

agreed to terminate or reduce other unwarranted programs as proposed in my FY 1993 budget request.

The results of the congressionally imposed cuts will be manifold. First, the Federal Bureau of Investigation will not be able to hire additional agents. Second, the Drug Enforcement Administration will be unable to complete major planned drug investigations. Third, my plan for the systematic expansion of prison operations will be curtailed. Fourth, the Immigration and Naturalization Service will be forced to operate at a level below FY 1992, meaning less enforcement on our Nation's borders. Finally, Federal prosecutors will be unable to handle their mounting case loads, thereby delaying putting criminals behind bars.

In addition, I note that section 611(b)(1) of the Act incorporates by reference a provision that grants certain authority only to those Members of the Board of Directors of the Legal Services Corporation who have been confirmed by the Senate. Under Article II of the Constitution, the President has the power "to fill up all Vacancies that may happen during the Recess of the Senate." Under the Constitution, such recess appointees enjoy the same powers assigned to Senate-confirmed officers. Provisions

purporting to grant authority only to individuals confirmed by the Senate interfere with the President's recess appointment power, and are unconstitutional.

I would also note my strong objections to the inclusion of an amendment to the criminal post-employment statute in an appropriations bill, without benefit of any public discussion of the merits, without any appreciation of the recently enacted comprehensive amendments to the post-employment statute, and without regard for the implications of targeting for coverage just one position.

Nevertheless, the overall amount of funding provided by H.R. 5678 is consistent with my budget request, and thus allows progress toward a freeze in domestic discretionary budget authority to be maintained. Because the bill provides funding for the continuance of many important programs within this level, I have signed it.

GEORGE BUSH

The White House,  
October 6, 1992.

*Note: H.R. 5678, approved October 6, was assigned Public Law No. 102-395.*

## Statement on Signing the Department of Defense Appropriations Act, 1993

October 6, 1992

I have signed into law H.R. 5504, the "Department of Defense Appropriations Act, 1993." The Act provides funding for Department of Defense programs.

I note that in specifying appropriations ceilings on specific programs for "Defense Reinvestment for Economic Growth," the Congress provided flexibility to allocate the total amount of such appropriations. This will allow the President to ensure that such appropriations are used only for defense-related functions, consistent with the Budget Enforcement Act and the appropriate role of the Department of Defense.

I am concerned that the Act requires

American taxpayers to indemnify States and localities, with respect to certain claims that may arise in connection with real property transferred to them by the Department of Defense. This provision discourages the Department of Defense from transferring to States and localities real property no longer needed by the Department, an unfortunate outcome of H.R. 5504 by that should be corrected in future legislation.

Section 9009 of H.R. 5504 and the last proviso in section 105 of the Classified Annex incorporated in H.R. 5504 by reference, which purport to limit the authority to protect certain national security informa-

tion through the establishment of special access programs, shall be construed consistent with the constitutional authority of the President to protect national security information.

GEORGE BUSH

The White House,  
October 6, 1992.

*Note: H.R. 5504, approved October 6, was assigned Public Law No. 102-396.*

## Statement on Signing the Hawaiian Homes Commission Act Amendments

October 6, 1992

I am signing into law S.J. Res. 23, consenting to certain amendments to the Hawaiian Homes Commission Act, notwithstanding reservations I have concerning the Act itself. This joint resolution gives the United States consent to a number of amendments to the Hawaiian Homes Commission Act that were adopted by the State of Hawaii. This consent is necessary because section 4 of the "Act to provide for the admission of the State of Hawaii into the Union," Public Law 86-3, 73 Stat. 4 (1959), requires that amendments to the Hawaiian Homes Commission Act be approved by the National Government. I am signing this bill because it gives effect to the desires of the government of the State of Hawaii. But I wish to note my concern over the process by which the National Government must give its consent to matters that are solely within the competence of the State of Hawaii. Such a procedure is at tension with federalism principles that lie at the heart of our system of government. There is no question that the administration of the public lands in question here can be competently handled by the State government.

I also wish to express another concern. Because the Act employs an express racial classification in providing that certain public lands may be leased only to persons having a certain percentage of blood "of the races

inhabiting the Hawaiian Islands prior to 1778," the continued application of the Act raises serious equal protection questions. Moreover, the Congress has not conducted the type of examination of the reasons for and the need to use this classification that the Supreme Court has stated is necessary to legitimate such classifications as an exercise of the Congress' Fourteenth Amendment enforcement powers.

Thus, while I am signing this resolution because it substantially defers to the State's judgment, I urge that the Congress amend the "Act to provide for the admission of the State of Hawaii into the Union," Public Law 86-3, so that in the future the State of Hawaii may amend the Hawaiian Homes Commission Act without the consent of the United States, and note that the racial classifications contained in the Act have not been given the type of careful consideration by the Federal Government that would shield them from ordinary equal protection scrutiny.

GEORGE BUSH

The White House,  
October 6, 1992.

*Note: S.J. Res. 23, approved October 6, was assigned Public Law No. 102-398.*