

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.