

with the Bolton nomination. This is the matter of the intercepts Mr. Bolton requested—some 10 of them—involving 19 names of U.S. citizens, Americans, on those 10 intercepts. We made the request earlier on to allow the chairman and ranking member of the Intelligence Committee, as well as the chairman and ranking member of the Foreign Relations Committee, to review the raw data on those 10 intercepts to determine whether there were any problems associated with Mr. Bolton's desire to see those intercepts, since there has been a basis of information concerning efforts by Mr. Bolton to intimidate a number of people within the intelligence community—of both the intelligence and research division of the State Department, as well as the CIA—concerning certain intelligence conclusions. Therefore, it is a matter of concern to many of us on the committee that we have an opportunity to review whether there has been any further intimidation.

I offered initially that we have the four Senators I mentioned review the matter. That was rejected by the administration. I then suggested why not just submit the names we are interested in and have the Intelligence Director inform us as to whether those names were part of the intercepts. If they were not, end of matter. If they were, we might want to proceed further to determine why those names were sought out. That was also rejected because the number of names requested to be reviewed was some 36 names. The reason I made the request for 36 names is because we had no idea specifically what these 10 intercepts involved. We were even denied a synopsis of what may be involved. We were flying in the dark about this information.

At any rate, my colleague and friend from Kansas proceeded to say he was familiar with what the six or seven names would be that we should be interested in. As a result, he proceeded to publicly name five of the seven individuals he identified. Not surprisingly, he also announced he consulted with Director Negroponte, who informed my friend that none of the names Senator ROBERTS provided to the administration were among the names Mr. Bolton and his staff were given by the National Security Agency.

What is remarkable about what happened last evening is that the Senator from Kansas is not a member of the Senate Foreign Relations Committee—the committee of jurisdiction with respect to the Bolton nomination. The Senator did not participate in more than 10 hours of hearings on the nomination. I sincerely doubt whether our colleague reviewed the more than 1,000 pages of transcripts from more than 30 interviews conducted by the bipartisan staff who jointly conducted those interviews. I know of no one on the committee who was consulted by our friend from Kansas to provide any input to the list that was settled upon.

I do believe we owe our colleague from Kansas a debt of gratitude, be-

cause the administration has at least now accepted the principle of cross-checking names against the list of names reviewed by Mr. Bolton. If the administration, in a matter of hours can cross-check seven names offered up by Senator ROBERTS, chairman of the Intelligence Committee, why is it a problem to cross-check the 36 names we have drawn up based on our own participation in the 10 hours of committee hearings and review of over 1,000 pages of interview?

We are not on some fishing expedition here at all to derail the Bolton nomination. We have not opened the State Department phonebook and selected names at random. There is a very specific rationale for each of the names on the list of 36 developed as a result of 10 hours of hearings, 1,000 pages of transcripts, and some 30 interviews.

The report of Mr. Bolton's hearing quite clearly and starkly paints a picture of an individual who is an ideology determined to have his own way. We know what he tried to do with the underlings at the State Department and CIA—that is not in debate—who dared resist his efforts to endorse as fact what was not supported by available intelligence. Mr. Bolton tried to crush them. We know what he tried to do with other career State Department employees who ran afoul of him for inexplicable reasons. He sought to have them excluded in legal deliberations in areas of their responsibility or blackballed them from being assigned positions within the Department.

Mr. Bolton was a very driven individual when he sought to get his way with underlings. He even went so far as to propose a CIA analyst be denied country clearance so that he could not undertake official foreign travel.

He even sought to have the same individual's State Department building pass revoked. I do not need to go over these matters in detail, but the fact is, there is more than ample justification for seeking these 36 names, as well as the information that Senator BIDEN has raised regarding the raw data, the draft speeches dealing with testimony before the House committees on Syria.

These are not difficult requests to satisfy. As I said a minute ago, my friend from Kansas submitted seven names to the Department, and he was told within a matter of hours or less that they were not on the 10 intercepts. So whether or not the 36 names sought by the Foreign Relations Committee are included on those intercepts should also be a question that can be answered in a reasonable amount of time.

I have not told anyone, despite a number of requests, the names of the 36 people we would like to have checked out. I think acknowledging certain names is dangerously close to bordering on revealing the importance of the intercept traffic. When certain names are mentioned and then excluded, there is an implication that maybe they should be on those lists. So

I would caution Members from publicly talking about the names. We have made no effort to do so. We, of course, want to limit the number of Senators who would actually be able to review this matter to four Senators out of the 100 in this body.

In all my years here, I have never faced such a situation where a coequal Member of this body has presumed to speak on behalf of another—in this case, suggesting that he knew which names we should request. Having submitted those names, he then discovered, of course, that those names were not on the intercept list that we saw.

So I am still hopeful this matter can be resolved. I do not think it should take that long. Certainly, if the administration would just respond to the two requests regarding the draft statements—congressional testimony by Mr. Bolton—and check out the names that we have requested regarding these intercepts, if that information is provided and clears up those two matters, then I think this body is ready to vote up or down on Mr. Bolton.

Perhaps he behaved more judiciously in dealing with his peers and superiors than he did with those below him in rank. Perhaps the information he requested from the NSA was routine and solely to carry out his responsibilities as Under Secretary of State for Arms Control and International Security.

But given Mr. Bolton's zealotry on proliferation, on North Korea, on Libya, on Syria and other policy areas, it is not unreasonable to worry that he used all tools at his disposal to advance his causes. That is what we seek to find out through a cross checking of our names of concern against the names provided to Mr. Bolton.

As a matter of institutional right, we have, I think, an absolute right, as a coequal branch of Government, to solicit information that directly pertains to the qualifications of this individual to be confirmed by the Senate for the position to which he has been nominated. So I would hope that the information would be forthcoming and that we would be able to get the answers and move on.

The PRESIDING OFFICER. The Senator from Massachusetts.

#### TOBACCO

Mr. KENNEDY. Mr. President, this morning's reports on the Justice Department's tobacco case are deeply disturbing for all Americans concerned about the health of their children. The Justice Department memos obtained by reporters show that high-level Bush administration political appointees overruled professional lawyers in the case in slashing damages the tobacco companies would be required to pay. There is no clearer example of this administration's view that Government and the courts should protect big corporations first and real people last. Whether it is global warming or Iraq or tobacco, their view is that the facts

should never be allowed to get in the way of their rightwing politics.

There are few initiatives that would have a greater impact on the health of our children than smoking prevention. No parent in America ever says, "I hope my child grows up to be a smoker." Parents know that every child we prevent from smoking will have a healthier, fuller, happier life.

That is what this lawsuit was all about—requiring big tobacco companies to pay for antismoking programs.

I urge the President to intervene with his Justice Department. They made a political decision to back big tobacco. Now the President should make the responsible decision to back America's families.

If the tobacco companies do not pay for their misdeeds, then our families will pay with more cancer, more illness, and shortened lives.

From a public interest perspective, the worst thing would be for the Justice Department to settle with the tobacco companies based upon the weak and inadequate demand that DOJ made to the court last week. At this point, we have far more confidence that the court will do the right thing than the Justice Department will do the right thing. The court has the authority to look beyond the Justice recommendations and to order strong remedies based on the evidence presented at the trial. We should let the court decide.

#### AGAINST RACE-BASED GOVERNMENT IN HAWAII, PART III

Mr. KYL. Madam. President, I rise today to ask unanimous consent that the following account of the history of the Hawaiian monarchy be printed in the RECORD following my present remarks.

The PRESIDING OFFICER. Without objection, it is ordered.  
(See exhibit 1.)

Mr. KYL. This history is in the appendix to "Hawaii Divided Against Itself Cannot Stand," an analysis of the 1993 apology resolution and S. 147, the Native Hawaiian Government Reorganization Act, that was prepared by constitutional scholar Bruce Fein. I previously have introduced earlier parts of that analysis into the RECORD—this is the third and final instalment.

The appendix to Mr. Fein's analysis carefully explains the nature of the Hawaiian monarchy, its evolution toward constitutional democracy, the attempt by the last monarch to undercut those reforms and compromise the judiciary, and the actors involved in stopping that monarch and establishing a democratic republic. This account is a useful antidote to the tendentious blame-America narrative provided in the 1993 apology resolution. The truth is much more nuanced than the resolution's "Whites vs. Natives" account. The real story is about a multiracial constitutional monarchy slowly evolving toward democratic norms and equal

rights—a process whose final step was the admission of Hawaii as a State in the Union. That step was approved in 1959 by 94 percent of Hawaii's voters—large majorities of non-Natives and Natives alike.

The Native Hawaiian Government Act would undo that step—Hawaii's admission to the Union as a unified people and State. Indeed, it would even undo the progress made under the Kamehameha monarchy. That constitutional monarchy was not a monoracial institution. It included Hawaiians of all races. This bill would create, for the first time in Hawaii since the early 19th century, a government of one race only. This is not progress.

I urge my colleagues to read Mr. Fein's history, and to ask themselves why we would want to undo the achievements of past generations of Hawaiians by enacting S. 147 and creating a race-based government in Hawaii.

#### EXHIBIT 1

[From the Grassroot Institute of Hawaii,  
Jun. 1, 2005]

#### HAWAII DIVIDED AGAINST ITSELF CANNOT STAND

(By Bruce Fein)

#### APPENDIX

The apology issued by the United States Congress in 1993 to the Native Hawaiians for the "illegal" overthrow of the Hawaiian monarchy and its annexation to the United States is riddled with historical inaccuracies. The resolution alleges that the Committee of Safety, the political juggernaut that deposed Queen Lili'uokalani, "represented American and European sugar planters, descendants of missionaries, and financiers." The language fails to disclose the Hawaiian monarchy's deep and lasting ties with the most powerful sugar planters on the islands. Many of the wealthiest sugar barons steadfastly supported the monarchy in opposition to the Committee for Safety.

Chinese and Japanese immigrants provided an abundant source of cheap labor on the sugar plantations. They labored for wages below what was required on the American mainland. The sugar planters owed their impressive profit margins to these workers. Annexation to the United States would have eliminated the sugar planter's labor cost advantage. Many sugar barons vigorously defended the monarchy to retain their access to cheap labor.

The sugar barons invested heavily in the monarchy. Claus Spreckels, the wealthiest sugar baron on the islands, established Claus Spreckels & Co. Bank in 1885. King Kalakaua borrowed heavily from Spreckels' bank; the planter's substantial influence garnered him the nickname "King Claus". King Kalakaua unsuccessfully endeavored to secure a two million dollar loan from the British to settle his debts to Spreckels' bank. Spreckels' financial stake in the monarchy provided him with considerable political capital, which he spent securing his business interests. After the Committee of Safety deposed the Queen, Spreckels vigorously lobbied for her reinstatement.

Some planters and financiers did offer their support to the Committee of Safety due to economic concerns. Prior to 1890, the United States conferred the privilege of duty free sugar imports only on Hawaii. The McKinley Tariffs eliminated Hawaii's advantage by allowing all foreign suppliers to export their sugar to the United States duty

free and subsidizing domestic sugar production. Some businessmen favored establishing a free trade agreement with the United States; others contended that annexation would assure unfettered access to American markets for Hawaiian goods. However, the congressional resolution exaggerates the presence of sugar planters on the Committee of Safety. Two members did hold management positions at sugar companies, and the Honolulu Ironworks, a provider of equipment to the plantations, employed another member. No member held a controlling interest in a sugar company, nor would it be accurate to assert that any of the members were sugar barons.

Queen Lili'uokalani herself furnished the proximate cause of the revolt. Since its inception in 1810, the Hawaiian monarchy embraced increasingly democratic governance. Queen Lili'uokalani reversed that trend when she sought to unilaterally change the constitution to augment her own power and weaken the government's system of checks and balances. The Hawaiian constitution, that the Queen had sworn to uphold, explicitly limited the power to revise the Constitution to the legislature, which represented native and non-Native Hawaiians alike. Her proposed Constitution allowed the monarch to appoint nobles for life, reduced judges' tenure from life to six years, removed the prohibition against diminishing judge's compensation, and admonished Cabinet members that they would serve only "during the queen's pleasure." The Queen's own cabinet refused to legitimize her autocratic constitution. Her disregard for democracy provoked the 1893 revolution. The congressional resolution blatantly ignores the historical circumstances surrounding her overthrow.

While the apology expressly condemns the alleged military intervention by the United States, the Hawaiian monarchy itself established its primacy through a series of bloody conflicts with rival chieftains. King Kamehameha I succeeded in uniting the islands and establishing control over foreign immigration, which began with Captain Cook's arrival nearly thirty years earlier. He did not hold elections. He gained power through brute force and ruthless measures. During a battle in the Nuuanu Valley, Kamehameha's forces drove thousands of Oahuan warriors off steep cliffs to their death. According to the logic of the congressional Apology Resolution, King Kamehameha I's seizure of land by force amounts to a violation of international law. The Hawaiian monarchy, which the resolution holds in such high regard, is guilty of far more egregious "illegal" actions than those supposedly perpetrated by the United States.

In 1819, shortly after the death of Kamehameha I, his widow, Kaahumanu, became the de facto ruler and installed the deceased King's 23 year old son by another wife, Liholiho, as the nominal ruler, thereafter known as Kamehameha II. Under pressure from Kaahumanu and Keopuolani, the young king's mother, Liholiho broke the kapu, ordered the destruction of heiaus (stone alters) and the burning of wooden idols. Anthropologists have long regarded pre-contact Hawaii as the most highly stratified of all Polynesian chiefdoms. The chiefly elite from Maui and Hawaii Island had exercised a cycle of territorial conquest, promulgating the kapu system, an ideology based on the cult of Ku, a human sacrifice-demanding god of war, to legitimize chiefly dominance over the common people. The chiefs typically imposed the death penalty for violating kapu; women and those of lower castes suffered disproportionately under the system. When Liholiho broke the kapu by sitting down to eat with the women Ali'i, Kaahumanu announced, "We intend to eat pork and bananas and coconuts