads, fences, clearing and water development preceded occupancy of the lands being opened on Molokai. The process was slow, costly and almost guaranteed from the start to solve only a fraction of the urgent problems at hand.

The natives were not returning to the land as reestablished Hawaiians, nor even as Americanized homesteaders in the tradition of the westward movement, but as recipients of a social welfare program. Unlike other homesteaders, to whom thousands of acres of Hawaiian lands had been distributed in fee simple after certain provisions were met, the Hawaiians did not own, or ever hope to own, Hawaiian Home Lands. While the 99 year leasehold provision was designed to prevent the Hawaiians from being bilked from their holdings, it also deprived them of the pride and protection of ownership. In practice, the homes act has tended to pauperize the Hawaiians, making them, in a sense, perpetual wards of the State.

After a half century of slow-motion, half-measure responses to immediate and pressing problems, during which time about as much land has been "lost" as has been available for homesteads, the Hawaiian Homes Commission is still bubbling over with optimism. The total number of lessees is far smaller than the current list of applicants, and there would probably be many more applications if the deserving Hawaiians had any real hope of seeing their names reach the top of the list within their lifetime. After 18 years of waiting, a family may learn that it is no longer eligible because the children required for priority consideration have already grown up and left home.

It is important in viewing the sad state of affairs under the Hawaiian Homes Act to make a distinction between those of 50 percent or more Hawaiian blood who may participate in the Hawaiian Homes Act, and all the Hawaiians of one-

quarter or more Polynesian ancestry who, under the precedents of Indian and Alaskan claims settlements, are seeking compensation for loss of their ancestral homelands. If the 1921 act had come closer to achieving its promise of justice for Hawaiians, the present situation might never have arisen. Many of those agitating for justice today should have inherited portions of the original 200,000 acres of Hawaiian Homelands, and that land should have been the kind a Hawaiian would choose to live on, not what can be "reclaimed" at great expense.

So, I think that when Prince Kuhio went before Congress in 1910 and up to 1920, he was dealing with honorable men just as the people here are dealing with very honorable men. But the best intentions sometimes go astray.

So, I do urge the Hawaiians to push your claims, but be cautious and make sure that what comes out of this is for your real long-term advantage and not some short-term publicity thing like the Hawaiian home lands.

Thank you.

[Applause.]

Congressman AKAKA. Thank you very much. Will you please stay for questions, Mr. Bose.

Senator MATSUNAGA. Mr. Bose, as a non-Hawaiian, you may be able to provide us with some idea as to the feelings of non-Hawaiians on this matter. At least sympathetic non-Hawaiians. Perhaps not Hawaiian by ancestry but Hawaiians at heart.

It's been suggested that the members of the Commission be all Hawaiians or Part-Hawaiians, as the case may be. As you know, the bill, as introduced, provides that some of the Commissioners be non-Hawaiians. What is your feeling on this?

Mr. BOSE. Well, we have a precedent. The Hawaiian Homes Commission was supposed to be comprised of Hawaiians and non-Hawaiians. And, if you read the history of the Homes Commission, you see that it was operated not to the advantage of the Hawaiians but to the advantage of others. So, I would be extremely skeptical if I were the Hawaiians in not having a good strong majority. I think you do need other voices. I don't think you can reach the best decisions which have the greatest opportunity of being accepted by the Congress of the American people if it is just from one point of view.

But, I would hope that the Hawaiians would be able to maintain a majority on the Commission.

Senator MATSUNAGA. Majority but not completely?

Mr. BOSE. I don't think so, but I haven't really come to a strong feeling on this.

Senator MATSUNAGA. Some of the feelings expressed was this, that if we had an all Hawaiian Commission, then perhaps the Congress might feel that the presentation of the Commission might be a prejudiced one, simply voicing the views of the beneficiaries or intended beneficiaries. As a result, we proponents of those who feel that the rights of the Hawaiians should be immediately repaired may not be able to convince the majority of the Members of Congress that the report of the Commission is a fair one. Fair to all concerned. What do you think about it?

Mr. BOSE. I am speaking as a haole and I hope I am speaking from a sense of justice, I am inclined to agree with that. I think that there would be this suspicion of bias even if maybe it could be shown that there were no bias. But, I am inclined to agree that it should have a

broader representation and the people who are involved in it, all of them, but particularly the non-Hawaiians should go through a definite—not brainwashing, but an educational process so that they have some feeling for the history of the problem and can operate intelligently from a context of a historical understanding of the problem.

Senator MATSUNAGA. For example now, in your case, Mr. Bose, you made a study of the history of the Hawaiians. Now, I have no doubts in my mind that from your testimony and from your very appearance here in support of the bill, which would expeditiously make reparations to the native Hawaiians, that you would serve as a good member for the Commission with perhaps the ability also to convince other non-Hawaiians—haoles so to speak. Because perhaps the haole might look to you as one who is not a beneficiary, but who is interested in the welfare of the Hawaiians and may be able to voice a more objective viewpoint. Do you agree with that?

Mr. BOSE. No, I don't. I honestly don't think that I could take what you would call an objective viewpoint at this stage. I have had such great admiration for the sincerity of the people who have been working on this in the ALOHA Organization and the Kahoolawe group, that I know that my biases are there. And, if you are looking for somebody who can present an unbiased objective point of view, you would have to seek someone other than someone like myself.

Senator MATSUNAGA. Well, you know, frequently—and I am speaking now as one trained in the practice of law—we find that objective views can be one sided: one sided in the sense that after an objective study, a student may decide fully in favor of one side of the issue. So that being objective or being biased, in the sense that you are perhaps, is not necessarily derived from prejudice, but from an objective observation and analysis of all the facts involved.

Now, this is what I am trying to drive at: your earlier expression that perhaps the views as expressed by the Commission and the recommendations as made by the Commission might be much more readily acceptable if we had non-Hawaiians who were fully convinced of the Hawaiian cause present the case.

That's the thought I am playing with, and I venture that thought as one who has been with the ALOHA Association from the very beginning and who introduced the original House bill, H.R. 1944, in order to further Hawaiian native claims. As a matter of fact, I was initially opposed to the resolution which is now before us, because I thought we had had enough studies; that we ought to immediately have the Congress determine what the damages were and make reparations.

Those of you who are original members of the ALOHA Association know that. But, upon considered study and objective analysis, I found that I had to agree with my senior Senator that it would take longer to do that than to take this route of getting a commission to make its recommendations after a thorough study, just as the Alaskan situation was handled. You see, the Alaskan situation, even though the Alaskan Natives had the advantage of a specific provision in the Organic Act which made Alaska a State—that the United States would definitely make reparations for lands taken—still started out with a commission. And, a commission reported back with a document consisting of 600 pages. It was this document which served as the basis for expediting the claims of the Alaskan Natives.

And, after having thoroughly studied these facts and the issues presented, I conceded that the way of creating a commission would be a more expeditious way, because at least we have a precedence in congressional legislative history. It was for this reason that I accepted the invitation to speak before the ALOHA Association at their last State convention on the Island of Kauai, and there took it upon myself to urge them to support Senate Joint Resolution 4. I was happy that subsequently, after I had left, they did in fact adopt a motion or resolution to endorse the resolution.

But, there are these thoughts which have been placed before this joint committee yesterday and today. You can rest assured, of course, that we will make a through study of what has been presented, and we will do everything possible to incorporate the suggestions made as amendments to the joint resolution.

Mr. Chairman, I have already taken too much time, but I thought these things ought to be aired.

Congressman AKAKA. Thank you very much, Senator Matsunaga.

There being no further questions, I want to thank you very much, Mr. Bose, for your testimony.

[Applause.]

Congressman AKAKA. At this time I would like to call forward Dorothea Whittle.

STATEMENT OF DOROTHEA WHITTLE, MAUI, HAWAII

Ms. WHITTLE. I am Dorothea Whittle, recently of Honolulu, but now we live on Maui. My husband is half Hawaiian but I am a haole. I have lived in these islands over 35 years and I have studied what has happened here for most of that time. And, I think that a great deal of what the U.S. Government is being blamed for in what has happened to the Hawaiians in the last 50 years or more, should be laid at the door of what used to be called the Big Five. The people who ran these islands after we became a territory.

When the people were put on Molokai on the Hawaiian Homes Commission lands there, they were put there without water to farm. The salespeople were allowed to go over there and sell them cars on the installment plan without any real hope of the people being able to farm the lands and get their produce sold. The people who were controlling the water didn't let the Hawaiians have the water because they wanted the land for pineapple land. And, when the Hawaiians did get a crop, the only way they could get it to market to Honolulu was through the goodness of a tugboat captain who might put it on the barge—on the deck of the barge and let it come to market. By the time it had been there in the salt spray and the hot sun it was pretty wilted and wasn't worth enough to compete with what was brought over from the mainland.

I have heard these stories from people like Francis A. Makalani Bowers who is three-eighths Hawaiian and is 77 this year. And, a great deal of what people of haole ancestry are being accused of really is the fault of a handful of plantation managers who wanted to be kings. And, they really ran their plantations in such a way that they ruled with an iron rod.

One of the things that was currently talked about, at the time of the first big strike after the end of World War II was that strike was set off in the Lahaina area by a luna who took a whip to the men in the fields. Now, the person who told me that story was someone from Maui and should have known that it was true. So that really a great deal that we are being tried to—being tried to made feel guilty of, we of America are not—it is not the fault of the American Government. Our American Government really was given the wrong information. If you check your records thoroughly at the time there was just one President who really got the straight story in 1893 and he refused to accept the Hawaiian Islands and take them at that time. I don't think that the President who followed him was given the straight story. The one who accept the Hawaiian Islands in 1898. From the record it appears that way.

Now, I am very much in favor of having some sort of land reparations but I think that that should be done in such a way that each person is given his own kuleana. That it should not be a lump of land held in trust in such a way that you make the continuity of the paternalistic system that has existed in these islands for so many years.

The land should be divided to the people. The Hawaiians are quite capable of paddling their own canoes individually when they are given enough education and some land of their own that is usable and that is the kind that they know how to take care of.

They should have access to the sea. There were always certain ones that were fisher folks that lived near the sea and did the fishing and shared their catch with their neighbors. And, we should have the Hawaiian lands divided so that they can get to the sea. And, so that the ones who really want to farm have good land with water.

I believe this idea, is the way the Alaskan one was set up so that the land is in trust is only going to make for paternalism in Alaska and I think this is wrong and I hope it will be done so everyone can get their own land or kuleana. For you two Senators who are from the mainland, it means their own parcel, their own landholding, their own farm.

Thank you gentlemen. [Applause.]

Senator MATSUNAGA [presiding]. Our next witness is Mr. Leslie Kuloloio.

STATEMENT OF LESLIE KULOLOIO, REPRESENTING COMMUNITY PLANNING COUNCIL OF LEGAL AID SOCIETY, MAUI, HAWAII

Mr. KULOLOIO. Senators and Representatives to Congress and our other representatives here at this public hearing, I would like to thank you folks for accepting us and hearing us in our testimonies.

No. 1, I would like to thank most of all, in the afternoon hearings, our Hawaiians who came here this morning and this afternoon. Our Molokai, Lanai, Kauai, Maui, and Honolulu people. We see here many leaders from Maui. We see them in the media. Especially Charlie with his fine introduction and many people who are not Hawaiians.

I am here today representing as chairman of the Community Planning Council of the Legal Aid Society of Maui and representative to the—one of the representatives on statewide level. I hear so much on the questions nowdays coming up on who is going to be on the commis-

sion. Who is right and who is not right. This is one of the things that we will have to sit back and look very strongly at. I ask the cooperation of our Congressmen from Hawaii to have the President look into the matter. It is very, very strong to us Hawaiians.

Some of the problems we face here locally on Maui, we have 15,000 low income people. Fifty percent of these 15,000 are Hawaiians. Many of these Hawaiians on welfare include our senior citizens. We have problems with land and water rights. So, we see a field we should look into and I hoped that someday you could come to the islands and listen to us—I say that today's hearing is one of the best I ever attended.

I would like to thank the people of Congress. Our non-Hawaiians today for recognizing the wrongs done to our generation of Hawaiians.

All I can say in closing our record is that soon we'll be starting into the legality of our language of the resolution. Language and things on paper can also change through court orders. Language can change, palapala and deeds can also change. Legislation can also change and civil courts and Federal courts can change things. Progress can also change. So, I can not comment further, but I am testifying hopefully and prayerfully for the future that I see beginning here today. It looks very very good. A dream, a hope that will come true. But, at this stage, I can only say that it is only a dream.

All I ask—and I represent somebody at this time, my dad, who is full Hawaiian, he comes from Makena. My mom is almost full Hawaiian. I have a little pinch of Chinese in me. I am seven-eighths Hawaiian. My children are over half Hawaiian.

However, the most important thing is that I hope that the resolution includes our Hawaiian children not yet born. This I stand firm on and I hope that this will start to make progress and be something sound. Not for today, not for tomorrow, but forever. Not an act wh ch is now being challenged by the courts, putting our Commissioners in trouble, the question of who is right and what is right. But, I ask for the cooperation of you non-Hawaiians and mahlo to you non-Hawaiians for helping us Hawaiians.

And, in closing, famous are the children—you are looking at all of us, all of us are community leaders. Some people low income, some rich, some poor, but all we have in our hearts is Hawaiian and we should be proud of it.

This is a great day for us on Maui. So, in closing Senators, when you go back to Congress, I look at you for representing us in Hawaii.

You folks, we put you folks in office and we know you folks can do a good job and have been doing a good job.

In closing all I say is let's go forward hopeful that the children not yet born, take care of them. I might not be here, but take care of our children and our children to come.

Mahalo.

Senator MATSUNAGA. Thank you, Leslie, for your beautiful expression of what I am sure is in the hearts of all Hawaiians. I think you did a beautiful job coming up here and speaking impromptu. I'm glad you are not running against me. Maybe someday you will. But, that was a beautiful presentation and I think one which is a beautiful one to close these hearings with.

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But, I wish to once again reiterate the fact that this resolution which was introduced is merely a proposal. What will be reported out of the committee of the House and the committee of the Senate may be entirely different. Or, it may be one with amendments which have been suggested by the witness who testified before this joint committee yesterday and today, or by those who will submit testimonies even after these hearings are closed because the record of these hearings will be kept open for 3 weeks from today. Anyone who wishes to make any further comments or anyone who has already testified and would wish to expand on their testimony, may write to the committee in care of myself. All you need to do is——

MAMALOA. Senator Matsunaga, I came here to testify today and it involved me with a lot of expenses. Do you mean the hearing is closed as of the last speaker?

Senator MATSUNAGA. You testified yesterday.

MAMALOA. You only gave me 5 minutes.

Senator MATSUNAGA. We gave you——

MAMALOA. Well. I am here to testify this afternoon, to finish what you didn't give me time to yesterday. You didn't give any one of these people 5 minutes. I'm insulted.

Senator MATSUNAGA. Will you let me finish?

MAMALOA. I asked this gentleman to submit my name to you.

Senator MATSUNAGA. Well, I tell you Mamaloa——

MAMALOA. Now, why should you do that to me?

Senator MATSUNAGA. Mamaloa, yesterday we gave you an extra 5 minutes——

MAMALOA. I am still legally a witness today. You haven't given me time to acknowledge what you should know.

Senator MATSUNAGA. Well, I would be willing to listen to you if you would like to expand upon your testimony, but nobody else will be here except myself.

MAMALOA. Well then, that's okay. Let it go on record.

Senator MATSUNAGA. All right. Any objections to Mamaloa being granted additional time to testify?

MAMALOA. I spent my airplane ticket to come here.

FROM THE FLOOR. This is Maui, this is not Honolulu.

Senator MATSUNAGA. If there are no objections, we will go ahead and listen to——

FROM THE FLOOR. Mr. Chairman, I object to her testifying.

MAMALOA. If you object, you can leave now.

FROM THE FLOOR. She should testify in Honolulu. She's from Honolulu, and we testified here on Maui. I think she had her time in Honolulu.

MAMALOA. I did not have my time. He submitted 5 minutes and I'll challenge him in court and you too.

FROM THE FLOOR. My objection stands, Mr. Chairman.

Senator MATSUNAGA. Well, thank you. A point of order, of course, is——

MAMALOA. I'm still a Hawaiian, an aboriginal descendant and I have the right to testify here today.

Senator MATSUNAGA. Mamaloa, if you will just——

MAMALOA. If you don't want to hear it, you can leave.

Senator MATSUNAGA. If you will just listen to the ruling of the Chair and just——

MAMALOA. But not to me personally, because that is an insult to me.

Senator MATSUNAGA. I'm just about ready to decide in your favor, but if you insist on it, I will decide against you. And, I think—you know, after all we are all human beings.

MAMALOA. The whole world is looking upon us, the whole world.

Senator MATSUNAGA. We have heard you, Mamaloa, we have—you have the privilege of expanding upon your testimony in writing if you wish to.

MAMALOA. Why not appear in person to Congress?

Senator MATSUNAGA. Because we have——

MAMALOA. Sparky Matsunaga, if I cannot speak here, I will go to Washington.

Senator MATSUNAGA. Well, we would be happy to hear you in Washington if you wish.

MAMALOA. At the expense of the United States of American Government.

FROM THE FLOOR. A point of order, Mr. Chairman.

Senator MATSUNAGA. Yes; well I am about to rule on this matter.

MAMALOA. I came here early this morning before——

Senator MATSUNAGA. Will you give me a chance to rule? Do you want me to rule against you?

MAMALOA. Well, you ask me one question——

Senator MATSUNAGA. Do you want me to rule against you? I am asking you, do you want me to rule against you or for you?

MAMALOA. Why would you rule against me, when I——

Senator MATSUNAGA. Mamaloa, I am asking you, answer my question, do you want me to rule against or for you? I am asking you.

MAMALOA. I do not expect anybody to rule against me.

FROM THE FLOOR. Point of order.

Senator MATSUNAGA. All right. If you want me to listen to you, perhaps you will keep your mouth shut until I can make a ruling. [Applause.]

MAMALOA. Just listen.

Senator MUTSUNAGA. All right. Inasmuch as I have a little time before my plane leaves—the others have to leave because their plane will be leaving shortly. So, they will have to leave for the airport, but I will listen to you. I will give you 10 minutes, Mamaloa. Ten minutes. That is more than what others have had. [Off the record.]

Senator MATSUNAGA. Back on the record. We will now hear from you.

STATEMENT OF REVEREND LEILANI HIAA KALAE LOA

MAMALOA. After announcing my credentials, then I would like to take my 5 minutes.

I was born of pure Hawaiian parents of Alii descendants. Of ancestors. The first arriving ancestors—aboriginals, I'm a descendant of.

I have now been hired—been honored to be a Kuhinanui to the only royal highness who owns the whole entire Hawaiian archipelago today. I will go to Congress without an invitation to acknowledge that we are still a sovereign nation.

I came back home to settle with my two cerebral palsy children because there was a link of a mystery in my life. And, ever since then I have suffered coming back to Hawaii. The ignorance of the Ha-

waiians, the ignorance of the citizens who are living here in the State of Hawaii. Being falsely arrested, children taken away by this Government. If anyone suffered by the government's erroneous conditions, I have. But I still turn the other cheek and pursue my aesthetic endeavors. I am dedicated to the Fire Goddess, Pele. She still is the power over the entire world which means that the Hula is a religion.

I have been elected since 1972 and asked to be a spiritual counselor in the Church of Hawaii Nei which is registered and established in the State of Hawaii. Officially known as Kahuna Puli.

Let me tell you, my people, the power of the Hawaiian virgin still exists here in the State of Hawaii. We've never cursed anybody. We've never crossed anybody's path. Everyone else has crossed our path. I am insulted today and I've always been insulted.

But, let it be known that it just sharpens my razor's edge. Because, we aren't to be governed by anybody but ourselves. It's a legal—Mr. Sparky Matsunaga, within the 5 years statute of limitations, if any Hawaiian were to register their claim back to Hawaii after statehood—do you know about this law?

Senator MATSUNAGA. That's the same testimony you presented yesterday, Mamaloa.

MAMALOA. I am asking you, I didn't ask you to answer me yesterday.

Senator MATSUNAGA. I am here to listen to you, Mamaloa, not to answer your questions.

MAMALOA. Well, I want to tell you the legal statute of limitations—what the legal statute of limitations is. Only one person did it and he's a descendant of Kamehameha II, Mr. Harold Cass. I am a descendant of Kamehameha III, through Kahuna Puli David Keheluokalani [phonetic spelling], Queen Liliuokalanai's Kahuna Puli. I am also a descendant of Queen Liliuokalani and King Kalakaua through that tutu.

The crown lands are now being fought. Who is the rightful heir to claim the crown lands?

I wasn't there at the beginning of the testimony that was submitted yesterday morning, but I was there before the hearing was over with. Now, I don't like to come before a body of people, it is frustrating. I'm struggling to get the message across.

But, now it will be said this Congress hearing is illegal. And, it's abominable to want to tell you Hawaiians that they are going to do you a favor. They are going to do this and that for you, which they are not. I am now in court fighting and, as a Kahuna Puli, I have the right to go to any heiau at Kealohi Point in Heeia Kea, Honolulu, Hawaii, Oahu. Kaneohe, Oahu. And, I am going to get that land because it rightfully belonged to my ancestors. Not to stick my nose into anybody else's affairs.

And, let me tell you, the way I feel now, if anybody don't believe in the God that we believe in, they will have to go home to wherever they came from. Because, we came here for God's sake. We came here to believe in the principles and be judged by them in time to come. Not with idols from a different foreign land. I love the teachings that were taught to me. I am thankful to my kupunas and my ancestors who are now in paradise, and their spirits still reign on the face of this Earth to speak to me as well as to you, if they find you worthy. I am not a respecter of persons, because they don't speak my language.

They are not humble enough. I am tired of hearing them saying they are going to do this and that. Let the non-Hawaiians tell this Hawaiian what to do. I suffered to be educated in the school of hard knocks. From this day forward, you pray that God will bless me, because I speak in your behalf, my people. I don't have to bow down to nobody. This island is mine, rightfully so. And, the Government owes me as well as you. And, I don't have to be under welfare. I wasn't under welfare. I might dress the way I do because I want to be dressed the way I do.

And, Maxwell, who didn't do a damn good job on the ALOHA Association—he was not the president again. He had better step aside because he is no longer a Hawaiian to me.

I want to also tell you that the ALOHA Association—the book that Louise Rice speaks of—was from her customer in the taxi business. And, I know who that person was. She just happened to carry the ball where Queen Liliuokalani left off, and she didn't do a hell of a good job.

Who wants to settle for Federal land? For military land? That's a mistake. The land title who owns Hawaii are Hawaiians.

And, then, Alaloha, let me correct you, my dear ones. You did not complete the name. Halailoha was the name of that trail. The beginning of the trail, the Alaloha organization did not complete the name. You know why our Hawaiian people do not use a name that is Alii, because their spirit might come back and destroy it. The power still lives.

Believe me, I can go to America, the United States and be among the Indians and they will accept me, with all their heart and soul. The Micronesians accept me and wish they had a spokesman to speak in their behalf as I do. I was insulted when I went there to welcome them. There are a lots more people that would welcome me into their tribes or country. I happen to be a Hawaiian, I happen to be living in the State of Hawaii. I happened to have learned much more than a person can comprehend. You don't need an education, you need to keep up with your communications of what is going on for your benefits.

Senator MATSUNAGA. Your time is up. The committee——

MAMALOA. I'm truly thankful to my Heavenly Father for being here to acknowledge to you that I certainly belong with Peggy Hao Ross. She gave up her citizenship from America. If this is the way they are treating me, I want to go back to the Hawaiian government and the Hawaiian sovereignty where we will not be treated this way. And, I said that in my last closing speech and I say it now.

I thank America for being a friend and ally to us, but let it be known that I am now a Hawaiian government, rightfully and justly so. Or, Mr. Matsunaga and this group of Congressmen would not be here today, so that you can give up your rights to your land to give it back to America. For what? To be under the Homestead Commission? It does not exist as far as I am concerned. And, I will take that matter to court.

The land is frozen right now under Governor Ariyoshi, until further notice. That is my understanding.

Senator MATSUNAGA. The committee stands in recess subject to the call of the Chair.

[Applause.]

[Whereupon, at 4 p.m., the hearings were adjourned.]

APPENDIXES

APPENDIX I

Establishing the Hawaiian Native Claims Settlement Study Commission—Report No. 94–1356

Calendar No. 1286

94TH CONGRESS *2d Session*	SENATE	REPORT No. 94–1356

ESTABLISHING THE HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION

SEPTEMBER 29, 1976.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S.J. Res. 155]

The Committee on Interior and Insular Affairs, to which was referred the joint resolution S.J. Res. 155 establishing the Hawaiian Aboriginal Claims Settlement Study Commission, and for other purposes, having considered the same, reports favorably thereon with an amendment to the preamble, to the title, and to the text and recommends that the joint resolution, as amended, do pass.

The amendments are as follows:

1. Strike out the preamble and all after the resolving clause and insert in lieu thereof the following:

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 the 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 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 feeble but friendly and confiding people has been overthrown", that "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 that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; 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 Liluokalani, the lawful monarch of Hawaii and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Hawaiian Natives; and

Whereas, 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 Natives prior to the overthrow of their indigenous government; and

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

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-three years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and a commission of distinguished Hawaiian Natives and other citizens should be convened to advise the Congress on all matters pertaining to such remedy.

SEC. 2. (a) There is hereby established the Hawaiian Aboriginal Native Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(*b*)(*1*) The Commission shall be composed of eleven members appointed *by the President, of whom six shall be from a list of not less than twelve names submitted to the President by the Governor of Hawaii. Six of the members shall be of the blood of Natives of the Hawaiian islands prior to 1778 (hereinafter "Native blood"), two of whom shall be of one-half degree or more of Native blood, two of whom shall be of one-quarter or more degree of Native blood, and two of whom shall be of any degree of Native blood. Each of the counties of Hawaii, Honolulu, Kauai, and Maui shall be represented on the Commission by a member of Native blood who is an inhabitant thereof. At least four members shall be conversant in Hawaiian Native culture, history, or language and one member shall be knowledgable concerning Federal and State laws which are addressed to or significantly affect Hawaiian Natives.*

(*2*) The Commission shall elect a Chairman and Vice Chairman from among its members.

(*3*) *Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.*

(*4*) *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 as in the case of the original appointments.*

(*5*) *Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.*

(*c*) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of the approval of this resolution.

(*d*) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(*1*) appoint and fix the compensation of an executive director, *a general counsel,* and such additional staff personnel 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 for GS–18 of the General Schedule under section 5332 of such title; and

(*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.

(*e*) Each Federal department, agency, and instrumentality is authorized to furnish the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

Sec. 3. (a) The Commission shall, within one year from the date of the approval of this resolution—

(1) conduct a study of the culture, needs, and concerns of the Hawaiian Natives; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiian Natives by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong; and

(2) submit a report of its findings to the Congress.

(b)(1) The report required by this section shall provide recommendations for a remedy. Such recommendations shall include—

(A) the distribution, expenditure, investment, or other use of funds to be appropriated in equal increments over a period of years as a component of any such remedy. Provided, That emphasis shall be placed not on direct grants but on investment of funds by an Hawaiian Native organization or organizations and issuance of shares to Hawaiian Natives as stockholders therein, loans or guarantees of loans to or for Hawaiian Natives, or other innovative uses of the funds which will insure such monies are employed successively for the benefit of Hawaiian Natives;

(B) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109), except purchase or condemnation of lands by the Federal Government: Provided, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Hawaiian Natives under a subsequent Act to provide for such remedy;

(C) such other recommendations concerning the components set forth in clauses (A) and (B) of this paragraph (1) as the Commission deems appropriate;

(D) the preservation and enhancement of Hawaiian Native culture and the education of Hawaiian Natives as principal purposes of any such remedy;

(E) the blood quantum requirements for eligibility to receive the benefits of any remedy and, of the Commission deems appropriate, to receive specific benefits or shares of benefits.

(F) the form or forms of organization best suited to receive, distribute, or administer the benefits of any remedy; and

(G) other matters concerning any such remedy, including but not limited to alienability and tax status of the benefits of any such remedy, provision of technical assistance to Hawaiian Natives on the use of such benefits, and the reporting of the disposition of such benefits to the Federal government and the Hawaiian Natives.

(2) Any such recommendations shall, to the extent possible, be designed to insure that any such remedy:

(A) will be a final settlement which extinguishes all claims of Hawaiian Natives against the United States arising from the actions set forth in the preamble of this resolution;

(B) will be capable of prompt implementation with a minimum of litigation;

(C) will be in conformity with the real economic and social needs of the Hawaiian Natives;

(D) is fashioned and will be implemented with the maximum participation of Hawaiian Natives;

(E) will not create a wardship or trusteeship;

(F) will not replace or diminish any right, privilege, or obligation of the Hawaiian Natives as citizens of the United States or the State of Hawaii; and

(G) will not relieve, replace, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Hawaiian Natives as citizens of the United States or Hawaii.

SEC. 4. Upon the expiration of the sixty-day period following the submission of the report required by section 3 of this resolution, the Commission shall cease to exist.

SEC. 5. No provision of this resolution shall be construed as:

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Hawaiian Natives to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

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

SEC. 6. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, 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.

2. Amend the title so as to read: "Joint Resolution Establishing the Hawaiian Native Claims Settlement Study Commission, and for other purpose."

Purpose

In the year 1893, the United States Minister accredited to the independent Kingdom of Hawaii, and naval representative of the United States in Hawaii, acting wholly without the authority or knowledge of the Congress or the President, unlawfully committed and deployed Armed Forces of the United States in support of the overthrow of the lawful government of Hawaii. This joint resolution (S.J. Res. 155) acknowledges this wrongdoing on the part of representatives of the Government of the United States and the need to make reparation to the native Hawaiian people. The purposes of this joint resolution (S.J. Res. 155) are to recognize the validity of claims against the United States by native Hawaiian people based on the 1893 incident and to establish a Hawaiian Native Claims Settlement Study Commission to conduct a study of the culture, needs, and concerns of the Hawaiian Natives; the nature of the wrong committed against, and the extent of the injuries to, the Hawaiian Natives by reason of the 1893 incident; and various means to remedy such wrong. The proposed Study Commission would submit a report of its findings to the Congress and recommend remedies to repair the wrong perpetrated against the Hawaiian Native people.

Background and Need

S.J. Res. 155 represents the first step toward redressing a wrong committed against the Hawaiian Native people some 83 years ago. The injury for which reparation must be made to the Hawaiian Native people was inflicted in 1893 when the United States Minister accredited to the then sovereign and independent Kingdom of Hawaii, and the United States naval representative in Hawaii, without the authority or knowledge of the Congress or the President, participated in the overthrow of the lawful government of Hawaii. The joint resolution addresses a wrong acknowledged and condemned by President Grover Cleveland in a message to the Congress of December 18, 1893, a wrong that notwithstanding appeals on behalf of the Hawaiian Native people has gone unrepaired for almost a century. The honor and sense of justice of the Nation require that the Congress also acknowledge the wrong that was done, recognize the validity of claims for reparations, and devise means for defining an appropriate remedy. S.J. Res. 155 belatedly initiates that process.

The incident forming the basis for the Hawaiian Native claims recognized by this legislation is described in President Grover Cleveland's message to the Congress of December 18, 1893. The historical facts are as follows: The Kingdom of Hawaii had prevailed from the time of Kamehameha the Great in 1795 until the overthrow of Queen Liliuokalani in 1893. At the time of the overthrow the Hawaiian Kingdom had endured for nearly a century and possessed

such contemporary inssitutions as a legislature, supreme court, and cabinet, but it was militarily weak. President Cleveland recorded the events leading to the overthrow, and the participation of United States diplomatic and naval representatives, in his message to the Congress:

* * * * *

A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action, citizens of Honolulu numbering from fifty to one hundred, mostly resident aliens, met in a private office and selected a so-called committee of safety, composed of thirteen persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the committee of safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the committee of safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denouncing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between 3 and 4 o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the United States minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows:

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

Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so

panic-stricken at their position that they sent some of their number to interview the minister and request him not to land the United States forces till the next morning. But he replied that the tropps had been ordered and whether the committee were ready or not the landing should take place. 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.

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 *bone 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. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion 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. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquility except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the United States forces on the plea of danger to life and property the committee of safety themselves requested the minister to postpone action exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew would cer-

tainly follow their attempt to overthrow the Government of the Queen without the aid of the United States forces.

Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the Government of the islands, or of anybody else so far as shown except the United States minister. Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

The United States forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, ten of whom were drawn from the thirteen members of the committee of safety. Between 1 and 2 o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was anyone there to oppose them, they proceeded to the Government building to proclaim the new Government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building, almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the United States marines, who, drawn up under-arms and with artillery in readiness only 76 yards distant, dominated the situation.

The Provisional Government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States had been negotiated and agreed upon." The United States minister, pursuant to prior agreement, recognized this Government within an hour after the reading of the proclamation, and before 5 o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

When our minister recognized the Provisional Government, the only basis upon which it rested was the fact that the committee of safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the legation at Honolulu, addressed by the declared head of the Provisional Government to Minister Stevens, dated January 17, 1893,

in which he acknowledges with expressions of appreciation the minister's recognition of the Provisional Government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same had been demanded of the Queen's officers in charge. Nevertheless, this wrongful recognition by our minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least 500 fully armed men and several pieces of artillery. Indeed, the whole military force of her Kingdom was on her side and at her disposal, while the committee of safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government.

In this state of things, if the Queen could have dealt with the insurgents alone, her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the Provisional Government by the United States minister, the palace, the barracks, and the police station, with all the military resources of the country, were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose minister had caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government, and that she yielded her authority to prevent collision of armed forces and loss of life, and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

This protest was delivered to the chief of the Provisional Government, who indorsed thereon his acknowledgment of its receipt. The terms of the protest were read without dissent by those assuming to constitute the Provisional Government, who were certainly charged with the knowledge that the Queen, instead of finally abandoning her power, had appealed to the justice of the United States for reinstatement in her authority; and yet the Provisional Government, with this unanswered protest in its hand, hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her Kingdom.

Our country was in danger of occupying the position of having actually set up a temporary government of foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The

control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously we avoided such accusations in former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgment of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the circumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves." This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

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 the were allowed to vote on the question.

While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves, and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our minister was instructed to recognize the Republic "so soon as a majority of the pepople of Brazil should have signified their assent to its establishment and maintenance;" to the revolution in Chile in 1891, when our minister was directed to recognize the new Government "if it was accepted by the people," and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new Government was "fully established, in possession of the power of the nation, and accepted by the people."

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 pretexts by the United States forces, and but for Minister Stevens'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 United States.

Believing, therefore, that the United States could not, under the circumstances disclosed, 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 meassage, I have directed him to so inform the Provisional Government.

But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast 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 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.

The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of a civilized state are equally applicable as between enlightened nations. The considerations that international law is without a court for its enforcement and that obedience to its commands practically depends upon good faith instead of upon the mandate of a superior tribunal only give additional sanction to the law itself and brand any deliberate infraction of it not merely as a wrong, but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possible, than he does the bond a breach of which subjects him to legal liabilities, and the United States, in aiming to maintain itself as one of the most enlightened nations, would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not 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 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 can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered, not to the Provisional Government, but to the United States. She surrendered, not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the Provisional Government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that Government, who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States and that the whole subject would be finally considered at Washington.

* * * * *

In commending this subject to the extended powers and wide discretion of the Congress I desire to add the assurance that I shall be much gratified to cooperate in any legislative

> plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.
>
> GROVER CLEVELAND.

The history of this incident shows that United States interests opposed Queen Liliuokalani's efforts to regain her throne and restore the Kingdom of Hawaii. The Kingdom was succeeded by a provisional government, which later transformed itself into the independent Republic of Hawaii intent upon the later annexation of Hawaii 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 westerners. Because of the unauthorized involvement of official representatives of the United States in the internal affairs of an independent, friendly government, the native Hawaiians lost their self-government, their rights to Crown and government lands, and other less material but no less important aspects of their civilization. A tragic consequence has been the aggravation of a trend toward demoralization and alienation of the native Hawaiian people from their former national, cultural, and individual identity. In many ways they have become strangers in their own land, a situation similar to that of the American Indians.

History also makes it clear that in yielding to the superior forces of the United States to avoid bloodshed, Queen Liliuokalani did so in anticipation that the United States would eventually act to remedy the wrong committed in its name. A claim for repair of the wrong done to the Hawaiian people was submitted to the United States Government by the Queen. A petition for redress of grievances was presented to our government on July 15, 1893 by the Hawaiian Patriotic League on behalf of the Hawaiian Natives. Neither claim was honored. President Cleveland's hope for a legislative plan to redress the wrong perpetrated in the name of the United States has never been realized.

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.

COMMITTEE AMENDMENTS

During markup, the Committee agreed to an amendment in the nature of a substitute to S.J. Res. 155. The substituted resolution amends the title, the preample, and the text of the joint resolution. The title was amended to substitute "Native" for the term "aboriginal" in order to accommodate a preference expressed by supporters of the legislation. The preamble was restated, in part, in order to conform it to language contained in President Grover Cleveland's message to the Congress of December 18, 1893, and to conform it to the resolution as retitled by the Committee. The text was amended to restate the purpose and scope of the study to be conducted by the

Hawaiian Native Claims Settlement Study Commission created by the legislation; to specify matters on which the Commission shall develop recommendations; to specify standards to be applied by the Commission in fashioning its recommendations; to advance the date for submission of the Commission's report to the Congress; to insure that a majority of the members of the Commission will be Hawaiian Natives of various degrees of Native blood; to insure that each of Hawaii's counties is represented on the Commission; to insure that at least four members shall be conversant with Hawaiian Native culture, history, or language and one member knowledgeable concerning Federal and State laws affecting Hawaiian Natives; to provide the Commission flexibility in establishing a quorum requirement for the conduct of its hearings; to authorize compensation for Commission members; and to authorize the employment of a general counsel. The resolution, as amended, provides that the legislation shall not be construed as authorizing suits against the United States or any of its officers or as precedent for re-opening any past settlement involving any Native organization, or any tribe, band, or group of American Indians. The amended joint resolution also provides that the salaries and expenses of the Commission shall be payable out of the contingent fund of the Senate in advance of appropriations, such payments to be chargeable against the authorization of appropriations contained in section 6. These changes are discussed in the Section-by-Section Analysis portion of this report.

Section-by-Section Analysis

PREAMBLE

The preamble recites historical facts on which the joint resolution is based. The intent of the language is clear.

SECTION 1

Section 1 recognizes and establishes the obligation of the United States to endeavor to remedy the wrong against the Hawaiian Native people committed by its representatives during the overthrow of the lawful government of the Kingdom of Hawaii in 1893, commits the United States to the task of determining whether a suitable remedy for such wrong can be fashioned, and declares that a Commission of distingushed Hawaiian Natives and other citizens should be convened to advise the Congress on all matters pertaining to such remedy.

SECTION 2

Section 2 establishes the Hawaiian Native Claims Settlement Study Commission. The intent of the section is clear. As noted in the Committee Amendments portion of this report the section differs substantially from section 1 of S.J. Res. 155, as introduced. The Committee's amendments reflect concerns expressed during the hearings that the original measure did not provide standards for selection of Commission members. The Committee amendments establish such standards and have been designed to insure that the Commission will be truly representative of the Hawaiian Native

people. The quorum requirement of the original legislation has been modified in order to enable the Commission itself to fix that requirement as it relates to the conduct of its hearings, so as to facilitate the work of the Commission. The legislation has been amended to provide compensation for members of the Commission in recognition of the importance of the task assigned to the Commission and to encourage highly qualified people to seek memberhip on the Commission.

SECTION 3

The intent of this section is clear. The section requires the Commission to conduct its study and submit a report of its findings and recommendations to the Congress within one year from the date the legislation is approved. The Commission is not authorized to consider specific claims. Its authority and task is to fashion and recommend a remedy for the wrong to be redressed, to recommend final claims settlement legislation for consideration by the Congress. As introduced, S.J. Res. 155 allowed twenty-four months for the conduct of the Commission's study and the filing of its final report. The Committee has amended the joint resolution to shorten this time period to one year from the date the legislation is approved in the hope that a final settlement act can be enacted during the 95th Congress. The Committee also amended the joint resolution to better define the study responsibilities of the Commission and to give guidance to the Commission respecting recommendations it may develop. This guidance is contained in section 3 and is intended to insure that the Commission's recommendations are consistent with policies already adopted by the Congress in the settlement and implementation of other Native and Indian claims.

SECTION 4

Section 4 provides that the Hawaiian Native Claims Settlement Study Commission created by section 2 shall expire upon the expiration of the sixty-day period following the submission of the report required by section 3. The intent of this section is clear.

SECTION 5

Section 5 provides that S.J. Res. 155 shall not be construed as conferring jurisdiction to sue, or as granting consent to Hawaiian Natives to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of the resolution, or as constituting a precedent for reopening any past settlement involving land claims, or other matters with any Native organization or any tribe, band, or identifiable group of American Indians. The intent of the section is clear.

SECTION 6

As introduced, S.J. Res. 155 authorized the appropriation of such funds as may be necessary to carry out the provisions of the resolution. The Committee amended section 6 to provide that until such

time as funds are appropriated, the 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 are to be charged against the authorizations provided in the joint resolution. The purpose is to expedite the formation and work of the Commission in the hope that the Commission's report and recommendations for enactment of a final Hawaiian Native Claims Settlement Act can be made available for consideration during the 95th Congress.

Legislative History

S.J. Res. 155 was introduced by Senator Inouye on December 18, 1975. Full Committee hearings were held in Hawaii on February 9, 10, and 11, 1976.

Cost

S.J. Res. 155 authorizes such sums as are necessary to carry out the purposes of the resolution. Set forth below is the Congressional Budget Office estimate of the costs to be incurred by enactment of S.J. Res. 155, as amended.

Congressional Budget Office,
September 20, 1976.

COST ESTIMATE

1. Bill Number: S.J. Res. 155.
2. Bill Title: Joint Resolution establishing the Hawaiian Native Claims Settlement Study Commission, and for other purposes.
3. Purpose of Bill: The proposed legislation establishes an eleven member commission to study remedies for a wrong committed by the U.S. government against native Hawaiians in 1893.
4. Cost Estimate (thousands of dollars):

	Fiscal year—				
	1977	1978	1979	1980	1981
Authorization level	494				
Costs	494				

5. Basis of Estimate:

It is assumed that the Commission will have a one-year life beginning on October 1, 1976 and ending September 30, 1977. In addition, assumptions are made concerning the likely activities and needs of the Commission in order to derive the above cost estimate. Based on these assumptions and historical experience for similar activities, a budget for the Commission was developed. The budget total is shown above. Specifically, it is assumed that there will be nine professional staff members (including an executive director and a counsel) and five administrative support personnel. The estimated costs of the Commission are: personnel compensation and benefits—$390,381, travel and transportation—$43,942, and other overhead—$60,168.

The resolution states that any remedy recommended by the Commission should not exceed $100 million, to be distributed in equal

increments over 20 years. This cost estimate addresses only the costs of the Commission and does not consider the cost of the remedy; the remedy is assumed to require additional, specific legislative action.

6. Estimate Comparison: None.
7. Previous CBO Estimate: None.
8. Estimate Prepared By: Terry A. Nelson (225–5275).
9. Estimate Approved By:

C. G. Nuckols,
(For James L. Blum,
Assistant Director for Budget Analysis).

Committee Recommendation

The Senate Committee on Interior and Insular Affairs, in open business session on September 23, 1976, by unanimous vote of a quorum present recommends that the Senate pass S.J. Res. 155 if amended as described herein.

Executive Communication

There were no Executive communications received by the Committee regarding S.J. Res. 155.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the Committee states that no changes in existing law would be made by S.J. Res. 155, as ordered reported.

Appendix II

Additional Statements and Communications Submitted for the Record

This statement was inadvertently omitted from the February 1976 hearings.

HEADQUARTERS COMMONWEALTH GOVERNMENT OF THE SPIRITUAL BROTHERHOOD OF ALL MANKIND

HONOULIMALOO VALLEY, MOLOKAI
STAR ROUTE, BOX 370
KAUNAKAKAI, HAWAII 96748

Feb. 6, 1976

Sisters and brothers: My name is James David Kimmel and my home is on Molokai. I have read Hawaii's Story by Liliuokalani, and I would like to draw your attention to her official protest delivered to Presidents Cleveland and McKinley, wherein she discloses that her sovereignty as Queen of Hawaii was derived from the will of God and by the grace of God. She begins her protest with a recognition of God and ends with her humble appeal "To the Almighty Ruler of the universe, to him who judgeth righteously". She committed her cause to God on June 17, 1897, relative to the Theft of Hawaii and referred the case to the United States for arbitration. Joint resolution 155, submitted to the Congress by Senator Inouye acknowledged that the Queen, her Kingdom and, her People were illegally and unlawfully deposed of their power to choose their own form of Government and all Rights accorded their persons therefrom. The conspired overthrow and theft of a Kingdom of People and their property, the receiving of stolen property, and the trafficking in stolen property, together with the wholesale abrogation of the God-given Rights of a Kingdom of People involves many relativities and many unique personalities, including God, our Father and, his Son Jesus, as he is now -the almighty ruler of this universe we are sitting in. Now, as an Ambassador of this Son and, as a member of his spiritual family, it becomes necessary to provice the following information relative and requisite to a perfect and righteous adjudication of the case of Liliuokalani vs. the United States of America. Without God and His Truth, this case cannot be concluded. Moral intuition, the realization of duty, involves the recognition of relative right and wrong, the reality realm of morals in the philosophic domain. This is the judicial form in the arena of reason, and is intimately relative to the differentiation of the factual and the nonfactual. Because of the language in Joint Resolution 155, and the nature and character of the contemporary thieves involved, one may clearly discern the great potential of the "thief" getting away with the theft without having to return the stolen goods to the rightful owners after he is caught and confesses to the crimes involved. The righteousness and justice of God is perfect, and this case should be solved in a relatively perfect way, in the image of God. Any final arbitrament of the Case of Liliuokalani vs. the United States must be in harmony with the will of our Father on Paradise if His fairness and justice is to prevail for the benefit of all mankind. I, and those whom I am privileged to represent, am opposed to Joint Resolution 155 because of the following information and reasons:

This document is the fruit consequent to these factors as such relate to the will of God, elucidated subsequent to discussion, contemplative meditation and prayer, and is a revelation of His perfect, indwelling spirit presence. I sincerely pray for the personal and group salvation of each of the children of God on this planet. This adjudication is a revelation of the infinite love and perfect will of God and is a time to be happy and free from fear. I pray that His peace be upon each of you and may there be good will among all men.

DISCUSSION RELATIVE TO FACTS

Article six, section two of the United States Constitution states: *This constitution . . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.* The powers inherent to and the limitations relative to the Legislative, Executive and Judicial branches of government are clearly stated in the basic documents of law and liberty for the United States. It is equally clear that the people are the source of the power base of United States government, in that the government derives its *just* powers from the consent of the governed, from their freewill choice. Since God is the source of freewill as well as the donor of such a priceless gift, He is the source of the power that is relative to the rights and powers of the people as well as their government. To usurp the just powers of any branch of the U.S. government or the people would require political administrators to betray the trust of their office and the people whom they serve or represent. Since the people would hardly allow this to be done with their consent and of their freewill choice, any attempt to usurp the rights and powers of the people would have to come from without, by force, or from within secretly, or by openly deceiving them by saying one thing and then doing another. Mr. Lincoln indicated that such an attempt would be most difficult when he stated something to the effect that you can fool some of the people some of the time and you can fool some of the people all of the time, but you can't fool all of the people all of the time. One of the main difficulties to be encountered by any one or group of individuals in usurping the just powers of government and the rights and powers of the people is inherent in the facts relative to the source of rights and powers which is the basic foundation of U.S. government. To "rip-off" the U.S. government and replace it with another would require that the "rip-off artists" be so skilled as to be able to rip-off God. And that is impossible! Our sovereign creator is the source of truth, beauty, goodness, personality, freewill, law and, the divine rights of people—His children. The divine rights of man are fundamental and basic to his civil rights listed in the Bill of Rights, the Constitution, and the Declaration of Independence. To go against the supreme law of the land is not only unconstitutional and inherently illegal, it is also inherently violative of the Will of God and the laws of His universe. For man to fail to see the relatedness of rights, powers, and

laws as such relate to the prerogatives of moral personality and the fact that man has freewill is a matter of simple ignorance and lack of basic education. Many people are unaware of the fact that they have freewill and that it is inherent with God's great gift of creative, moral personality. Man is given his freewill and personality that makes each individual unique as a universe will creature from the infinite source of such priceless gifts, from God, the Universal Father. While many of today's leaders have lost sight of these basic facts of universe existence, the founders of the American Federal Union were righteously and relatively aware of these facts and truths which they held to be self-evident. For example, John Adams acknowledged God beautifully when he said: *You have rights antecedent to all earthly governments; rights derived from the great legislator of the Universe; rights to life, liberty, and the pursuit of happiness.*

To overthrow the government of the United States of America would be to overthrow a government of God and His children, a government based on volitional powers given the government by the freewill choice of the people, a government based on law derived from the great and absolute source of law and would be inherently contrary to the Will of God. Jesus, a Son of God born on Paradise, came to our planet to reveal the love and the Will of God to man as a man among men, and He said: *You get just what you choose.* This simple statement is the law that applies to the use of freewill, therefore must we, His children, learn to use our freewill to control ourselves by learning to perfect our choice for thoughts that we entertain in our minds before we choose to act them out. Gods Will *is* His law, and man can freely choose to do the Will of God, thereby living in tune with His perfect spirit which lives in the mind and soul of man, or not. God is so great and so good because He is love, and His law is that we should be perfect, even as He is perfect and, that we should love one another, even as He loves us. Mortal man, a child of God, is inherently equipped to recognize the fact, the law, and the love of God. If man uses his freewill to organize and establish a government based on law which recognizes God as sovereign and as the source of man, life, rights, laws, liberty and, happiness, such as the U.S. Government founded in 1776, or the Hawaiian Monarchy that was overthrown in 1893, or the Democracy of India that was overthrown on June 26, 1975, the sovereignty of such governments is relative to the absolute sovereignty of God who is the eternal source of will, law, love, justice and sovereignty. There is no true freedom—liberty—without good law. Law, being a derivation of Will, is inherently good if it is a law of God. If man uses his freewill to choose to create laws—rules of conduct—he is subject to possible error in the derivation of such laws since man is *not* inherently perfect, as is God. He must attain perfection by thinking and choosing and growing in the perfection and grace of God as a consequence of his conscious or unconscious desire to do so. If man legislates law from thought that contains error, the

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result would be a law that would be relatively unfair to the people, and such law would not be in tune with the motives of the U.S. Constitution nor in harmony with the Will of God. The inevitable consequence would be a relative theft of liberty—freedom—and the people would be held in relative slavery to the law and the mortal sources of such law.

Man has found it difficult fully to comprehend the significance and to grasp the meanings of evil, error, sin, and iniquity. Man is slow to perceive that contrastive perfection and imperfection produce potential evil; that conflicting truth and falsehood create confusing error; that the divine endowment of freewill choice eventuates in the divergent realms of sin and righteousness; that the persistent pursuit of divinity leads to the kingdom of God as contrasted with its continuous rejection, which leads to the domains of iniquity. The Gods neither create evil nor permit sin and rebellion. Potential evil is time-existent in a universe embracing differential levels of perfection meanings and values. Sin is potential in all realms where imperfect beings are endowed with the ability to choose between good and evil. The very conflicting presence of truth and untruth, fact and falsehood, constitutes the potentiality of error. The deliberate choice of evil constitutes sin; the willful rejection of truth is error, the persistent pursuit of sin and error is iniquity. Those who persist in iniquity and sin reveal themselves to be rebels against God, His universe law, and His children. It should be clear and obvious from the decree of Jesus that we have been given freewill, otherwise we would not be able to get just what we choose! The troubles and difficulties of the world today are based largely on the fact of man's simple ignorance of the truth which is what will set all men free; free from fear and intellectual bondage, free to become self-conscious of the truth of sonship with God and the meanings and values of brotherhood with all mankind. Without realizing the inevitable repercussional consequences of the relative misuse and abuse of freewill choice and the good laws of God that apply to all personalities, one may freely choose oneself out of personality existence *forever,* even as he may make simple, finite choices of infinite and eternal value which carry him into existence forever, to continue evolving, growing beyond his initial life existence on this planet and on into a magnificent and gloriously beautiful eternal future in partnership with God, his personal spirit father.

Man has freely chosen himself to that pinnacle of life existence whereon and wherefrom he must stop and solemnly consider whether he truly wants to continue choosing to act out thoughts that will lead inevitably toward personal and group extinction or to personal and group survival. To go further without an adjudication of the personality affairs of the present planetary population would be unfair to one and all, and it is the whole that must decide the fate of the group by allowing each person to choose to adjust his thinking and living in order to make those adjustments necessary if the group is to survive as a consequence and subsequent to an

educative presentation of true facts, actual meanings, and real values of life as a mortal son of God on this planet.

The present form of government of the United States of America has been increasingly misused and abused by various of its citizenry and political administrators in all branches and at all levels of government to such an extent and for such a duration of time that the unalienable, God-given rights and powers of *all* people have been usurped to such a degree as to place all of the people of this planet in danger of having their privilege to choose to think and live a life of liberty, in freedom and in pursuit of happiness, taken from them, thereby preventing them from following the thoughts of their choice that will lead them godward in peace, happiness and security. Since the present form of government is pursuing thoughts ultimately destructive of these ends, these good spiritual fruits of good freewill choice, it is the Right of the People, as preserved in the ninth amendment of the U.S. Constitution, to alter or to abolish it and to institute a new form of government, in harmony with God, His Will, and His law. *Obviously,* prudence intelligently dictates that governments long established should not be changed for light and transient causes. The present form of government of the United States has been in existence just under 200 years, and it has been experientially demonstrated during this period that many people all over the world would rather suffer the mistakes, misuses and abuses of power as long as possible rather than to right themselves by abolishing the forms of government to which they have become accustomed. It is obvious that a revolution of the people is less desirable than a righteous, peaceful, and progressive evolution of the people. *But,* when a long train, made up of boxcars of abuses and flatcars of flagrant usurpations of the rights and powers of the people, continues to pursue the same object of destination without variation, it very clearly evinces a design, a pattern to reduce the people to copies of the godless, amoral atheists, under absolute despotism, and it is the right and the duty of the people, who have the power derived from God and preserved in the tenth amendment to the U.S. Constitution, to throw off such government and to provide new guards for their security and the security of the people of the world. Such has been my patience, our patience, and the patience of God, our Father and the source of patience, past and present, in the United States and elsewhere in the world; and such is now the necessity which constrains us to alter our former systems of government. The history of the present president of the United States is a history relative to a history of repeated injuries, abuses and usurpations, all having in direct object the establishment of an absolute tyranny over the United States and the other nations of the world. To prove this, let facts be submitted to a candid world.

The war of independence was fought out of necessity for the people in order to gain freedom from the persecutions and oppressions of the King of England, culminating in the adoption of the

Declaration of Independence in 1776. After the unification of the original thirteen colonies, they evolved progressively and in response to the freewill choice decisions of their citizens.

The War of 1812 was fought in defense of Britains' desire to further extend and reassert their imperialism and, undoubtedly, was relative to their loss of the territory of the American colonies to the Americans in the War of Independence. The imperialistic tendencies that grew out of this conflict seem to be traits inherited from their British forebears.

The Mexican War of 1846–1848 is an excellent example of American imperialism on the March on the North American continent, resulting in the savage deaths of many on both sides with the eventual ceding to the United States of two-fifths of all Mexican territory, the receipt of an indemnity of $15,000,000.00 and the assumption of American claims by the U.S. government. The U.S. Senate ratified the treaty of Guadalupe Hidalgo on March 10, 1848, supposedly giving the American rip-off an air of decency and the respect of legal authority.

The Indian Wars were largely the fruit of the result of the transplantation of the relatively advanced civilization and culture of the white race onto the territory of the traditional and evolving governments of the various "gardens" of the red race. Rather than subjecting themselves to the will and the ways of the white race, and not being willing to subject themselves to slavery, as were the black peoples, a terribly costly series of conflicts and wars were fought between the members of these two races, carrying on from the 1600s to the present, with the attendant loss of irretrievable genetic potentials and the essential decimation of the red race. Because of the relative and occasionally extreme misinterpretations and misunderstandings of people and their historical tradition and origins, many people of all races have fought and died. One of the major blemishes of the Declaration of Independence reflects this prejudice relative to the lack of mutual self-respect where it speaks of "the merciless Indian savages." Would it not be objectively honest and accurate to refer to the American soldiers of past and present as *merciless savages* as well as their teachers and leaders in warfare, including their chief executives, who must, as the commander-in-chief of all military forces, stand behind all those who have pulled triggers or punched buttons that have resulted in the deaths of millions of people, millions of God's children? Just don't lose sight of the fact that all people are the children of God and respect all and love all as God does.

The so-called Civil War of 1861-1865, also known as the War Between The States or The War of The Rebellion was especially costly to the integrity of the people and the States. It is also an extraordinary example of the extremes to which people will go to defend their personal way of choosing, thinking, and living. War is always the fruit of intolerance and prejudice carried to the group extreme and there is still left a residue of disunifying and destructive preju-

dice between the people of the northern and southern states as well as within each state. Since slavery has been rendered illegal by virtue of the Thirteenth Amendment it should be remembered that slaves are not accorded the decency and respect of their personality and the rights and powers derived from God—only the rights derived from their slavemasters. While much progress has been made, there are still many enslaved to thought that bears prejudice and which needs to be dissolved by the truth of God and the beautiful goodness to be derived from the love and cooperation potential and inherent with the realization of the brotherhood of all mankind.

The overthrow of the Hawaiian Monarchy and nation in 1893, led the deposed Queen, Liliuokalani, to protest in official and righteous grace, as testified to in her book, *Hawaii's Story, by Hawaii's Queen,* in which she signals an ominous change in the foreign relations of the United States beyond their continental boundaries.

The Spanish-American War in 1898 resulted in the United States assuming tutelage of Cuba under the Platt Amendment, the ceding to the United States of Puerto Rico and Guam and the Philippine Islands were surrendered for $20,000,000.00.

The Boxer Rebellion of 1898-1900 resulted in China becoming a nation subject to the United States, Britain, France, Russia, Germany, and Japan, who all participated in this war as an international force.

The assumption of control over "American Samoa" in 1899, when Britain and Germany assigned the United States all the islands in the Samoan group east of longitude 170° west, usurped the natural government of the Samoan peoples.

The United States entered World War I in April, 1917, and President Woodrow Wilson proclaimed it to be a war *to make the world safe for democracy.*

The Eighteenth Amendment to the U.S. Constitution is also known as the Volstead Act of 1919, and constitutes a usurpation of the powers of Congress and an abrogation of the rights and powers of the people in that it took away from the people their personal power to choose to think or act out thoughts relative to their desire to drink a beverage containing alcohol. Any law which limits the power of a person to choose to experience the thought of his choice is an abrogation of his freedom to control himself and to use his divine and civil rights. Prohibitive laws should be limited only to extremely negative quality actions, such as the Divine Law that says *you should choose not kill, but rather, should you choose to love one another.*

President Herbert Hoover further prepared the mind-gardens of the people for the planting of the thought-seeds of the New Deal by President Franklin D. Roosevelt who led the nation further astray with many unconstitutional actions, such as the NRA in 1935 (National Recovery Administration), the AAA in 1936 (Agricultural Adjustment Administration) and the Marijuana Tax Act of 1937, all of

which usurp the rights and powers of Congress and the people.

The United States entered World War II as a fruit of choices relative to the Great Depression, World War I, and the false thought-seeds sown in the minds of the people by demagogues and the industrialists who sold the potentials of war-making machinery to Japan, much as is done today, leading to the eventual Americanization, industrialization and, degradation of Japan.

The misuse of the universe law discovered by Albert Einstein who published it as $E = MC^2$, ushered in the atomic age by ending World War II, bringing with it a new age of worldwide fear which paved the way for demagogues to further defraud the people of the world through the use of fear as a master intellectual fraud. This sharply divided the world population into communists versus non-communists as people failed to recognize that God is the source of energy and the laws governing energy. This prevented the people from discovering and pursuing the peaceful realities of the fatherhood of God and the truths relative to the fact of sonship with God and the spiritual brotherhood of all mankind.

In 1950, the United States entered the Korean War in collusion with various nations belonging to the United Nations. This war is largely the fruit of the false thought-seeds of those who taught us to hate those who they characterized as "merciless savages," to be hated and killed rather than respected, understood and, eventually loved as brethren.

In 1958, the United States was led into a secret and covert war in actions that eventuated in the Southeast Asian War, which appears to have been designed to bring about the economic collapse and downfall of the United States preliminary to the overthrow of the government as predicted by Premier Khrushchev before the General Assembly of the United Nations.

The present attempts to annex the Trust Territory of the Pacific is preliminary to the tradition of establishing imperialistic forces and objectives in said territory, and without regard for the consequences.

By conspiring and contributing to the overthrow of extra-national governments by the deceitful techniques of subversion, perversion and political assassination in many countries, such as Argentina, Chile, Columbia, Cuba, Dominican Republic, Guatemala, Hawaii, Japan, Korea, Iran, and India, the United States has contributed to the downfall of her own nation by grossly abusing and violating the great law of human fairness which Jesus taught in positive form as the Golden Rule, i.e., *Do unto others only that which you would truly have them do unto you.*

The misuse of God, the Bible, the Laws of God, the laws of man and moral, freewill personality by false teachers and deceitful mind-gardeners has perpetrated fear and enslaved the people in intellectual, volitional, and personal slavery in contravention of the Thirteenth Amendment which outlaws *all* forms of involuntary servitude. The pathetic feature of this type of slavery is that the

people are largely unconscious of their relative slave status.

Gross overtaxation and misrepresentation combined with flagrant misuse and abuse of the public treasury by politicians who have increased their own salaries beyond their worth and necessity at the expense of the people who have filled the treasury with monies through their blood, sweat, and tears, have established a parasitic government which is, in essence, the worst type of welfare state, having reduced the people to the status of tax slaves.

The creation of the CIA is a fruit of World War II and the agents and administrators of this organization have secretly conspired and participated in the destruction of the American society and the systematic overthrow of the government of the people of the United States. The CIA purports to do that which is essential to the national security and dread to tell the truth or to have the truth concerning their activities revealed which is diametrically opposed to their motto which is inscribed on the wall of their headquarters in Langley, Virginia which states: *and ye shall know the truth and the truth shall make you free.* Not only have they hidden their sinister motives and actions behind this great religious truth, they have grossly violated the great religious truth, they have grossly violated the great law of human fairness, the Will of God, and the supreme law of the land by their actions which have nearly destroyed the moral fabric and integrity of the United States.

By inspiring, inciting, and training for actions initiated by the political representatives of the people, all the while charging them for the expenses incurred, the administrators of the public trust have grossly betrayed their trust and the trust of the people, have blinded the people with false thoughts and untrue teachings while leading them, consciously, sinfully, and iniquitously toward the pit of abject human bondage and the threshold of personal and group extinction. By outdoing their "enemies" at their own "game" in World War I, World War II, the Korean War and the Southeast Asian War, which in effect has been World War III, a war of propaganda, the so-called victors have become worse than the vanquished rather than loving them as suggested by Jesus. Therefore we must throw off this government and provide new guards for the future security of the people of the world in order to protect and preserve their God-given divine rights as well as their relative civil rights and to assure them of an equal opportunity to live in peace on earth and with good will among all men.

By their fruits you will know them was stated by Jesus when he warned of *wolves in sheep's clothing.* We need not be deceived when we recognize that, even though some men say one thing and do another, the fruits of a man's life are relative to his inner motives and personal choices. The fruits of a personal, freewill decision cannot be hidden when that choice transforms reality from a prereal potential phase of existence to an actual phase of manifestation. There are inevitable repercussional consequences manifest on the personality, spiritual, mindal and, physical levels of energy

and life whenever anyone makes a free will choice-decision to act, and which effect the soul of the person initiating the action. The choice-decisions of one effect the whole personality-ecosystem even as the action of the whole effects each part. The life an Richard M. Nixon and many of his associates reveals the nature and character of a tyrant. Whil his personality should be loved and respected, his character must be judged for what it actually is, even as one mhst judg whether a shoe or an overcoat fits the person trying on the shoe or the overcoat. As a son of God, he should be given th opportunity to confess his errors, sins, and iniquity as well as an opportunity to accept the forgiveness of God and man if he is to rehabilitate his personality and survive the mortal life and experience the potential blessings of eternal life within the reach of his free will personality. The same applies to President Gerald Ford, who has effectively abrogated the constitutional process, the supreme law of the land, and the Will of God, and who is attempting to inspire the federal legislators to enact laws relative to Senate Bill One which would abrogate the powers and usurp the rights of every citizen. By the unnecessary pardoning of ex-President Nixon,contributing to the deaths of people in Southeast Asia, the Mayaguez incident, and by the very words that have proceeded from his own mouth, he reveals himself to be cut of the same cloth as the man who marked him for the Presidency. He would clearly usurp man's most basic rights and powers given him by God and take them away requisite to and essentia to the establishment of a police state. By the fruits of these and other men with whom they are associated, they disclose themselves to be members of a terrible conspiracy to overthrow the government of the people of the United States, at all levels, while doing so without their knowledge or consent, thereby effectively reducing the citizenry to the status of being slaves of the state and subjects of the wills of abject tyrants -slavemasters in civil service uniforms.

Respectfully submitted,
In His Grace and in His Will

James D. Kimmel

James D.Kimmel

STATEMENT OF MELVIN DAVID LONOKAILOHIA KALAHIKI, MEMBER, COUNCIL OF HAWAIIAN ORGANIZATIONS ADVISOR, HAWAIIAN COALITION OF NATIVE CLAIMS

My name is Melvin David Lonokailohia Kalahiki. I am of the native Hawaiian blood that goes back before the year of 1778.

I call upon Congress and President Carter to look deep into your hearts with concern to the wrongful act that was done against a sovereign Hawaiian Nation in the year of 1893. There is much history that tells of all the illegal actions committed by diplomatic representatives of the United States of America, who without authority whatsoever, conspired against our Queen Liliuokalani, the rightful monarch of the Hawaiian Nation.

I would like to bring to your attention the meaning of the words reparation and extinguish: Reparation is the compensation for a wrong or injury done; extinguish means to put an end to or destroy. I do not think that any amount of money coming from Senate Joint Resolution 4 will compensate for the wrong done to the Hawaiian Nation, not under reparation or extinguishment. However, I would agree only to two billion dollars ($2,000,000,000) on reparation and seventy-five billion dollars ($75,000,000,000) on extinguishment. These would be fair amounts to say the least.

The only other alternative that I can see in this matter is sovereignty. According to information received, there are about 190 sovereign nations in the United States of America today. If this can become a reality, we would vest our sovereign rights in a govern body, having control of all the lands and able to litigate on trespassing, usage of minerals, water, and so forth. I believe this to be the best and only course of action that native Hawaiians should pursue.

Thank you for giving me this opportunity to express my Manao—thoughts.

Justice Through Sovereignty.

STATEMENT OF BILLIE BEAMER, CHAIRMAN, DEPARTMENT OF HAWAIIAN HOME LANDS

Since late receipt of the Joint Resolution 4 and notice of the hearing dates precluded consultation with the full membership of the Hawaiian Homes Commission, this statement is submitted by the chairman, after consultation only with staff members of the Department of Hawaiian Home Lands.

We fully support the concept of establishing a commission of 11 members to advise the Congress on all matters pertaining to a remedy for repairs to the native Hawaiians.

This commission, as conceived in the resolution, will assume the primary responsibility for the finalization of a remedy. Therefore, the composition of the commission is of prime importance; for each member will share in the responsibility of ultimate success or failure of his proposed remedy.

While the matter of Hawaiian lineage must be represented, and the provision is adequate to assure a balanced representation, the resolution fails to include other pertinent criteria for selection. From the direct and indirect historical experience garnered in the Hawaiian Home Lands program, we believe the qualifications of the commission members to be an unequivocal necessity. To make major decisions; to decide between options; to be creative and innovative; and, to evaluate data received, the commission members must have the comparable knowledge and experience.

To be effective, the commission must be a representative body that reflects knowledge and experience in Hawaiian culture and history; law; land; finances; and, in program areas as education; social work; agriculture, and so forth. We, therefore, submit for your consideration a proposal to amend Resolution 4 to include specified areas of expertise to enable the native Hawaiians benefit of maximum knowledge and experience in the construction of a proposed remedy in their behalf.

We resist the inclination to appoint only one expert from each field and have designed, therefore, that the composition of talent must encourage checks and balances within the commission itself. Paramount is the need for a diversity of ability and capacity besides the Hawaiian blood qualification. Listed for your consideration is the proposed occupational composition of the "commissioners":

1. Culture (expert in language; arts; history of the Hawaiian);
2. Finance (banker, financier);
3. Law (Lawyer; attorney; versed in the existing applicable laws and in corporate law);
4. Land (appraiser; title searcher; realtor; developer; management);
5. Planning (planner; developer; engineer; architect);
6. Social-Psychological (social worker; psychologist);

7. Business (industrialist; manager; entrepreneur);
8. Agriculture (farmer; rancher; agronomist; agriculturalist);
9. Education (educator; philosopher);
10. Economy (economist; local, national, international); and
11. Investment (counselor; futures; stocks; bonds).

Without guarantee that these fields will be properly represented on the decision-making committee, the chance for optimum review of all alternatives by the commission will be diminished. We urge your consideration of this amendment to enumerate the experiences and knowledge that will determine the composition of the commission. Finally, we question the stipulation in section 3, (2)E "That any remedy will not create a wardship or trusteeship." If the interpretation of this provision would preclude trusts, we would prefer that this decision be left to the commission to deliberate. Certainly, there are ample programs in practice today that would enable the commission to study the advantages and disadvantages of a trust propgram versus a corporate structure.

We thank you for the opportunity to submit our response to Senate Joint Resolution 4. We are also available to answer any questions you may have to justify or elaborate on our response that time does not permit for this hearing.

HONOLULU, HAWAII, *July 5, 1977.*

To Senators Daniel Inouye and Spark Matsunaga:

Though I am happy to see that Senate J.R. 4 proposes to establish a Hawaiian Native Claims Settlement Study Commission, and I hope this can come about in the near future, I feel that I must challenge the accuracy of certain statements in the bill. These I have starred and numbered in the margin of the copy you sent me.

Nos. 1, 2, and 3 are all evidently based on the report of Commissioner James H. Blount, prepared for President Cleveland in 1893. May I point out that, although the report satisfied President Cleveland and his Secretary of State, Walter Q. Gresham, it did not satisfy the U.S. Congress. From December 27, 1893, until February 22, 1894, the Senate Committee on Foreign Relations, chairman Senator John T. Morgan of Alabama, conducted hearings, which cast so much doubt on the accuracy of the Blount report that the President was unable to gain the support of Congress for his plan to restore Queen Liliuokalani. The report, 53d Congress, second session, No. 227, with transcripts of testimony and affidavits, runs 773 pages.

I have copied excerpts from a number of the sworn statements, excerpts that have to do with matters referred to in the bill J.R. 4 and that, it seems to me, make it unwise to base today's views wholly on the Blount report.

It seems abundantly clear, however, that, regardless of what went on in 1893, the United States in 1898 in annexing Hawaii, accepted the heavy responsibility of meeting the needs of all the people then becoming its citizens, and particularly for healing the wounds, psychological and spiritual, suffered by the native Hawaiians in the loss of the sovereignty.

Accordingly, I hope the Commission, when it is set up, will devote its attention, not to the events of 1893, but to the needs—in education, housing, health care, or whatever else—of the native Hawaiians and to the best ways of meeting those needs. If it helps to use the word "reparations," well and good, but surely the members of Congress who deal with these matters should be reliably informed.

As to No. 4, I have already indicated that the Morgan report casts grave doubt on the accuracy of President Cleveland's report to Congress in 1893. And as to No. 5, would it not be more honest to use the term Crown Lands in referring to the lands taken by the United States in 1898. To call them the common property of the Hawaiian natives prior to the overthrow is misleading. Under the monarchy they were government lands of a particular sort, the income from which went for the support of the Crown. Liliuokalani strove to claim them as her personal property after the monarchy ended, but a decision in the U.S. Court of Claims in 1910 declared they were not hers. Her own private estate was not taken away; it became, after her death, the Liliuokalani Trust, which has a fine program for helping children and young people of Hawaiian blood.

If the bill passes, the Commission might well consider placing some of the "reparations" money in the hands of such well established and worthy institutions as this.

Mahalo for listening,

Mahalo for listening,

ALBERTINE LOOMIS.

WASHINGTON, D.C., *January 2, 1894.*

EXCERPT FROM SWORN STATEMENT OF PETER CUSHMAN JONES

There was never to my knowledge any belief or anticipation that the troops of the Boston would be landed for the purpose or would in any way assist in the abrogation of the monarchy or the formation of the Provisional Government.

In a sworn statement, dated December 5, 1893, filed on January 2, 1894 from 23-page transcript of testimony before the committee:

Senator FRYE. You were at the Government building frequently. Did you ever see, during this revolution, any of the American soldiers marching on the streets?

Mr. JONES. No.

The CHAIRMAN. (Senator Morgan). Did you, as a member of the new Government, expect to receive any assistance from them?

Mr. JONES. No.

The CHAIRMAN. Do you know whether or not your fellows were looking for any help?

Mr. JONES. I never knew that they were.

Senator FRYE. As a matter of fact, did they give any assistance to the revolution at all?

Mr. JONES. No.

The CHAIRMAN. Let me ask you right there, is it your belief that that revolution would have occurred if the Boston had not arrived in the harbor? (Returning from a five-day trip to Hilo for bombing practice.)

Mr. JONES. I believe it would have gone on just the same if she had been away from the islands altogether. p. 197

EXCERPT FROM SWORN TESTIMONY OF WILLIAM DE WITT ALEXANDER

From 62-page transcript of testimony before the committee, January 3, 4, 9, 1894:

Senator BUTLER. Is it your opinion that the lives and property of American citizens would have been put in jeopardy in the tense state of feeling in Honolulu but for the United States marines?

Mr. ALEXANDER. I think there were reasons to apprehend that at the time.

* * * * * * *

The CHAIRMAN (Senator Morgan). Was the apprehension based upon the fact that mobs in favor of the Crown might rise in hostile opposition to the opposing element, or was it based upon the apprehension that the transitory condition of the Government would let the evil characters loose upon the community—characters disposed to burn and mob?

Mr. ALEXANDER. Rather the latter * * *. There was an interregnum in the law, in the authority on the part of the existing Government, and the new Government had not become organized, and there were warnings about incendiarism * * *

The CHAIRMAN. When the resistance became a fact, then, I understand you to say the apprehensions of danger were not from mobs rising among the opposing political elements of the native people or others, but from the paralysis of authority there, which encouraged the licentious classes the criminal classes to exploit their operations against private property and against human life?

Mr. ALEXANDER. Yes; I take it that way. p. 266

* * * * * * *

Senator BUTLER. Is it your opinion that this Provisional Government could have been established without the interference of the U.S. officials?

Mr. ALEXANDER. Yes; I think so. But I think it is probable that it would not have been done without bloodshed. p. 271

The CHAIRMAN. Do you know anything about the fact of the recognition of the Provisional Government by the ministers of the other powers than located in Honolulu?

Mr. ALEXANDER. I know by hearsay and what I saw in the papers; that is, that Minister Stevens recognized it the afternoon of the 17th, and the others, the German consul and the Portuguese minister, recognized it the next morning, and Mr. Wodehouse verbally recognized it.

Senator GRAY. Who is Mr. Wodehouse?

Mr. ALEXANDER. The British consul-general. He verbally [orally] told them he recognized it, but he did not send in his official recognition until Thursday afternoon. P. 273.

W. D. Alexander's notes on Col. Blount's report, excerpt, p. 275:

* * * his account of the native race is surprisingly incorrect and superficial, although ample statistics relating to lands, property, occupations * * * etc. were before him. He says [of the *mahele*] the "majority (of the common people) received nothing" in the way of land. The fact was that all heads of families received homesteads, if they applied for them, and the consensus shows that 10 percent of the natives, counting women and children, are even now land owners. Between 1850 and 1860 a large proportion, 49 percent of the Government land was sold, mainly to natives, at nominal prices, and every effort was made to encourage habits of thrift among them. Many are now [1893] living on the rents of their lands. The chiefs died out, leaving no heirs in many cases, and their lands were largely purchased by foreigners. P. 275.

SWORN STATEMENT OF LT. LUCIEN YOUNG OF THE "BOSTON"

Twenty-five-page transcript of testimony given before the committee, January 9, 1894:

The CHAIRMAN. What time did you get orders [to land forces on January 16, 1893]?

Mr. YOUNG. At about half past 10 o'clock. * * * Captain Wiltse sent for me and told me the condition of affairs and what he had heard, and it looked like they were going to have trouble; that the [Hawaiian] government could not under any circumstances protect life and property, and that he felt that he would have to land the troops. * * * I remarked to him, "I think they should have landed the evening before from what I heard," and he said he did not want to do it until it was necessary. * * *

Shortly afterward I was sent for by Captain Wiltse. * * * He closed his door and read me his confidential letter of instructions from the [Navy] Department and also from Admiral Brown. We discussed the matter, and * * * I made the remark that in case we landed we would have to be very careful or we would be accused of taking part with one side or the other.

The CHAIRMAN. Where was Admiral Brown at the time?

Mr. YOUNG. I think Norfolk, Va., at the time. When he left Honolulu he left instructions with Captain Wiltse, as the admiral in command of the station, to be followed out in his absence. * * * My recollection is that the paper stated that you will use every means and endeavor to act in concert with the minister [John L. Stevens] to preserve and protect our treaty rights with the Sandwich Islands, even if necessary to use force. My recollection is that is about the gist of it. P. 298.

* * * * * * *

Mr. YOUNG. About 3 o'clock [January 16] Minister Stevens came on board and was in consultation with Captain Wiltse. The captain sent for the officers going with the battalion, and had a conference in his cabin.

After a few minutes Captain Wiltse turned to him and said, "I have decided to land the troops already, and I will land them at 4 o'clock; they are all ready to land, and here is an order I have written to the commanding officer, Lt. Commander Swinburn." * * * Captain Wiltse then supplemented his written order by the verbal statement, "The situation is such that it will require a great deal of judgment on the part of you officers who are going on shore; you have been here a number of months, and know all the Americans and their property; that is what I want to protect, and I want you to be careful and remain as neutral as you can." * * * Mr. Stevens then made the remark, "I am very glad you are going to land them, because I think it is absolutely necessary." Mr. Stevens then left the vessel and returned to the shore, P. 300.

* * * * * * *

Senator FRYE. When you landed the troops, did you land them with any intention to aid either party?

Mr. YOUNG. Not at all.

Senator FRYE. Were you invited to aid either party?

Mr. YOUNG. No. We were asked by President Dole—he sent over and asked Captain Wiltse to recognize him.

The CHAIRMAN. When was that?

Mr. YOUNG. After they formed the Government, and on the same day.

The CHAIRMAN. When was it?

Mr. YOUNG. The 17th. I was sent over with a message from Captain Wiltse, with his compliments to President Dole, to ask him if he had absolute control of the Government, police force, and everything, and if he did not he, Captain Wiltse, would have nothing to do with them. I told Captain Wiltse that Judge

Dole had possession of the archives and Government building, but that President Dole said. "We have not control of the military forces and police, but we have a sufficient force to maintain us," and that I replied, "If you have not charge of the Government, I am requested to inform you that we can have nothing to do with you," and I returned and reported to Captain Wiltse. P. 309.

SWORN STATEMENT OF I, GOODWIN HOBBS

Nine-page transcript of testimony before the committee, January 9, 1894, by the paymaster of the *Boston*:

The CHAIRMAN (Senator Morgan). Had you ever heard from Captain Wiltse any observations at all that led you to think that he was disposed to participate in Hawaiian politics, Hawaiian affairs?

Mr. HOBBS. No.

The CHAIRMAN. Interfere in the slightest degree with the independence of that country?

Mr. HOBBS. No.

The CHAIRMAN. You know Captain Wiltse well?

Mr. HOBBS. Very well.

The CHAIRMAN. Have you had frequent conversations with him?

Mr. HOBBS. Yes.

Senator FRYE. So far as you know Captain Wiltse's purpose in landing troops was to protect the lives and property of Americans?

Mr. HOBBS. Yes.

The CHAIRMAN. Was that the understanding when the troops left the ship?

Mr. HOBBS. Yes.

The CHAIRMAN. To protect life and property?

Mr. HOBBS. The troops were ordered to take no side, but to remain passive in the trouble that was occurring—political troubles.

* * * * * * *

The CHAIRMAN. Did you have any suspicion or conjecture that those troops were sent there for the purpose of breaking up one government and erecting another?

Mr. HOBBS. Not the slightest. P. 336.

SWORN STATEMENT OF LIEUTENANT CHARLES LAIRD

Excerpts from the 12-page transcript of testimony before the committee, January 10, 1894:

The CHAIRMAN (Senator Morgan). You say that the officers were assembled in the cabin, and that Captain Wiltse read his orders?

Mr. LAIRD. Yes; read the orders and instructions that were given to Mr. Swinburn. Mr. Stevens was sitting there at the time of this conference; and after a general discussion into which I did not enter, I turned to Captain Wiltse and asked him, "Now, Captain, how far will these orders and instructions which you have read, carry me in case I am detached from the main command and sent off to some other part of the city?' Captain Wiltse turned to me and said, "My desire is that you remain neutral; you are to protect the lives and property of American citizens; you have been in Honolulu 4 months and have been going ashore and meeting the people and I must depend a great deal upon the discretion of my officers."

The CHAIRMAN. Was there anything in the orders or instructions you received that looked to the establishment of any government different from that of the Queen?

Mr. LAIRD. None. The burden of the orders was to look out for the lives and property of American citizens. P. 340

* * * * * * *

Senator FRYE. State whether or not while the troops were on shore there was any location of them made with any purpose of overawing the Queen or sustaining the Provisional Government.

Mr. LAIRD. None whatever. At the time the Provisional Government took charge I do not think there was anyone but Lieutenant Swinburn knew what was going to take place. P. 344

AFFIDAVIT OF A. F. JUDD, CHIEF JUSTICE OF THE SUPREME COURT OF THE HAWAIIAN ISLANDS

Excerpt from an affidavit of 9 pages, read to the committee and included in the transcript of the committee's hearings:

On Monday evening the *Boston* troops landed. Being then an outsider I knew nothing of the proceedings of the committee of safety. There were many rumors afloat as to what they would do, etc. All I really know is that the troops from the *Boston* marched up King Street past the palace and Government building without pausing and camped in Mr. Atherton's premises, nearly half a mile from the Government building; and it was not until 9 p.m. that they found quarters in Arion Hall. This hall is a low wooden building in the rear of the Opera House and completely hidden by it, and commanded neither the palace, the Government building [Ali'iolani Hale], nor the barracks. It was the only place convenient for men to sleep in that was available then. Its location was not to my mind significant of any intention on the part of the United States troops to defend any uprising against the Queen's Government.

The *Boston's* men did not move from their quarters all day Tuesday, the 17th, nor did they make any demonstrations of any kind. * * * P. 409

SWORN STATEMENT OF JOHN L. STEVENS

Excerpt from the 14-page transcript of the testimony before the committee on January 17, 1894:

The CHAIRMAN (Senator Morgan). * * * in landing those troops you were not landed for the purpose of protecting the Provisional Government.

Mr. SWINBURN. Not the slightest.

The CHAIRMAN. Or inaugurating a provisional government?

Mr. SWINBURN. Not at all.

The CHAIRMAN. You were not certain that you were to do anything more than to protect——

Mr. SWINBURN. Protect American property and the lives of citizens—particularly the property. There had been always a feeling during the time we were there that we were there to look out, in the event of any domestic disturbance in the islands, that no harm come to the Americans or their property in any way, P. 439

SWORN STATEMENT OF JOHN L. STEVENS

Excerpt from testimony before the committee on January 20, 1894:

The CHAIRMAN (Senator Morgan). Proceed and state what you know of your own personal knowledge in respect to the political affairs of Hawaii since your arrival there * * * and we wish you to state also what participation you had at any time during your residence there in promoting the interests or welfare of any political party connected with the Queen's Government or opposed to the Queen's Government. When you shall have made your statement, or at any time while you are making it, the members of the committee will interpose such questions as they may desire, for the purpose of keeping your attention to the testimony we desire to elicit. P. 483

Mr. STEVENS. * * * The great mass meeting of January 16 * * * was held. * * * Its committee of public safety asked us to land the men of the *Boston* lest riot and incendiarism might burst out in the night, for no reliable police force any longer existed, and whatever there was of this force was now in control of the usurpers and the lottery gamblers who had initiated the revolution. [This is Stevens's way of referring to certain of the Queen's advisers and of making clear that he held such persons responsible for bringing on the revolution.]

Under the diplomatic and naval rules, which were and are imperative, the U.S. minister and naval commander would have shamefully ignored their duty had they not landed the men of the *Boston* for the security of American life and property and the maintenance of public order, even had the committee of public safety not requested us to do so. P. 485

My request to Captain Wiltse is the following: P. 497

U. S. LEGATION,
Honolulu, January 16, 1893.

CAPT. G. C. WILTSE,
Commander of the U.S.S. Boston.

SIR: In view of the existing critical circumstances in Honolulu, indicating an inadequate legal force, I request you to land marines and sailors from the ship under your command for the protection of the United States Legation and United States consulate, and to secure the safety of American life and property.

Very truly yours,

JOHN L. STEVENS,
Envoy Extraordinary and
Minister Plenipotentiary of the United States.

The CHAIRMAN. During this period of time in Hawaii, did you believe that it would be advantageous to the Government of the United States, in a commercial sense, to acquire the ownership of the islands?

Mr. STEVENS. Most emphatically. I came to that conclusion after a study of the future of the Pacific.

The CHAIRMAN. You believed that the future of the islands lay in that direction?

Mr. STEVENS. Exactly. I followed Mr. Seward for 25 years; I am a believer in this philosophy as to the future of America in the Pacific, and, of course, my investigations after I went to the islands confirmed me.

The CHAIRMAN. Having such an opinion and such a belief and such a trend of judgment about this important serious matter, have you in any way, at any time, or on any occasion employed your power as a minister of this Government for the purpose of promoting or accelerating that movement?

Mr. STEVENS. Not the slightest, except in writing to Washington, and that was marked confidential. P. 515

* * * * * * *

Senator FRYE. Mr. Wondenburg in his testimony says that the overthrow of the monarchy could not have been accomplished had it not been for the general understanding that the American minister would make use of the troops. In your opinion, did the American troops have any effect on the overthrow of the monarchy?

Mr. STEVENS. Not the slightest.

Senator FRYE. And whether the troops were on shore or not, your opinion is that the monarchy would have been overthrown?

Mr. STEVENS. Certainly. P. 530

AFFIDAVIT OF COMMITTEE OF SAFETY

We the undersigned hereby upon oath depose and say:

That we are the persons appointed as a citizens' committee of safety at Honolulu in January last.

That neither prior to nor after our appointment as such committee, did we nor either of us, individually or collectively, have any agreement or understanding, directly or indirectly, with the U.S. minsiter, Mr. Stevens, or Captain Wiltse, that they or either of them would assist in the overthrow of the monarchy or the establishment of the Provisional Government.

That at no time, either before or after such appointment, did Mr. Stevens ever recommend or urge us, or either of us, to dethrone the Queen or establish a Provisional Government.

That at no time, either or before such appointment, did Mr. Stevens or Captain Wiltse promise us, or either of us, that the U.S. troops would be used to assist in the overthrow of the Queen or the establishment of the Provisional Government, and such troops, in fact, were not so used.

That at the time the committee addressed Mr. Stevens concerning the landing of the troops to maintain the peace the Queen's Government was utterly demoralized. The Queen had denounced her cabinet and they had publicly appealed to the citizens to support them in a forcible resistance to the Queen. The new Government had not been organized and the air was full of rumors and threats of violence and conflict. The presence of the troops was a strong feature in preventing the irresponsible and lawless element of all nationalities from outbreak, but was not asked nor used for the purpose of dethroning the Queen nor establishing the Provisional Government.

That the forces that rallied to the support of the Provisional Government were ample to overthrow the monarchy and establish the Provisional Government, and such action would have been taken by the committee regardless of the presence or absence of the American troops.

That the reason of the confidence of the committee in its ability to accomplish its object was that the same men who were supporting the movement had carried through a peaceful revolution in 1887 and suppressed an armed uprising in 1889. The armed supporters of the movement were not a disorganized body, as has been represented, but were composed largely of the volunteer white militia which was in existence and formed the effective strength in the conflicts of 1887 and 1889, and which, although disbanded by the Royalist Government in 1890, had retained its organization, and turned out under the command of its old officers, constituting a well drilled, disciplined, and officered military force of men of high character and morale, with perfect confidence in themselves, and holding in contempt the courage and ability of those whom they have twice before overawed and defeated.

C. BOLTE, ED. SUHR, F. W. McCHESNEY, J. A. McCANDLESS, WILLIAM O. SMITH, WM. R. CASTLE, ANDREW BROWN, JOHN EMMELUTH, W. C. WILDRE, THEODORE F. LANSING, HENRY WATERHOUSE, L. A. THURSTON.

Subscribed and sworn before me this 4th day of January, A.D. 1894 by [the 12 names are repeated] as a true and correct statement.

THOS. W. HOBRON,
Notary Public.

[Pp. 554–555.]

STATEMENT OF LORRIN A. THURSTON, PUBLISHED NOVEMBER 21, 1893

Excerpts in criticism of Blount's report, included in the Morgan committee's report:

A brief examination of the published portions of the report shows numerous incorrect statements. I shall endeavor for the present, however, to answer the more salient points only.

First, Mr. Blount charges that the American troops were landed under a prearranged agreement with the committee of safety that they should so land and assist in the overthrow of the Queen. In reply thereto, I hereby state that at no time did Mr. Stevens or Captain Wiltse assure me or the committee of safety, or any subcommittee thereof, that the U.S. troops would assist in the overthrow of the Queen or establishing the Provisional Government; and, as a matter of fact, they did not so assist. * * * The troops were landed to protect American citizens and property in the event of the impending and inevitable conflict between the Queen and the citizens, and not to co-operate with the committee in carrying out its plans. In fact, the troops did not co-operate with the committee, and the committee had no more knowledge than did the Queen's Government where the troops were going nor what they were going to do. * * *

Second, Mr. Blount charges that the Queen had ample military force with which to have met the committee, and but for the support of the U.S. representatives and troops the establishment of the Provisional Government would have been impossible. In reply thereto I hereby state that, although the presence of the American troops had a quieting effect on the rough characters in the city and may have prevented some bloodshed, they were not essential to and did not assist in the overthrow of the Queen. The result of the movement would have been eventually the same if there had not been a marine within a thousand miles of Honolulu. * * * P. 561.

HONOLULU, HAWAII, *July 12, 1977.*

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR: Undoubtedly there may be Native Hawaiians eager to serve on the study commission if and when Senate Joint Resolution No. 4 is passed. Eagerness to serve is a fine attitude. But let us not be so hasty in passing S.J.R. No. 4. Let us first make sure that in our haste we are not sacrificing insight and foresight. Above all, let us not be self defeating. It is all too easy to forget our priorities. Our top priority is to the goal of a successful Native Claims Bill, based on an acceptable report. We need a bill that will earn the maximum amount of votes by

Congress, because it is based on a study commission report that will carry the maximum amount of weight.

It is out of my sincere aloha for my people and belief in the reparations cause that I ask that S.J.R. No. 4 be revised with more care. Let it be amended with an eye for errors in insight and foresight that can jeopardize the success of the reparations cause in the long run.

For instance, take the case of the aged Hawaiians or those who are very poor. Direct grants of cash or land will be more meaningful to them than stocks, surely. If Hawaiians were polled today, it is doubtful that they would prefer stocks. For too many, tomorrow may be too late.

The worst part of the resolution is in the selection of commissioners by geographical location (counties). Again, we must keep priorities in mind. This is a trivial advantage compared with the serious handicap it imposes in selecting the best qualified commissioners.

And how many of us realize that a report by commissioners removed from Hawaii, chosen from a cross section of mainland citizens may carry a lot of weight in convincing Congress of the justice of our reparations cause. Surely hearings can be held on Hawaiiana, while the actual compiling and weighing of evidence may be done by Commissioners removed from Hawaii. Was not Commissioner Blount of the Blount Report a Mainlander? That was just an idea to increase our chances of success. I don't want the reparations movement to end up "an exercise in futility" or to continue to be vulnerable as it is to criticism.

And let us honor the claims of descendants of Hawaiian Royalty. Let the study commission do it's job of studying all claims, so that Congress can honor all damages.

Mahalo Nui Loa,

ROSALIE L. GLOVER.

SEPTEMBER 25, 1977.

To: Hon. Morris Udall, Representative, Chairman, U.S. House Interior and Insular Affairs Committee; and Hon. Henry M. Jackson, Senator, Chairman, U.S. Senate Energy and Natural Resources Committee.

From: John J. Hall, Kaneohe, Hawaii.

Subject: Hawaiian Aboriginal Claims Study (S.J. 4, 95th Congress, 1st session—S.R. 393, 9th Legislature, Hawaii, 1977); Samuel Hoapili Lono, Jr., Kahuna-priest, traditional and religious leader, medicinal healer, Kuleana (land) owner.

DEAR MR. UDALL AND MR. JACKSON: The purpose of this letter is to introduce Kahuna Sam Lono and his family's continual legal and domestic problems stemming from kuleana and land rights and "Crown Land"; which in turn illustrate the pivotal Hawaiian land claims issue involving "Crown lands" grant status.

I am a cultural anthropologist specializing in Hawaiiana. Previous attempts to publish Mr. Lono's pertinent cultural material has failed. His cultural insights directly contradict the Bishop Museum and their press and the Hawaiian Historical Society's publications and cultural reassemblages. Thus Mr. Lono's concepts are determined unexceptable and never printed. As a result of his residence issue, the lack of a formal education, and his cultural point of view, the so-called Hawaiian experts denounce Mr. Lono's credibility.

The Kuleana Act of the 1930's awarded the Lono family a 1.1 acre plot and easement (to move autos but not park them) located on the windward side of Oahu in the district Heeia. Scientific documentation has all but neglected aborigial sites in the mountain section called lolekaa. Mr. Lono's land is amongst many religious and task-specific structures, petroglyph rocks, portable and non-portable artifacts that have never been noted and to date represent the highest concentration of native (aboriginal?) religious and habitation sites in any valley in Hawaii and all Polynesia for that matter.

To further illustrate Lono's difficulties, the neighbors to all sides are the Bishop Estate and the Hawaii State Department of Land and Natural Resources (watershed). Incidentally, the only river in the district of Heeia belongs to Mr. Lono; he owns the water rights yet has no rights to the land on which the water flows. This mountain section was all "Crown land" and even marks the burial site of Chief Paki, father of Berniece Pauahi, who married Reed Bishop, in order to create the Bishop Estate, Kamehameha Schools, etc.

98-830 O - 78 - 21

Since 1970 I have witnessed and sustained much abuse and harrassment; the worst to Mr. Lono. Sam Lono has gone to court in those 7 years over 50 times without legal relief. Only one example is the parking hassle endured by his guests (see enclosure). Court cases in violation are always dismissed; no judge dares to make the landmark ruling regarding easement parking rights.

All personal attempts to publicly announce any number of Mr. Lono's problems have failed or I have feared harmful reprisals. My local elected officials are dangerously handcuffed, interlocked within the State's political and economic power structures.

Aboriginal claims settlement for the modern Hawaiian is not merely a land issue and a just compensation. American injustices began decades before written history, in a Hawaii of oral traditions. Aboriginals needed roots as well as an island; their modern ancestors need to understand aboriginal culture as well as money in order to survive.

I submit this testimony to each committee in the sincere hopes an investigation ensues into Sam Lono's land battel; the suffering typifies the Hawaiian land ownership battle with big business, be it commoner or chief. Please do not discredit my statements; many years of research and a B.A. degree from the University of Hawaii at Manoa in 1975 will support the supposition.

May your God help open your eyes and heart to the aboriginal of Hawaii and his/her real problems of adaptation and revitalization. Your committees have the duty to investigate "Crown land" tenure. Please act quickly as the two recent newspaper articles indicate why.

Sincerely,

JOHN J. HALL.

Enclosures.

[From the Sunday Advertiser, Honolulu, Mar. 13, 1977]

OUR LAND "REVOLUTION"

Is Hawaii in the middle of a quiet revolution in land ownership and control?

We would hope so because there is a need for changes and the alternative might be something less pleasant. Yet, even assuming orderly change now, nobody can be truly sure where the process will end.

The latest major development was signaled last week with word that Hawaii's two biggest land-holding estates, Bishop and Campbell, are moving toward selling their residential leaseland in fee simple.

That will amount to a quantum jump in changing the controversial old land system and in revamping the income pattern of the big estates, as well as smaller ones that will follow suit.

One major reason for the new policy is recent laws passed by the State Legislature which make it easier to convert leasehold residential land into fee. The two big estates have decided not to challenge the State's Land Reform Act, a significant reversal from earlier positions.

Another stimulant to the changed policies are estimates the estates can now do better with other sorts of investments than continuing with residential land leasing.

There are still some problems regarding needed tax considerations and differences over land prices under the law. But indications are we are on our way to some changes that seemed unlikely, some might say unthinkable, a few years ago.

How this relates to other developments on land matters here—such as the Waiahole-Waikane controversy and the various "aloha aina" or "love of the land" movements—is hard to say.

Some suggest the root of any seeming revolution we are having is rising land costs. They say that when land becomes so expensive that the people who have been living on it can't afford to pay, then there are problems and the value of the land itself becomes debatable in some cases.

Certainly there are some changing ideas. Land in Hawaii is becoming not just a commodity but is also seen more as a necessity and a limited resource.

The rights of private ownership remain strong, including the right to a fair return on investment and just compensation if land is taken in the public interest. There is also a recognized public interest in private land, an interest reflected in zoning and other regulations.

But now we are also hearing more about the rights of people who have been living on the land and feel they have contributed to its present or potential value.

If we are seeing some major changes now and they may now be judged beneficial, it is still not clear what lies ahead.

Land values on this island of limited territory and rising population seem certain to keep going up. And with more people due to own their land in fee simple, such increases may now be considered more tolerable.

Yet, long-range problems of high land prices for living will continue. In fact, lease land has been a cheaper and affordable alternative for many people, and now we will have a practical test of the theory that it is the big estates who have been keeping real estate prices high.

One land expert even pictures an eventual situation where many people will have so much value in their land and houses they can't afford to keep their property because they see a greater economic return elsewhere.

Others see the present gap between those who can afford homes and those who can't as growing, and they suggest it is our young people who will be especially caught in this "class" situation.

But, if such potential problems ahead are not to be taken lightly, that should not minimize the positive side of current developments.

Nor should the benefits of the conversion to more fee simple residential land from leasehold mean the end of our thinking about future land-use planning in Hawaii. At best, it shows what can be done in a reasonable way.

[From the Honolulu Advertiser, Honolulu, Mar. 30, 1977]

HOUSE OK'S NEW CARS TAX

The House also passed bills to:

Give tax exemptions to Hawaii's trust estates when the estates are forced to sell their residential leaseholdings, through government condemnation, to fee.

Cut red-tape for land development approvals and allow the counties, in some cases, to make "nonsignificant" zoning changes by ordinance on parcels of land.

Memorandum to: Lawful Users of Easement.

1. Haiku Plantations is a privately owned residential area. The common facilities of Haiku Plantations, including the roadways thereof, are private property and maintained at the expense of the Haiku Plantations Association.

2. On June 7, 1976, Judge Sodetani of the Circuit Court of Hawaii ruled that the following named persons and their guests were lawfully entitled to use Haiku Plantations Drive as an easement over and across Haiku Plantations by any reasonable vehicular conveyance during reasonable times and in a reasonable manner:

a. Leonard Kea
b. Elizabeth Silva
c. Evelyn Gouveia (a.k.a. Evelyn L. Yang)
d. Samuel Lono, Jr.
e. Vincent Lono
f. Augustine Lono
g. Patrick K. S. L. Yim
h. Carl K. Young
i. Bernard Lono
j. Timothy McCabe
k. Harriet McCabe
l. Paul Lono
m. Kenneth Lono

3. The Haiku Plantations Association notes that Judge Sodetani's ruling specifically states that the easement was for ingress and egress only and does not include parking.

4. Although the Haiku Plantations Association does not give the lawful users of the easement authority to use Haiku Plantations Place as a back-up and turn around, the Haiku Plantations Association does not object to such use providing reasonable and prudent care is taken while the operator is maneuvering the vehicle.

5. Lawful users of the easement who violate that portion of Judge Sodetani's ruling which prohibits parking on Haiku Plantations Association property may be subject to legal action.

EUGENE T. CARSON,
Manager, Hawaii Burns International Security Services, Inc.

1. Haiku Plantations and Haiku Plantations Drive are private property. You are limited to ingress and egress by means of Haiku Plantations Drive. Playing, loitering, meeting or leaving Haiku Plantations Drive at any time during ingress and egress is forbidden.

2. Passengers of all vehicles must be discharged beyond the fence at the Mauka end of Haiku Plantations Drive.

3. Vehicles may utilize Haiku Plantations Place to back up and turn around. Haiku Plantations Place is not part of the authorized easement and may only be utilized for vehicle turn around purposes. Vehicles are not permitted to park on Haiku Plantations Drive or within any portion of Haiku Plantations. All vehicles parked on any portion of Haiku Plantations property will be towed at owner's expense.

KAHAU ENTERPRISES, INC.,
Kihei, Maui, Hawaii, September 7, 1977.

Hon. SPARK M. MATSUNAGA,
U.S. Senator,
Washington, D.C.

DEAR SENATOR MATSUNAGA: Thank you for this opportunity to express my views on Senate Joint Resolution 4.

As president of the Hawaiian Reparations Hui and being one-half Hawaiian, I am very concerned not so much of the wrong committed against the Hawaiian people, but because the Hawaiian people have been repressed educationally, socially, culturally, and economically.

The sociological structure of the Hawaiian people embracing ". . . empathy, tolerance, graciousness, friendliness, understanding, giving . . . getting along" has never made the Hawaiians an aggressive nation in business, politics or education. Their health and happiness were derived from their lands and from their ocean. "Foreigners" seeking "fortunes" in a new land took advantage of the Hawaiians ever since the arrival of Captain James Cook in 1778. Till today, many Hawaiians have not been able to regain their dignity.

I trust your concerns for our people and guidance from your heart will enable a workable program to be implemented throughout the State of Hawaii.

Enclosed are:

Personal resume.

By-laws, Hawn's Reparations Hui (HRH).

Minutes, HRH, July 22, 1977.

Minutes, HRH, August 15, 1977.

A conceptual approach to the remedies of the wrong committed against the Hawaiian natives.

Suggested method for the composition of the study commission.

Mahalo nui loa,

JOSEPH KAHAUOLOPUA II,
President, Hawaiian Reparations Hui, Kihei, Hawaii.

Name: Joseph Kahauolopua II.
Born: August 12, 1942.

Career objective

Prefer Maui Island. Desire masters degree in business administration, with major in real estate.

Qualifications

Activities: Worked with many people and complimented on ability to get along well with all people. Coached St. Augustine's basketball teams (sixth through eighth grades) and held the 1968 and 1969 Catholic Youth Organization championships. Head coach of the St. Louis High School varsity volleyball team making the 1970 and 1971 State finals. Worked as a committee chairman for the 1969 and 1970 St. Louis carnivals. As a senior at Chaminade, was president of the Hawaiian Club "Hui Imi Noeau A Kepelino" responsible for the planning and organization of all activities for Aloha Week, Christmas, annual luau and other events and encouraging the learning of various aspects of Hawaiiana through guest speakers. Also, president and statistician for the college's bowling league. Member of the Activities Council. Active in intramurals, awards in football, volleyball, bowling and basketball. Maintained "B" average while a senior at Chaminade. Received "Outstanding Leadership" award as a senior from the Business Department. President, Hawaiian Reparations Hui on Maui. Vice-chairman, economic sector, Kihei Citizen's Advisory Committee, Long-Range Comprehensive Plan for Maui County. Volunteer work with Respite Care Program sponsored by the Maui Association for Retarded Citizens. Volunteer basketball official with Maui County Parks and Recreation. Volunteer coach, Kihei Menehune basketball team. Member, Maui Jaycees; Central Maui Hawaiian Civic Club; Maui Bicentennial Committee; Hawaiian Businessmen's Associa-

tion. While Director of Community Services at Lokahi Pacific, Inc., responsible for first round table discussion between private and government institutions to exchange information on policies and programs affecting economic development in Maui County.

Work Experience: Have worked at all sorts of jobs to finance education from picking pineapples in 1958, construction in 1960, fish market in 1962, to delivering auto parts in 1964 and cargo inspector up until June 1965. Drafted into U.S. Army. Graduated from Chaminade College (University) of Honolulu in 1969. Appointed Assistant Development Director and Alumni Relations Officer in 1969 responsible for fund raising activities for the college, public relations and coordination of Alumni activities and publication of Alumni newsletter.

Full-time real estate salesperson for Tropic Shores Realty, Ltd. from 1973 to 1974 and. Licensed real estate broker in 1974. Broker in charge of Maui operations for Tropic Shores Realty, Ltd. in 1975. Formed corporation, Kahau Enterprises, Inc., on Maui on August 1, 1975 dba Professional Home and Resort Services (condominium and residential cleaning services) and Kahau Realty, as President and Treasurer. Hired by Lokahi Pacific, Inc. as Director of Community Services in December, 1975 responsible for Human Development (membership reorganization, public relations, staff support) and Business Development (business counselling, business packaging, operational technical assistance, administrative monitoring, community technical assistance, new projects developments, divisional budget and staffing responsibilities). Opened office, under Kahau Enterprises, Inc. in 1977 doing business counselling, business development and real estate investments.

Education

Chaminade College (University) of Honolulu, May 1969.
Graduate of the Graduate Realtors Institute, May 1974.
Licensed real estate broker, January 1975.
Qualified minority business and economic developer, June 1976.

Military service

Drafted into the U.S. Army on June 22, 1965. Selected as platoon leader during basic training and chosen by the drill instructors as the outstanding trainee of the eight-week cycle displaying "the most diligent effort, attention to duty and a keen desire to excell". Assigned as administrative specialist in Fort Polk, Louisiana. Earned the rank of Specialist E–5 as personnel administrator with the Provost Marshal's Office at Fort Shafter on Oahu in May 1967. Separated from the U.S. Army on May 21, 1968. Received honorable discharge on June 21, 1971.

Personal background and interest

Born and raised in Honolulu. Attended parochial schools throughout education. Active in sports. Enjoy working with adults and children from all socio-economic and educational levels. Special interests in working with teenagers in areas of recreational activities as a means of fostering sportsmanship, competition, fair play, learning group interactions and experiencing healthy exercises and in areas of programs exposing youth to economic opportunities.

Have a deep and sincere concern for the needs of the Hawaiian people socially, culturally, politically, educationally, economically, spiritually, emotionally and physicaly. Interested in traveling. Besides numerous collegiate awards for intramural sports and service to student government, extracurricular activities, and community activities, two most prized awards are the "Outstanding Trainee" award and the "Outstanding Leadership" award as a college senior presented by the Business Department.

[Revised: August 15, 1977]

By-Laws—Hawaiian Reparations Hui

ARTICLE I. NAME

The name of this organization shall be Hawaiian Reparations Hui hereinafter called the Organization.

ARTICLE II. AIMS

Section 1. That this organization provide input, data, and recommendations regarding Senate Joint Resolution 4 establishing the Hawaiian Native Claims Settlement Study Commission.

Section 2. That this organization continue to provide information and act as advisory committee to the commission and its staff.

ARTICLE III. PURPOSES

Section 1. To remain a non-profit, non sectarian organization.
Section 2. To remain an independent group from all other Hawaiian groups.
Section 3. To act in advisory capacity to the commission and its staff members.
Section 4. To provide technical assistance to Hawaiian groups, to include legal interpretations, economic planning goals, educational programs, legislative procedures, lobbying, obtaining national support from other minority groups, etc.

ARTICLE IV. AFFILIATIONS

Section 1. This organization shall not be affiliated with any other particular Hawaiian group, but shall maintain a separate, independent identity to act in an advisory capacity and provide whatever technical assistance that may be required by other Hawaiian groups and with whatever skills that this organization may have.

ARTICLE V. COLORS

The organization colors shall be red and gold.

ARTICLE VI. MEMBERSHIP

Section 1. Charter members shall be those members at the time of incorporation.
Section 2. Regular membership shall be open to all individuals having any degree of Hawaiian ancestry desiring to contribute to the preservation of the Hawaiian culture, and to provide data and input to an economic and social plight of the Hawaii peoples.
Section 3. Honorary members shall be those of non-Hawaiian blood and who have distinguished themselves by their unselfish contributions to the perpetuation of the ideals, traditions, and spirit of the Hawaiian people. Any selection for Honorary membership shall be presented to the membership and selected by simple majority. Honorary members shall not have voting powers nor run for office.

ARTICLE VII. DUES

Section 1. Total payment of annual dues shall be made to the Treasurer of this organization. The membership year shall be from January 1 to December 31.
Section 2. The amount of dues shall be fixed from time to time by the two-thirds (⅔) of the membership, provided that no raise in dues shall be effective until thirty (30) days after notice thereof is posted or mailed to the members affected.

ARTICLE VIII. OFFICERS

Secton 1. The officers of the organization shall be President, Vice President, Secretary, and Treasurer.
Section 2. The officers shall be elected for a term of one (1) year and may not serve more than three (3) consecutive elected terms in the same office.
Section 3. The duties of the officers of the organization are as follows:
(a) The President shall be the executive officer of the organization and will preside at all meetings of the members called by the Executive Committee. He shall have general supervision over the business affairs and activities of the organization and shall countersign all checks and vouchers of the organization. The President shall also perform such other duties as customarily appertain to the office of President or as he may be directed to perform by direction of the Executive Committee not inconsistent with these by-laws.
(b) The Vice-President shall assume the duties of the President in his absence and shall be responsible for the program for all organizational meetings and functions.
(c) The Secretary shall keep a complete and accurate record of all proceedings of this organization and of the meetings of the Executive Committee, maintain a current list of the names, addresses, and telephone numbers of all members, and other such duties incident to this office or required by the President or Executive Committee. The Secretary shall conduct all official correspondence, submit notices for general, special and Executive Committee meetings.
(d) The Treasurer shall be custodian of the funds of the organization and he will:

i. Collect all annual dues and other revenues of the organization;

ii. Deposit all monies in a financial institution approved by the Executive Committee;

iii. Prepare and co-sign with the President, all checks and vouchers for the disbursement of funds for payment of authorized expenditures of this organization;

iv. Prepare and submit to the Executive Committee a financial statement showing the financial condition of the organization covering the previous membership year; and

v. Keep a full and accurate account of receipts and disbursements in the books of this organization, and shall render to the membership at such times as it shall request, an account of the financial condition of this organization.

The Treasurer may be bonded for the faithful discharge of his duties in such sum and with such sureties as may be determined by the Executive Committee.

The Treasurer may appoint such assistance as required to properly collect the funds derived from any authorized fund raising activity of this organization.

Section 4. Should a vacancy occur caused by the death, resignation, or removal of an officer, the vacancy shall be filled through appointment by the Executive Committee for the unexpired term of the officer except that a vacancy in the office of President shall be filled by the Vice-President.

ARTICLE IX. ELECTIONS

Section 1. The Executive Committee shall appoint a Nominations Committee of three (3) members at least sixty (60) days prior to the annual membership meeting in November. They shall, at least thirty (30) days prior to the annual membership present to the membership a slate of at least one nominee for each office. Additional nominations by the respective nominee are subject to acceptance.

Section 2. Should a single slate be presented, the Secretary may be instructed to cast a unanimous ballot. If there is more than one candidate for any office, voting shall be by plurality vote.

ARTICLE X. COMMITTEES

Section 1. The Executive Committee shall appoint the chairman of six (6) or more standing committees. The standing committees of this organization and their duties and responsibilities shall be:

(a) Executive: Responsible for the direction and control of the affairs, programs, funds and properties of this organization.

(b) Membership: Responsible for the recruitment of new members, registration of all members, and maintain a current membership list in good standing.

(c) Finance: Responsible for all fund raising activities.

(d) By-laws: Responsible for the interpretation, adoption and amendments to the by-laws of this organization consistent with the law and any charter of incorporation should this organization decide to incorporate.

(e) Program Planning: Responsible for the planning, suggestions, coordination and implementation of cultural, educational, social and all other activities needed to carry out the aims and purposes of this organization.

(f) Statistical: Responsible for the gathering of information and data from all sources through research, interviews, surveys, study and analysis and the publishing of such information to other Hawaiian groups and the general public.

ARTICLE XI, MEETINGS OF THE GENERAL MEMBERSHIP

Section 1. The annual membership meeting shall be held on the third Monday of November.

Section 2. Additional general membership meetings shall be held on the third Monday of each month.

Section 3. Special meetings may be called by the President, a majority of the Executive Committee or open petition of five or more members. Notice of these meetings, along with a statement of purpose and an agenda, shall be given at least two weeks in advance.

Section 4. A quorum shall consist of at least 25 percent of the membership.

Section 5. A simple majority vote shall decide all questions other than specified in Article XII.

Section 6. Robert's "Rules of Order" shall be parliamentary authority for all matters of procedure not specifically covered by these by-laws.

ARTICLE XII. AMENDMENTS

These by-laws may be amended by the affirmative vote of two-thirds (⅔) of the voting members present at any meeting duly called for this purpose.

ARTICLE XIII. GUESTS

Any member may bring guests.

HAWAIIAN REPARATIONS HUI

Minutes of organizational meeting, July 22, 1977, Cameron Center, Conference Room 1.

Meeting called to order by Joe Kahauolopua at 1:07 pm.

Present: Abraham Aiona, John Bose, Joe Kahauolopua, Clarence Kamai, and Mililani Trask.

Excused: Frank Alameda, Jr., Alika Cooper, George Delanux, Kahala-Ann Gibson, and Manu Goodness.

Absent: Leslie Kuloloia and Sydney Leong.

Opening prayer by Joe Kahauolopua.

Discussion on purposes:

This group should remain "neutral", neutral to any particular Hawaiian group but shall take a stand on issues.

This group shold not be aligned with any other Hawaiian group.

This group should be an advisory group to assist in the selection of a study commission to the Senate Joint Resolution 4 and its staff.

This group should assist in the gathering of data and information from various Hawaiian factions and government agencies.

This group shall assist in the development of programs consistent with the guideline set forth by the study commission.

This group shall support the enactment of Senate Joint Resolution 4 in its revised format.

Discussion on goals:

Meet with representative from various Hawaiian groups.

Meet with Ralph Yagi, the governor's liaison on Maui to introduce our organization and our aims and purposes.

Brief backgrounds on members present:

John Bose II, Bibliographer and research writer for the University of Hawaii, NISTAL agricultural project on Maui; part-time writer for the Maui Sun; Sierra Club; retired Navy (disability).

Clarence K. Kamai, Department of Transportation, Harbors Division; retired Army, 22 years; president, Paukukalo Homestead; Chairman, Teen Challenge; Chairman, HGEA Unit III, Maui; father of 11 children.

Abraham Aiona, Councilman; retired police officer (29 years) 7 years as Chief of Police, County of Maui; Director, Kahului Town Associatic; Director, Maui United Way; Boy Scouts of America.

Kahala-Ann Gibson, Attorney; private practice in Hana.

Mililani Trask, Law Student; 3 years at Santa Clara; last year at University of Hawaii (77–78).

Joe Kahauolopua II, Realtor; qualified minority business and economic developer; Maui Jaycees; Kihei Kiwanis; Central Hawaiian Civic Club, Hawaiian Businessmen's Association.

Discussion on organization:

No need for incorporation at this time, unless this organization establishes to seek a larger membership.

Determined that we should form a formal group, because to remain passive and attempt to integrate the philosophies of various Hawaiian groups will be difficult and time-consuming.

Election of officers:

President, Joe Kahauolopua; Vice President, Abraham Aiona; Sec/Treasurer, Clarence Kamai.

Suggested Names:

Assembly of Hawaiian Peoples.

Hawaiian Reparations Group.

Hawaiian Reparations Hui.

Hawaiian Reparations Hui was unanimously selected.

Sources of information: Governor's office, Kekoa Kaapu, Kamehameha Schools, Bishop Museum, Louie and John Agard, Billie Beamer, Gard Kealoha, Aiona,

Dept. of Education, Hawaiian Groups, and Charles Maxwell.

Abraham Aiona excused at 2:00 p.m.

John Bose presented his feelings to the group, that he, being a non-Hawaiian, should be considered whether he should be made a member of this organization.

Discussion

CLARENCE KAMAL. Prejudiced towards Hawaiian, but welcome all nationalities who support the Hawaiian ideals and philosophies—for example—at Kamehameha Schools, the haoles came to teach us on methods and procedures to accomplish our goals through the lobbying activities, if you want to learn, you may stay, if you do not want to learn, then you may leave.

MILILANI TRASK. It is sad, but true that to make our voices be heard, we must have a Hawaiian face, a person with Hawaiian grace, awareness of the Hawaiian culture, and educated to act as a spokesman for this group—we must also welcome all races to be part of this group so as not to allow our minds to be closed to the feelings of other ethnic origins—we become more aware of the society we live in and how best we can achieve our goals within an organized, social, political structure.

JOE KAHAUOLOPUA. The members selected were asked to attend because of their expressions of their beliefs in the Hawaiian people; members whom were felt that could sit at a table and rationally and intelligently discuss issues without personality clashes and without emotional biases. I am sensitive and very emotional, and very much Hawaiian, but what is needed here is not a biased program without thought and considerations, but rather a planned program for the achievement of benefits for the future of the Hawaiian people. John was selected for his unselfishness, public testimony, research materials, and support of the Hawaiian culture and traditions, and if he was Japanese, Negro, Filipino, Portuguese, or Chinese, John would have been called upon to assist with the accomplishment of this groups' aims and purposes.

Meeting set for Monday 10:30 a.m. August 15, 1977, Cameron Center Conference Room 1.

Meeting adjourned at 2:30 p.m.

Respectfully submitted.

JOSEPH KAHAUOLOPUA II.

HAWAIIAN REPARATIONS HUI

Minutes, August 15, 1977, Cameron Center.

Meeting called to order by Joe Kahauolopua at 10:45 a.m. Joe said the opening prayer. No changes to the agenda.

Members present: Abraham Aiona, Kahala-Ann Trask Gibson, Joe Kahauolopua, and Clarence Kamai.

New member: Bob Hocajo.

Guest: Jim Brock.

Kahala-Ann said that she and Jim Brock, land surveyor (Brock & Associates, Ltd., Wailuku) will research section 5, f, 4 of the Admissions Act, relating to returning lands to Hawaiians of 50% Hawaiian blood. Kahala-Ann will continue correspondence with Gail Prejean of the Hawaiian Coalition of Hawaiian Claims who is also studying this act.

Kahala-Ann remarked that we should emphasize our efforts towards land reparations and that solutions to the return of the lands should not be made part of the reparations, for example, Pearl Harbor.

Bob Hocajo remarked that we should each take a research project and bring our findings to the next meeting. Kahala-Ann suggested that Bob work with Mililani Trask to gather data on the Hawaiian Homestead Act. Abe Aiona said that his time and others that have demanding schedules cannot take on a heavy task of researching. Joe stated that he was totally aware of commitments of members and was not asking members to take on any responsibility he or she could not handle, the selection of members was made on the quality of input and contributions to organization and planning of a unified effort towards a common goal for all Hawaiian peoples.

A suggestion was made that each member contact a Hawaiian group or organization. Joe stated that he has a list of Hawaiian organizations and he will be contacting them.

Jim Brock said that one problem with the land owners and many of them Hawaiians, is that they do not have written documents, nor are they aware of laws and procedures regarding ownership.

Joe remarked that this group has asked for a meeting with Representative Dan Akaka and Governor George Ariyoshi. Representative Akaka will be on Maui possibly on the 21st of August and the Governor possibly in September. Members will be contacted when a definite schedule is known.

Clarence Kamai expressed his concern that he would like to see a member from this organization be a member of the Hawaiian Native Claims Settlement Study Commission and nominated Joe Kahauolopua. Kahala-Ann set forth her views and said that it is too soon to consider a candidate until we get to know his or her philosophies and that they represent the whole organization. Clarence said that he was concerned over the possibility that a list may already be compiled and our efforts may go unheard of. Joe said that he will follow up immediately with Ralph Yagi on the status of the Governor's selections. Clarence Kamai further commented that a candidate should not only be excited about pursuing a plan for reparations, but should also be knowledgeable.

Joe submitted Clarence Kamai's letter of resignation and said that he will respond to the letter in two weeks.

Also, John Bose submitted his resignation by telephone on August 15, 1977.

Joe expressed his views that he would like to see a close workings with county and state agencies to avoid duplication of efforts, especially programs for youth, elderly, etc. Kahala-Ann answered that it would be somewhat difficult due to the processes that these organizations cannot favor a particular ethnic group.

Joe presented a copy of a survey done by Alu Like in assessing the needs of the Hawaiian people. Joe said that he will read the survey, summarize it and send a copy of the summary to members.

Abe Aiona volunteered that he has an article of "Successful Hawaiians" and will pass this on.

In reviewing the by-laws, Clarence Kamai expressed his concern over the aims of this organization. He pointed out that the aims did not provide a continuing life of this organization once the Hawaiian Native Claims Settlement Study Commission is formed and appointed and completes its functions. Joe pointed to Article III, Section 4, that this organization is designed or is intended to "provide technical assistance to Hawaiian groups, to include legal interpretations, economic planning goals, educational programs, legislative procedures, etc." to provide continuing support of the needs of the Hawaiian people.

Clarence Kamai expressed his concern over the word "non-sectarian" in Article III, Section 1. He felt that the term would confuse the intent of this group. Bob Hocajo added that our opening prayer is a form of religion. Joe stated his views that a prayer is an acknowledgement of a supreme being whether from Buddhism, Confucianism, Catholicism, or from the Jewish faith, there is an acknowledgement of a higher being. Any non-believer is certainly excused from participating in the opening prayer.

Joe contributed his philosophy that in order that a fair and objective assessment be made, three studies must take place: (1) history, culture and peoples of Hawaiian ancestry must be analyzed in relation sociological and environmental forces, educational requirements and economical pursuits; (2) human rights must be acknowledged and (3) then can the needs of the Hawaiian peoples be met through the implementation of a plan that is fair and just.

It was moved and seconded that the word "non-sectarian" remain part of Article III, Section 1. Unanimously passed.

Abe Aiona moved and seconded by Bob Hocajo, that Article III, Section 5, "to provide printed data for distribution to the public" be deleted. Unanimously approved. Discussion was that our absence of a budget prevents this organization to carry on any extensive campaigns. The media will be used as much as possible to disseminate information.

Kahala-Ann motioned and seconded by Abe Aiona that Article IV, Section 2, be deleted. Discussion was that there may be an issue by a political aspirant or incumbent that this organization may take a position on, whether favorable or unfavorable, and this section would prevent this organization to state its views. Unanimously approved.

Jim Brock remarked that there was no provision for Honorary members to vote or not vote. Abe Aiona moved that we add a sentence that "Honorary members shall not have voting powers nor run for office", and seconded by Clarence Kamai. Discussion was that a provision should be part of the by-laws. Kahala-ann suggested that the motion be added to Section 3 of Article VI. Unanimously approved.

Joe again stated that it is not the purpose of this group to go off on its own and repeat what already has been done. But rather take a study, such as the Alu

Like assessment, study it, and present a view on the findings. It is also the intent of this organization to gather similar reports, surveys, studies, or opinions, and render our interpretation in hopes of contributing another insight into program implementation rather than "just another study".

With no changes to the Suggested Planning Chart and no further business, the meeting was adjourned at 12:30 p.m.

Respectively submitted.

JOSEPH KAHAUOLOPUA II.

A CONCEPTUAL APPROACH TO THE REMEDIES OF THE WRONG COMMITTED AGAINST THE HAWAIIAN NATIVES

A. INTRODUCTION

Senate Joint Resolution 4, January 10, 1977: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby declares that a wrong has been committed against the Native Hawaiians which the United States is obligated to endeavor to remedy."

B. PURPOSE OF A STUDY

1. To seek guidelines in developing solutions to the complex and intricate stress for reparations.
2. To take an approach of prudence and caution with sensitive awareness to the emotional damages done the Hawaiian people.
3. To understand the Hawaiian people's reactions to changes of lifestyles.
4. To recognize all needs established by Hawaiian groups such as Alu Like.
5. To study the problem from every aspect:
   (i) Hawaii's history, religion and culture,
   (ii) Human rights as it applies to all mankind,
   (iii) Assessment of Hawaiian needs socially, culturally, religiously, educationally, economically, and politically.
6. To implement a program promptly and with a minimum of litigation, maximum participation of Hawaiian Natives and not replace or diminish any right, privilege, or obligation of the Hawaiian Natives as citizens of the United States or the State of Hawaii; a program that will conform with the real economic and social needs of the Hawaiian Natives.

C. STATEMENT OF THE PROBLEM

Because of the overthrow of the indigenous and lawful government of Hawaii in 1893, the Hawaiian Natives suffered:

1. Social repressions:
   (i) Self-image: "We are not smart", "We are not good students", "We might fail".
   (ii) Outside discouragement: "A teacher told me not to try it, it would be too hard for me".
2. Economical repressions:
   (i) Welfare "hand outs".
   (ii) Lack of business opportunities.
   (iii) "Domination by foreign powers" in the plantations, financial institutions, shipping and a substantial portion of the wholesaling and retailing industries.
3. Cultural and religious repressions:
   (i) Arrival of "Christian missionaries in 1819".
   (ii) Attitudes to discard "old ways" and learn "white men's ways".
4. Educational repressions:
   (i) Hawaiian attitudes towards education—"refused to educate themselves along Western ways—they turned away from reading and writing and assumed an anti-intellectual position" towards the end of the 19th century.
   (ii) "Foreigners established their foothold in the Kingdom—bewildering new laws were demanded to secure property rights and to facilitate the conduct of business." Native people were subject to thunderous beliefs. Spiritually and physically, the Hawaiians were reduced to nothing.
   (iii) Hawaiians today refuse to attend meetings because past meetings have produced no results. Example: Stew rice dinner on Molokai.
   (iv) Hawaiians are tired of studies, studies, studies and more studies.
5. Political repressions:

(i) Land being the factor in the production and control of wealth, . . . ownership fell into the hands of the wealthy foreigners who also controlled or dominated the politics of prewar Hawaii.

(ii) Self-image.

(iii) Inter-racial jealousy/prejudism.

6. How can conditions be improved?:

(i) Create awareness of Hawaiian successes in business, military, art, education, humanities, government, music, professions.

(ii) Collect and analyze data of concerns on crime, education and welfare.

(iii) Compare data with other races.

(iv) Survey why opportunities are being sought outside Hawaii.

(v) Provide an office for technical assistance—legal counselling, business counselling, social counselling and educational counselling.

7. Some existing programs intended to assist Hawaiians:

(i) Alu Luke,

(ii) Aboriginal Lands of Hawaiian ancestry,

(iii) Hawaiian Reparations Hui,

(iv) Movement for Hawaiian Sovereignty,

(v) Homerule Movement,

(vi) The Hawaiian Coalition of Native Claims,

(vii) Congress of Hawaiian People,

(viii) Hawaiian Homestead,

(ix) The Kamehameha Schools (Bernice Pauahi Bishop Estate),

(x) Hawaiian Civic Clubs,

(xi) Lunalilo Trust to aid aged and destitute Hawaiians,

(xii) Queen Emma Trust (Now Queen's Hospital Trust) to support Queen's Hospital,

(xiii) Liliuokalani Trust to aid needy Hawaiian children,

(xiv) Bishop Museum Trust, and

(xv) Charles Reed Bishop Trust to support Bishop Museum.

D. THE PROPOSAL

1. Establish a Hawaiian Office of Native American Programs, with branches on each island to provide:

(i) Technical Assistance,

(ii) Human Services,

(iii) Research and Communications,

(iv) Legal Services, and

(v) Business and Economic Development.

2. Define Native Hawaiian.

3. Establish guidelines and criteria.

4. Set procedures.

5. Determine Goals and Objectives.

6. Rationale:

(i) Need for a center of communications where Hawaiians can relate to.

(ii) Need for economic development for the continuance of programs.

(iii) Need to reestablish dignity among all Hawaiians.

(iv) Need for awareness of social interactions with other peoples.

(v) Need for an understanding of Hawaii's history.

E. IMPLEMENTATION

1. In order that the objectives of this program be met with success, the following programs must be provided:

(i) Technical assistance — By providing free counselling and services where able.

(ii) Human services—By meeting the needs of the Hawaiian people in education, cultural preservation, recreation, elderly, youth, housing, transportation, water, sewer, police, ambulance, health, dental programs.

(iii) Research and communications—By providing staff support, public information; coordinating federal, state and county programs; establishing a legislative reference bureau; maintaining a library.

(iv) Legal services—By providing free counselling and services where able; cooperating with the Maui County and Hawaii Bar Associations.

(v) Business and economics—By providing not only technical assistance (counselling, business packaging, pre-start technical assistance, operational technical assistance and "spin-off" or "buy out" technical assistance) but

financial assistance not otherwise available; examples, business loans, equity participation, boat loans and agricultural loans.

2. Island offices shall be a vital program to maximize participation.

F. SUMMARY

The needs of the Hawaiian people are varied from community to community, island to island, and they are many:

Land matters, title problems, need for technical and professional assistance, education, business opportunities, health care, legal advice, dental services, housing, transportation, vocational training, agricultural ventures, political awareness, environmental concerns, cultural preservation, social interactions, etc.

The needs are not new, nor are the problems dissimilar from other ethnic minorities.

What is or will be different is the method employed to attain maximum participation by the Native Hawaiians.

The Native Hawaiians have suffered economically, culturally, socially and religiously. The Native Hawaiians were "raw with the continuing sight of loss among themselves—loss through death and disease, loss through despair and the waning prestige of their culture. Loss, also, through an inability to accept the challenge of financial competition with people who were conditioned to the profit motive . . ."

What must be done are:

Compilation and analization of Hawaiian history, its culture and its people;

Stress for human rights of all nationalities;

Assessment of Hawaiian needs, and

Implementation of programs that the Hawaiian people can relate to.

Much of this proposal has been deliberately omitted, as time and space for detailed data and analitical information have prevented this.

Grant monies to a Hawaiian Office of Native American Programs in Hawaii is essentital to facilitate the programs and needs of the Hawaiian people, because what the Hawaiians suffered was the loss of dignity, spirit and culture and to restore, preserve and strengthen and return these attributes, services such as education, counselling and other human services will be non-income producing, slow, and time consuming.

Together with non-income producing activities, it is also proposed that moneys be invested in economic and business development activities to assure the lasting continuance of Native Hawaiian programs.

Establishing this Hawaiian Native American Program as a private, non-profit corporation enables this office to qualify for other government and private funds, thereby leveraging much of its own funds.

The evaluation activities shall be the most critical and most important functions of this office. Excuses for programs not implemented will not be condoned. What will be established will be strict guidelines and close analysis of communications between staff and public and between staff and the Hawaiian people. Because of the sensitive nature of this issue of Hawaiian reparations, emotional reactions, biases, and reactions to anything new, whether between the staff member and the individual Hawaiian, or between a Hawaiian receiving benefits and another Hawaiian, or between Hawaiian organizations, emotions will be a major factor.

What this proposal seeks to accomplish is merely providing a viewpoint from a concerned Hawaiian, concerned citizen and concerned human being. Development of this theme and the establishment of programs rests in the authority of the Hawaiian Native Claims Settlement Study Commission and through the wishes and desires of the Hawaiian people.

SUGGESTED METHOD FOR THE COMPOSITION OF THE HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION, AND POSSIBLY THE BOARD OF DIRECTORS OF A HAWAIIAN OFFICE OF NATIVE AMERICAN PROGRAMS

1. After looking at several methods of establishing districts—by representative districts, by population, by geography, by OEO 1975 Census Update Survey, by U.S. Census Tracts, by zip code areas, and by equal number of representatives from each island the method proposed is a revised format set up for "Judicial Districts".

2. The suggestion is to give each island a minimum of two (2) representatives. It is believed that an island having at least two points of view will be better

represented than having only one, using similar reasons for having a two party government system.

Island	Area (square miles) [1]	Resident civilian population	Representatives
Hawaii	5,832.7	[2] 76,500	9
Maui	728.2	[3] 51,396	5
Oahu	592.7	[2] 662,700	7
Kauai	548.7	[2] 34,000	5
Molokai	260.9	[3] 5,815	2
Lanai	139.5	[3] 2,450	2
Niihau	70.4	[1] 277	2
State civilian population		833,138	
Hawaiian Native Claims Settlement Study Commission			32

[1] State of Hawaii General Plan Revision Program, Part 4, Department of Planning and Economic Development.
[2] 77th Annual Economic Review. Bank of Hawaii'
[3] OEO 1975 Census Update Survey, Maui County, as of Apr. 1, 1975.

3. Niihau and Lanai shall have a minimum of two (2) representatives.

4. Molokai shall have a minimum of two (2) representatives with the possibility of one or two more.

5. Though the island of Hawaii has approximately 13 people per square mile and nine (9) representatives, while Oahu has approximately 1,118 people per square mile and only seven (7) representatives;

(*a*) Hawaii Island's population is more dispersed and therefore, culture and views differ greatly from one area to another and representation is crucial;

(*b*) Oahu's population, lifestyles, and cultures are much more tied together and having less representatives than the Big Island does not make Oahu's representation less effective; and

(*c*) The purpose of the Commission should not be to give power to the masses, but afford representation to as many Native Hawaiian communities as possible.

6. Qualifications:

(*a*) A person having any degree of Hawaiian ancestry—a person should not be penalized because his Hawaiian parent, and parent's parent have inter-married. (Groups such as "Hou Hawaiians" feel that Hawaiians shall be considered as having one-half or more Hawaiian blood).

(*b*) Education.

(*c*) Experience.

(*d*) Community activities.

(*e*) Submit proposal on how to meet needs of Hawaiian people.

(*f*) Oral interviews.

JULY 5, 1977.

U.S. Senator SPARK MATSUNAGA,
Federal Building,
Honolulu, Hawaii.

GENTLEMEN: We are deeply concerned about the discrimination towards certain land claims that Senate Joint Resolution 4 seems to portray.

We feel very strongly that in order to have a just, fair, and complete settlement with all of the Hawaiian people, the Study Commission should study all claims without discrimination and that the Commissioners for such a Commission be chosen in like manner.

May we also call your attention to Senate Resolution 393 adopted by the Hawaii State Legislature (9th Session), requesting the U.S. Congress to include the Crownland Claims as subject matter for the Study Commission proposed by Senate Joint Resolution 4, 95th Congress. We are in favor of SR 393 and humbly ask that your decisions toward a Study Commission be fair and without discrimination.

The letter was received with 200 signatures.

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