

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A
CHAIRMAN DESIGNATE
HAWAIIAN HOMES COMMISSION

ROBERT J. HALL
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF ALAPAKI NAHALE-A, CHAIRMAN DESIGNATE
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS
ON **HB 1627, RELATING TO CORRECTIONS**

February 5, 2011

Chair Hanohano, Vice-Chair Lee and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) supports the purpose and intent of HB 1627 which provides for a reorganization process for a Native Hawaiian governing entity and for the State of Hawaii's recognition of this entity.

DHHL has supported the various versions of the Native Hawaiian Government Reorganization Act that have been vetted in the U.S. Congress since 2000. The premise for DHHL supporting this federal legislation was achieving federal recognition to protect the Hawaiian Home Lands trust from 14th Amendment legal challenges and to advance Native Hawaiian self-governance and self-determination. We do support state recognition of a Native Hawaiian entity as an intermediate step for Native Hawaiians to ultimately achieve federal recognition, however, our department must further study this measure and engage in consultation with our beneficiaries to fully understand its impact to our trust and its legal implications.

Thank you for the opportunity to testify.



HB 1627
RELATING TO GOVERNMENT
House Committee on Hawaiian Affairs

February 5, 2011

9:45 a.m.

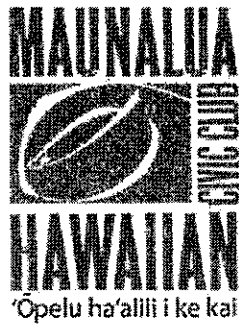
Room 329

The Office of Hawaiian Affairs (OHA) offers the following comments on HB 1627, which sets forth a process for the reorganization of a first nation government by Native Hawaiians and its subsequent recognition by the State of Hawai'i:

OHA supports state recognition of Native Hawaiians provided that it does not diminish efforts to pursue and obtain federal recognition.

As to the specifics of state recognition, OHA is carefully considering possible approaches, including HB 1627, so as to be able to offer constructive suggestions as this legislative session proceeds. We look forward to communicating with our beneficiaries, legislators and other public officials, our advisors, and others about how best to approach state and federal recognition.

Mahalo for the opportunity to testify on this important measure.



February 4, 2011

Testimony in support of HB1627, Relating to Government

Submitted to: The Committee on Hawaiian Affairs

From: Kitty M. Simonds, President Maunaloa Hawaiian Civic Club

Aloha Representative Hanohano and members of the Committee on Hawaiian Affairs,

HB1627 proposes the creation of a first nation government providing recognition of a native Hawaiian government by the State of Hawaii through a governor appointed commission. We support the intent of the bill and hope that it will not hinder Congressional efforts for recognition of native Hawaiian right to autonomy.

We would hope that the first act of the reorganized Hawaiian government would be to consider, amend and ratify the Queen's constitution of 1893 that she proposed and that led to aggression by American businessmen, profiteers and the US government.

Maunaloa Hawaiian Civic Club
P.O. Box 240388, Aina Haina Station
Honolulu, Hawai'i 96824



Waimānalo
Hawaiian
Homes
Association

P.O. Box 353, Waimanalo, Hawaii 96795-0353

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Chris Lee, Vice Chair

NOTICE OF HEARING HB 1627

DATE: Saturday, February 05, 2011

TIME: 9:45 a.m.

PLACE: Conference Room 329

February 4, 2011

Honorable Chairwoman Rep. Faye Hanohano and Vice Chair Rep. Chris Lee and members of the House Committee on Hawaiian Affairs, Aloha Kakou,

Mahalo nui loa for allowing me to submit this testimony on behalf of Waimanalo Hawaiian Homes Association (WHHA) concerning HB 1627 Relating to Hawaiian Government – First Nation. My name is Paul P. Richards President of the Waimanalo Hawaiian Homes Association (WHHA) a federally recognized IRS 501(c) (3) non-profit association.

We would like to support HB 1627 with amendments pertaining to the recognition of our Native Hawaiian population on the state level provided it does not diminish the pursuit of federal recognition. WHHA will continue to study, research, evaluate and seek legislative advice, and comments and recommendations from the beneficiaries of the Hawaiian Homes Commission Act, 1920 as amended, particularly Waimanalo.

With respect to the Findings beginning at item (11) on page 5 line 5 the text should be revised and replaced in its entirety to read as follows:

Revision

“The Native Hawaiian people have actively maintained their traditional and customary practices throughout the Native Hawaiian community, and engage these customary practices and usages on public lands through the charitable trusts established by the Native Hawaiian na ali‘i, Native Hawaiian Royal Societies, Association of Hawaiian Civic Clubs, all Native Hawaiian homestead community associations, Native Hawaiian organizations and other community associations and native service providers.”

Paul P. Richards, President • N. Kilauea Wilson, Vice President • Moana Akana, Secretary •
Roxanne Hanawahine – Treasurer • Mary Ann Crowell, Historian • Heidi “Ilima” Ho-Lastimoso, Director •
• Apela Peahi, Director • M. Kuulei Laughlin, Director



Waimānalo
Hawaiian
Homes
Association

P.O. Box 353, Waimanalo, Hawaii 96795-0353

February 4, 2011

Page 2

Reasoning

This revision of item (11) clarifies the extent of Native Hawaiian traditional and customary practices and protocol established during the Kingdom of Hawai'i, including the Territory and Statehood of Hawai'i. More importantly, the maintenance of this Native Hawaiian traditional and customary protocols were routinely practiced and inscribed in public and private ceremonial gatherings through the organizations established from century to century.

The "all Native Hawaiian homestead community associations" is inclusive of all Hawaiian homestead community associations whether affiliated or not with the Sovereign Council of Hawaiian Homeland Assembly.

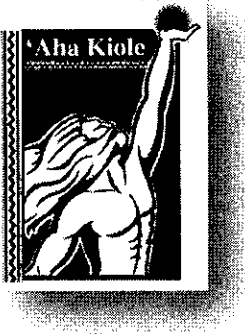
WHHA continues to support Federal recognition for our Native Hawaiian population including self-governance opportunities currently enjoyed by the American Indians and Alaska Natives.

We humbly request members of the committee to support the revision to HB 162 and our testimony.

Should you have any questions or concerns regarding this matter, please feel free to call me at 808-284-2575 or email at paul_28827@msn.com.

O wau me ka ha'aha'a,

Paul P. Richards, President
Waimanalo Hawaiian Homes Association



Aha Kiole Advisory Committee

TESTIMONY IN SUPPORT OF HB 1154,
RELATING TO THE 'AHA KIOLE
ADVISORY COMMISSION

Submitted to: Hearing of the Committee on Hawaiian Affairs, Chair Representative Faye Hanohano and Members of the Committee

Hearing Date: February 2, 2011, 9:00 a.m., Room 329

Submitted by: Vanda Hanakahi, Chair, Moloka'i

Aloha Chair Hanohano and Members of the House Committee on Hawaiian Affairs,

Thank you for the opportunity to testify on H.B. 1627, the bill that proposes the creation of a first nation government providing recognition of a native Hawaiian government by the State of Hawaii through a governor appointed commission. We support the intent of the bill with the understanding that it will not deter any continuing efforts for federal recognition.

Mahalo nui loa,

Vanda Hanakahi, Chair

Aha Kiole Advisory Committee

P.O. Box 507, Hoolehua, HI 96729

Phone: 808-336-6184

Email: kaiwilauula@yahoo.com

clee2 - Matt

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 11:34 AM
To: HAWtestimony
Cc: garrypsmith@juno.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Garry P. Smith
Organization: Individual
Address: 91-321 pupu place ewa beach, hi 96706
Phone: 392-5559
E-mail: garrypsmith@juno.com
Submitted on: 2/3/2011

Comments:

This bill is completely unconstitutional. The state cannot create an indian tribe out of thin air anymore than the federal government can. The U.S. Supreme Court held in Rice vs. Cayetano that native Hawaiians are a separate race of people not a political group and not indians. For the state of Hawaii to legislate a separate nation based on an individuals race is wholly unconstitutional and will almost certainly be immediately challenged and they will win in court.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 7:17 PM
To: HAWtestimony
Cc: tane_1@msn.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: No
Submitted by: David M.K. Inciong, II
Organization: Individual
Address: 1107 Acacia Road #113 Pearl City, HI 96782-2581
Phone: 456-5772
E-mail: tane_1@msn.com
Submitted on: 2/3/2011

Comments:

Dear Members of the House:

I find this proposed Bill, HB 1627 redundant, disingenuous, irrelevant and unnecessary. There are self-contradictions in its wording and a proposal for the state to create a pseudo-government is perplexing, to say the least, when statements claim the Kingdom of Hawaii still exists albeit under the U.S. belligerent occupation. To usurp the Hawaiian Kingdom by creating a tribal governing entity to replace it, is repugnant to the international laws, U.S. constitutional laws, Hawaiian Kingdom laws and moral rights of its citizens. This contentious

Bill HB 1627 is a waste of time for the legislature and unnecessary expense to the taxpayer when it rubberstamps the failed federal Bill that this bill duplicates. We Hawaii patriots do not subscribe to the racist U.S. WASP Manifest Destiny doctrines that this bill supports.

Many of us oppose this HB 1627 and urge you to do the same.

Sincerely,

David M.K. Inciong, II
AKA: Tane

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 8:26 PM
To: HAWtestimony
Cc: Ken_Conklin@yahoo.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: No
Submitted by: Kenneth R. Conklin, Ph.D.
Organization: Individual
Address: 46-255 Kahuhipa St. # 1205 Kane'ohe HI
Phone: 247-7942
E-mail: Ken_Conklin@yahoo.com
Submitted on: 2/3/2011

Comments:

To the House Committee on Hawaiian Affairs:

HB1627 is fundamentally the same as the federal Hawaiian Government Reorganization bill, also known as the Akaka bill; except that instead of having the federal government recognize the Akaka tribe, this bill would have only the State of Hawaii recognizing that tribe.

The clear purpose of the bill is to authorize the creation of an entity with governmental powers, but restricted to people who have at least one drop of Hawaiian native blood.

That racist concept is unconstitutional under the 14th Amendment of the U.S. Constitution. Since all legislators have taken an oath to support and defend the U.S. Constitution, any legislator who votes in favor of this bill has thereby violated that oath and must resign from office.

The concept of this bill also violates the first sentence of the first Constitution of the Kingdom of Hawaii, sometimes called the "kokokahi" (one blood) sentence, which proclaimed "Ua hana mai ke Akua i na lahuikanaka a pau i ke koko hookahi, e noho like lakou ma ka honua nei me ke kuikahi, a me ka pomaikai." In English, it can be translated into modern usage as follows: "God has made of one blood all races of people to dwell upon this Earth in unity and blessedness." What a beautiful and eloquently expressed concept! HB1627 is an ugly and disgusting violation of that kokokahi sentence.

King Kamehameha III wrote the kokokahi sentence as the first sentence of his Declaration of Rights in 1839, which was then incorporated in its entirety to become the preamble of the Constitution of 1840. In making that proclamation the King exercised sovereignty and self-determination on behalf of his native people, and on behalf of all people of all races who were subjects and residents of his Kingdom.

Today's Hawaiians are ethically bound to respect the wisdom of their ancestors. They are also legally and morally bound to respect the full partnership between natives and non-natives which enabled the Kingdom to be established and to thrive. All subjects of the Kingdom were fully equal under Kingdom laws, regardless of race, including voting rights and property rights. When partners work together in full equality to create and sustain a business or nation, it is morally and legally wrong for one partner to toss out or set aside or segregate other partners.

A zealous minority within the ethnic Hawaiian minority demands racial separatism. Should we allow that? Will you legislators be accomplices to such evil?

Consider the historical struggle for identity within the African-American community. Elijah Muhammad's Nation of Islam, and the early Malcolm X, advocated racial separatism and portrayed the white man as a devil. Some radicals called for setting aside several southern states for a Nation of New Africa. Fortunately Martin Luther King used Gandhi's spiritual tool of non-violence to appeal to people's inner goodness, which led to full integration. After his pilgrimage to Mecca Malcolm X understood the universal brotherhood of people of all races, but was gunned down by the separatists when he tried to persuade them to pursue integration.

In Hawaii we see a similar struggle now unfolding. Some demagogues use racial grievances to stir up hatred, and leaders use victimhood statistics to build wealthy and powerful institutions on the backs of needy people who end up getting very little help.

The Akaka bill, and HB1627, would empower the demagogues and racial separatists. These bills are supported primarily by large, wealthy institutions; not by the actual people they claim to represent. Institutions like the \$400 Million Office of Hawaiian Affairs, and the \$9 Billion Kamehameha Schools, seek to entrench their political power. They want an exemption from the 14th Amendment requirement that all persons be given the equal protection of the laws regardless of race.

But Hawaiians are voting with their feet against the Akaka bill. After seven years and untold millions of dollars in state government money for advertising (and free T-shirts!), fewer than one-fourth of those eligible have signed up for the Kau Inoa racial registry likely to be used as a membership roll for the Akaka tribe. Sadly, if either the Akaka bill or HB1627 passes then the separatists will be able to create their tribe even though the majority of ethnic Hawaiians oppose the idea. And 80% of Hawaii's people, having no native blood, will see our beautiful Hawaii carved up without even asking us.

Do the racial separatists have a right to go off in a corner and create their own private club for members only? Perhaps. But should the rest of us give them our encouragement and our resources to enable them to do that? Absolutely not.

It's time for this legislature to stop encouraging racial separatism. It's time to stand up in support of unity and equality. Just say no to HB1627 and all other bills motivated by the same mentality.

You really should read my 302-page book (I gave a copy to my Representative Ken Ito two years ago, so perhaps you can ask him to borrow it; or go to the library for one of its 27 copies):

"Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State"
<http://tinyurl.com/2a9fqa>"

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 11:22 PM
To: HAWtestimony
Cc: kuhiau@hotmail.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: No
Submitted by: Cheryl Lovell-Obatake
Organization: Individual
Address: 3407 Rice Street Lihue, HI 96766
Phone: 808-652-3982
E-mail: kuhiau@hotmail.com
Submitted on: 2/3/2011

Comments:

I am a Kuleana land owner. I request clarification on the definition of native Hawaiians. I request the basis and the purpose of which the methodology of utilizing blood quantum was derived from. DHHL occupants should be audited to assure they qualify under DHHL standards, especially those who are politically supported.
Oppose bill HB1627

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 11:46 PM
To: HAWtestimony
Cc: NaLeoHawaiian@aol.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: No
Submitted by: Mahelani Sylva
Organization: Individual
Address: 4160 Hoala Street, 22C Lihue, HI 96766
Phone: 808-635-4735
E-mail: NaLeoHawaiian@aol.com
Submitted on: 2/3/2011

Comments:

I strongly oppose HB1627
Kaulana n̄; pua a`o Hawai`i
K̄;pa`a ma hope o ka `̄;ina
Hiki mai ka `elele o ka loko `ino
Palapala `̄;nunu me ka p̄;kaha
(Famous are the children of Hawai`i)
(Ever loyal to the land)
(When the evil-hearted messenger comes) (With his greedy document of extortion)

`A`ole a`e kau i ka p̄;lima
Ma luna o ka pepa o ka `̄;nemi
Ho`ohui `̄;ina k̄;`ai hewa
I ka pono sivila a`o ke kanaka
(No one will fix a signature)
(To the paper of the enemy)
(With its sin of annexation)
(And sale of native civil rights)
Divide and conquer; a palapala of genocide; 50% get if they don't die first; and 49.99% on
paper don't exist . . . so I ask you, What about their civil rights?
`A`OLE

From: KT Yungeirott [chzzom59@hotmail.com]
Sent: Friday, February 04, 2011 12:12 AM
To: HAWtestimony
Subject: HB 1627: Oppose

I oppose this bill. Just creating another department. Hawaii cannot afford this. There are more important uses for our tax dollars than creating another government department especially in this current downturn in the economy, rising taxes, and programs/services being cut. Our kids education and school are more important than another government department to staff, pay rent, supplies, equipment, vehicles, employee benefits, retirement, etc. etc. We cannot afford this!

KT.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 04, 2011 5:20 AM
To: HAWtestimony
Cc: Kealii8@hotmail.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Kealii Makekau
Organization: Individual
Address: 2563 Date, #312 Honolulu, Hi
Phone: 8089474343
E-mail: Kealii8@hotmail.com
Submitted on: 2/4/2011

Comments:

Can the State of Hawaii create a Nation, State or Tribe?

Constitution for the United States of America, Article IV, Section 3, Clause 1, to wit:
New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

Creation of a Nation or Tribe is not authorized in the Constitution, nor is unincorporating a Foreign Nation in to the Union of the united States of America authorized. State of Hawai'i is prohibited pursuant to Constitution for the United States of America, Article I, Section 10, Clause 1, to wit:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility

Most of HB1627 contains flawed and questionable constitutional concerns that are in NHGRA which the United states civil rights commission has identified for the last five years. It is my hope that the committee being presented the hardline facts regarding this matter oppose this legislation.

Mahalo: Kealii Makekau

2/5/2011

The Honorable Faye P. Hanohano

Committee on Hawaiian Affairs

Conference Room 329 9:45am

Re: Opposition to HB1627

Ms. Chairman and Members of the Committee

I am a Native Hawaiian individual in opposition to wording in HB 1627, in particular **sections 6(a)(1), 6(a)(3), and 8** of the proposed Chapter First Nation Government. I would also like to amend **sections 2, and 4(a)** of the Chapter.

From page 27 line 6:

"§ -6 Process of reorganization and ratification of governing documents and elections. (a) The commission shall hold a minimum of three meetings, and each meeting shall be at least two working days, of the qualified Native Hawaiian constituents listed on the roll established under this section, to:

(1) Develop criteria for candidates to be elected to serve on the interim first nation governing council;

(2) Determine the structure of the council, including the number of council members; and

(3) Elect members from individuals listed on the roll established under section -5 to the council."

To uphold democratic ideals and place more of the Native Hawaiian fate in their own hands, I would change subsection **6(a)(1)** to read: **"All qualified Native Hawaiian constituents shall also be candidates to be elected to serve on the interim first nation governing council;"** with the added benefit of saving one meeting day for the commission. I have no problem with 6(a)(2). **6(a)(3)** should be changed to read: **"Individuals listed on the roll established under section -5 shall vote to elect members to the council with the commission selecting members only from resulting ties, if any."**

From page 33 line 20:

"§ -8 Reaffirmation of delegation of federal authority; governmental authority and power; negotiations."

This entire section is counter-intuitive to self-determination, which is a natural right and not some "power" derived from "governmental authority". This section should be rewritten with this viewpoint in mind.

In regard to self-determination, this bill seems to have forgotten those subjects of the Hawaiian Kingdom who were not of "aboriginal, indigenous, native decent", but were instead naturalized alien foreigners that were thereafter considered to be native and who also lost their natural right to self-determination with the overthrow of the Hawaiian Kingdom on January 17, 1893.

Compiled in 1884, **Kingdom of Hawaii Civil Code, TITLE 2, Chapter VII, Article VIII--Naturalization of Foreigners** reads:

"§429. The said Minister, with the approval of the King, shall have the power in person upon the application of any alien foreigner who shall have resided within the Kingdom for five years or more next preceding such application, stating his intention to become a permanent resident of the Kingdom, to administer the oath of allegiance to such foreigner, if satisfied that it will be for the good of the Kingdom, and that such foreigner owns without encumbrance taxable real estate within the Kingdom, and is not of immoral character, nor a refugee from justice of some other country, nor a deserting sailor, marine, soldier or officer."

"§432. Every foreigner so naturalized, shall be deemed to all intents and purposes a native of the Hawaiian Islands, be amenable only to the laws of this Kingdom, and to the authority and control thereof, be entitled to the protection of said laws, and be no longer amenable to his native sovereign while residing in this Kingdom, nor entitled to resort to his native country for protection or intervention. He shall be amenable, for every such resort, to the pains and penalties annexed to rebellion by the Criminal Code. And every foreigner so naturalized, shall be entitled to all the rights, privileges and immunities of an Hawaiian subject."

In light of this, I ask that you add to **section 2** (from page 13, line 3), the definition:

"Hawaiian subject" means those people who were recognized as subjects under Kingdom of Hawaii Constitution of 1864, Kingdom of Hawaii Civil Code, and any amendments produced by Kingdom of Hawaii's Legislature until sessions in 1886 including naturalized alien foreigners, but excluding denizens created by the Monarch.

With this new definition, we can add to the definition of "Qualified Native Hawaiian constituent" (from page 14, line 18) to include:

"(1)(C) An individual that is a direct lineal descendant of a Hawaiian subject;"

And to keep in the spirit of representing our Hawaiian Culture, **section 4(a)** (from page 21 line 13) should be changed from:

"§ -4 Commission. (a) The governor shall establish and appoint a nine-member commission for the purposes of:"

to:

"§ -4 Commission. (a) The governor shall establish and appoint a nine-member commission, **that is fluent in the Hawaiian language**, for the purposes of:"

If the proposed changes are made I will be in support of this bill as long as it does not interfere with the rights of others to self-determination and acceptance of the bill does not disallow people from participating in other processes of reorganization of a Native Hawaiian government.

Thank you for this opportunity to testify in opposition to HB1627.

Joseph Heaukulani

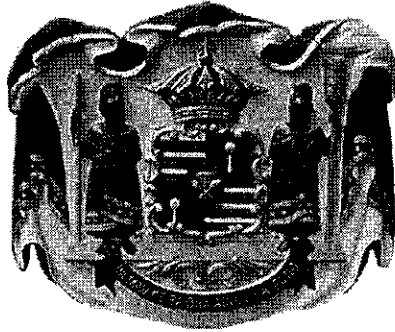
3177 Holly Place

Honolulu, HI 96816

(808) 778-1153

batcavetech@hotmail.com

Kingdom of Hawai'i



Interim Provisional Government Council Office of the Advocate General

OBJECTION TO HB1627 & OFFER OF ASSISTANCE

Committee on Hawaiian Affairs



Notice All Ye Men and Nations, comes now the Advocate General for the Kingdom of Hawai'i Interim Provisional Government Council, and also for the Order of Kamehameha I to object to HB1627 for the following:

The majority of the text of HB1627 is a copy of S.3945, entitled – Native Hawaiian Government Reorganization Act of 2010 (11/15/2010), as introduced by Senator Daniel Akaka and known as the —Akaka Bill. The Akaka Bill is not being considered in the United States 112th Congress at this time. S.3945, and all the previous version, have many objectionable defects that are now incorporated into HB1627. Many of those same defects were addressed in the reports issued by the United States Civil Rights Commission,-and were included in their objection to the Akaka Bill.

HISTORICAL DEFECTS IN HB1627

The Kingdom of Hawai'i is mentioned seven (7) times in the proposed Bill, yet Queen Lili'uokalani and President Grover Cleveland are never mentioned at all.

The actions of the above mentioned heads of State are indispensable to relevant historic facts and to the political liberty and right of the descendant Hawaiian people to reinstate the de jure and sovereign government of the wrongfully overthrown Nation of Hawai'i.

Historically, Queen Lili'uokalani made her official protest to the United States of America and not to the thirteen (13) rebellious and violent usurpers, who were both citizens and foreigners. The Queen's official Protest was in the purview of the Law of Nations (Vattel 1758) which secured the right of the sovereign Nation of Hawai'i forever. See: _____, Page 2 of 6.

President Grover Cleveland, after taking office in 1893, and after sending the Honorable James Blount to investigate the overthrow of the de jure government of the Kingdom of Hawai'i, justly concluded that the wrongful use of force in the overthrow of the government and sovereignty of the Kingdom of Hawai'i was in violation of "Law of Nations."

"But if the Nation which is protected, or which has placed itself in subjection upon certain condition, does not resist the encroachments of the power from which it has sought support, if it makes no opposition, and keeps absolutely silent when it could and should speak, its acquiescence constitutes, in the course of time, an implied consent, the silence must be voluntary. If the weaker Nation can show that the apparent absence of opposition was DUE TO THE USE OF FORCE AGAINST IT, NO INFERENCE CAN BE DRAWN FROM ITS SILENCE, AND NO RIGHTS ACCRUE TO THE USURPER." See: ***The Law Of Nations Or The Principles Of The Natural Law***, Emer De Vattel, Book I, Chapter XVI, § 199.

Both Queen Lili'uokalani and President Grover Cleveland should be specifically named and their official actions should be correctly and adequately referred to in HB1627, and in any other Bill related to the recognized and sovereign Nation of Hawai'i.

—Native Hawaiians are mentioned thirty-two (32) times in the proposed Bill, —Native Hawaiian people thirteen (13) times, and —native people eighteen (18) times. These word designations elude to the conclusion that there is some kind of special privilege granted to them. Factually and lawfully only Kingdom of Hawai'i had the rights, powers, and obligations to determine the status and capacity of its own citizens, whether born to the status or admitted by naturalization. These classifications of so-called rights or privilege to —Native Hawaiian, —Native Hawaiian people and —native people are artful creations of the usurpers who have no right to abrogate the sovereign powers of the Kingdom of Hawai'i or the successor people of right.

The misuse of the Constitution for the United States of America, Article I, Section 8, Clause 3, to wit:

—To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

This clause of the Constitution is to make commerce regular and just among the States and with foreign powers. Commerce with the Kingdom of Hawai'i as a foreign Nation was in fact treated and was within the proper purview of the first part of the aforementioned Constitutional clause. Trying to improperly create some type of new Indian Tribe out of the successor people of the wrongfully overthrown Hawaiian Nation while using last part of above clause is outside of and evades the express purpose of that clause. The Kingdom of Hawai'i was a well-recognized and treaded Nation before the wrongful overthrow by the United States, and its status, rights, and reciprocal obligations are not to be evaded or abrogated by a twisting of language by the wrongdoer.

The misuse of the Constitution for the United States of America, Article I, Section 8, Clause 11, to wit:

—To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water.

Did the United States Congress declare war upon the peaceful and treated Kingdom of Hawai'i? Public Law 103-150 is clear that a rouge and unjust act of war was committed against a peaceful and treated Nation by the United States. Objection is made against any reference to the very power that was abused and proximately caused the violation of Law of Nations and wrongfully abrogated the political liberties and rights of the Hawaiian people.

OTHER UNJUST USURPATIONS.

The Organic Act (1900), Hawaiian Homes Commission (1920), Hawaii National Park (1930), Admission Act (1959) are creations of the usurper and irrelevant to Kingdom of Hawai'i. Page 3 of 5

These Acts were designed and intended to seat the wrongdoer and usurper in positions of power over the lives, liberties and property of the successor people of the Kingdom of Hawai'i. By the Law of Nations and as recognized by treaties with the United States, the Kingdom of Hawai'i retained its sovereign will and powers to protect the lives, liberties, and property of the people. Objection is made against the proposed Bill that would continue those odious and onerous impositions upon the reinstatement of the Hawaiian Nation as a conditionality.

OTHER DEFINITIONS

The combing the definitions of aboriginal, indigenous, and native people in the Bills before Congress is both misleading and a denial of sovereign liberties and rights.

—Aboriginal:

Aborig`inal, a. [L. *ab* and *origo*, origin. See *Origin*.]

First; original; primitive; aboriginal people are the first inhabitants of a country.

Aboriginal tribes of America. President Smith.

American Dictionary of the English Language, Noah Webster 1828, Vol 1, page 1

Aborig`inal, n. An original, or primitive inhabitants. The first settlers in a country are called aboriginals; as the Celts in Europe, and Indians in America. President Smith. **American Dictionary of the English Language**, Noah Webster 1828, Vol 1, page 1

Aborigal adi. 1 existing (in a place) from the beginning or from the earliest days; first; indigenous 2 of or characteristic of aborigine. — *n.* an aboriginal animal or plant. **Webster's New World Dictionary**, 3rd College Ed. (1988), page 3.

Aborigline n. 1 a) any of the first or early known inhabitants of a region; native. b) [A-] a member of the aboriginal people of Australia 2 [pl.] the native animals or plants of a region. **Webster's New World Dictionary**, 3rd College Ed. (1988), page 3.

—Indigenous;

Indig`enous, a. [L. *indigena*, *supra*.] 1. *Native*; born in a country; applied to persons.
2. *Native*; produced naturally in a country or climate; not exotic; applied to vegetables.
American Dictionary of the English Language, Noah Webster 1828, Vol. I, page 108

—Native;

Na`tive, a. [L. *nativus*, from *nascor*, *natus*, to be born]
1. Produced by nature; original; born with the being; natural; not acquired; as *native* genius; *native* affections; a *native* talent or disposition; *native* cheerfulness; *native* simplicity.
2. *Produced* by nature; not factitious or artificial; as *native* ore; *native* color.
3. Conferred by birth; as *native* rights and privileges.
4. Pertaining to the place of birth; as *native* soil; *native* country; *native* graves. *Shak*.
5. Original; that of which any thing is made; as man's *native* dust. *Milton*.
6. Born with; congenial. *Shak*.
American Dictionary of the English Language, Noah Webster 1828, Vol. II, page 21

Na`tive, a. Original; born in any is said to be a native of that place, whether country, city or town. 1. Offspring. [*Not in use*]. *Shak*.
American Dictionary of the English Language, Noah Webster 1828, Vol. II, page 21

Native, native citizen. A natural-born subject. 1 Bla. Com 366. Those born in a country, of parents of who are citizens. Morse, Citizenship 12. See Citizen. There is no distinction between native born as used in the French Extradition treaty and natural born as used in the extradition act; 37 W. R. 269.
Bouvier's Law Dictionary, Third Revision (8th Edition)(1914), Volume 2, page 2297.

native (nä-'tiv). A person born within the jurisdiction. See *United States v. Wong Kim Ark*, 169 U. S. 649, 42 L. ed. (U. S.) 890, 18 Sup. Ct. Rep. 456. **Law Dictionary, James A. Ballentine**, Second Edition, 1948, page 874.

Native. A nature-born subject or citizen; a denizen by birth; one who owes his domicile or citizenship to the fact of his birth within the country referred to. The term may also include one born abroad, if his parents were citizens of the country, and not permanently residing in foreign parts. *U. S. v. Wong Kim Ark*, 169 U. S. 649, 18 S.Ct. 456, 42 L.Ed. 890; *New Hartford v. Canaan*, 54 Conn. 39, 5 A. 360; *Oken v. Johnson*, 160 Minn. 217, 199 N.W. 910.

The word "native", as used in Alien Enemy Act, refers to person's place of birth, so that a person remains a native of country of birth, though he has moved away therefrom. *United States ex rel. D'Esquiva v. Uhi*, C.C.A. N. Y. 137 F.2d. 903, 905.

One who was born in Germany and later becomes a citizen of France, was a "native" of Germany. *Ex parte Gregoire*, D.C.Cal., 61 F.Supp. 92, 93.

But a person born in Alsace which at the time of his birth was a part of Germany but was restored to France sovereignty by the treaty of Versailles of 1819, was a "native" of France. *United States ex rel. Umecker v. McCoy*, D.C.N.D., 54 F.Supp. 679, 681, 682.

Black's Law Dictionary 4th Edition (1951) page 1176.

The most important and relevant definition of —Citizens & —Native is from Law of Nations; Vattel, Book 1, Chapter 19, §212, to wit:

§ 212. Citizens and natives.

“The citizens are the members of the civil society; bound to this society by certain duties, and subject to its authority, they equally participate in its advantages. The natives, or natural-born citizens, are those born in the country, of parents who are citizens. As the society cannot exist and perpetuate itself otherwise than by the children of the citizens, those children naturally follow the condition of their fathers, and succeed to all their rights. The society is supposed to desire this, in consequence of what it owes to its own preservation; and it is presumed, as matter of course, that each citizen, on entering into society, reserves to his children the right of becoming members of it. The country of the fathers is therefore that of the children; and these become true citizens merely by their tacit consent. We shall soon see whether, on their coming to the years of discretion, they may renounce their right, and what they owe to the society in which they were born. I say, that, in order to be of the country, it is necessary that a person be born of a father who is a citizen; for, if he is born there of a foreigner, it will be only the place of his birth, and not his country.”

Neither the written Constitution for the Kingdom of Hawai'i or its statutory laws made any reference to aboriginal status, rights or privileges of anyone. The Constitution and statutory laws of the Kingdom of Hawai'i did make provisions for citizens and aliens, and their respective rights within and under the representative government. Those sovereign rights and obligations were not relinquished by the de jure government of the Kingdom of Hawai'i or by the people of that recognized Nation. See: Public Law 103-150, Apology Bill.

Now, how is —First Nation Government defined? Is it a nation or state in the purview of the Law of Nations or International Law, or is it some type of hybrid corporate entity without true sovereign will and power?

The other definitions may be just as egregious but are not worth covering due to irrelevancy or to other improprieties included in the wording of the defective Bill.

LAWFUL AUTHORITY.

Can the State of Hawai'i create a Nation, State or Tribe?

Constitution for the United States of America, Article IV, Section 3, Clause 1, to wit:

—New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

Creation of another State or Tribe; The State of Hawaii is not authorized by the U.S. Constitution to create another State or Indian Tribe, and it is not authorized to incorporate or admit a foreign Nation into the Union of the United States of America. Objection is made against the proposed Bill upon the grounds that the Bill is extra-Constitutional and is not within the limited powers of the State.

State of Hawai'i is prohibited pursuant to Constitution for the United States of America, Article I, Section 10, Clause 1, to wit:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

These are absolute prohibitions imposed against the several States. Every good faith effort should be made to ensure that the fundamental law and principles upon which it is founded upon are at the forefront of any political action.

CONCLUSION & OFFER OF ASSISTANCE

The Kingdom of Hawai'i was a well-recognized and treated sovereign Nation. The United States of America, itself, treated with the Hawaiian Nation on numerous matters regarding trade and reciprocity. The objective is to reinstate a Nation, not to create and grant special privileges to a lesser corporation or to create and empower a municipal type organization. Those higher standards of procedure and recognition must be followed if we are to succeed.

Public Law 103-150 calls upon the State of Hawaii to assist in the reinstatement of the Nation of Hawai'i. If the purpose of HB 1627, like other Bills, is to correct the unlawful acts done to the Nation of Hawai'i and to the its people then we sincerely offer our knowledge and appreciative assistance to fulfill President Grover Cleveland and Queen Lili'uokalani's desires. Our joint and sincere efforts will also bring back some honor to a great nation, the United States of America, and help to fulfill the obligations and just duty to reinstate and recognize the Nation of Hawai'i

Please keep us fully and timely informed of this and any other proposed Bill that effects the rights and interests of the Nation of Hawai'i and its people, and we thank you for your meaningful, just and honest efforts to further Public Law 103-150.

Feel free to look at our Position Paper and other references:

www.kingdom-hawaii.org

Or e-mail: kingdom@pixi.com

Kingdom of Hawai'i

1777 Ala Moana Blvd, #116-102

Honolulu, Hawai'i 96815

Signed & Sealed

ADVOCATE GENERAL of the Kingdom of Hawai'i
DENNIS W. RAGSDALE, Sui Juris, Sovereign
Jure Soli, Jure Sanguinis, Jure Coronea

2/5/2011

The Honorable Faye P. Hanohano

Committee on Hawaiian Affairs

Conference Room 329 9:45am

Re: Opposition to HB1627

Ms. Chairman and Members of the Committee

Aloha. I am Native Hawaiian. I have not voted before but I am in Representative Calvin Say's district. I am concerned about the real intent of the composers of HB1627 as it leaves loop holes and contradictions for compromising the process of Native Hawaiian self-determination.

I came to this conclusion because of language in section 4 on page 21 thru 23. Its sounds as if it was written so that the governor can appoint anyone he or she wills regardless of wether they should be qualified to decide who is Hawaiian and who is not to be in the "Commission". Commission members should at least be required to have fluent knowledge of the Hawaiian Language. Its one of the most basic yet crucial knowledge of hawaiian culture. Language in section 4 should force the governor to recognize and choose from those with the most Hawaiian cultural knowledge should they come forth and present themselves.

Language in section 6 puts faith in the appointed commission to decide who are eligible to be elected candidates and how many total elected there will be. If the commission is to be trusted, Native Hawaiian people who choose to be a part of this process should have a right to vote on any issues the commission has and be able to attend hearings or meetings of such issues in the process of choosing a "first nation interim government" with respect to hawaiian self-determination.

Thank you for reading my testemony in opposition to HB1627.

Raymond Heaukulani

3177 Holly Place

Honolulu, HI 96816

(808) 699-5497

yellow_mnm@hotmail.com

Jennifer Wilbur

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 04, 2011 9:50 AM
To: HAWtestimony
Cc: czahn@hawaii.rr.com
Subject: Testimony for HB1627 on 2/5/2011 9:45:00 AM

Testimony for HAW 2/5/2011 9:45:00 AM HB1627

Conference room: 329
Testifier position: oppose
Testifier will be present: No
Submitted by: Charles Zahn
Organization: Individual
Address: 92-970 Puanihi St. Kapolei, HI
Phone: 282-5784
E-mail: czahn@hawaii.rr.com
Submitted on: 2/4/2011

Comments:
Chair Hanohano, Vice Chair Lee and members of the Committee.

I strongly oppose the passage of HB1627 in any form based on two of the many reasons that exist.

These reasons follow:

1. The clear purpose of the bill is to authorize the creation of an entity with governmental powers, but restricted to people who have at least one drop of Hawaiian native blood.
2. That racist concept is unconstitutional under the 14th Amendment of the U.S. Constitution. Since all legislators have taken an oath to support and defend the U.S. Constitution, any legislator who votes in favor of this bill has thereby violated that oath and must resign from office.

Thank you.

Charles Zahn

February 4, 2011 3:35pm

Aloha Rep. Hano Hano, chair, Rep. Lee, vice chair and Committee Members:

HB1627 Relating to Government: Establishes procedures for state recognition of the first nation government.

I support the intent of HB1627.

Please pass HB1627.

Paulette Tam, Concerned Kaneohe Resident

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Chris Lee, Vice Chair

DATE: Saturday, February 05, 2011

TIME: 9:45 a.m.

PLACE: Conference Room 329

State Capitol

415 South Beretania Street

A G E N D A

HB 1627

RELATING TO GOVERNMENT.

HAW, JUD,
FIN

Status

Establishes procedures for state recognition of a first nation government.

Submitted by Pōkā Laenui, Chairperson, Aha Hawai'i `Ōiwi (Native Hawaiian Convention)

Aloha Kakou:

History can play an instructive role in our understanding of current affairs and provide us the guidance necessary in following a path into our futures. So it is with the State's attempt to establish procedures for recognition of a first nation government. For that purpose, permit me to call attention to the history of the formation of the `Aha Hawai'i `Ōiwi, aka the Native Hawaiian Convention.

Hui Na`auao in mid-1980's organized and pulled together a multiplicity of individuals and organizations under a broad umbrella of Hawaiian rights especially as it regarded issues of historical injustice in the overthrow of the Hawaiian nation.

The Sovereignty Advisory Council (SAC) was formed by the State Legislature, circa 1991, appointing a handful of organizational representatives or individuals, charged with the mandate "to develop a plan to discuss and study the sovereignty issue". This council submitted a report to the State Legislature detailing the events of the overthrow, the remaining issues still unresolved, and made suggestions on the State's taking further action on this issue.

The Legislature subsequently created the Hawaiian Sovereignty Advisory Council (HSAC) in 1993, naming several organizations to sit on the council and authorizing the Governor to appoint additional individuals, nominated by Hawaiian organizations or individuals. HSAC was charged with advising the Legislature on the next step to take in moving ahead on the matter of Hawaiian self-governance. This council visited the communities in Hawai`i and in America, trying to obtain the opinions of the people on how to proceed with moving forward on self-governance. HSAC concluded that a plebiscite should be called asking the native Hawaiian population if an election of delegates should be held to propose a form of native Hawaiian governance. The legislature received the report, adopted the recommendations and followed by the appointment of an elections commission.

In the same year, U.S. President William Clinton signed Public Law 103-150, often called the Apology Resolution.

The Hawaiian Sovereignty Elections Commission was subsequently formed (1994) to pose the question of the formation of a governmental form to the native Hawaiian population.

Ha Hawaii was incorporated (1995) as a not-for-profit corporation to aid in the administration of the convention to result from the election of delegates, anticipating a favorable outcome on the question to be posed.

The balloting, called the "Native Hawaiian Vote" was done by mail in 1996. The question on the ballot was, "Shall the Hawaiian people elect delegates to propose a native Hawaiian form of government?" The vote was overwhelmingly in favor (73%) of such an election.

Delegates were subsequently elected from the traditional Hawaiian Moku and a special moku of people living in the continental U.S. portion of North America, by Native Hawaiian voters. In total, 78 delegates were elected. The Native Hawaiian Convention (Aha Hawai`i `Ōiwi) was subsequently constituted. Their deliberations began in July 1999.

Funding for this process was generally supported through the Office of Hawaiian Affairs and the State legislature.

As the work progressed, there emerged two models of a governmental form, one called for an integration approach in which the native Hawaiian government would operate within the United States of America, very much like the commonly known Akaka Bill framework. The second model was one of an independent nation-state. The convention had determined to submit two models to the native Hawaiian constituency upon finalization of these models.

The work of the convention has met several obstacles including the lack of adequate funding by OHA and the State Legislature as well as the intervention of the introduction of the Akaka Bill in the U.S. Congress.

Delegates of the AHO have been patiently watching the progress of the Akaka Bill which would inform the further work of the convention. We have seen in December 2010 that the Akaka Bill has met its demise, although we are fully aware of the fact that it may be reintroduced in the Congress in the coming years.

The current executive officers of the convention are:

Pōkā Laenui, Chairperson,

Dante Carpenter, Vice Chair,

Glenn Oamilda, Vice Chair,

Maurice Kahawai`i, Treasurer,

The position of Secretary is vacant due to the untimely death of Nalani Gersabe.

In consultation with the executive officers and other delegates of the AHO, it is our intention to reconvene the AHO as soon as we are able to obtain sufficient funds, which funds would go primarily to the cost of travel of delegates, meeting facilities, and a minimum of support staff to maintain records and files, and a continuity between sessions. The approximate cost for a session amounts to approximately \$50,000.

It is my estimate that the convention would take three more sessions to complete its drafting of two models of Hawaiian governance for presentation to the Native Hawaiian constituents. There will be a final function of education, discussion, debate, and a vote on the models to conclude the mandate of the Aha Hawai`i `Ōiwi.

With regards to the current bill under consideration, I believe that it would not be appropriate at this time for the legislature to create yet another process in the formation of a native Hawaiian governance entity. Rather, the legislature should support the completion of the mandate of the native Hawaiian vote, providing and/or encouraging the Office of Hawaiian Affairs to assist in the provision of necessary resources to see this work to fruition. This bill could serve as a vehicle to reach that conclusion.

As the Chairperson of the AHO, I refrain from addressing the first and very significant issue this bill raises, i.e., the recognition of the native Hawaiian people as the first or indigenous peoples of Hawai'i.

Sincerely,

Pōkā Laenui, Chairperson, Aha Hawai'i `Ōiwi

Melody Kapilialoha MacKenzie, Esq.
579 Kāne'apu Place
Kailua, Hawai'i 96734
(808) 780-8236 ♦ melodykmackenzie@gmail.com

HB 1627
RELATING TO GOVERNMENT
House Committee on Hawaiian Affairs
Hearing on Friday, February 5, 2011, at 9:45 a.m.

Mahalo for the opportunity to present testimony on this bill, which would establish procedures for State recognition of a Native Hawaiian first nation government. I am an associate professor at the William S. Richardson School of Law and director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. I submit this testimony, however, in my personal capacity as a private citizen.

I strongly support efforts at affirming recognition of the political relationship between the State of Hawai'i and Native Hawaiians. There is a strong argument to be made that Native Hawaiians have already been "recognized" by the State. Through the Hawaiian Homes Commission Act and subsequent delegation of federal authority to the State in the Admission Act, and the State's acceptance of that authority and responsibility, a political relationship between Native Hawaiians and the State has been formed. Moreover, the establishment of OHA as well as numerous other acts of the legislature have more firmly cemented that political relationship and broadened it to clearly include all members of the Native Hawaiian community.

I might also observe that, although the Federal government has delegated significant authority to the State in relation to Native Hawaiians, the Federal government has also retained substantial authority, and the concomitant responsibility. Finally, in addition to delegated authority, arguably the State has independent authority pursuant to the 10th Amendment to the U.S. Constitution on which to base its political relationship with the Native Hawaiian community.

Thus, I view this bill as first and foremost affirming the State's political relationship with the Native Hawaiian community. Secondly, this bill seeks to support Native Hawaiians in forming a governmental structure to more fully and actively represent the Native Hawaiian community in its political relationship with the State. Although I support the intent and purpose of the bill, I believe that more discussion is necessary within the Hawaiian community to ensure full participation in the process of organizing a government. I hope that those discussions will take place within the coming weeks and months and this bill will certainly spark those discussions.

I want to commend the members of the House who introduced this bill and, in particular, the Chair and members of this Committee for your willingness to struggle with one of the most difficult issues facing our community. Again, mahalo nui.

Legislature State of Hawaii
House Committees on Hawaiian Affairs

Hearing: Saturday, February 5, 2011 9:45 a.m.
Conference Room 329, State Capitol

HB 1627 RELATING TO GOVERNMENT.

Establishes procedures for state recognition of a first nation government.

Testimony in opposition by H. William Burgess, attorney at law
and chairman of Aloha for All, Inc ¹

HB 1627 goes beyond recognition of something that now exists. There is not now and never has been a separate government of the unified Hawaiian Islands exclusively of, by and for Native Hawaiians. Rather, the process called for by HB 1627 would *create* a "first nation government" of, by and for "qualified Native Hawaiian constituents."

Even the Federal government has no power to *create* a tribe "out of thin air" where none now exists.

For Native Americans, ancestry alone confers no special status. Membership in a tribe that has existed continuously is required. According to Census 2000 there are over 4 million people with some Native American ancestry. But less than 2 million of them are members of recognized tribes and only those recognized tribes can have a government-to-government relationship with the United States. □

Congress may "acknowledge" or "recognize" groups which have existed as tribes, i.e., autonomous quasi-sovereign governing entities, continuously from historic times to the present (25 C.F.R. 83.7) but it has no power to create a tribe arbitrarily. (*U.S. v. Sandoval*, 231 U.S. 28 (1913)). One D.O.J. attorney put it succinctly, "We don't create tribes out of thin air."³ □

In 1790 (20 years before 1810 when he unified the Hawaiian islands) Kamehameha the Great brought John Young and Isaac Davis on to join his forces and welcomed them into his family. Non-natives thereafter continued to

¹ Aloha for All, is a multi-ethnic group of men and women, all residents, taxpayers and property owners in Hawaii who believe that Aloha is for everyone and every citizen is entitled to the equal protection of the laws without regard to her or his ancestry.

intermarry, assimilate and contribute to the governance under the great King and under every subsequent government of Hawaii since then, both in high governmental positions as cabinet members, judges, elected legislators, and as ordinary citizens. □ The attached map from the KSBE website showing "Hawaiians in the USA: US Census 2000" refutes the claim made on page 2 and repeatedly in HB 1627 that, "the Native Hawaiian people are a distinctly native community."

For Native Americans, ancestry alone confers no special status. Membership in a tribe that has existed continuously is required. According to Census 2000 there are over 4 million people with some Native American ancestry. But less than 2 million of them are members of recognized tribes and only those recognized tribes can have a government-to-government relationship with the United States. □

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Unlike the history of Native Americans, there has never been in Hawaii, even during the years of the Kingdom, any "tribe" or government of any kind for Native Hawaiians separate from the government of the rest of Hawaii's citizens. The Hawaiians-only nation the Akaka bill proposes to "reorganize" has never existed. See Patrick W. Hanifin's *To Dwell on the Earth in Unity: Rice, Arakaki, and the Growth of Citizenship and Voting Rights in Hawaii*. <http://www.angelfire.com/hi2/hawaiiansovereignty/HanifinCitizen.pdf> □

Our friends, neighbors, fellow professionals, judges, political leaders. aunts, uncles, nieces, nephews, calabash cousins, spouses and loved ones of Hawaiian ancestry are governed by the same federal, state and local governments as the rest of us. That is why neither Congress nor the Hawaii legislature can use laws

applicable to Indian tribes to create a new government in Hawaii. □

Sen. Inouye, in his remarks on introduction of S. 147/H.R.309 at 151 Congressional Record 450 (Senate, Tuesday, January 25, 2005) concedes that federal Indian law does not provide the authority for Congress to create a Native Hawaiian governing entity. □

Because the Native Hawaiian government is not an Indian tribe, the body of Federal Indian law that would otherwise customarily apply when the United States extends Federal recognition to an Indian tribal group does not apply. □

That is why concerns which are premised on the manner in which Federal Indian law provides for the respective governmental authorities of the state governments and Indian tribal governments simply don't apply in Hawaii. □

Moreover, HB 1627 excludes from participation in the process all citizens who lack the favored ancestry. That racial restriction from eligibility to vote in the elections and referenda called for by HB 1627 violates the 15th Amendment. The special status, privileges and immunities which the bill gives to Native Hawaiians, but denies to other citizens, violates the 14th Amendment.

Moreover, the Constitution of the United States, contemplates an indestructible union composed of indestructible states. The negotiations contemplated by HB 1627 would divide and diminish the State of Hawaii but still leave Native Hawaiians with their full rights and benefits in what is left of the State of Hawaii.

Thomas Sowell's *Affirmative Action Around the World* describes in chilling detail the consequences of "indigenous" movements in many countries strikingly similar to the events unfolding now in Hawaii. Sri Lanka, for example, is an island state that in 1948 was spoken of as an oasis of stability, peace and order. Within a decade, as a result of politicizing intergroup differences and instituting preferential policies, there were race riots, and ultimately civil war and horrible atrocities. The January 17, 2011 New Yorker "Death of the Tiger" shows the horror Hawaii may be facing if the legislature does not restore equal justice under the law.

Please reject HB 1627. Mahalo. Honolulu, Hawaii February 4, 2011.

H. William Burgess

H. William Burgess

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Honolulu, HI 96822

Attachment to testimony re: HB 1627.

