
HOUSE CONCURRENT RESOLUTION

ESTABLISHING A JOINT LEGISLATIVE INVESTIGATING COMMITTEE TO INVESTIGATE THE STATUS OF TWO EXECUTIVE AGREEMENTS ENTERED INTO IN 1893 BETWEEN UNITED STATES PRESIDENT GROVER CLEVELAND AND QUEEN LILI'UOKALANI OF THE HAWAIIAN KINGDOM, CALLED THE LILI'UOKALANI ASSIGNMENT AND THE AGREEMENT OF RESTORATION.

1 WHEREAS, on December 19, 1842, United States President John
2 Tyler recognized the Hawaiian Kingdom as an independent and
3 sovereign State, extended full and complete diplomatic
4 recognition to the Hawaiian Government, and entered into
5 treaties and conventions with the Hawaiian government in 1849,
6 1875, and 1887; and

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8 WHEREAS, on January 14, 1893, John L. Stevens (hereinafter
9 referred to as the "United States minister"), the United States
10 minister plenipotentiary assigned to the Hawaiian Kingdom
11 government, conspired with a small group of insurgents of
12 diverse nationalities to overthrow the Hawaiian Kingdom
13 government; and

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15 WHEREAS, in pursuance of the conspiracy, the United States
16 Minister and naval representatives of the United States caused
17 armed naval forces to invade the Hawaiian Kingdom on January 16,
18 1893, and to position themselves near government buildings and
19 Iolani Palace in order to provide protection to the insurgents;
20 and

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22 WHEREAS, on the afternoon of January 17, 1893, this small
23 group of insurgents declared themselves to be a Provisional
24 Government; and

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26 WHEREAS, the United States minister thereupon extended
27 diplomatic recognition to the insurgents in violation of



1 treaties between the United States and the Hawaiian Kingdom and
2 in violation of international law; and
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4 WHEREAS, because the police force was unable to apprehend
5 the insurgents for violating the law of treason without the risk
6 of bloodshed between the police and the United States troops,
7 Queen Lili'uokalani issued the following protest temporarily,
8 conditionally yielding her executive power to the United States
9 government:

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"I Liliuokalani, by the Grace of God and under
the Constitution of the Hawaiian Kingdom, Queen, do
hereby solemnly protest against any and all acts done
against myself and the Constitutional Government of
the Hawaiian Kingdom by certain persons claiming to
have established a Provisional Government of and for
this Kingdom.

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That I yield to the superior force of the United
States of America whose Minister Plenipotentiary, His
Excellency John L. Stevens, has caused United States
troops to be landed at Honolulu and declared that he
would support the Provisional Government.

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Now to avoid any collision of armed forces, and
perhaps the loss of life, I do this under protest and
impelled by said force yield my authority until such
time as the Government of the United States shall,
upon facts being presented to it, undo the action of
its representatives and reinstate me in the authority
which I claim as the Constitutional Sovereign of the
Hawaiian Islands.

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Done at Honolulu this 17th day of January, A.D.
1893"; and

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WHEREAS, under Article 31 of the Constitution of the
Kingdom of Hawaii, as the constitutional monarch of the
Hawaiian islands, the Queen was vested with the executive
power to faithfully execute and administer Hawaiian law:
"To the King belongs the Executive power"; and

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WHEREAS, on March 9, 1893, President Grover Cleveland
accepted the temporary and conditional assignment of executive



1 power from the Queen and investigated the circumstances of the
2 overthrow of the Hawaiian Kingdom government; and
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4 WHEREAS, on October 18, 1893, the investigation concluded
5 that the United States violated international law and the
6 Hawaiian Kingdom government must be restored to its status
7 before the landing of United States troops; and
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9 WHEREAS, negotiations for settlement and restoration took
10 place between Queen Lili'uokalani and United States minister
11 plenipotentiary, Albert Willis, between November 13, 1893, and
12 December 18, 1893, at the United States Embassy in Honolulu; and
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14 WHEREAS, a settlement was reached on December 18, 1893,
15 whereby Queen Lili'uokalani signed the following declaration
16 that was dispatched to the United States State Department by the
17 United States minister on December 20, 1893:
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19 "I, Liliuokalani, in recognition of the high
20 sense of justice which has actuated the President of
21 the United States, and desiring to put aside all
22 feelings of personal hatred or revenge and to do what
23 is best for all the people of these Islands, both
24 native and foreign born, do hereby and herein solemnly
25 declare and pledge myself that, if reinstated as the
26 constitutional sovereign of the Hawaiian Islands, that
27 I will immediately proclaim and declare,
28 unconditionally and without reservation, to every
29 person who directly or indirectly participated in the
30 revolution of January 17, 1893, a full pardon and
31 amnesty for their offenses, with restoration of all
32 rights, privileges, and immunities under the
33 constitution and the laws which have been made in
34 pursuance thereof, and that I will forbid and prevent
35 the adoption of any measures of proscription or
36 punishment for what has been done in the past by those
37 setting up or supporting the Provisional Government.
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39 I further solemnly agree to accept the
40 restoration under the constitution existing at the
41 time of said revolution and that I will abide by and
42 fully execute that constitution with all the
43 guaranties as to person and property therein
44 contained.



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2 I furthermore solemnly pledge myself and my
3 Government, if restored, to assume all the obligations
4 created by the Provisional Government, in the proper
5 course of administration, including all expenditures
6 for military or police services, it being my purpose,
7 if restored, to assume the Government precisely as it
8 existed on the day when it was unlawfully overthrown.

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10 Witness my hand this 18th of December, 1893"; and

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12 WHEREAS, there exist two agreements:

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14 (1) The Lili'uokalani Assignment, whereby President Grover
15 Cleveland accepted the obligation of administering
16 Hawaiian Law in an assignment of executive power; and
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18 (2) The Agreement of Restoration, whereby the Queen agreed
19 to grant amnesty after return of executive power and
20 restoration of the government; and

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22 WHEREAS, President Cleveland and his successors in office
23 have violated these agreements by not administering Hawaiian
24 Kingdom Law and not restoring the Hawaiian Kingdom government;
25 and

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27 WHEREAS, for the past one hundred eighteen years the Office
28 of President has retained the temporary and conditional
29 assignment of Hawaiian executive power from the Queen; and

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31 WHEREAS, these agreements are called sole executive
32 agreements under United States constitutional law and the basis
33 of a federal lawsuit in Washington, D.C., filed by Dr. David
34 Keanu Sai against President Barack Obama, Secretary of State
35 Hillary Clinton, Secretary of Defense Robert Gates, Admiral
36 Robert Willard, and Governor Linda Lingle (case no. 1:10-CV-
37 00899CKK) on June 1, 2010; and

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39 WHEREAS, on November 13, 2010, the Association of Hawaiian
40 Civic Clubs at its 51st Convention at Keauhou, Island of Hawaii,
41 unanimously passed Resolution No. 10-15, "Acknowledging Queen
42 Lili'uokalani's Agreements with President Grover Cleveland to
43 Execute Hawaiian Law and to Restore the Hawaiian Government";
44 and



H.C.R. NO. 107

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WHEREAS, under the Supremacy Clause of the United States Constitution, "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding"; and

WHEREAS, the United States Supreme Court declared in United States v. Belmont, 301 U.S. 324 (1937), that executive agreements arising out of the President's sole authority over foreign relations does not require ratification by the Senate or the approval of Congress, and has the force and effect of a treaty; and

WHEREAS, statutes enacted by the Legislature of the State of Hawaii that conflict with valid executive agreements would be considered void under the Supremacy Clause; and

WHEREAS, a joint legislative investigating committee would settle the issue of whether certain statutes enacted by the Hawaii State Legislature violate the United States Constitution; and

WHEREAS, section 21-3, Hawaii Revised Statutes, authorizes the establishment of a legislative investigating committee by resolution, and Rule 14 of the Rules of the House of Representatives and Rule 14(3) of the Rules of the Senate allow for the establishment of special committees; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-sixth Legislature of the State of Hawaii, Regular Session of 2011, the Senate concurring, that:

- (1) The Legislature hereby establishes a joint legislative investigating committee to investigate the status of two executive agreements entered into between President Grover Cleveland of the United States and Queen Lili'uokalani of the Hawaiian Kingdom in 1893, called the Lili'uokalani Assignment and the Agreement of Restoration;
- (2) The purpose and duties of the joint investigating committee shall be to inquire into the status of the

1 executive agreements by holding meetings and hearings
2 as necessary, receiving all information from the
3 inquiry, and submitting a final report to the
4 Legislature;

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6 (3) The joint investigating committee shall have every
7 power and function allowed to an investigating
8 committee under the law, including without limitation
9 the power to:

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11 (A) Adopt rules for the conduct of its proceedings;

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13 (B) Issue subpoenas requiring the attendance and
14 testimony of the witnesses and subpoenas duces
15 tecum requiring the production of books,
16 documents, records, papers, or other evidence in
17 any matter pending before the joint investigating
18 committee;

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20 (C) Hold hearings appropriate for the performance of
21 its duties, at times and places as the joint
22 investigating committee determines;

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24 (D) Administer oaths and affirmations to witnesses at
25 hearings of the joint investigating committee;

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27 (E) Report or certify instances of contempt as
28 provided in section 21-14, Hawaii Revised
29 Statutes;

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31 (F) Determine the means by which a record shall be
32 made of its proceedings in which testimony or
33 other evidence is demanded or adduced;

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35 (G) Provide for the submission, by a witness's own
36 counsel and counsel for another individual or
37 entity about whom the witness has devoted
38 substantial or important portions of the
39 witness's testimony, of written questions to be
40 asked of the witness by the chair; and

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42 (H) Exercise all other powers specified under chapter
43 21, Hawaii Revised Statutes, with respect to a
44 joint investigating committee; and



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BE IT FURTHER RESOLVED that the joint investigating committee shall consist of the following ten members:

- (1) The Chairperson of the House Committee on Finance;
- (2) The Chairperson of the House Committee on Water, Land, and Ocean Resources;
- (3) The Chairperson of the House Committee on Hawaiian Affairs;
- (4) One member of the majority leadership from the House of Representatives who shall be appointed by the Speaker of the House of Representatives;
- (5) One member of the minority leadership from the House of Representatives who shall be appointed by the House Minority Leader;
- (6) The Chairperson of the Senate Ways and Means Committee;
- (7) The Chairperson of the Senate Committee on Water, Land, and Agriculture;
- (8) The Chairperson of the Senate Hawaiian Affairs Committee;
- (9) One member of the majority leadership from the Senate who shall be appointed by the President of the Senate; and
- (10) One member of the minority leadership from the Senate who shall be appointed by the Senate Minority Leader; and

BE IT FURTHER RESOLVED that the joint investigating committee shall submit its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2012 and shall dissolve upon submission of its report; and

1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the President of the
3 United States, members of Hawaii's congressional delegation, the
4 Governor, the President of the Hawaii State Senate, the Speaker
5 of the Hawaii State House of Representatives, the Director of
6 Finance, the Attorney General, and the Auditor.

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OFFERED BY: Mel Carroll

MAR 11 2011

