

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

and live as the white people do." The following year, 1820, the first American missionaries arrived in Hawaii. Soon after, Kaahumanu took charge of Christianity and made it the official religion of the Kingdom. These shattering changes in the religion, culture and governance of Hawaii were the work of the Native Hawaiians themselves.

All foreigners came under the purview of the Native Hawaiian monarchy. The Apology Resolution decries the imperialist tendencies of the missionaries, yet their access to Native Hawaiians remained contingent on the monarchy's good graces. Several attempts to inject the Ten Commandments into the civil code failed, and King Kamehameha III actually banned Catholic missionaries for a time.

The Hawaiian monarchy had gained international recognition by the reign of King Kamehameha III. The child king ceded power to his regent, Kaahumanu, who remained the de facto ruler until her death in 1832. While the regency yielded significant changes in Hawaiian common law, including the introduction of jury trials, King Kamehameha III affected a seismic shift toward democracy when he produced the Constitution of 1840. The influx of foreign merchants and settlers had exposed the Native Hawaiians to new modes of jurisprudence and governance. These revolutionary ideas found expression in the new Hawaiian constitution. King Kamehameha III took a particular interest in studying political structures; he requested that an American missionary, William Richards, tutor him in political economy and law.

The King, the chiefs, and their advisors convened to draft a declaration of rights and laws in 1839. The declaration secured the rights of each Hawaiian citizen to "life, limb, liberty, the labor of his lands, and productions of his mind" and represented a critical concession to the king's subjects. The language ensured that native and non-Native Hawaiian citizens enjoyed equal protection under the law.

The following year, the council of chiefs and King Kamehameha III drafted a formal constitution. The document provided for the creation of a "representative body" chosen by the people and a supreme court consisting of the king; the kuhina-nui, the premier or regent; and four judges appointed by the "representative body." Moreover, the document specified that only the legislature could approve alterations to the constitution following a year's notice of the proposed change. The government followed the mandated procedure and revised the constitution in 1852, which more explicitly outlined the powers accorded to each branch of government. While the Hawaiians borrowed many of their political philosophies from Western civilization, they forged a government of their own accord.

The Apology Resolution contends that "the Indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States," yet the land system remained virtually unchanged after the 1893 overthrow and subsequent annexation. King Kamehameha III embarked on an ambitious land reform program in 1848, termed the "Great Mahele." The original spate of reforms, the Buke Mahele, divided the land amongst the King and the 245 chiefs. The King further divided his lands into the Crown Lands and the Government Lands, the latter was to be "managed, leased, or sold, in accordance with the will of said Nobles and Representatives . . ." [Footnote: R.S. Kuykendall, *The Hawaiian Kingdom 1778-1854* Vol 1, pg. 289.] Then, the Kuleana Grant program offered fee simple titles to the native tenants tilling each plot or kuleana. The commoners' share of land constituted a

small fraction of the total; however, the kuleana lands were the primary productive agricultural land of the Kingdom and were considered extremely valuable. The Kuleana Grants awarded land to approximately two out of every three Native Hawaiian families.

The editor of the Polynesian newspaper extolled the grant as "the crowning fact that gives liberty to a nation of serfs." Indeed, fifty years prior to annexation, the Hawaiian monarchy dismantled the "subsistent social system based on communal land tenure" that the Apology Resolution references. The government only extended the possibility of land ownership to foreign born residents two years after the Kuleana Grant. The provisional government of 1893 simply gained ownership of the crown lands and the government lands. The Apology Resolution faults the United States for acquiring those lands from the provisional government without providing compensation to Hawaii. Yet, the United States assumed over 3.8 million dollars of Hawaii's public debt, largely incurred under the monarchy, after annexation. That debt burden amounts to twice the market value of the land the United States inherited. Native Hawaiians did not forfeit one acre of land as a consequence of the overthrow or annexation.

King Kamehameha III's reign institutionalized a measure of representative democracy and property rights in Hawaii. King Kamehameha V's failure to designate a successor afforded native and non-native subjects alike the opportunity to elect the next two monarchs, King Lunalilo and King Kalakaua. The Hawaiian monarchy itself infused democracy, property rights, and a system of common law into Hawaiian society. The annexation did not alter those institutions.

The Constitution of 1887 extended democracy to the selection of nobility, reduced the arbitrary power of the King, stipulated that only the legislature could approve constitutional changes, and mandated that no cabinet minister could be dismissed without the legislature's consent. While the King signed the new constitution under pressure from a militia group, the Honolulu Rifles, the net effect of the revisions provided Hawaiian citizens with a more democratic government. Many natives expressed concern over the extension of suffrage to resident foreigners of western descent and the property qualifications to vote for or become nobles. A minority embarked on an ill-fated effort to depose King Kalakaua and install Lili'uokalani in his place. However, most native and non-native dissenters sought redress within the democratic system. Their opposition parties, the National Reform Party and the Liberal Party, garnered a substantial number of seats in the legislature. Queen Lili'uokalani's autocratic demands in 1893 appear even more egregious against the backdrop of liberalization that her predecessors championed.

The Apology Resolution also casts United States Minister to Hawaii, John Stevens, in a sinister light, charging that he "conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii . . . to overthrow the indigenous and lawful Government of Hawaii." Moreover, the resolution contends that the United States Navy invaded Hawaii and positioned themselves "near Hawaiian Government buildings and the Iolani Palace to intimidate Queen Lili'uokalani." There is not a shred of hard evidence to support either of those claims. The Blount Report itself, cited by the Apology Resolution, contains statements from the leaders of the revolution and from John Stevens himself which directly refute those allegations. W.O. Smith recounted the Committee of Safety's contact with Minister Stevens in Blount's

report: "Mr. Stevens gave assurances of his earnest purpose to afford all the protection that was in his power to protect life and property; he emphasized that fact that while he would call for the United States troops to protect life and property, he could not recognize any government until actually established. He repeated that the troops when landed would not take sides with either Party, but would protect American life and property."

Minister Stevens consistently denied any involvement in the revolution. Any statement to the contrary amounts to little more than speculation.

The Blount Report was a partisan endeavor. The newly elected Democratic President Cleveland castigated the outgoing Republican administration of President Harrison for its "interventionist" tactics in Hawaii prior to any investigation. Cleveland accused Minister Stevens of orchestrating virtually every aspect of the revolution in an address to Congress claiming that "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." In fact, King Kamehameha III first proposed annexation to the United States in 1851, despite strenuous objections from the French and the British. When Cleveland commissioned the Blount report, the ongoing effort to discredit the Harrison administration colored Blount's impartiality. He did not swear in his witnesses, nor did he interview all involved. Cleveland even attempted to reinstate Queen Lili'uokalani, although he aborted those efforts after the Queen repeatedly insisted that all involved in the Committee of Safety be executed. The Senate's bipartisan Morgan Report found little evidence to support Queen Lili'uokalani's fraudulent claims that United States pressure forced her to abdicate the crown.

The provisional government encountered little resistance. Just 800 Hawaiian royalists staged a short-lived counter-revolution in 1895. Under the leadership of President Sanford B. Dole, the new government convened a constitutional convention in the summer of 1894. The resulting document cemented civil liberties for all Hawaiian citizens, similar to the American Bill of Rights, and mandated that a Senate and House of Representatives be elected by the people. Royalists continued to express their frustrations in opposition newspapers without censure. After the 1898 annexation, Native Hawaiians proved a dynamic force in island politics. While just one of the Washington-appointed Governors, Samuel Wilder King, possessed Hawaiian blood, five out of ten elected Delegates to Congress boasted Native Hawaiian ancestry. In 1903, a Native Hawaiian Delegate to Congress of royal ancestry, Prince Kuhio, delivered Hawaii's first petition for statehood to Washington.

August 21, 1959 remains a day of celebration for Hawaiians of all races and creeds. Hawaii's induction into the union as the fiftieth state marked the culmination of its protracted struggle for statehood. Native and non-Native Hawaiians voted overwhelmingly in favor of statehood in the plebiscite preceding the formal declaration. Native Hawaiians did not rally in opposition to statehood; just 6 percent of the voters opposed the measure whereas 94 percent resoundingly announced their support. As Senator Inouye of Hawaii so eloquently testified, "Hawaii remains one of the greatest examples of a multiethnic society living in relative peace." Congressional Record, 1994, Page S12249. He echoes the same sentiments Captain Ashford expressed in 1884 to King Kalakaua when he referred to the Hawaiian flag as, "this beautiful emblem of the unity

of many peoples who, blended together on a benignant basis of political and race equality, combine to form the Kingdom of Hawaii . . ." The Akaka Bill would thus represent a wretched regression in race relations that would occasion equally wretched racial ills.

#### JUNETEENTH INDEPENDENCE DAY

Mr. OBAMA. Madam. President, I was pleased to join the Senator from Michigan, Senator LEVIN, in submitting a resolution on the Juneteenth Independence Day.

I have heard people ask, "Why celebrate Juneteenth?" We have so many holidays and remembrances already—why add more history to the calendar?

But of course, Juneteenth is not just about celebrating history. It is about learning from it. Just like the day when the greatest civil rights leader of our time was born or the day when we finally gave African Americans a ballot and a voice, Juneteenth is a day when we can look back on a time when everyday Americans faced the most daunting challenges and the slimmest odds and still persevered. When they said "we shall overcome," and they did. When the hopes held by so many for so long finally led to the victory of freedom over servitude; of independence over enslavement.

Juneteenth is a day that allows us to remember that America is still the place where anything is possible. It has been that place in the past, and it can be that place in the future when it comes to the challenges we have yet to meet.

And so when we think of those challenges—when we think of the injustice we still face and the miles we have left to march—when we think of the millions without health care, the children without good schools, the families without jobs, and the disparities that still exist between black and white, rich and poor, educated and uneducated—when we think about all these challenges, we can also think "Juneteenth."

We can think of a day when the word began to spread from town to plantation to city to farm that after more than a hundred years of slavery, millions were now free. That after so many hopeless days and years of despair, the impossible was now truth; the shackles were now broken and a new day was finally here.

In the memory of this day, I believe we can find hope for all the trying days we have yet to face as a people and as a nation. And as we continue to overcome, we will continue to celebrate those victories as historical markers that give future generations the same hope we have today.

I commend Senator LEVIN for his longtime leadership on civil rights issues and urge my colleagues to support this resolution.

Mr. KERRY. Mr. President, I wish to recognize the upcoming Juneteenth celebration that will occur this Sunday, June 19, 2005. This celebration

commemorates the end of slavery throughout the United States. Although the Emancipation Proclamation was issued on January 1, 1863, the information had not been passed to the most rural parts of the South until some two and a half years later when General Gordon Granger entered Galveston, TX on June 19, 1865, and issued the proclamation, officially freeing the town.

There are a number of theories to explain why it took so long for the message of freedom to reach many slaves throughout the South. While there is yet to be a definitive explanation for the delay, as we continue to recognize the importance of this date, we can be assured that scholars will continue to research this part of our Nation's history.

Annual Juneteenth celebrations have long been a part of our Nation's history. Although they were held in the years immediately following 1865, they were not popular in the Jim Crow-era South. In fact, they were banned from public property, and, in order to continue the celebrations, churches throughout the South held fundraisers to sponsor Juneteenth events. This was common until the Great Depression, when people could no longer afford the necessities of everyday life, let alone celebrations of our past. At the same time, in many public schools, teachers often focused discussion on the day of the Emancipation Proclamation, even though it had no immediate impact for slaves in many parts of the South. Thus, there was limited recognition of the importance of Juneteenth until the Texas legislature recognized it as an official holiday on January 1, 1980.

This weekend we recognize this important celebration. In so doing, we take time to reflect on the evil of slavery. This is a time to learn from the past and to redouble our efforts to ensure that the values of freedom and liberty in this country are afforded to all its citizens. Juneteenth is a day for reflection, for prayer and for hope that our country will continue to grow together in the spirit of liberty, equality and justice.

I am proud to honor the 140th commemoration of the African American emancipation day, Juneteenth, June 19, 1865.

#### "HEROES AMONG US" AWARD RECIPIENTS

Mr. KENNEDY. Mr. President, all of us in New England are proud of the Boston Celtics. They led the Atlantic Division of the NBA this season, but they are also leaders in the community. Each year, the Celtics honor outstanding persons in New England as "Heroes Among Us"—men and women who have made an especially significant impact on the lives of others.

The award, now in its 8th year, recognizes men and women who stand tall in their commitment to their community. The extraordinary achievements of the

honorees this year include: saving lives, sacrificing for others, overcoming obstacles to achieve goals, and lifelong commitments to improving the lives of those around them. The winners include persons of all ages and all walks of life—students, community leaders, founders of nonprofit organizations, members of the clergy, and many others.

At home games during this season, the Celtics and their fans salute the efforts of an honoree in a special presentation on the basketball court. So far, over 300 individuals have received the "Heroes Among Us" award.

The award has become one of the most widely recognized honors in New England. I commend each of the honorees for the 2004-2005 season, and I ask unanimous consent that their names and communities be printed in the RECORD.

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

Bill Annino, Scituate, RI  
 Mattie Arkord, Brighton, MA  
 Suzin Bartley, Milton, MA  
 Boston MedFlight, Bedford, MA  
 Andrea Casanova, Boston, MA  
 Mike Cataruzolo, Watertown, MA  
 Marisol Chalas, Lynn, MA  
 Erika Ebbel, Cambridge, MA  
 Jini Fairley, Dorchester, MA  
 Judi Fanger, Needham, MA  
 Autumn Faucher, Pelham, NH  
 Students from Fenway High School, Boston, MA  
 Sue Fitzsimmons, Wellesley, MA  
 Officer Steven Fogg, Waltham, MA  
 Lauren Fox, Brookline, MA  
 Gladys Aquino Gaines, Andover, MA  
 Sean Gavin, Brighton, MA  
 The Giangrande Family, Andover, MA  
 Manna Heshe, Brookline, MA  
 Deborah Jackson, Milton, MA  
 Hubie Jones, Newton, MA  
 Kirk Joselin, Holliston, MA  
 Paula Kane, Westborough, MA  
 Rick De Muinck Keizer, Belmont, MA  
 Dr. Punyamurtula Kishore, Chestnut Hill, MA  
 Sotun Krouch, Lynn, MA  
 Iwona and Emily Londono, Dorchester, MA  
 George Mazareas, Nahant, MA  
 Jake Mazza, Newton, MA  
 Jane Melchionda, Reading, MA  
 Kimo Murphy and David Dorriety, Hillsboro, NH  
 Kyle Power, Methuen, MA  
 Pat Pumphret, Winthrop, MA  
 Jerry Quinn, Brighton, MA  
 Margie Rabinovitch, Newton, MA  
 Sergeant Steve Roche, Worcester, MA  
 Freddie Rodrigues, Dorchester, MA  
 Dick Rogers, Waltham, MA  
 Jothy Rosenberg, Newton, MA  
 The Sammis Family, Rehoboth, MA  
 The Schoen Family, Weston, MA  
 Peter Trovato, North Attleboro, MA  
 Three members of the original Tuskegee Airmen: Jack Bryant, Cohasset, MA; James McLaurin, Weymouth, MA; Enoch Woodhouse, Boston, MA.  
 Nancy Tyler Schoen, Franklin, MA  
 Steven Vellucci, Jr., Tyngsboro, MA

#### NOMINATION OF THOMAS GRIFFITH

Mr. BIDEN. Madam President, I ask unanimous consent to have printed in