



## **HCR 50 / HR 32**

House Committee on Ocean, Marine Resources, & Hawaiian Affairs

March 13, 2013

9:45 a.m.

Room 325

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The Office of Hawaiian Affairs (OHA) offers the following comments on HCR50 and HR32, which would:

- Formally recognize “Hawaiian Nationals” (defined in HCR50 and HR32 to include lineal descendants of Hawaiian Kingdom subjects, anyone born in the Hawaiian Islands, or anyone naturalized through a formal process) as the authentic heirs, beneficiaries, and body politic of the continuing Hawaiian Kingdom; and
- Formally recognize the right of Hawaiian Nationals to organize and restore their national government in the Hawaiian Islands; and

As OHA has learned through its stakeholder summits and meetings regarding Native Hawaiian governance, the Native Hawaiian community generally agrees that the Hawaiian people’s claims to inherent sovereignty have never been relinquished. The Native Hawaiian community also generally agrees that repatriation of that unrelinquished inherent sovereignty is just and overdue.

The community has not yet, however, arrived at a general consensus regarding the best way to repatriate its unrelinquished inherent sovereignty. Specifically, the community has not yet reached a consensus about whether it should seek formal acknowledgment of its inherent sovereignty through state, federal or international legal mechanisms, or some combination of the three.

When this Legislature passed Act 195 in 2011, it formally recognized the Native Hawaiian people as the only indigenous, aboriginal, maoli people of Hawai‘i and established a Native Hawaiian Roll Commission responsible for preparing a roll of qualified Native Hawaiians who will be eligible to participate in the process of reorganizing a government for purposes of self-governance.

Consistent with Act 195, subsequent decisions about how to reorganize the government and whether to obtain state, federal and/or international recognition of the reorganized government will be made by the convened enrolled members and advanced through additional action.

OHA believes that the Native Hawaiian people should be given the opportunity to come together to discuss these fundamental questions about who is a member of the lāhui and what its collective destiny should be. It is our hope that the Act 195 enrollment process culminates in a productive convention where Native Hawaiians with differing beliefs and opinions can unite to move forward with self-determination and self-governance. OHA is committed to facilitating and supporting this important dialogue to the best of its ability.

Mahalo for the opportunity to testify on this important issue.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

H.C.R. NO. 50, RECOGNIZING HAWAIIAN NATIONALS AS A POPULATION RESIDING LAWFULLY IN THE HAWAIIAN ISLANDS.

**BEFORE THE:**

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS

**DATE:** Wednesday, March 13, 2013                      **TIME:** 9:45 a.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Charleen M. Aina, Deputy Attorney General

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Chair Hanohano and Members of the Committee:

The Department of the Attorney General recommends that this resolution be held.

By its title and its principal resolving paragraph, this resolution recognizes that Hawaiian Nationals reside lawfully in Hawaii.

Under the Constitution of the United States, the states of the United States do not have jurisdiction to determine whether a person is a lawful resident of a state. Determining who is residing lawfully in the United States and thus, within a state “is exclusively a federal power.” DeCanas v. Bica, 424 U.S. 351, 354 (1976).

Accordingly, to prevent people from incorrectly concluding that the Legislature of the State of Hawaii is empowered to confer lawful resident status on persons who are in Hawaii, and to assure that persons who consider themselves to be only Hawaiian Nationals do not conclude that they are residing lawfully in Hawaii as a result of this resolution adoption, this resolution should be held by the Committee.



## **Association of Hawaiian Civic Clubs**

P. O. Box 1135

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Testimony of President Soulee Stroud

### **HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS**

### **HOUSE CONCURRENT RESOLUTION 50/ HOUSE RESO. 32**

Wednesday, March 13, 2013, 9:45am, Conf. Rm. 325

Aloha Chairman Hanohano and Vice Chairman Cullen and members of the House committee hearing HCR 50/HR 32. I am Soulee Stroud, president of the Association of Hawaiian Civic Clubs here to speak in opposition of this concurrent resolution and resolution.

The Association of Hawaiian Civic Clubs (AHCC) is currently comprised of sixty nine component member clubs in Hawaii and fifteen states on the continent. The first civic club was organized in 1918 by Prince Kuhio and a group of prominent Hawaiian men when Kuhio was a Delegate to the US Congress. Kuhio recognized the need for Native Hawaiians to become more involved in the passage of the Hawaiian Homes Act then before the Congress, and to further become engaged in the intricacies of federal and local government.

The Association meets in an annual convention with its delegates for the purpose of discussing civic issues of importance to our component clubs. The discussion takes place in workshops, in presentations by speakers at our Plenary Session, and in the distribution and deliberation of resolutions that are first reviewed and amended in our Standing Committees and later, that are discussed and voted upon by all delegates in Plenary Session.

Once our resolutions are accepted by our delegates, if they require further action by the State Legislature, we take copies of our approved resolutions to the appropriate Chairs in the House and Senate.

HCR 50/HR 32 are similar to the resolutions discussed in our last Convention, held in Washington D.C in October, 2012. In fact, our actual

resolutions on this matter, were introduced by Chairperson Hanohano under the numbers, HR 16, HR 23, and HCR 40. We support those resolutions and the concurrent resolution. HCR 50/HR 32 are not the resolutions approved by the delegates, hence we cannot support them.

HCR 50/HR 32 differ in the following ways: first, the original second paragraph has been deleted, it read as follows : "WHEREAS, the State has on numerous occasions, and in official documents and statutes, including Act 195, Session Laws of Hawai'i, 2011, affirmed that beginning in 1893, the United States violated the sovereignty of the Hawaiian Kingdom when it colluded with insurgents to usurp the government of the Hawaiian Kingdom; and" .....

In addition, the seventh Whereas, has been amended substantially. The original language read as follows: "WHEREAS, by application of Hawaiian Kingdom laws, international treaties and conventions, the Law of Nations, and all other standards relating to nationality, Hawaiian Nationals are citizens of the Hawaiian Kingdom, residing in their own country--the Hawaiian Islands, and" .... This HCR 50 inserts language that we did not approve, read as follows, "....and are not citizens of the United States or "residents" of the "State of Hawaii".

Further, the HCR 50 contains a paragraph not approved by the delegates, to read as follows: "BE IT FURTHER RESOLVED that Hawaiian Nationals, as the authentic body politic, have the right to organize and restore their national government of, by, and for the people of the Hawaiian Islands; and"

And finally, the following paragraph was in the original resolution passed by the delegates, but has been deleted from this version, to read as follows: "BE IT FURTHER RESOLVED that the State of Hawai'i is urged to uphold state and federal laws regarding nationality-based discrimination, and to encourage the courts and law enforcement agencies in the State of Hawai'i to cease all nationality-based harassment and prosecution of Hawaiian nationals; and"

It is for these resolutions that we cannot support HCR 50/HR 12, rather, as we testified on Feb. 13th in this committee, we support: HR 16, HR 23, and HCR 40. Thank you for the opportunity to testify. Contact: [jalna.keala2@hawaiiantel.net](mailto:jalna.keala2@hawaiiantel.net)

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Unity, Equality, Aloha for All

To: Ocean, Marine Resources, & Hawaiian Affairs Committee  
From: Kenneth R. Conklin, Ph.D.  
Re: HCR50, HR32  
RECOGNIZING HAWAIIAN NATIONALS AS A POPULATION RESIDING  
LAWFULLY IN THE HAWAIIAN ISLANDS  
Date: March 11, 2013 for hearing on March 13

#### TESTIMONY IN OPPOSITION

The best aspect of this resolution is that it acknowledges the multiracial character of the Hawaiian Kingdom, which included not only ethnic Hawaiians but also Caucasians, ethnic Chinese, and ethnic Japanese as subjects of the Kingdom with full voting and property rights. People of those races became subjects of the Kingdom either through naturalization or also by being born in Hawaii (including thousands of Asian babies born on the plantations in Hawaii before the Kingdom ended in 1893).

Another good aspect of this resolution is that it effectively refutes both the U.S. apology resolution PL103-150 and also Hawaii Act 195 Session Laws of 2011, to the extent that both of those items are addressed exclusively to ethnic Hawaiians. I eagerly await anyone who votes for this resolution to also repudiate those other two items.

Unfortunately this resolution is deeply flawed because of its failure to acknowledge that the monarchical government was put to an end by the Hawaiian revolution of 1893.

The successor government of the Republic of Hawaii was internationally recognized de jure during the last half of 1894 by formal letters of recognition personally signed by emperors, kings, queens, and presidents of

20 nations on 4 continents writing in 11 languages, all of whom had previously had diplomatic relations with the Kingdom of Hawaii. Photos of those letters were taken in the Hawaii state archives and can be seen at <http://tinyurl.com/4wtwdz>

Some so-called experts on "international law" will say that the sovereignty of a nation does not change merely because the heads of government of other nations recognize a change. And indeed, Hawaii continued as an independent nation for five and a half years after the revolution of 1893. But what government is recognized as having the authority to speak on behalf of all the people of a nation is decided through the process of diplomatic recognition between the heads of those nations.

There was no change in sovereignty of the nation of Hawaii caused by the revolution of 1893; but there was a change in the government of that nation, and all the other nations who had previously recognized the monarchy now recognized the Republic as the lawful government. Subjects of the Kingdom of Hawaii now became citizens of the Republic of Hawaii without any need to ask for their permission. That's what happens after revolutions throughout the world. Nobody asked the people of Russia whether they wanted to become citizens under the new Bolshevik government after the Tsar was overthrown in 1917. Of course there were people in Hawaii who objected to the revolution and remained loyal to Liliuokalani, just as there were royalists in Russia after 1917. But they lost, and their permission was not needed for them to become governed by their new leaders. Barack Obama became President of the United States -- he is President with authority over me even though I did not vote for him and regardless of whether I approve of him. My permission is not required.

An attempted counterrevolution led by Robert Wilcox in early January 1895 failed to restore the monarchy.

On January 24, 1895 ex-queen Liliuokalani signed a five-page letter of abdication and a one-page oath of loyalty to the Republic of Hawaii. Six witnesses including her personal attorney and her cabinet ministers signed a statement certifying that she had freely and voluntarily signed in their presence. Notary W.L. Stanley also notarized the documents. Knowing that at least 19 nations had already recognized the Republic of Hawaii, and that the attempted counter-revolution by Robert Wilcox had been crushed earlier in the month, Liliuokalani decisively ended any hope for the monarchy and

pledged her loyalty to the Republic. Thus Liliuokalani herself formally recognized the Republic -- her abdication and loyalty oath belong among the letters whereby heads of government around the world (including Liliuokalani for those who believed her position as head of state for the Kingdom of Hawaii was still viable) gave de jure recognition to the Republic as the rightful government of Hawaii. The originals of Liliuokalani's letter of abdication and her oath of loyalty to the Republic, personally signed by herself, are in the Archives of the State of Hawaii. Photographs of them can be seen on the internet at <http://tinyurl.com/4u8es4>

But even if Lili'uokalani had not signed a formal abdication and loyalty oath, it would not matter. Very few revolutions throughout the history of the world, including in modern times, have ever been followed by a formal abdication. In many cases the monarch, dictator, or head of state who was overthrown was killed during or soon after the revolution without the nicety of signing an abdication. Whether the deposed head of state dies without signing an abdication, or continues living for many years, his/her government was ended by the revolution and he/she does not remain head of state. To say otherwise is absurd. During the 19th, 20th, and 21st Centuries, how many monarchs, dictators, or presidents in Europe, South America or Africa were overthrown? How many of them signed letters of abdication? How many of the overthrown dictators continued to be recognized as head of state until they died, by their treaty partners or under international law? Is Saddam Hussein still the lawful head of Iraq? Is Muammar Gaddafi still the lawful head of Libya? The Republic of Hawaii was merciful to ex-queen Lili'uokalani.

In 1897 the lawful, internationally recognized government of the Republic of Hawaii offered a Treaty of Annexation to the U.S., which the U.S. accepted by joint resolution of its Congress in 1898. Following the merger Hawaii was no longer an independent nation. All citizens of the Republic of Hawaii became citizens of the United States through that treaty whether they wanted to be or not. That's how it is when nations merge or borders change.

The government of Hawaii had full authority under international law to offer the Treaty of Annexation on behalf of all the people of Hawaii. Some Hawaiians today complain about the method used by the U.S. to accept Hawaii's offer of a Treaty of Annexation. But it's up to any nation, including the U.S., to decide for itself what method it will use to finalize a treaty. There are no international laws forcing any nation to have a Senate, or to



ratify a treaty by a 2/3 vote of it. Certainly people in Hawaii (then a foreign nation) who disagreed with the U.S. method had no right to tell the U.S. what method it must use; and today's history-twister Hawaiian activists have no standing at all on that issue.

During the 20th Century the borders of Poland had major changes on several occasions. Either through war or through treaties, people in parts of Poland suddenly found themselves to be citizens of Germany or Russia, and vice versa. The individuals had nothing to say about it. Likewise people living in the Saar district along the Rhine River were switched from being citizens of Germany to being citizens of France, or vice versa.

Contrary to what this resolution says, all persons born in Hawaii since 1898, regardless of race, are citizens of the United States, not nationals of a long-dead nation of Hawaii. With Annexation all Hawaii nationals became U.S. nationals. There are no more Hawaii nationals today, despite the wishes of the diehard deadenders professing loyalty to the Hawaiian kingdom.

I note that the resolution calls for certified copies to be sent to "the Attorney General, the Chief Justice, the Chiefs of Police of the respective counties, and the Prosecuting Attorneys of each county." This provision shows that this resolution is part of a scheme to undermine the morale and authority of Hawaii's criminal justice system, and to intimidate prosecutors and judges. One of the ways that scheme is being carried out is that judges and prosecutors have been warned by sovereignty activists that they will be subject to prosecution by the International Criminal Court after March 4 if they prosecute, convict, or imprison subjects of the Hawaiian kingdom. That's because a con artist claiming to have authority as an official of the Hawaiian kingdom filed documents with the International Criminal Court granting the ICC jurisdiction over the Hawaiian kingdom, to take effect on March 4; and because, according to the con artist, the U.S. and its puppet State of Hawaii are engaging in a prolonged illegal occupation of the Hawaiian kingdom and are obligated under international law to follow the kingdom's laws. What a bunch of baloney! This resolution is designed to bolster the attempted intimidation of our criminal justice system by sending copies of this resolution to judges and prosecutors who have already been warned not to do their jobs.

Another element of the intimidation is the recent OHA study purporting to show there are racial disparities in the arrest, conviction, and sentencing of

ethnic Hawaiians -- a study based on counting someone with 1/16 native blood as though he is 100% ethnic Hawaiian while failing to count him also as the other ethnicities in his remaining 15/16 -- a study which intentionally overlooks the fact that according to Census 2010 the median age of ethnic Hawaiians in Hawaii is only 26 whereas the median age of everyone else in Hawaii is 42 (and it is young people who commit more crime and with greater violence than older people). If crime statistics were tabulated in a proper manner, comparing racial groups within the same age group; and allocating a crime to each racial group in proportion to that group's percentage of the criminal's ancestry, there would probably not be any disparity. But of course the Hawaiian grievance industry refuses to gather data that includes racial blood quantum and compares racial groups within the same age cohorts. The OHA study alleging racial disparities in the criminal justice system is an effort to make prosecutors and judges look bad in the eyes of the public, so as to undermine public confidence in the system and thereby contribute to destabilizing and weakening our government. Then along comes the threat of invoking the International Criminal Court to further harass and intimidate prosecutors and judges. Now comes this resolution demanding that a copy of it be sent to judges and prosecutors as a further warning.

The same con artist who claims to speak on behalf of the non-existent Hawaiian kingdom and has notified the ICC of acquiescence to the jurisdiction of the ICC is also engaging in another scam in cahoots with a realty firm, raking in large amounts of money from gullible clients to create bogus land title searches which are then used to demand payment from title insurance companies when houses are foreclosed. Not only do the clients lose the money they pay for the so-called title searches, but also the title companies and courts are greatly inconvenienced. Passage of this resolution will give aid and comfort to the con artist who will trumpet the passage of the resolution as evidence that his theories are correct, making it easier to recruit more clients to be bilked.

This committee should be ashamed that its chairperson has brought forward this resolution at all, let alone bringing it forward a second time after a nearly identical resolution was heard and deferred about a month previously. This committee should be ashamed that its chairperson has brought forward several other absurd pieces of Hawaiian sovereignty legislation. If the chair will not voluntarily withdraw or defer such nonsense then it's high time for the members of the committee to assert the power of their votes to defeat all such legislation and to pass a motion of no confidence in the chair.

**omhtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 2:55 PM  
**To:** omhtestimony  
**Cc:** bdshafer@gmail.com  
**Subject:** \*Submitted testimony for HCR50 on Mar 13, 2013 09:45AM\*

**HCR50**

Submitted on: 3/12/2013

Testimony for OMH on Mar 13, 2013 09:45AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benjamin Shafer	Individual	Support	No

Comments:

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## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 12, 2013 11:10 AM  
**To:** omhtestimony  
**Cc:** dtexidor@hawaii.rr.com  
**Subject:** Submitted testimony for HCR50 on Mar 13, 2013 09:45AM

### HCR50

Submitted on: 3/12/2013

Testimony for OMH on Mar 13, 2013 09:45AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diane Texidor	Individual	Support	No

Comments: Although I can not attend the hearing, I fully support HCR 50 recognizing Hawaiian Nationals as a population residing lawfully in the Hawaiian Islands.

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