

HAWAII STATE ADVISORY COMMITTEE  
TO THE  
UNITED STATES COMMISSION ON CIVIL RIGHTS

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PUBLIC HEARING

Held at the State Capitol, Beretania Street,  
Honolulu, Hawaii 96813, commencing at 1:00 p.m., on  
Wednesday, September 12th, 2007.

BEFORE: PATRICIA ANN CAMPBELL, CSR 108  
Certified Shorthand Reporter  
Notary Public, State of Hawaii

## 1 APPEARANCES:

## 2 HAWAII STATE ADVISORY COMMITTEE BOARD MEMBERS:

3 Michael A. Lily, Chair  
4 Amefil "Amy" R. Agbayani  
5 Michelle Nalani Fujimori  
6 Daphne Barbee-Wooten  
7 William H. Burgess  
8 Vernon F. L. Char  
9 Rubellite K. Johnson  
10 James I. Kuroiwa  
11 Thomas J. MacDonald  
12 Paul M. Sullivan  
13 Wayne M. Tanna  
14 Robert R. Alm

15

## 16 STAFF MEMBERS:

17 Angelica Trevino  
18 Barbara de la Viez  
19 Derek Horne

20

## 21 Participants (In order of participation):

22 David Rosen  
23 Thurston Twigg-Smith  
24 Kevin O'Grady  
25 Su Yates

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1 APPEARANCES (Continued):  
2 Kaleolani Kekoa  
3 Chen Wei-Yuan  
4 Marian Grey  
5 Deanna Espinas  
6 Charlene Cuaresma  
7 Oswald Stender  
8 Dexter Kaiama  
9 Andre Perez  
10 Keli Collier  
11 Marcia Linville  
12 Milton Coleman  
13 Ikaika Hussey  
14 Anthony Sang, Sr.  
15 Arvid Youngquist  
16 Renee Telona  
17 Kaylyn Krael  
18 Pomaika'ilani Miner  
19 Rickey Kamai  
20 Rusty Ko Kamai  
21 Haunani Apoliana  
22 Michael Daly  
23 Jewels Ioka  
24 Laverne Fernandes Moore  
25 Kaonani Malama

## P R O C E E D I N G S

1  
2 HEARINGS OFFICER LILY: Okay, this  
3 meeting of the subcommittee of the Hawaii State  
4 Advisory Committee to the US Commission on Civil  
5 Rights shall come to order. For the benefit of  
6 those in the audience, I will introduce myself and  
7 ask my colleagues to introduce themselves, and I  
8 will start after I introduce myself on my left here.  
9 I am Michael A. Lily. I am the chairperson of the  
10 Hawaii Advisory Committee, and I will start with Tom  
11 McDonald, if you would please introduce yourself?

12 BOARD MEMBER MCDONALD: Tom McDonald.

13 HEARINGS OFFICER LILY: And Ruby  
14 Johnson?

15 BOARD MEMBER JOHNSON: Ruby Johnson.

16 BOARD MEMBER CHAR: Vernon Char.

17 BOARD MEMBER BARBEE-WOOTEN: Daphne  
18 Barbee-Wooten.

19 BOARD MEMBER AGBAYANI: Amy Agbayani.

20 BOARD MEMBER FUJIMORI: Michelle Nalani  
21 Fujimori.

22 BOARD MEMBER BURGESS: Bill Burgess.

23 BOARD MEMBER KUROIWA: Jimmy Kuroiwa.

24 BOARD MEMBER SULLIVAN: Paul Sullivan.

25 HEARINGS OFFICER LILY: Also present are

1 Barbara de la Viez. She is in the back, so if you  
2 have any questions at any time, talk with Barbara de  
3 la Viez or also with Angie Trevino or Derek Horne,  
4 all in the back. They are support staff provided by  
5 the US Commission on Civil Rights, and we appreciate  
6 the financial and staff assistance that the  
7 commission has provided to this committee.

8           The Commission on Civil Rights is an  
9 independent bipartisan agency of the Federal  
10 government charged with studying discrimination or  
11 denial of equal protection of the laws because of  
12 race, color, religion, sex, age, disability or  
13 national origin, or administration of justice, and  
14 in each of the fifty states, an advisory committee  
15 such as ours has been established, and they are made  
16 up of responsible volunteers who serve without  
17 compensation to advise the commission on relevant  
18 information concerning their respective states.

19           Today we are here to conduct an open  
20 session to gather public input on the proposed  
21 legislation currently pending before Congress, the  
22 Native Hawaiian Government Reorganization Act of  
23 2007 also popularly known as the Akaka Bill. As  
24 most residents of Hawaii are aware, there is  
25 significant controversy surrounding this topic. In

1 order to gather as much input as possible about it,  
 2 the members of this committee have conducted two  
 3 briefings first on August 20 and another last week  
 4 on September 5. We also held an open session on  
 5 August 20 and another open public session on Maui on  
 6 August 22.

7 (Discussion off the record re sound  
 8 system.)

9 HEARINGS OFFICER LILY: Okay, so this is  
 10 our third open session, and we will have two more on  
 11 the neighboring islands. During the open session on  
 12 August 20, we received several hours of public  
 13 comment in this room, and it was standing room only  
 14 indicating a significant community interest in the  
 15 topic, and since one of our charters is to educate  
 16 the public on the issues of civil rights issues, we  
 17 are certainly fulfilling that part of our charter in  
 18 conducting these sessions.

19 Tomorrow we will meet from twelve-thirty  
 20 to four-thirty at the State office building  
 21 conference room A, B, and C located at 75 Aukuni  
 22 Street in Hilo, and the next day Friday we will meet  
 23 from one to five at the Kauai Community College  
 24 Performing Arts Center located at 3-1901 Kaumualii  
 25 Highway, Lihue. Members of the public wishing to



1 make a statement at any open session can sign up  
2 when they attend.

3 I want to remind everyone present of the  
4 ground rules. This a public hearing, a meeting,  
5 open to the public and the media. We have a public  
6 stenographer who is taking down the proceedings, and  
7 we haven't actually set the time yet. I am going to  
8 stop at this point, and the suggestion is -- I am  
9 addressing the committee members -- is that because  
10 of the number of people here that we allot five  
11 minutes a speaker. Any other thoughts on that? If  
12 that's okay, five minutes?

13 BOARD MEMBER BARBEE-WOOTEN: I'm not  
14 sure. I think that we could allow a little bit of  
15 leeway.

16 HEARINGS OFFICER LILY: Well, what I am  
17 going to do is we will decide on the amount of time,  
18 but because of the number of speakers, the committee  
19 was thinking that afterwards those speakers who are  
20 willing to entertain questions after all the  
21 speakers have given their presentation, those  
22 willing to entertain questions to clarify their  
23 presentation from the committee, we would be willing  
24 to ask some questions of those presented. Would  
25 that be okay, Daphne, from your viewpoint?

1 BOARD MEMBER BARBEE-WOOTEN: Well, it's  
2 just that I know that we have considerably less than  
3 the last time, and the last time we limited them to  
4 five minutes --

5 HEARINGS OFFICER LILY: Three.

6 BOARD MEMBER BARBEE-WOOTEN: Okay.

7 HEARINGS OFFICER LILY: We are almost  
8 doubling it.

9 BOARD MEMBER BARBEE-WOOTEN: Okay, but I  
10 still feel that if someone has a pressing point, I  
11 don't think we should cut them off --

12 HEARINGS OFFICER LILY: I won't push it  
13 too hard.

14 BOARD MEMBER BARBEE-WOOTEN: -- but I  
15 don't think that we should go half-an-hour.

16 HEARINGS OFFICER LILY: I won't push it  
17 too hard, so if there is no objection, we will have  
18 five minutes, and if it takes us a little bit longer  
19 after that, I will let you know when five minutes is  
20 up, and then you can wrap it up if you have a few  
21 more comments to make. And those that are willing  
22 afterwards to stay and entertain questions from the  
23 committee, if there's time, some of the committee  
24 members would like that. Bill?

25 BOARD MEMBER BURGESS: I would think

1 that if there is time enough for questions to not  
2 wait until the end because you have forgotten or  
3 maybe the speaker has forgotten what he has said.

4 HEARINGS OFFICER LILY: Write it down  
5 because there are some people here, if we start  
6 entertaining questions of every speaker in order,  
7 some people are going to get discouraged and may  
8 leave. I mean, I want everybody who is here to be  
9 able to make their presentation. Otherwise, it may  
10 take a long time for some people to be able to  
11 speak.

12 BOARD MEMBER BURGESS: Give and take is  
13 valuable.

14 HEARINGS OFFICER LILY: I agree.

15 BOARD MEMBER BURGESS: It's happened at  
16 previous meetings.

17 HEARINGS OFFICER LILY: Take notes.

18 BOARD MEMBER BURGESS: I think it's a  
19 good one.

20 HEARINGS OFFICER LILY: Okay.

21 BOARD MEMBER BURGESS: Not taking notes.  
22 Give and take, talking back and forth is helpful. I  
23 won't press the point.

24 HEARINGS OFFICER LILY: Okay, I'd like  
25 that, but let's do it at the end.

1           We have a very full schedule, not as  
2 full as it has been, so we are going to try and  
3 adhere somewhat to the time schedules. I want to  
4 make sure that everybody has a chance to speak. My  
5 goal and one that I believe is shared by the  
6 committee is to insure that we have as broad a  
7 representation as possible from Hawaii's citizens on  
8 issues that come before us. All issues that do come  
9 before us are important, and we value the input from  
10 speakers and members of the public as well as from  
11 committee members.

12           I emphasize that this is a briefing --  
13 not a briefing. This is actually an open session.  
14 It is not an adversarial proceeding. People have  
15 strong views pro and con on this and other subjects.  
16 I was gratified that at our last public session  
17 hearing, even though it was standing room only, all  
18 participants maintained a professional decorum while  
19 views were being presented, even though it might  
20 have been opposed to what some people felt.

21           Regardless of their views, every member  
22 of the public has a right to express themselves on  
23 issues coming before us. I ask that you address the  
24 issues, the merits of the Akaka Bill, that you be  
25 judicious in your statements, that no defamatory,

1 scurrilous, or personally derogatory material be  
2 presented. If it is, don't be offended if I ask you  
3 to please stop it, and let's get back on topic. I  
4 ask that everyone give due respect to each speaker  
5 and members of this committee to maintain the  
6 dignity of this proceeding as if you were in a court  
7 of law or before a government agency, Congress, or  
8 whatever. Please do not express audible or physical  
9 reactions or outbursts of emotions during these  
10 proceedings, and if at any time such conduct occurs,  
11 I will bring the room to order.

12 So without further ado, we will take the  
13 first speaker. I don't have the list. I think it  
14 is David Rosen. David Rosen, welcome.

15 MR. ROSEN: Thank you very much, members  
16 of the committee, and thank you very much for  
17 serving in this very important capacity. I know it  
18 hasn't been easy with the media criticism, but I  
19 think that it is important to note that the  
20 committee is represented by, I think, the community  
21 at large. There are members of every ethnic group  
22 in Hawaii on the committee. There are women and  
23 men, there are young people and old people.

24 This is an issue that I think that all  
25 of the people testifying before you have very strong

1 feelings about, but for the most part, I think those  
2 are honest feelings, and they come from concern,  
3 they come from fear, they come from anger in many  
4 situations, and I think that they are all equally  
5 important, but I think the committee needs to put  
6 behind it these emotions and look more towards the  
7 future, and I hope that the people who are  
8 testifying will do likewise.

9           What is it that we see for our State and  
10 our people? Do we see them being divided into  
11 different ethnic groups, or do we see them being  
12 united and having equal rights irrespective of their  
13 ancestry and ethnicity? There was, you know, an  
14 editorial in today's paper where somebody raised the  
15 issue of are we going to look at two babies who are  
16 born today in a hospital and look at them  
17 differently because of their ancestry and ethnicity,  
18 or are they going to have equal rights and equal  
19 opportunities? I think that that's a very important  
20 thing for the committee to keep in mind, where do we  
21 see our State heading? And if it says two different  
22 groups, I think it's critical that we have a vote,  
23 that there be a public vote to decide whether or not  
24 we as a people decide that that's where we want to  
25 see our State heading.

1           Our country has already been through a  
2 civil war where the country divided over an issue  
3 involving race, and I would hate to see our State go  
4 through a similar situation. It's already started.  
5 It's been brewing. We need to have a resolution of  
6 this issue one way or the other. It can't continue  
7 to go on.

8           If the Akaka Bill is passed, we have  
9 started down one path. I think it's very important  
10 that a vote be held on the Akaka Bill, that this  
11 committee make a recommendation, that our people be  
12 allowed to vote on this and voice their own opinion  
13 as to in which direction we see our State heading.

14           I have submitted written testimony and  
15 in it identified a list of questions that I  
16 personally have about the Akaka Bill and about what  
17 path it would lead us down. I think that those  
18 questions need to be answered, and I don't think  
19 that public opinion polls one way or the other at  
20 this point are going to give the committee an  
21 accurate view of how people in this State feel,  
22 because I don't think that people in this State  
23 understand the path that the Akaka Bill would lead  
24 us down. They don't understand the economic and  
25 social implications, the issues involving

1 representation, and who would be a part of this new  
2 entity?

3           And they don't understand these issues,  
4 not because there hasn't been education on the Akaka  
5 Bill, but because the Akaka Bill doesn't address any  
6 of these issues with any specificity. It leaves all  
7 of them open. It asks us to vote to head down this  
8 path not knowing exactly where it's going to lead  
9 us, what it's going to cost us, what it will do to  
10 our State, what it will do to Hawaiians and the  
11 different segments of the Hawaiian community and how  
12 it's going to affect non-Hawaiians.

13           We are at a junction in our State's  
14 history, and those in the future will look  
15 critically back, I think, at the work of this  
16 committee and Congress as it considers this issue.  
17 I think the committee is not in a position at this  
18 point in time to decide one way or the other on  
19 whether or not it can support the Akaka Bill. I  
20 don't think there's enough information, and because  
21 there's not enough information, I think it's the  
22 committee's job to ask the hard questions, to demand  
23 answers, and until it has those answers and until it  
24 is confident that the community at large understands  
25 where we are going, its recommendation must be



1 against a vote and approval of the Akaka Bill at  
2 this time.

3 History teaches us in example after  
4 example, Hutu, Tutsi, Muslim, Hindu, Turk, Armenian,  
5 Germans and Jews, Jews and Arabs, that when you  
6 create racial divides what you create is conflict.  
7 You create a situation that is artificial and that  
8 pits one group against another. Are we ready to do  
9 that in Hawaii? Hawaiian versus non-Hawaiian? Are  
10 we prepared to create a divide in our community, and  
11 then let the chips fall where they may? Let those  
12 groups fight it out, argue in the courts, argue in  
13 the legislature, argue in Congress, argue in their  
14 communities over the next decade, two decades,  
15 century to resolve these issues?

16 I am born and raised in Hawaii. Hawaii  
17 is my home, and I have no other. While others may  
18 define me as they will, I consider myself a  
19 Hawaiian. I consider that I have a vested interest  
20 in the outcome of what's going to happen here both  
21 for myself and for my children and their children,  
22 and I would hope that the committee in furthering  
23 its goal of creating a situation where there is not  
24 discrimination would consider these issues and ask  
25 the hard questions. As I have said, I have

1 submitted written testimony with the list of those  
2 questions, and I hope the committee will consider  
3 them. Thank you.

4 HEARINGS OFFICER LILY: Mr. Rosen, we  
5 may have questions for you afterwards. Are you  
6 willing to stick around?

7 MR. ROSEN: I will be around when the  
8 committee finishes, yes.

9 HEARINGS OFFICER LILY: Because there  
10 are not too many speakers. Thank you.

11 MR. ROSEN: Thank you very much.

12 MR. KEKOA: I would like to speak.

13 HEARINGS OFFICER LILY: I am calling  
14 Thurston Twigg-Smith as the next person to speak.  
15 Have you registered?

16 MR. KEKOA: Yes.

17 HEARINGS OFFICER LILY: Have you signed  
18 up, sir?

19 MR. KEKOA: Yes.

20 HEARINGS OFFICER LILY: Okay, you are  
21 Mr. Kekoa?

22 MR. KEKOA: Yes.

23 HEARINGS OFFICER LILY: Okay, I will get  
24 to you.

25 Mr. Twigg-Smith was to be a speaker at a

1 presentation on September 5th before this committee.  
2 Unfortunately, he was unavoidably detained by a  
3 forest fire on the mainland?

4 MR. TWIGG-SMITH: Yes.

5 HEARINGS OFFICER LILY: So,  
6 Mr. Twigg-Smith, welcome back, and I'm glad to see  
7 you are healthy and none the worse for wear.

8 MR. TWIGG-SMITH: I am happy to be out  
9 of it, and I appreciate the opportunity to speak  
10 here. I am speaking in opposition of the Akaka  
11 Bill. My name is Thurston Twigg-Smith, and I was  
12 publisher of the Advertiser for about thirty years  
13 and in just about one hundred years after the  
14 revolution that brings us all here today together.  
15 I am a fifth generation member of my family to be a  
16 resident of Hawaii, the first three generations of  
17 whom were subjects of the Kingdom, fluent in  
18 Hawaiian language, and at the request of the kings  
19 advisors to seven monarchs.

20 I am the author of Hawaiian Sovereignty,  
21 Do the Facts Matter, a history of the 1893  
22 revolution, the creation of the Republic of Hawaii,  
23 and its annexation to the United States five years  
24 later.

25 In my opinion, passage of the Akaka Bill

1 would be the biggest threat since the Civil War to  
2 the bonds that have held our United States together  
3 because the bill would reintroduce race as a  
4 divisive factor in our lives. Bypassing every  
5 standard requirement for the recognition of Indian  
6 tribes as sovereign nations, Congress would be  
7 setting a precedent that could open the door for the  
8 Latino residents of the former Republics of Texas  
9 and California to seek similar recognition.  
10 Residents of New Mexico and Arizona could well  
11 follow. It could balkanize our nation.

12 A brief review of Hawaiian history  
13 during the transitional years of the 1890s makes  
14 clear that Native Hawaiians were not members of a  
15 tribe that ruled the islands or any part of them,  
16 nor were they ever treated differently than others.  
17 As individuals, they were indigenous in a political  
18 sense to the Republic, and like Latinos in the  
19 southwestern states, their former government, its  
20 lands and their previous loyalties did not pass  
21 directly from their own control or through their  
22 earlier nation to the United States. It was the  
23 Republic that was annexed, not the individuals.

24 Hawaiians, whose Kingdom ceased to be a  
25 recognized nation after the 1893 revolution, became

1 citizens or residents of the Republic of Hawaii  
2 after annexation. The Republic was recognized  
3 worldwide as an independent nation. It survived a  
4 counter-revolution in 1895 by supporters of the  
5 former queen and remained independent for over four  
6 years. Its legislature included many Native  
7 Hawaiians. Its Senate voted unanimously for  
8 annexation.

9           Its House, with a Hawaiian majority, was  
10 not required to vote on that matter, but the speaker  
11 of the House, a full blooded Hawaiian and confidant  
12 to past royalty, commented that as annexation was  
13 enacted, that it was, quote, the best thing that  
14 could happen for Hawaii, both for the native and  
15 foreign population. I rejoice heartily that it has  
16 come, unquote. All Native Hawaiians became US  
17 citizens when annexation was confirmed.

18           Debts of the Kingdom, taken over by the  
19 Republic, were in turn taken over by the United  
20 States, and the annexation document directed that  
21 proceeds of the former Kingdom and the Republic  
22 government lands be held in trust by the United  
23 States with those proceeds to be used by the new  
24 territory of Hawaii only for educational and other  
25 public purposes.

1           The Admissions Act for statehood in 1959  
2 returned those same government lands to the new  
3 State and directed the proceeds now be used only in  
4 five areas, one of which was the betterment of the  
5 conditions of Native Hawaiians as defined in the  
6 Hawaiian Homes Commission Act of 1920. The term  
7 Native Hawaiian was described as a person with at  
8 least 50 percent native blood.

9           Significantly, in the intervening years  
10 proceeds were used by the State for these purposes  
11 until OHA was created in the late 1970's. Since  
12 then, one fifth, 20 percent, has been held by OHA  
13 with hardly any distributions helpful to Native  
14 Hawaiians with 50 percent native blood. Some 350  
15 million dollars has been accumulated by OHA and used  
16 in large part for other purposes, including untold  
17 millions for lobbying for the passage of the Akaka  
18 Bill. At the same time, hundreds of millions of  
19 dollars in special bills passed in Congress have  
20 been earmarked only for persons with nothing more  
21 than a drop of Hawaiian blood.

22           Justification for this flood of race  
23 based bills is the assertion that the Hawaiians are  
24 at the lower end of the stick in all measures of  
25 social welfare. If that is true, they would qualify

1 for these government funds without the funds being  
2 ear marked for one race only and thus violating the  
3 civil and constitutional rights of all other  
4 Americans.

5 The US Supreme Court in Rice versus  
6 Cayetano ruled that Native Hawaiian and Hawaiian are  
7 racial terms, not political. The Akaka Bill is full  
8 of efforts to get around this. The result is a race  
9 based bill that will raise havoc in Hawaii and our  
10 nation. Please help us to kill it.

11 HEARINGS OFFICER LILY: Thank you,  
12 Mr. Twigg-Smith. Are you willing to stick around  
13 and entertain questions at the end?

14 MR. TWIGG-SMITH: Yes.

15 HEARINGS OFFICER LILY: Thank you.  
16 Mr. Kevin O'Grady.

17 MR. O'GRADY: Good afternoon, members of  
18 the subcommittee. My name is Kevin O'Grady, and I  
19 testify today on behalf of myself only. The views I  
20 express are mine and may not necessarily belong to  
21 any agency with which I am affiliated.

22 I am here to speak in opposition to the  
23 Akaka Bill. I believe there are numerous reasons  
24 why the Akaka Bill is likely unconstitutional and  
25 also will have severely detrimental effects on the

1 people of the State of Hawaii.

2           The Akaka Bill proposes to set the  
3 groundwork so that an indigenous Hawaiian governing  
4 entity may come into existence, be recognized by the  
5 federal government, and then may negotiate to  
6 ascertain the entity's powers. I understand, and I  
7 don't claim to be an expert on the Akaka Bill, but I  
8 understand that the Akaka Bill proposes to recognize  
9 an indigenous Hawaiian entity similar to Indian  
10 tribes on the mainland, and thus Congressional  
11 authority to do this stems from the Interstate  
12 Commerce Clause which addresses Indian tribes.

13           I also understand that Senator Inouye  
14 has also stated that the Akaka Bill has nothing to  
15 do with Federal Indian law, and that Federal Indian  
16 law would not apply. If the latter is true, then  
17 Congress has no authority to pass the Akaka Bill  
18 because Congress has specific, enumerated, and  
19 limited powers, and the actions contemplated in the  
20 Akaka Bill are not within Congress' power, and  
21 besides, the essence of the bill was to create a  
22 government within the State of Hawaii, and it also  
23 creates benefits for people of one ethnicity in  
24 violation of the equal protection clause.

25           If, however, the former is true that the



1 Akaka Bill relies on Congress' power to handle  
2 Indian affairs, there are still problems. Federal  
3 Indian law has its basis both in the Interstate  
4 Commerce Clause and also federal case law, including  
5 the Marshall trilogy. Congress' relationship with  
6 Indian tribes is the recognition that tribes either  
7 acquiesce to submersion within the United States  
8 recognizing the benefit of their incorporation or  
9 the United States' conquest of the tribes with the  
10 same result.

11 In either case, tribes were  
12 unassimilated tribal bodies which were indigenous in  
13 nature and which were insular and discrete  
14 communities of indigenous people that had also  
15 maintained some semblance of governance at the time  
16 of their federal recognition.

17 The history of Hawaii is dissimilar and  
18 inapposite to the application of Congressional power .  
19 in this regard. Hawaii had no unified government  
20 until Kamehameha, with the assistance of the British  
21 and Americans, unified the Island chain in 1810.  
22 Almost immediately, the Kingdom of Hawaii was awash  
23 in nonindigenous Hawaiians, mostly Europeans and  
24 Americans, who through successive constitutions  
25 stripped the monarchy of power while adding power to

1 an elected parliament. If there ever was an  
2 indigenous Hawaiian governing entity, it quickly  
3 disappeared. In fact, in 1843, the Kingdom of  
4 indigenous and nonindigenous Hawaiians was taken  
5 over without a shot being fired, Kamehameha III  
6 surrounding to the captain of a British ship.

7 It should also be noted that unlike  
8 Indian tribes that remain separate and apart from  
9 settlers on the mainland, in Hawaii interracial  
10 marriage has been and continues to be prevalent.  
11 The Hawaiian Islands have also enjoyed assimilation  
12 from the time of their discovery by Captain Cooke,  
13 thus even before the overthrow by the businessmen  
14 in 1893, there was no discrete, insular,  
15 unassimilated indigenous Hawaiian governing entity.  
16 Even if there were, the overthrow broke any change  
17 that existed.

18 For five years, approximately, the  
19 Republic of Hawaii existed, and there wasn't even an  
20 indigenous Hawaiian figure head monarch in charge of  
21 the government. Even before this point, Congress  
22 had no authority to recognize the tribal Hawaiian  
23 government, and assimilation has continued and  
24 progressed for the better, I think, to the extent  
25 that there is no way that it can be argued that

1 Congress has that authority now.

2 Some may point to the Hawaiian Homelands  
3 Act and other expenditures of money ostensibly for  
4 ethnic Hawaiians as proof that Congress has such  
5 authority or that those acts implicitly recognize  
6 indigenous Hawaiians as a Federal Indian tribe.  
7 Federal recognition is not dependent on  
8 expenditures, and there is nothing to indicate that  
9 even the Hawaiian Homelands Act does not run afoul  
10 of the equal protection clause under current US  
11 Supreme Court interpretation.

12 Even assuming that somehow the Akaka  
13 Bill is constitutional and Congress has the  
14 authority to perform those actions contained in the  
15 bill, its potential passage is fraught with  
16 difficulties. I should note that if Federal Indian  
17 law does not apply, there are too many difficulties  
18 to discuss here. I will assume that if it passed,  
19 Federal Indian law would apply.

20 Indian tribes typically have a  
21 reservation of land held by the Federal government  
22 so that members of the tribe may reside upon the  
23 land. This was usually accomplished due to by  
24 treaty or executive order. Here there is neither.  
25 The first problem would be deciding what land base

1 constitutes the land for the yet to come indigenous  
2 Hawaiian governing entity. With the scarcity of  
3 land here, the battle would be enormous. Would  
4 Hawaiians, that is, citizens of the State of Hawaii,  
5 lose some State and natural preserves so that the  
6 indigenous Hawaiian governing entity gets a land  
7 base, or would be the military be forced to give up  
8 land or private landowners? No matter who gives up  
9 the land, where would it be?

10 I also note jurisdiction on Indian  
11 reservations especially problematic. Indian tribes  
12 do not have criminal jurisdiction over non-Indians  
13 ever. Part of this is a Supreme Court recognition  
14 that the United States Constitution and state  
15 constitutions occurred after the existence of any  
16 particular given Indian tribe and, therefore, do not  
17 apply on the reservation. Thus, there are no  
18 Federal or State constitutional protections.

19 An Indian may choose to enroll in a  
20 tribe and get the racial preferences and government  
21 money that accompanies that status, and in so  
22 choosing, apparently gives up those Federal and  
23 State protections in tribal court. A non-Indian  
24 does not give up those rights. Civil jurisdiction  
25 only lies over a non-Indian if the non-Indian agrees

1 in a business transaction or interferes with purely  
2 tribal governmental matters.

3 The question then arises what no man's  
4 land would spring into existence? Jurisdiction  
5 aside, the next entity would require money from  
6 taxpayers and/or landowners to provide for this  
7 tribal government, but to what end? Indigenous  
8 Hawaiians have an equal vote in the State and  
9 Federal processes now and have services provided for  
10 by local and national governmental agencies. An  
11 indigenous Hawaiian entity would only duplicate  
12 those services and would cost more as indigenous  
13 Hawaiians could receive the services from the tribe  
14 or the State while nonindigenous Hawaiians could  
15 only receive from the State. So in addition to  
16 being unduly expensive, it is discriminatory.

17 Finally, the effect of such an entity  
18 coming into existence, since none exists now to  
19 recognize, would be to separate us as Hawaiians and  
20 Americans by ethnicity which might be measured in as  
21 little as a drop of blood. Since additional monies  
22 would be available as well as voting rights, et  
23 cetera, indigenous Hawaiians would be separate and  
24 unequal, gaining privilege and money for merely  
25 existing. In America, one does not acquire rights

1 or money because of one's ethnicity. Rather, one's  
2 family, life, and individual choices influence their  
3 lives and their money, and we are all guaranteed the  
4 same rights.

5 The passage of the Akaka Bill would turn  
6 American equality on its head and would divide us as  
7 a state and a people. I believe the Akaka Bill is  
8 probably unconstitutional and fraught with problems  
9 and is extremely unwise to pass.

10 A final note, several weeks ago, a group  
11 calling themselves the reinstated Kingdom of Hawaii  
12 temporarily took over for a weekend the Waimanalo  
13 Beach Park on the windward side of the island. I  
14 noticed that it did not make much news. This is  
15 without the Akaka Bill having been passed or any  
16 other ammunition being provided to individuals who  
17 would like to take the Akaka Bill and just proceed a  
18 lot farther than it was originally intended.

19 Thank you.

20 HEARINGS OFFICER LILY: Thank you. Now,  
21 are you willing to stay around for questions? We  
22 have two more speakers.

23 MR. O'GRADY: Yes.

24 BOARD MEMBER BARBEE-WOOTEN: We have  
25 many more.

1 HEARINGS OFFICER LILY: I beg your  
2 pardon?

3 BOARD MEMBER BARBEE-WOOTEN: We have  
4 many more.

5 HEARINGS OFFICER LILY: Okay, I have two  
6 on here. Anyway, Su Yates?

7 MS. YATES: Good afternoon, I appreciate  
8 the opportunity to speak. I have a lot to say, so I  
9 am going to talk fast. I only have five minutes. I  
10 just wanted to give you a context of who I am. I  
11 grew up in Buffalo, New York, in an upper middle  
12 class, staunch Republican, Leave It to Beaver  
13 household, and so I am very familiar with the mind  
14 set that informs a lot of the opinions behind this  
15 issue.

16 While my mother was becoming Republican,  
17 my father became a well-known civil rights activist  
18 who offered his life up to go down south to help  
19 black tenant farmers register to vote. He put his  
20 life on the line every day for civil rights as a  
21 freedom rider as well. Along the way, he married a  
22 woman, a black woman from Louisiana, also a civil  
23 rights activist. My stepmother and my father both  
24 cried when they heard how the US Civil Rights  
25 Commission is now being used to dismantle the very

1 reason it was established.

2 I would like to remind the community  
3 that you do have a legacy to uphold, that you do  
4 have a responsibility to many people who struggled  
5 for the Commission of the Civil Rights to be formed  
6 in 1964. Please do not forget their sacrifices and  
7 do not be limited to just one political agenda.

8 In the meantime, I have worked for  
9 senators, governors, Time Magazine, Gannett  
10 Newspapers, all of which to let you know I am savvy  
11 about the political process. I have worked on  
12 Capitol Hill. I moved to Hawaii to go to the  
13 University of Hawaii to attain my master's degree in  
14 public health, and I am also very familiar with a  
15 number of East Coast Indian tribes on a very close  
16 level, so I know personally that a number of the  
17 claims being made are false because I know from  
18 experience otherwise.

19 I also have a fourteen year old part  
20 Hawaiian son. I am very proud as a mother that he  
21 has a heritage of Hawaiian background, but I also  
22 grieve as a mother for the loss of their heritage.  
23 His family, once a proud high ranking Hawaiian  
24 family, is reduced to fighting over the scraps left  
25 them, which for years has been happening to all



1 Hawaiians.

2 Last but not least, I am the director of  
3 a nonprofit organization which conducts research and  
4 education, however, I haven't been given twenty  
5 minutes like Mr. Clegg, and my public health  
6 background as a researcher dictates, we always say,  
7 like mantra of Jerry Maguire show me the money, we  
8 always say show me the data. A political scientist  
9 would say show me the back up, show me the  
10 documentation.

11 On a lot of the claims being made, there  
12 is no back up being offered, there is no  
13 documentation being offered, and I would like to  
14 reverse some of that in the little bit of time that  
15 I have left. So everything should be backed up, and  
16 also as a researcher, you should cite your source of  
17 funding.

18 I would just like to take a moment to  
19 say that Mr. Clegg is the president of an equal  
20 opportunity center. Anybody can name anything they  
21 want. He should have disclosed the fact that it is  
22 a well known neo conservative think tank in the  
23 capitol beltway which receives money from neo  
24 conservative sources, so obviously he is biased. He  
25 admitted he has no background in Hawaiian matters,

1 so I believe his testimony was irrelevant and should  
2 be discredited.

3           However, he is an affirmative action  
4 expert, and one wonders what does that have to do  
5 with this? Well, let's be very clear. What's  
6 happening is that the far right republicans on the  
7 mainland were ushered into office about twelve years  
8 ago on the premise of dismantling affirmative action  
9 because many white Americans on the mainland do not  
10 like it. Hawaii has become a test case, and they  
11 are using this committee and this commission and  
12 members of this committee to further their own  
13 agenda. They know nothing about Hawaii, and they  
14 care nothing about Hawaii, and, in fact, they will  
15 not care about you once this issue is resolved and  
16 they have moved on. That is the way politics works.

17           In the meantime, you are fermenting  
18 division among your neighbors which whom you have to  
19 live long --

20           HEARINGS OFFICER LILY: Ms. Yates, do  
21 you have comments on the Akaka Bill?

22           MS. YATES: Yes, I am getting there.

23           HEARINGS OFFICER LILY: We would like to  
24 hear.

25           MS. YATES: I am getting right to the

1 fundamentals.

2 HEARINGS OFFICER LILY: We would like to  
3 hear about your comments on the Akaka Bill.

4 MS. YATES: That's all germane.

5 HEARINGS OFFICER LILY: Well --

6 MS. YATES: I am also of Irish  
7 background, and my ancestors chose to come here, and  
8 unlike what has been claimed against the Akaka Bill,  
9 that everybody has had hard times, people who chose  
10 to come here do not have the same -- are not in the  
11 same category as people who were either forced to  
12 come here or who were already here and they were  
13 forced to receive people. So that's a very  
14 important point, I think a fundamental difference.

15 I would like to address a couple of  
16 fundamentals because I think they have been  
17 overlooked in all of the roorahrah here, and what  
18 we have here is Hawaiians, basically, they would be  
19 racially segregation if -- racially segregated if the  
20 Akaka Bill is passed, and I would like to say right  
21 here we should examine the fact that Hawaiians are  
22 not a race, so a lot of legal issues are moot for  
23 that reason. In fact, sociologists and  
24 anthropologists are still debating what defines a  
25 race. So once this commission can define to me what

1 is a race, then I think you should be able to  
2 proceed with lawsuits, but not until then. In fact,  
3 the irony is that Hawaiians are the most racially  
4 diverse group in the world, so if you benefit  
5 Hawaiians, you benefit all races.

6 And last, the terrible irony of all this  
7 is that all of this is the result of racism of which  
8 Hawaiians are the victims, and you have the audacity  
9 to accuse them of being racist for pursuing some  
10 redress for the effects of past discrimination.

11 Secondly, I would like to take up the  
12 word tribe because that has been used quite a bit.  
13 That is like semantic foreplay. The question of  
14 where you were born, what word do you use? An  
15 African person does not describe his tribal members  
16 by using the word tribe. He would use a swahili  
17 word. Same with any other language. So that word,  
18 that's really kind of a moot point, the question of  
19 where you were born.

20 But what I have learned to think is  
21 important is the meaning behind the word, and the  
22 meaning as defined in the dictionary is a tribe is a  
23 group of people connected by common ancestry,  
24 culture, social customs, and usually the same  
25 political systems, much like the ancient Jewish

1 nation was comprised of twelve tribes. Tribe is  
2 also defined as a social group comprising numerous  
3 families, clans, or generations. Synonyms for tribe  
4 from the Websters dictionary: Folk, kin, kin group,  
5 kindred, kinship group. Definition of ohana:  
6 Family, relative, kin group, related. They are all  
7 the same things. We should move on past that issue  
8 because it is moot.

9 I want to briefly address Hawaiians are  
10 indeed qualifying to become federally recognized  
11 tribes. They have satisfied the seven criteria.  
12 I do not have the time I hoped, but they have formed  
13 a distinct community from antiquity until now.  
14 Hawaii is the most geographically isolated place in  
15 the world, so obviously that qualifies them as a  
16 distinct community, and they are still here.

17 They have maintained political influence  
18 or authority over their members as an autonomous  
19 entity from historical times to present. They had a  
20 clearly defined chief system and then a monarchy.  
21 The fact they do not have that political system, the  
22 same system right now is what's the point of  
23 dispute, and obviously, they are still politically  
24 influenced because they are here.

25 I would like to close with affirmative

1 action as defined by the US Government refers to  
2 policies intended to promote access to education,  
3 employment, or housing. It has nothing to do with  
4 native rights and if the motivation was to address  
5 the effects of past discrimination. None of the  
6 legal milestones for affirmative action have ever  
7 been related to anything that is native rights,  
8 which is what the Akaka Bill addresses.

9 And whether you are a widely scattered  
10 group of people or not, it does not matter. I know  
11 Mohicans in Florida, Waggonage (phonetic),  
12 Wisconsin. I know a lot of tribal members. They do  
13 not have to live there, and I would like to say  
14 this. Of the 562 federally recognized Native  
15 American entities in the United States, they have  
16 resolved a lot of the issues that are being whipped  
17 up here for public hysteria. They have done a great  
18 job, and we can do a great job, and they have  
19 addressed the issue of people who have not lived  
20 here for a while, so we have a lot of models to  
21 choose from.

22 I think that there is a lot of hysteria  
23 and misinformation being whipped up at the  
24 perception of lost. You have not lost anything yet.  
25 It is merely the hint of that you might lose

1 something in the future that is the basis for all of  
2 this anti-Akaka Bill action, just the merest  
3 perception of loss, and yet you would tell the  
4 people who have lost so much, their own lands, their  
5 own culture, their own government, almost their own  
6 language and everything else, you would tell them  
7 that they do not have the right to pursue redress  
8 for past discriminations for their losses, and yet  
9 you have not even lost anything yet.

10 If the Akaka Bill ever gets passed, then  
11 you have a leg to stand op, but right now, this is  
12 all supposition, and it is divisive. The Akaka Bill  
13 is not divisive. It is already divisive here, and  
14 it needs to come to an end because we have much  
15 bigger issues facing us where we all need to come  
16 together to save this place because it's not going  
17 to matter your nationality pretty soon. We have  
18 much bigger overriding issues, and we need to work  
19 together to address those issues.

20 So as a person of good conscience, as a  
21 person representing many Americans who feel the same  
22 way that I do, because I speak across the mainland  
23 as well, I tell you that it is morally wrong, I  
24 believe and they do, to oppose the Akaka Bill, for  
25 this committee to be used the way that it is being

1 used, and it is not -- it is morally bankrupt, and  
2 it is just not right, but let's move on. Let's get  
3 it resolved, let's do the right thing, let's make it  
4 pono, and let's work together because we will need  
5 to in the future. Thank you.

6 HEARINGS OFFICER LILY: Thank you,  
7 Ms. Yates. Kaleolani Kekoa, and I have seven more  
8 after Mr. Kekoa.

9 Ms. Yates, are you going to be around  
10 for questioning afterwards?

11 MS. YATES: Yes.

12 HEARINGS OFFICER LILY: Okay. Well, you  
13 know, it may be more than seven, whatever the list  
14 is. It's a growing list. Mr. Kekoa?

15 MR. KEKOA: My name is Kaleolani Kekoa,  
16 and I came here by myself. I am here to testify. I  
17 wrote this short notice. It says I am a Native  
18 American. I am the root cause of this legislation,  
19 the Akaka Bill. I am currently rebelling against  
20 the County, State, and Federal governments to bring  
21 to pass the final passage of this bill. I want to  
22 declare independence from the United States of  
23 America because I am not an American. I am a  
24 Hawaiian national, which goes to show that if you  
25 want to dissent and if you want your voice to be



1 heard, right now is the time.

2 I just want everybody to know that I am  
3 the root cause of the dissent in this community  
4 because I am not an American. I am a Hawaiian  
5 national, and that I support a Native Hawaiian  
6 Constitution or a Hawaiian Constitution that we used  
7 to have before the overthrow, and I just feel so sad  
8 about, you know, what happened to Queen  
9 Liliuokalani. Aloha.

10 HEARINGS OFFICER LILY: Thank you. Chen  
11 Wei-Yuan?

12 I am going to mispronounce things  
13 because of the way things were written on here. I  
14 think a doctor wrote this, so I'm sorry if I  
15 mispronounce your name.

16 MR. WEI-YUAN: It's Chen Wei-Yuan. I  
17 just want to make one point. Hawaiian is the  
18 nationality, and the Hawaii nation was multi-racial  
19 of which Native Hawaiians was just one of many. A  
20 case in point. At Mana ala, three ethnic haoles  
21 with no cocoa are interred there along with the  
22 Hawaiian royalty. First, it was the grandfather of  
23 Queen Emma, John Young; secondly, the prince  
24 consulate of Hawaii, Charles V. Bishop; and the  
25 third, Robert Wiley, a native of Scotland who for

1 forty years guided the foreign policy of the  
2 Hawaiian nation. They are Hawaiian. Furthermore,  
3 the co-founder of Halekulani Hotel, ethnically white  
4 so we call them haole, spoke fluent Hawaiian, and  
5 she was very loud when she protested against  
6 politicians at the time.

7 But most important, I hold this document  
8 before you. Let me read it to you. Government of  
9 the Hawaiian Islands. The undersigned are native of  
10 China lately residing in Oahu, Hawaiian Islands,  
11 being duly sworn upon the holy evangelist, upon his  
12 oath declares that he will support the Constitution  
13 and the laws of the Hawaiian Islands and bear  
14 allegiance to her majesty, Queen Liliuokalani,  
15 signed by Mr. Hassenger. This is my grandfather's  
16 naturalization certificate. I am proud to be  
17 Hawaiian.

18 HEARINGS OFFICER LILY: Thank you, sir.  
19 Marian Grey?

20 MS. GREY: Thank you. After listening  
21 to the people before me, I really don't have a whole  
22 lot to say. I am here to express my feelings that  
23 any bill that is written that will divide us by race  
24 is wrong. I am opposed to the Akaka Bill and  
25 anything like it. We are one country, and we should

1 not be divided, and I hope you will take that into  
2 consideration when you make your recommendations.  
3 Thank you very much.

4 HEARINGS OFFICER LILY: Thank you,  
5 Ms. Grey. We have a Deanna Espinas, Espinas? Hard  
6 to read this.

7 MS. ESPINAS: Good afternoon. My name  
8 is Deanna Espinas, and I am here as a private  
9 citizen but also as a member of Hawaii's society. I  
10 am a member of various organizations, among them  
11 the Rice Plantation Committee. We believe in  
12 capturing the history of Hawaii's people because all  
13 of them have brought meaning and purpose to Hawaii's  
14 society today.

15 I also feel that my role in society, I  
16 have worked with the Department of Public Safety  
17 where I see a number of disenfranchised citizens of  
18 Hawaii, men and women. Many of them are part  
19 Hawaiian, pure Hawaiian, part Filipino. This Akaka  
20 Bill is needed in order to empower and enfranchise  
21 and marginalize, not to marginalize the minority of  
22 native people, but to give them their rights again.  
23 We need to focus on self-determination,  
24 self-governance, and federal recognition of Native  
25 Hawaiian sovereignty. All of Hawaii's people

1 benefit if this committee takes its responsibility  
2 seriously and goes forward in support of the Akaka  
3 Bill. Thank you.

4 HEARINGS OFFICER LILY: Thank you. I am  
5 not sure how this is pronounced but Iokoda Alii  
6 Baker? Pau, gone? Charlene Cuaresma?

7 MS. CUARESMA: Thank you. My name is  
8 Charlene Cuaresma. I serve as the President of the  
9 Filipino Coalition for Solidarity. Since its  
10 inception in 2001, more than 45 Filipino community  
11 leaders representing various organizations have  
12 joined forces to work for equity and justice to  
13 empower our diverse Filipino communities to make  
14 socially responsible contributions to Hawaii and our  
15 global neighbors.

16 I am speaking today as an individual to  
17 strongly and proudly support the Native Hawaiian  
18 Government Reorganization Act of 2007 which would  
19 provide Federal recognition to Native Hawaiians for  
20 self-determination, self-governance, and parities in  
21 Federal policies as do Native Americans, American  
22 Indians, and Native Alaskans.

23 I thank you for the opportunity to  
24 provide this statement of support for this far  
25 reaching and long overdue law, but I would also like

1 to offer feedback on the commission's public hearing  
2 process. I believe it is important for this  
3 commission to establish credibility with the  
4 community by insuring that ample time is allowed for  
5 public preparation, to submit comments, especially  
6 from our limited English proficient communities.

7 It is also discouraging that at the  
8 previous hearing, as important as this was, that  
9 this was scheduled at a time when key commissioners  
10 and others were out of town or unable to attend.  
11 The reorganization of the commission state advisory  
12 council and new direction of civil rights seems to  
13 be undermining the intent of safeguarding  
14 marginalized groups and indigenous peoples in  
15 America from constitutional discrimination. I  
16 appreciate this chance to present my strong support  
17 of not only this bill, but also of an accessible  
18 commission that fosters a climate of trust and good  
19 will. Thank you very much.

20 HEARINGS OFFICER LILY: OHA Trustee  
21 Oswald Stender, welcome.

22 MR. STENDER: Mr. Chairman and committee  
23 members, my name is Oswald Stender, and I am a  
24 Native Hawaiian. I currently serve as a trustee of  
25 the Office of Hawaiian Affairs. For Mr. Rosen's

1 benefit and those of you on the committee who don't  
2 know, I am also a graduate of the Kamehameha  
3 Schools.

4 At your hearing of August 20th, I  
5 presented the statement which I have attached to  
6 this statement for the record. In that statement, I  
7 expressed my concern that the US Commission on Civil  
8 Rights manipulated the selection of members  
9 appointed to the Hawaii State Advisory Committee and  
10 stacked the committee with individuals who are  
11 currently engaged in court cases challenging  
12 programs that benefit Hawaiians. These same people  
13 oppose the Akaka Bill.

14 Once these appointments were made, the  
15 US Commission on Civil Rights hastily called for  
16 hearings by the new Hawaii State Advisory Committee  
17 to address the proposed Native Hawaiian Government  
18 Reorganization Act of 2007, better known as the  
19 Akaka Bill. The commission went so far as to  
20 dispatch Mr. Gerald Reynolds, chairman of the  
21 commission, to attend the hearings in Hawaii to  
22 pronounce that these hearings have no bearing on the  
23 fact that the commission has already taken a  
24 position on the matter.

25 These hearings then and the opinions

1 expressed here will have no bearing on the decision  
2 that's already been made. If this is true, why  
3 bother to have these hearings? Having served on the  
4 Hawaii State committee for nearly twenty years, this  
5 is a most unusual chain of events for the  
6 commission.

7 In my opinion, the only reason these  
8 hearings are being held by this stacked committee is  
9 because the commission wants to erase the stand that  
10 has already been taken by the committee's previous  
11 members. The previous committee supported the Akaka  
12 Bill after conducting an investigation that lasted  
13 several years and involved several community forums.  
14 The results of that comprehensive HSAC review are  
15 available in the HSAC written report on file with  
16 the commission.

17 I ask, again, I would like to know  
18 truthfully why Mr. Reynolds came all the way to  
19 Hawaii? David Shapiro noted in his Honolulu  
20 Advertiser column on August 29th that US Senators  
21 Akaka and Inouye, along with US Representatives  
22 Abercrombie and Hirono said, I quote, it would  
23 almost appear that the commission has its own agenda  
24 and its own timetable. I agree wholeheartedly with  
25 Mr. Shapiro's statement and that the current

1 hearings are not an intellectually honest attempt to  
2 arrive at the facts but a political power play to  
3 find the most expedient path to a preconceived  
4 outcome for this matter.

5 This I believe has nothing to do with  
6 civil rights or justice. I would ask those of you  
7 who sit on this committee that have a direct  
8 conflict of interest regarding Hawaiian programs to  
9 declare your conflicts and do the honorable thing  
10 and recuse yourself of voting on this matter. Thank  
11 you.

12 HEARINGS OFFICER LILY: Thank you,  
13 Mr. Stender. Dexter Kaiamo?

14 MR. KAIAMO: Hi, good afternoon,  
15 Mr. Chairman, ladies and gentlemen of the  
16 commission. My name is Dexter Keelamoku Kaiamo. I  
17 stand here before you today on the shoulders of my  
18 kupuna who signed the Ku'e petitions which were  
19 significant in the defeat of the treaty of the  
20 annexation at that time.

21 I testify here today in opposition to  
22 the Akaka Bill, but for reasons vastly different  
23 than the reasons given by those like  
24 Mr. Twigg-Smith. I wish to read portions of US  
25 Public Law 103-150 into the record and then comment



1 on them.

2           Whereas from 1826 until 1893, the United  
3 States recognized the independence of the Kingdom of  
4 Hawaii, extended full and complete diplomatic  
5 relations to the Hawaiian government and entered  
6 into treaties and conventions with the Hawaiian  
7 monarchs to govern commerce and navigation in 1826,  
8 1842, 1849, 1875, and 1887.

9           Whereas in a message to Congress on  
10 December 18, 1893, President Grover Cleveland  
11 reported fully and accurately on the illegal acts of  
12 the conspirators, described such act as an act of  
13 war committed with the participation of a diplomatic  
14 representative of the United States and without  
15 authority of Congress, and acknowledged by such acts  
16 the government of a peaceful and friendly people was  
17 overthrown.

18           Whereas President Cleveland further  
19 concluded that a substantial wrong has thus been  
20 done, which a due regard for our national character  
21 as well as the rights of the injured people requires  
22 we should endeavor to repair and call for the  
23 restoration of the Hawaiian monarchy.

24           Whereas the indigenious Hawaiian people  
25 never directly relinquished their claims to their

1 inherent sovereignty as a people or over their  
2 national lands to the United States either through  
3 their monarchy or through a plebiscite or  
4 referendum. The Congress on the occasion of the  
5 100th anniversary of the illegal overthrow of the  
6 Kingdom of Hawaii on January 17th, 1893,  
7 acknowledges the historical significance of this  
8 event which resulted in the suppression of the  
9 inherent sovereignty of the Native Hawaiian people.

10 Mr. Chairman, I am here to question the  
11 authority of Congress, US Congress, as well as the  
12 authority of this commission to pass on the measure  
13 such as the Akaka Bill. As recognized by this  
14 Public Law 103-150, there were treaties that were in  
15 existence including the treaty of peace and  
16 friendship of 1849. That treaty guaranteed that the  
17 United States would treat the Kingdom of Hawaii with  
18 peace and amity or peace between nations. That  
19 treaty was never terminated and is still in  
20 existence today, and as your own US Constitution  
21 states, the treaty is the supreme law of the land,  
22 therefore, it's my position that this Congress, the  
23 Akaka Bill, nor this commission has authority to  
24 pass the Akaka Bill.

25 I also would invoke or ask that this

1 commission enter into discussion and reinstate the  
2 call by President Grover Cleveland, in order to  
3 correct your national character, it requires that  
4 you should endeavor to repair and restore the  
5 Hawaiian monarchy. Thank you.

6 HEARINGS OFFICER LILY: Thank you, sir.  
7 Andre Perez? Andre Perez? Kelii Collier?

8 UNIDENTIFIED SPEAKER: Andre is here.

9 HEARINGS OFFICER LILY: Okay, Mr. Andre  
10 Perez?

11 MR. PEREZ: Sorry about that. Aloha ino  
12 kakou.

13 AUDIENCE: Aloha ino kakou.

14 MR. PEREZ: My name is Andre Perez, and  
15 I am here to speak on this issue of the Akaka Bill.  
16 I am here to tell you, Civil Rights Commission, that  
17 the issue of reconciliation between the United  
18 States and the Hawaiian people is not an issue of  
19 civil rights, and it is not an issue of race based  
20 programs. It is an issue of justice. Therefore,  
21 this issue is really not the right forum for you  
22 guys. We are not asking for civil rights. We are  
23 not asking to ride in the front of the bus. We are  
24 asking for our bus back. We are not asking to drink  
25 from the same water fountain. We are asking for our

1 waterfalls back.

2           So this is not a civil rights issue.  
3 This is an executive level issue nation to nation.  
4 I don't think you have any authority to preside over  
5 this, but I would like to take the time to speak to  
6 my people who are in the crowd here in the hopes of  
7 sort of breaking some of these mental chains that  
8 have been placed on our brain tearing down some of  
9 this colonized forced assimilation mentality that us  
10 Hawaiians have been trained to believe.

11           I want to remind everyone that America  
12 was founded on some principles that were documented  
13 in their Declaration of Independence, and I want to  
14 read a few sentences from that. When in the course  
15 of human events it becomes necessary for one people  
16 to dissolve the political bands which have connected  
17 them with another and to assume among the powers of  
18 the earth the separate and equal station to which  
19 the laws of nature and of nature's God entitle them  
20 a decent respect to the opinions of mankind,  
21 requires that they should declare the causes which  
22 compel them to the separation. We hold these truths  
23 to be self-evident that all men are created equal,  
24 that they are endowed by their creator with certain  
25 unalienable rights, and among these are life,

1 liberty, and the pursuit of happiness.

2 My pursuit of happiness is having the  
3 sovereignty of my country restored. I want to talk  
4 to the people in the crowd here and remind you folks  
5 about the Akaka Bill and what it would do. It would  
6 attempt to place us under the Department of Interior  
7 like Native American Indians, and I want to point  
8 out that the Department of Interior was sued by  
9 Native American Indians in a very high profile case  
10 called the Cobell case. I want to read to you what  
11 one judge wrote about the Department of Interior and  
12 how they treat Native American Indians.

13 He writes, after all of these years, our  
14 government still treats Native American Indians as  
15 if they are somehow less than deserving of the  
16 respect that should be afforded to everyone in  
17 society where all people are supposed to be equal.  
18 For those harboring hope that the stories of murder,  
19 dispossession, forced marches, assimilation policy  
20 programs, and other incidents merely echoes the  
21 horrible bigoted government past that has been  
22 sanitized by the good deeds of more recent history,  
23 this case serves as an appalling reminder of the  
24 evils of this result.

25 This is the judge talking about the

1 Department of Interior. The judge goes on to say  
2 that it is undeniable that the Interior has failed  
3 in its duties as a trustee delegate for Native  
4 Americans. It is, nevertheless, difficult to  
5 conjure a plausible hypothesis to explain Interior's  
6 default. Perhaps the Interior's past and present  
7 leaders have been evil people deriving their  
8 pleasure from inflicting harm on society's most  
9 vulnerable.

10 So we have to think about this before we  
11 voluntarily place ourselves under the Department of  
12 Interior. The judge says that negligence and  
13 incompetence in government are beyond judicial  
14 remedy, that bureaucratic recalcitrants have  
15 outpaced and rendered obsolete our bonded system of  
16 checks and balances, and that people are simply at  
17 the mercy of governmental whim with no chance of  
18 salvation.

19 We can't just go and dive into the Akaka  
20 Bill and throw ourselves on Uncle Sam's doorstep and  
21 think that it's going to give us justice. As George  
22 Helm said, we have got to do our homework. We have  
23 to understand the issue. I want to point out to our  
24 people here in the crowd a couple of very important  
25 things.

1                   A very important national song written  
2 by our kupuna, Kaulana Napua, and I will say it, I  
3 will quote it in English, two verses that say no one  
4 will fix a signature to the paper of the enemy with  
5 its sin of annexation and sale of native civil  
6 rights. We do not value the government sums of  
7 money. We are satisfied with the stones,  
8 astonishing food of the land.

9                   Have our Hawaiian people forgotten this  
10 manao from our kupunas as we sit here and beg the  
11 Civil Rights Commission to give us a couple of bones  
12 back after the United States has overthrown our  
13 country? We were once a free people. We come from  
14 a native -- not a native. We come from a sovereign  
15 national identity, a country just as legitimate as  
16 any country in the world at that time, but yet we  
17 seem to have abandoned that legacy, and now we just  
18 want to throw ourselves at the feet of Uncle Sam and  
19 ask him for some crumbs back. Where is our dignity?  
20 Where is our commitment to our aina, to our queen?  
21 Or have we become so assimilated that America is now  
22 inside our mind?

23                   A lot of our people here are concerned  
24 about programs, programs, that we need Federal  
25 funding for our programs, and I say what about the

1 aina? What about our country? What about the  
2 dignity of our people?

3 In closing, I want to quote Puerto Rican  
4 independent poet Piri Thomas. He writes that there  
5 is no way that the United States can celebrate its  
6 bicentennial with an untroubled conscience while it  
7 continues to occupy our land. The only honest way  
8 that the United States can celebrate its anniversary  
9 of freedom and independence from England is by not  
10 standing in the way of our right to be free, the  
11 right to be free citizens, the right to independence  
12 and self-determination that the US won for itself at  
13 such great human sacrifice in 1776.

14 Hawaii must be free so that we can come  
15 into our own as a people, so that our children can  
16 be born into a free sovereign country, an unoccupied  
17 aina, a demilitarized aina. There is wisdom in our  
18 people. We are not cowards. We are not slovenly.  
19 We are not lazy. Our sons and daughters have died  
20 in many of America's wars for so-called other  
21 people's freedoms, yet us Hawaiians here in Hawaii  
22 are still waiting for justice, for the US to rectify  
23 the wrongs committed against our country and our  
24 people.

25 We are not slovenly or lazy or in a



1 state of apathy. We know our rights. We have  
2 reached a level of consciousness now where unlike in  
3 the '70's, we are no longer asking for access  
4 rights. We don't want Hawaiian rights. We want our  
5 land back. We want our sense of dignity and  
6 self-determination back, the ability to determine  
7 our future for ourselves.

8 The Akaka Bill has never been put  
9 forward to the people on a broad based level and  
10 allowed them education on what the bill has to offer  
11 and what it doesn't have to offer and then allowed a  
12 majority hearings or vote from the Hawaiian people.  
13 We have never had that. How can anybody in their  
14 right mind think to move forward on the Akaka Bill  
15 when you have not heard from the Hawaiian people?  
16 There has been only one hearing on one island. What  
17 about the other seven islands? I think it's a  
18 disgrace to American democracy and principles to try  
19 to force this bill through when there are Hawaiians  
20 here who are saying we have never had a voice in  
21 this. We have never had a choice.

22 I think the Office of Hawaiian Affairs  
23 has been misled and misguided and has put in so many  
24 millions and millions of dollars into forcing this  
25 bill forward when they have never taken the time to

1 find out if this is what their people want. The  
2 millions of dollars that have been spent on the  
3 Akaka Bill thus far by the Office of Hawaiian  
4 Affairs could have been put to good use by having  
5 state or island wide hearings to truly find out what  
6 Hawaiians want.

7           The truth is neither myself or any  
8 proponent of the Akaka Bill can truly say that this  
9 is what the Hawaiian people want because we have  
10 never been afforded a chance to vote, to say, hey,  
11 this is what we want. We can't even say that  
12 there's even half.

13           So I want to close in saying to the  
14 Civil Rights Commission, sorry, but this is not your  
15 kuleana. Go back to your bosses and tell them that  
16 we need to send somebody with more authority to  
17 provide the reconciliation.

18           And to my people here in the crowd, I  
19 want to say to you how many of you have read the  
20 bill? You say that people think that the bill is  
21 going to protect Kamehameha Schools, it is going to  
22 protect programs. Where does it say that in the  
23 bill? I have read it line by line. Where does it  
24 say that it is going to do anything for us? It is  
25 very clear in the bill what we can not do. They

1 tell us we can't have gambling. They tell us the  
2 military has certain exemptions. It tells us that  
3 the US is indemnified. We can not sue them.

4 Well, what can we do with the Akaka  
5 Bill? What will it give us? The right to  
6 negotiate? Are we going to throw ourselves on the  
7 doorstep of Uncle Sam for the right to negotiate?

8 HEARINGS OFFICER LILY: Mr. Perez, I  
9 have to ask you to wrap up.

10 MR. PEREZ: Thank you. Mahalo aloha.

11 HEARINGS OFFICER LILY: Kelii Collier,  
12 is Kelii Collier here?

13 MR. COLLIER: Aloha mai kakou.

14 AUDIENCE: Aloha.

15 MR. COLLIER: I am Kelii Collier.

16 Before I begin, I would like to clearly and  
17 definitely declare that I do not support the likes  
18 of Grass Roots Institute, Aloha for All, Color Blind  
19 America, The Heritage Foundation, and other groups  
20 and organizations that promote racist ideologies  
21 wrapped in assimilative and homogenous rhetoric.

22 To my fellow kanaka maoli who  
23 ambitiously support this Akaka Bill, I know we are  
24 all fighting against the same issues that face us  
25 every day. They are not empty declarations of

1 suffering. They are very real. However, we have  
2 just chosen different ways in order to resist and  
3 eventually liberate ourselves from the oppression of  
4 a foreign nation and its culture. With that said, I  
5 have to respectfully disagree with you today on the  
6 Native Hawaiian Reorganization Act.

7 Now, to the advisory committee and the  
8 larger audience, I would like to address two major  
9 points tied to the Akaka Bill. There are, of  
10 course, much more than two, but time is limited.  
11 First, the Akaka Bill is symbolic of a sharp knife  
12 held in the hand of the Department of Interior that  
13 will slice open our lands, our skies, our oceans,  
14 our waters, and our people, and remove our na'au to  
15 make room for further military expansion, the same  
16 military that landed January 16th, 1893, and pointed  
17 there at the time high end weapons at the palace in  
18 a form of intimidation to our Queen and our Hawaiian  
19 Kingdom and all its people.

20 Remember, the term Hawaii comes from a  
21 mo'oku'auhau of language, and that language belongs  
22 to the Hawaiian people and the larger Pacific  
23 Polynesian, so this independent nation that we are  
24 talking about has been started by Native Hawaiians  
25 and during the 1800s open to all, open to all,

1 inclusive of everyone who wanted to become a  
2 Hawaiian national regardless of ethnicity, so let's  
3 get the two terms straight. Ethnicity, nationality,  
4 very different.

5 I want to read and go back to, you know,  
6 my claim about how the Akaka Bill will open up  
7 further military expansion in Hawaii. I am quoting  
8 from the 2007 Akaka Bill, the most current one,  
9 section five, United States Office for Native  
10 Hawaiian Relations, a US Federal agency, section  
11 five A, establishment, there is established within  
12 the Office of the Secretary the United States office  
13 for a Native Hawaiian relations.

14 Within that section, I go to section  
15 five C, specifically addressing the Department of  
16 Defense. Applicability to Department of Defense.  
17 This section shall have no applicability to the  
18 Department of Defense or to any agency or component  
19 of the Department of Defense, but the secretary of  
20 defense may, key word may, designate one or more  
21 officials as liaison to the office. We already know  
22 the history of the US military in Hawaii and the  
23 Hawaiian Kingdom.

24 Next, section six, Native Hawaiian  
25 interagency coordinating group, section six B,

1 composition, the interagency coordinating group  
2 shall be composed of officials to be designated by  
3 the President. Another Federal agency, section six  
4 C one, in general, the Department of Interior shall  
5 serve as the lead agency of the interagency  
6 coordinating group.

7 Section six E, again, applicability to  
8 Department of Defense, this section shall have no  
9 applicability to the Department of Defense or to any  
10 agency or component of the Department of Defense,  
11 but the secretary of defense may designate one or  
12 more officials as liaison to the interagency  
13 coordinating group. Again, calls for military  
14 exemption and expansion. I mean, we are still  
15 living with Makua, Kahoolawe, Waiahole, Mokapu,  
16 Puuloa, Pohakuloa, Nohili. I mean, this is -- you  
17 know, we don't have the time for that.

18 My second and final point, did the  
19 independent country of Hawaii ever legally cede  
20 itself to the United States? Does the Akaka Bill  
21 answer this question? We know about 1893, US  
22 Marines come on shore on January 16th in violation  
23 of international law and its own treaties with the  
24 Hawaiian Kingdom at the request of US Minister John  
25 L. Stevens, who was in collusion with Sanford B.

1 Dole.

2 I read section two findings from the  
3 Akaka Bill, number four, under the treaty making  
4 power of the United States, Congress exercised its  
5 constitutional authority to confer treaties between  
6 the United States and the Kingdom of Hawaii, and  
7 from 1826 until 1893 the United States, A,  
8 recognized the sovereignty of the Kingdom of Hawaii;  
9 B, accorded full diplomatic recognition to the  
10 Kingdom of Hawaii; and C, entered into treaties and  
11 conventions with the Kingdom of Hawaii to govern  
12 commerce and navigation in 1826, 1842, 1849, 1875,  
13 and 1887. It's in the State archives.

14 Why does section two finally stop at  
15 1893 as far as treaties between the two independent  
16 countries? Hawaii still maintained its recognized  
17 sovereignty when it was admitted into the family of  
18 nations through the Anglo-Franco proclamation on  
19 November 28th, 1843. La Kuokoa, the independent  
20 nation of Hawaii, the Hawaiian Kingdom's official  
21 independence day. It's at the State archives.

22 The government was in turmoil, and the  
23 landing of the US Marines made this an international  
24 issue, yes, but the independence of Hawaii remains  
25 in tact even to this day. Why? Because there has

1 never been a treaty of annexation, and the Akaka  
2 Bill does not address this major issue and nor can  
3 it.

4           The first and only attempt of such a  
5 treaty, which is the only way one country can absorb  
6 another, was in 1897. It was defeated by the US  
7 Senate because they could not get the two-third  
8 majority vote to ratify that said treaty because of  
9 the work of both native and non-Native Hawaiian  
10 nationals to what is commonly known today as the  
11 Ku'e petitions. Our kupuna refused to become a part  
12 of the United States, and we refuse to this day.

13           1898, President McKinley,  
14 pro-annexationist, pro-imperialist, pro-American  
15 empire, Spanish American War on the horizon, Hawaii  
16 is needed for geopolitical and military purposes.  
17 In violation of US Constitution law as well as  
18 international law, a joint resolution designed to  
19 circumvent the US Senate's authority illegally  
20 annexes Hawaii.

21           That's like saying today that the US  
22 Congress and Washington, DC, made some kind of law,  
23 a bill, to make Iraq the 51st state. It just  
24 doesn't work. Today we have CNN, we have Internet,  
25 we have a really media saturated environment where



1 those kinds of things can't really happen because  
2 they are recorded so instantly. That's a violation  
3 of international law. The entire world community  
4 would be up in arms if they made Iraq the 51st state  
5 with a joint US resolution, which is also a  
6 violation of US constitutional law.

7 As a result of this historical,  
8 political, and legal fact of no treaty of  
9 annexation, US laws have no legal jurisdiction over  
10 the sovereign territories of Hawaii nor its  
11 citizens. It's a big lie. A historical, political,  
12 and legal mythology created to maintain the current  
13 illegal occupation of Hawaii and ongoing violations  
14 under the rules of occupation.

15 One of the major rules of occupation is  
16 to administer the laws of the occupied state. That  
17 means Hawaiian Kingdom law, not US domestic law.  
18 Therefore, the Civil Rights Commission and the  
19 advisory committee has no jurisdiction and should  
20 not even be hearing this issue.

21 In conclusion, I would like to recommend  
22 to the commission and the advisory board that the US  
23 Department of State and the US secretary of State in  
24 discussion with the people of Hawaii begin dialogue  
25 to create a time line for withdrawal from the still

1 sovereign territories of Hawaii, thereby allowing  
2 our government to live and breathe again so that we  
3 can take care of the land and its people the right  
4 way, not at the exclusion of others, but together.

5 I want to close with the last verse from  
6 Kaulana Napua also known as mele ai pohaku.

7 (Speaking in Hawaiian.) We support Liliuokalani to  
8 this day. Until we get the rights of the land, the  
9 story is to be told of the people who love the land.  
10 Mahalo.

11 HEARINGS OFFICER LILY: Mahalo. Marcia  
12 Linville?

13 MS. LINVILLE: Right here. Aloha, I am  
14 Marcia Linville, and I just followed a very  
15 impassioned and persuasive argument, however, in  
16 spite of that very impassioned and persuasive  
17 argument, I am still speaking in support of the  
18 Akaka Bill for the recognition.

19 The bill has been changed a great deal  
20 in the time that it went to Washington and got  
21 renegotiated and all, but the basic thing is to  
22 recognize the rights of the Hawaiian people. Now,  
23 many people have given you the history facts and the  
24 politics of this situation. I will be brief.

25 In summation, the Hawaiian people

1 existed as a nation. When that nation was  
2 overthrown, the people remained. They were the  
3 Hawaiian people. They are the Hawaiian people. The  
4 very basis of Hawaii's tourist industry, the core  
5 industry of this state, is based on the fact that  
6 the Hawaiian culture is distinctive, distinct,  
7 unique, and it has a separate identity from the rest  
8 of the United States.

9           There is something intrinsically  
10 arrogant in the belief that the Hawaiian people do  
11 not exist as a separate and distinct people without  
12 the recognition of the US Congress. They exist,  
13 they are here, they have been here as a country and  
14 as a nation. They were recognized by countries  
15 around the world. It is the same argument as saying  
16 a child is not legal unless he is legitimized by  
17 recognition of his father. The child exists, quote,  
18 legitimate or not. So do the Hawaiian people. If  
19 you do not give them legitimacy on this issue, it  
20 will not go away. We will be seeing this to come  
21 back for decades and for centuries to come.

22           My heritage is relevant in this matter  
23 too. My people are from the Mayflower people, and I  
24 do not know whether you know this, but in Puritan  
25 communities, status was dependent upon a

1 transcendent experience, a unique experience and an  
2 identity of an experience with God. Now, your  
3 rights in the community, your status in the  
4 community, what you ate, what you wore, how you  
5 lived, depended on whether or not you had this  
6 unique experience, and it was for this experience  
7 that when their homes were broken into and their  
8 beds were chopped up and their dishes were broken  
9 and their sheets were torn and they were expelled  
10 from England, it was an unique necessary experience  
11 to them.

12                   However, when they arrived in the new  
13 world and they established the Puritan colonies, it  
14 still existed as the most basic of their standards,  
15 but yet when their children grew up, they grew up in  
16 America, they grew up surrounded by Indians, they  
17 were surrounded by a totally different environment,  
18 and their children did not have this unique  
19 experience with God, and so it was for them  
20 necessary to show that they had the favor of God by  
21 the acquisition of possessions, land, money, status,  
22 things.

23                   Now, those people who came from New  
24 England and who overthrew the queen really believed  
25 that by doing so they had the favor of God.

1 However, the people who are presently trying to take  
2 away the rights of Hawaiians, their property, their  
3 heritage, their inheritances, do not have this  
4 driving need. For you, that reason no longer  
5 applies. The desire to deprive the people of Hawaii  
6 of their inherited rights and property is simply  
7 greed and a political desire to destroy the rights  
8 of minorities.

9 This is a political, very strong drive  
10 in the country. We must have equality forever for  
11 everyone, but equality does not seem to come with  
12 the same property rights, the same respect, the same  
13 belief and equality for those, quote, minorities  
14 they are trying to say are the same as everyone  
15 else. They do not deserve the benefits that they  
16 derive from being who they are. It is like saying  
17 that I do not believe -- I do not deserve the rights  
18 that I have from being who I own.

19 Hawaiians are not a minority who are a  
20 political football. If you want to find a minority  
21 to say, oh, well, you are black, but you shouldn't  
22 be allowed to have access to college on a different  
23 basis from whites because that is not really a  
24 redress, that is depriving our children of the  
25 rights that you should have, Hawaiians are not such

1 a minority. Hawaiians have their own rights, their  
2 own schools, their own beliefs, their own identity,  
3 their own culture.

4 This bill is not divisive as people who  
5 know very little about the Hawaiian culture have  
6 said. It is you who are being divisive, this  
7 commission and the way in which it has been created,  
8 and I have known some of you for over thirty years.  
9 How can -- I am surprised, that is all. People I  
10 have known who have spoken for unity, people I have  
11 known who have spoken for amity, who have spoken for  
12 education, how can you do this? Thank you.

13 HEARINGS OFFICER LILY: Thank you.  
14 Milton Coleman?

15 MR. COLEMAN: Aloha. I just would like  
16 to inform all of you that I am deeply unable to  
17 support this Akaka Bill on the fact that our  
18 Hawaiian people had no real input in the drafting of  
19 such a bill, and let me use food as a metaphor. We  
20 have a lot of hungry Hawaiians, hungry for  
21 independence and for sovereignty and for their  
22 inherent rights, and so people want to feed them.  
23 Well, let's just go to the drive through and pick up  
24 some burgers for them, bring the food to the  
25 Hawaiians, and that's not very good for them.

1                   You did not ask them, can I get you  
2 something to eat? What would you like to eat? You  
3 went ahead without checking with the person that you  
4 thought you were going to feed, but you didn't ask  
5 them what they wanted. The intention might have  
6 been, you know, to do some good, but you should  
7 always check with the people themselves, and that  
8 was not done in this case. The Hawaiian people did  
9 not have any real input in the drafting of this bill  
10 that really lays a lot in the balance for us, and so  
11 I can not support such a bill, and that's pretty  
12 much all I have to say.

13                   HEARINGS OFFICER LILY: Okay, thank you.

14                   MR. COLEMAN: Mahalo.

15                   AUDIENCE: Mahalo.

16                   HEARINGS OFFICER LILY: Okay, Ikaika  
17 Hussey?

18                   MR. HUSSEY: Aloha kakou. Thank you  
19 very much, members of the committee, for allowing me  
20 to testify in person on this very important  
21 legislation, and also aloha to all of our brothers  
22 and sisters in the struggle for Hawaiian justice.  
23 It's good to see all of you here.

24                   We are gathered here in the wake of  
25 great civil rights leaders such as Reverend Martin

1 Luther King, Jr., to mourn the death of his dream.  
2 Under our watch, we have allowed his words to be  
3 contorted and disfigured with meaning swapped for  
4 their opposites and historical trajectory of an  
5 expansion of rights replaced by a foreclosure.

6 I say this because we are confronted  
7 with profound contradictions. The long-standing  
8 opponents of kanaka maoli human rights, including  
9 the fundamental right of self-determination, have  
10 ascended to a committee which has the ostensible  
11 mission to protect our basic civil rights. This is  
12 a tragedy for all peoples, particularly citizens of  
13 the United States who cherish social justice and  
14 believe in the rights of man. The selection of  
15 these individuals should be met with the strongest  
16 denunciation and condemnation as an affront to the  
17 legacy and life of Reverend Martin Luther King and  
18 all of those who fought for human and civil rights.

19 When men and women such as Dr. Martin  
20 Luther King and Rosa Parks walked with us, they  
21 articulated a dream for society that was always one  
22 step beyond where we are now, thus pushing us  
23 forward to ever widening visions of justice and  
24 humanity. Those ideas first proposed by a group of  
25 nobles confronting King John of England, have



1 expanded with each generation from running to the  
2 march in Washington, from the abolitionists to the  
3 suffragettes, from the trade unionists to the  
4 freedom riders, to our own Hawaiian movement for  
5 cultural freedom and independence.

6 Rights both human and civil is about  
7 opening up the conditions and possibilities of being  
8 more human, and yet today we see that this expanding  
9 humanity is now in retrograde under attack by  
10 members of this committee who misuse and abuse the  
11 language of the civil rights to prevent the full  
12 blossoming of the Hawaiian people as  
13 self-determining participants in an interconnected  
14 world, and, of course, I must add that the Hawaiian  
15 nation, like all nations, has many perspectives  
16 about the ultimate expression of the right of  
17 self-determination, but our differences lie more in  
18 an assessment of what is possible, not about what is  
19 right. By contrast, the opponents of Hawaiian  
20 self-determination on this panel seem to obliterate  
21 both the possibilities and the rights.

22 There are some who argue, and I also am  
23 sympathetic to this view, that civil rights should  
24 be limited to the narrow domain of racial equality  
25 and segregation. We should recall, however, that

1 Dr. King himself opposed imperialism and militarism  
2 in southeast Asia in his historic address at the  
3 Riverside Church in 1968. Remember also that  
4 Dr. King's own community of faith urged him to cool  
5 off, to go slow, because he was stepping out of the  
6 more comfortable conversation about race and was  
7 beginning to confront race and imperialism. He may  
8 have been as well have been talking about Hawaii,  
9 which is state governed by those same giant triplets  
10 of racism, imperialism, and militarism.

11 Members of the committee, I oppose the  
12 Akaka Bill. I oppose it because the Hawaiian people  
13 as well as the indigenous peoples of North America  
14 deserve better than to be mistreated at the hands of  
15 the Department of Interior and the Federal  
16 proceedings of congressional plenary power. I  
17 oppose the bill because it contains specific  
18 language to exempt the US military from its  
19 responsibility as Hawaii's largest and most toxic  
20 polluter and as a voracious machine which is turning  
21 our sacred land into a single vehicle for militarism  
22 and war. That is not our calling. We are people of  
23 aloha which demands of us an orientation towards  
24 justice and peace.

25 I also oppose the Akaka Bill because it

1 will not protect our institutions against the people  
2 who attack us. They will find other avenues to do  
3 so and no doubt are planning that as we speak. The  
4 Akaka Bill will be used to sweep 114 years of  
5 illegal actions and deeds under the rug, hidden  
6 under the first paragraph of the bill which asserts  
7 that Native Hawaiians are, quote, indigenous peoples  
8 of the United States.

9           And to get deeper into the text of the  
10 bill, I find that it is deeply flawed and unjust in  
11 its representations. For instance, in section two,  
12 subsection sixteen, it asserts that, quote, Native  
13 Hawaiians have also given expression to their rights  
14 as native people to self-determination,  
15 self-governance, and economic self-sufficiency.  
16 This subsection proceeds to list a host of  
17 activities: Health care services, educational  
18 programs, conservation programs, immersion schools,  
19 et cetera. This list is used to describe the  
20 ongoing sovereignty of an indigenous community which  
21 would be required in order to justify the extension  
22 of Federal plenary power over Native Hawaiians.

23           However, the list is deceptive for  
24 several reasons. It ignores the fact that the  
25 United States is the single largest impediment to

1 self-determination for the Hawaiian people. It also  
2 leaves out our longstanding, nonviolent resistance  
3 to US occupation of Hawaii, which is an ongoing  
4 exercise of our self-determination. And finally, it  
5 seduces the reader into believing that these  
6 federally funded programs represent the exercise of  
7 self-determination and self-governance.

8 This is not the case. They rather  
9 should be part of the compensation for the long term  
10 occupation of our lands by the United States.  
11 Self-determination, rather, is a fundamental human  
12 right, and I quote, by virtue of which people's  
13 freely determine their political status and freely  
14 pursue their economic, social, and cultural  
15 development, that's the language from the UN  
16 declaration of human rights.

17 Here is another writer speaking of  
18 self-determination. A free, open-minded, and  
19 absolutely impartial adjustment of all colonial  
20 claims based upon a strict observance of the  
21 principle that in determining all such questions of  
22 sovereignty, the interests of the population  
23 concerned must have equal weight with equitable  
24 claims of the government whose title is to be  
25 determined. That is US President Woodrow Wilson in

1 his 1420 speech given at the close of the first  
2 World War.

3           The United States in Hawaii has violated  
4 these principles by preventing a free, open-minded,  
5 and absolutely impartial adjustment of our claims  
6 which we witnessed in the run up to the vote in 1959  
7 and also this process today.

8           Members of the committee, the people of  
9 Hawaii do not need this bill. We do, however, need  
10 to resume the conversation that began with the  
11 passage of the Apology Bill in 1993. We need to  
12 discuss what a real process for reconciliation would  
13 entail. At a minimum, the United States must stop  
14 any further actions to increase the militarization  
15 of our homeland which is a threat to our legitimate  
16 quest for self-determination. The US should  
17 institute a commission to return lands and resources  
18 which were stolen from individuals and families in  
19 the previous century taken to make plantations and  
20 military bases. The US must also not stand in the  
21 way of a UN decolonization process here.

22           If this body is to be true to its name  
23 and to a legacy of civil rights, it must stand in  
24 solidarity with the people of our land who are  
25 fighting against tremendous odds to defend our

1 homeland from the vociferous attacks of an extremist  
2 political minority and its empire.

3 This committee is investigating the  
4 wrong topic. The problem is not the Akaka Bill.  
5 The problem is the men and women motivated by a  
6 misplaced sense of white victimhood who are lashing  
7 out at the Hawaiian people and the peoples of color  
8 throughout the United States. We are all endangered  
9 in an era in which US democracy has withered in a  
10 towering shadow of militarism and imperialism.

11 If the civil rights commission can not  
12 muster the spiritual fortitude to turn its  
13 investigation towards those folks, then Dr. King's  
14 dream has truly died.

15 HEARINGS OFFICER LILY: Thank you.  
16 Okay, we have got six more people so far. Anthony  
17 Sang? Welcome.

18 MR. SANG: Aloha kakou.

19 HEARINGS OFFICER LILY: Aloha.

20 MR. SANG: My name is Anthony Sang. I  
21 am a citizen of the United States of America, a  
22 resident of the State of Hawaii and a beneficiary of  
23 the Hawaiian Homestead Act as you recall in 1920 was  
24 enacted by the Congress of the United States, and I  
25 am glad to say that I am proud to be a Native

1 Hawaiian.

2 Today I stand before you to bring you an  
3 issue which I believe has never been talked about  
4 over the six or seven years that I have been  
5 involved for the advocacy of the Akaka Bill. Before  
6 you is a beneficiary that will be impacted by some  
7 of the decisions and recommendations that you may  
8 make pertaining to the people who qualify under the  
9 act of 1920 to become a lessee for certain parcels  
10 of land that were given to us by the United States  
11 Congress in 1920 and was so bitterly fought for by  
12 our Prince Jonah Kuhio Kalaniana'ole.

13 I stand here to let you know I am a  
14 graduate of Kamehameha Schools for boys. I served  
15 my time in the military service. While some of you  
16 had the opportunity to go to college, I didn't have  
17 that opportunity. I went into the military to  
18 defend our country. I came back and served and  
19 tried to become a proud citizen as a resident of the  
20 State of Hawaii. I got my lot. I married, and I  
21 got my lot of 7,500 square feet of land, a piece of  
22 property I never thought I would have.

23 I'm a third generation, third generation  
24 homesteader. My grandfather moved to the Island of  
25 Molokai. He was one of the first homesteaders that

1 moved to Molokai with his thirteen children. And ai  
2 pohaku, they talk about ai pohaku, he was one of  
3 them with his thirteen children, you know, picking  
4 up keawe beans so that they can survive. No more  
5 water. He raised his thirteen children. It was  
6 hard. And one of those thirteen children was my  
7 mother. She had four children. She became a single  
8 parent. She raised us, my two brothers and my  
9 sister. We lived on Hoolehua, Molokai, as children,  
10 and we moved to Papakolea. When you move to  
11 Papakolea, during those days, it was survivorship  
12 over there. When I came back from the military, I  
13 met my lovely Hawaiian girl. We got married. The  
14 children I bore and she bore for me was seven  
15 children who have more Hawaiian blood than I have,  
16 and I am proud to say that.

17           Today they are proud citizens and  
18 residents of the State of Hawaii. I am proud that I  
19 have seven children that I can say that we raised  
20 together. I just recently lost my wife, but I am  
21 proud to say that I have got all of my children, and  
22 we were able to raise them to become productive  
23 residents of the State of Hawaii. Productive, okay?  
24 Whether you Hawaiian, Japanese, Portugese, Filipino,  
25 whatever, okay, they are productive.



1 I am a third generation homesteader. I  
2 have four children now who are fourth generation  
3 homesteaders, and they are going to be impacted  
4 maybe by some of the decisions that you people  
5 sitting on this panel and some of the  
6 recommendations that you make pertaining to the  
7 Akaka Bill that may impact us. We have kupuna. I  
8 am a kupuna already. We been on Molokai. We have  
9 kupuna living on Makuu. We have people living on  
10 Kawaiiloa. We're homesteaders, our kupuna.

11 Now, if this lawsuit that has been going  
12 through the trail for seven years that has been  
13 opposed by certain members of this panel, if it is  
14 ruled in favor of them, all of us, 30,000 plus  
15 Native Hawaiians with 50 percent Hawaiian and their  
16 children and their spouses who maybe are only  
17 one-eighth Hawaiian, the rest is haole, Japanese,  
18 Portugese, whatever you like call them, eh, but they  
19 all Hawaiians, we're all going to lose our land.

20 Do you know why? When the first case,  
21 the Barrett lawsuit, came up, me and the  
22 homesteaders said, oh, watch out. It's like it was  
23 before the 14th Amendment, before the 15th Amendment  
24 when Mr. Freddy Rice thought he had the right to do  
25 this, he had the right to do that. What? Why?

1 Civil rights? Go ahead and go for 'em, we got 'em.  
2 So we knew they was gonna come for us. We knew they  
3 wanted our piece of the pie.

4 Because why? All the hard work pau.  
5 All the toiling and suffering and working on the  
6 land alongside the rest of the community was  
7 finished. Now the land is beautiful. You go all  
8 over the islands from Kauai to Waimea, the Hawaiian  
9 homelands that are available to the Native Hawaiian  
10 people, our lands, they have value now. Our lands  
11 that people want, our lands people want, and those  
12 people include those who oppose the Akaka Bill.

13 Right now the Native Hawaiians who live  
14 on the land, we got two enemies running in two  
15 different canoes. One is the haole canoe in the  
16 opposition canoe who oppose the Akaka Bill, and the  
17 other one is our Native Hawaiian brothers who oppose  
18 the Akaka Bill. I respect their belief, but you  
19 turn around and look at us Native Hawaiians, the  
20 30,000 that live on the homestead, right, you guys  
21 gonna lose your land. You guys go, yeah, yeah,  
22 yeah, we need the Akaka Bill, yeah, yeah, we need  
23 this. But us, the kupunas, we are going to lose our  
24 land.

25 You know why? Because one person out

1 there sitting on that panel called me up when I was  
2 advocating for the Akaka Bill, he called me up by  
3 telephone, he identified himself to me, and he makes  
4 me an offer. He said, you know, you guys gonna lose  
5 the lands because the Akaka Bill going down. Our  
6 lawsuit is going forward. I said what? He said,  
7 yeah, you people, the Native Hawaiians, are going to  
8 lose the lawsuit, therefore, too big, I forgot the  
9 word.

10 UNIDENTIFIED SPEAKER: Who that?

11 MR. SANG: I'm not going to tell you his  
12 name, but he is sitting up there.

13 HEARINGS OFFICER LILY: Okay, wait.

14 Mr. Sang, you are way over your time, so wrap it up.

15 MR. SANG: Well, now, I understand, I  
16 understand, Mr. Lily, but I have never had an  
17 opportunity over these seven years to speak as an  
18 individual beneficiary representing what I am going  
19 to lose. I am going to lose it if I don't speak  
20 because they need to understand both sides where we  
21 at as far as the homesteaders are concerned. If you  
22 don't understand that, then that's going to make a  
23 big impact on the decision for you guys. We are  
24 going to lose our lands thanks to you guys who say  
25 the Akaka Bill no good, and we are going to lose our

1 lands because you guys say it's not the law, it's  
2 raced base, it don't belong here. We need to be  
3 given a piece of the pie. The 14th Amendment say we  
4 should get a piece of Hawaiian homelands. So,  
5 therefore, when you lose the land, we are going to  
6 talk to the courts, and we are going to be your  
7 friends, we are going to talk to the courts, and we  
8 are going to say, listen, why don't we sell the  
9 land, sell the land back to the Native Hawaiians who  
10 live on the land now, sell it back to the kupuna at  
11 the value of the land. A'ole. You know what I told  
12 him? I said you know what? There's someplace you  
13 can take this and shove 'em because you gonna get in  
14 huge trouble. But all I am saying is that I'm  
15 coming from an area where nobody spoke about before,  
16 and I'm talking about the canoes, yeah? I been  
17 there with you guys with the people, I respect your  
18 beliefs, but you know, you oppose the Akaka Bill,  
19 that's maika'i, but think about us, think about the  
20 families that you come from that live on the  
21 homestead, eh? We live in Nanakuli or Waiahuli,  
22 Keokea --

23 HEARINGS OFFICER LILY: Mr. Sang, you  
24 need --

25 MR. SANG: Well, I hope that you guys

1 will take this into consideration, and my viewpoint  
2 is something that is very, very personal. Thank  
3 you.

4 HEARINGS OFFICER LILY: You made it loud  
5 and clear. Thank you very much. I am going to take  
6 a five-minute break. When we start up again, we  
7 have five students we are looking forward to, and  
8 three other people have signed up, and maybe more  
9 after that, so to give the stenographer a break and  
10 the committee, five minutes.

11 (Recess was taken.)

12 HEARINGS OFFICER FUJIMORI: Okay, we are  
13 going to get the hearing started. My name is  
14 Michelle Nalani Fujimori. I am the vice chair of  
15 this committee. Chairman Lily had to leave the  
16 meeting, so we are going to be proceeding. We do  
17 have a number of speakers that are still to speak,  
18 and as Chairman Lily has spoken earlier, we will be  
19 starting back up with the list from the beginning  
20 speakers and then having committee members ask those  
21 speakers questions to try to complete the day.

22 The first speaker is Arvid Youngquist  
23 that I have next on the list.

24 MR. YOUNGQUIST: Chair lady, members of  
25 the advisory committee, my name is Arvid Youngquist,

1 and I want to thank the committee for holding a  
2 second downtown Honolulu hearing and providing a  
3 four hour time frame for us to express in some  
4 respects our mana'o.

5           First of all, I speak for myself.  
6 Second, I am not a kanaka maoli. I come from an  
7 island nation, Japan. I was a candidate last year  
8 on the November ballot, a non-Hawaiian candidate for  
9 OHA, and garnered 14,664 votes. Number of votes  
10 roughly is equivalent to the membership of the Grass  
11 Roots Institute, which does some good work. I see  
12 them testify at the City Council on the fixed rail  
13 issue and other matters. I have sent an e-mail  
14 roughly repeating some of my comments, but I will  
15 skip over the salutation and such.

16           May I express myself both for voting out  
17 of the US Senate subject matter committee the  
18 legislation often referred as the Akaka Bill and  
19 that the US Senate as a whole vote on it without  
20 further amendments. If amendments do occur in the  
21 Senate, that will needlessly delay any action  
22 because of the US House of Representatives'  
23 requirement for concurrence.

24           It is hoped earnestly that the US  
25 Attorney General's solicitor general and the White

1 House enact the Akaka Bill into law as soon as  
2 possible without putting it off until the  
3 reconvening of the Congress in 2008 during the  
4 election cycle for many even in the Senate.

5 The deliberative discussions such as the  
6 public hearing where both positions and those in  
7 between as can be aired is an ideal forum for the  
8 people of Hawaii as well as the various interested  
9 segments of the kanaka maoli and the civic clubs as  
10 well as those who are part of the OHA and Kamehameha  
11 kukui ohana. It is without saying that all and any  
12 civil and constructive expressions feel the same for  
13 the record and be made part of the report for the US  
14 Civil Rights Commission.

15 And may I digress momentarily? Even if  
16 the decision to support the Akaka Bill is not  
17 unanimous, I request that the minority report from  
18 this advisory committee be included. You have a  
19 sizeable number of people who may comprise the  
20 minority. Who knows? In the course of the public  
21 hearings, minds may be changed. And that the  
22 executive branch in Washington, D.C., be advised as  
23 to the balance of your opinions expressed during the  
24 various hearings.

25 Seven years is a very long time in a

1 political life in Washington, D.C. Presidential  
2 candidates are running on a resume with less than  
3 two years of congressional experience in some  
4 instances. They know that the enemy of a good piece  
5 of legislation is the perfect legislation. Those of  
6 you who have followed the career of Senator Ted  
7 Kennedy may have heard of that quite often. They  
8 know that the enemy of a good piece of legislation  
9 is to delay, for example, for seven years asking for  
10 concessions, sacrifices. One of the major  
11 concessions was to prohibit legalized gambling and  
12 any kind of sovereignty claim by the kanaka maoli.  
13 Critique for work in progress should occur after  
14 enactment which provides for normal adjustments,  
15 amendments as well as repeal.

16           Currently in this State, whether you are  
17 kanaka maoli or not, the government, because of the  
18 consent, in union speak, silence is consent. Here,  
19 people come, and they speak now. Whether it is  
20 unfair to the committee or not, whether it is  
21 emotional or not, I would express my appreciation to  
22 Chair Lily as well as members of the committee for  
23 providing your full attention and letting all sides  
24 express their opinion. Thank you again on this  
25 opportunity to address the members of the Hawaii



1 State advisory committee. Mahalo.

2 HEARINGS OFFICER FUJIMORI: Thank you,  
3 Mr. Youngquist. Renee Telona?

4 MS. TELONA: Aloha mai kakou.

5 AUDIENCE: Aloha.

6 MS. TELONA: First and foremost, I would  
7 like to acknowledge my kanaka maoli in the crowd.  
8 I, Renee Telona, am a direct descendent of my people  
9 who came before me and left my future, the land in  
10 which I am from. As I stand before you today with  
11 my flag (speaks in Hawaiian), I lay out to you,  
12 those of you who make the decisions for my people,  
13 my generations to come, I say to you, I say to you  
14 that this is who I am, this is who I am choosing to  
15 be.

16 I as an educated Hawaiian stand before  
17 you this very moment to say that I do not think that  
18 it is right that this bill sit upon the desk of  
19 those who think they know what we want. I have not  
20 once heard those of you come to each and every place  
21 in which kanaka maoli reside and ask what we want.  
22 I did not once hear it.

23 I would like to quote from a song  
24 entitled (speaks in Hawaiian) by Ed Pohaku, (speaks  
25 in Hawaiian.) This is saying that (speaks in

1 Hawaiian), for whom, for what is this thing?  
2 (Speaks in Hawaiian), that flies above our native  
3 land. (Speaks in Hawaiian), for what is this? For  
4 what is this that we say yes to? (Speaks in  
5 Hawaiian), above us all. (Speaks in Hawaiian), that  
6 flag. (Speaks in Hawaiian), pull it down. (Speaks  
7 in Hawaiian), that flag. (Speaks in Hawaiian), that  
8 flag, that flag. (Speaks in Hawaiian), pull it  
9 down. (Speaks in Hawaiian), pull it up. (Speaks in  
10 Hawaiian), pull it up higher above that flag.  
11 (Speaks in Hawaiian), pull it up. (Speaks in  
12 Hawaiian), pull it up above that flag that thinks  
13 that this flag has supremacy above our land.

14 In closing, I would like to say I, Renee  
15 (speaks in Hawaiian) Telona, a direct descendent of  
16 this Island, do not support the Akaka Bill. Hawaii  
17 is my mainland, and that is my statement. Mahalo.

18 HEARINGS OFFICER FUJIMORI: Okay, next  
19 to testify will be Kaylyn Krael.

20 MS. KRAEL: Aloha, everybody, my name is  
21 Kaylyn Krael. I would like to say that I do not  
22 support the Akaka Bill, first of all, because I am a  
23 young woman that is still in high school, and I am  
24 not educated about it. I don't think that anybody  
25 ever has been educated about it.

1                   And the decisions that you make, I hope  
2 you know that they lie on top of our future. We are  
3 the people that have to live with it, and we are the  
4 people that are going to have to put up with the  
5 decisions that you make. I am the future, we are  
6 the future of Hawaii, your future leaders. Why not  
7 educate the children on what's going on in those  
8 decisions that you make for us? How do we know what  
9 to expect without the education that we need? You  
10 educate us about American history and all of this in  
11 our regular public schools, but you don't educate us  
12 about our own history. We know nothing about it.

13                   I am not for the Akaka Bill. I refuse  
14 to be blinded from the truth. When will you truly  
15 begin to not only open up your own eyes but help me  
16 to open up my own? You need to see the future in  
17 your kids. You need to help your children see it  
18 too. You can not be blinding everybody, and you  
19 can't -- you can't hide it from us. If you hide it  
20 from us, how will we know? How will we know?  
21 That's all I would like to say. Mahalo.

22                   HEARINGS OFFICER FUJIMORI: Thank you.  
23 Next is Pomaika'ilani Miner.

24                   MS. MINER: Aloha mai kakou.

25                   THE AUDIENCE: Aloha.

1 MS. MINER: My name is Pomaika'ilani  
2 Miner. On behalf of myself, I clearly do not  
3 support the Akaka Bill. The reason why I do not  
4 support the Akaka Bill is because as a Hawaiian, the  
5 government did not educate me or my people about  
6 this Akaka Bill. The civil rights needs to be  
7 equal, therefore, this is not an equal right for us  
8 Hawaiians who did not have say in this.

9 I am the future, and I want what is best  
10 for me and my people, not for others to tell us what  
11 to do. It is time for us to say what can or can't  
12 be done, so for my closing, I would like to once  
13 again state that I do not support the Akaka Bill.  
14 Mahalo.

15 HEARINGS OFFICER FUJIMORI: Okay, Rickey  
16 Kamai?

17 MR. KAMAI: Aloha mai kakou.

18 THE AUDIENCE: Aloha.

19 MR. KAMAI: My name is Rickey (speaks in  
20 Hawaiian) Kamai, and I am proud to say that I oppose  
21 the Akaka Bill. I, first of all, was not introduced  
22 to the Akaka Bill or informed about the Akaka Bill.

23 I am worried about my future and how it  
24 will come to be. I plan on having a family, going  
25 out somewhere, raising my family. Kids, I hope that

1 my kids will look back to me and say how proud they  
2 are of me. And I would really love to go to  
3 college, but if not, I am proud to say that I will  
4 be ready for whatever comes to me as I learn how to  
5 work the land, work the sea.

6 I really don't like the -- I don't like  
7 the idea of explaining my future without me present  
8 to talk about it. I think that nobody knows about  
9 my future better than myself, and nobody knows about  
10 the future of our people better than ourselves. But  
11 I thank you, not for the Akaka Bill, but for making  
12 our nation strong for we have gone through a lot of  
13 stuff in a lot of years that has passed, but after  
14 all, we have survived, and I thank you for that. I  
15 am not for a decrease in my Hawaiian culture, but  
16 for increase, a lot of increase.

17 As I close, I would just like to say  
18 that, as people have said it before, it is our  
19 kuleana and not yours. I am against the Akaka Bill.  
20 Mahalo.

21 HEARINGS OFFICER FUJIMORI: Okay, Rusty  
22 Kamai?

23 MR. KAMAI: Aloha mai kakou.

24 THE AUDIENCE: Aloha.

25 MR. KAMAI: My name is Rusty Kamai.

1 That there is my brother, and I come to you now as  
2 an individual Hawaiian, a proud one at that, and I  
3 am here to just bring up a point to you. I was not  
4 educated on any of this by the government and not  
5 asked personally if I supported it or not.

6 And now I would like to ask the people  
7 if they know what this is? To me, this is not just  
8 any ordinary Hawaiian flag. This, this, this stands  
9 for my nation, what I believe, and what these  
10 Hawaiian people believe. This is me, and after  
11 hearing every speech from every person in this room,  
12 that's telling me you just would take this flag and  
13 burn it, and I will tell you personally I would  
14 rather eat rocks than to see this flag along with  
15 this aina burn, and to tell you that I do not, I do  
16 not support this bill. Mahalo nui loa.

17 HEARINGS OFFICER FUJIMORI: Thank you,  
18 Mr. Kamai. We have Trustee Haunani Apoliana.

19 MS. APOLIANA: Aloha kakou. I just have  
20 two points to make relative to some of the  
21 information and comments made this afternoon.

22 My first point, the remarks about the  
23 Department of Interior and the Cobell case, the  
24 Cobell case, the distinction that I want to make  
25 relative to the Cobell case is the Cobell case was a

1 case brought by American Indians for breach of trust  
2 by the Department of Interior who has direct trust  
3 responsibilities and holdings over American Indian  
4 lands. On page, I would say in section, section  
5 nine, subsection A, B, it is clear, which is part of  
6 the Akaka Bill, notwithstanding any other provisions  
7 of law including but not limited to part 151 of  
8 title 25, Code of Federal Regulations, the  
9 secretary, meaning the secretary of the Department  
10 of Interior, shall not take land into trust on  
11 behalf of individuals or groups claiming to be  
12 Native Hawaiian or on behalf of the Native Hawaiian  
13 governing entity. There will be no trust holdings  
14 by the Department of Interior under the language of  
15 the Akaka Bill as is distinct from the circumstances  
16 of the Cobell case when the Department of Interior  
17 had direct trust responsibility for American Indian  
18 lands.

19 My second point and final point, in  
20 1917, there was a statement attributed to Queen  
21 Liliuokalani since she is our beacon and model for  
22 many things we talk about in reconciling the wrongs  
23 for going forward in the future, and this statement  
24 was provided by her hanai, her hanai daughter, Lydia  
25 K. Aholo, at the time of the publishing or writing

1 of the book called the Betrayal of Liliuokalani by  
2 Helena G. Allen.

3           Lydia Aholo attributes a very long  
4 statement of the queen, but it begins by saying, and  
5 it's a quote, I could not turn back the time for  
6 political change, but there is still time to save  
7 our heritage. You must remember never to cease to  
8 act because you fear you may fail. The way to lose  
9 any earthly kingdom is to be inflexible, intolerant,  
10 and prejudicial. Another way is to be flexible,  
11 tolerant of too many wrongs without judgment at all.  
12 It is a razor's edge. It is the width of a blade of  
13 pili grass. To gain the kingdom of heaven is to  
14 hear what is not said, to see what can not be seen,  
15 and to know the unknowable. That is aloha. All  
16 things in this world are two. In heaven is there is  
17 but one.

18           Queen Liliuokalani, 1917, her statement  
19 begins, I could not turn back the time for political  
20 change. To me, that is a clear acknowledgement by  
21 our queen that the political times had changed as a  
22 result of all the trauma, turmoil, disregard, hewa  
23 that she experienced, and it is time now for our  
24 Native Hawaiian community to right and to make the  
25 change and to move the political change forward for



1 Native Hawaiians. Because we used her as a beacon,  
2 for the record, I wanted to have this embodied in  
3 your recording. Thank you.

4 HEARINGS OFFICER FUJIMORI: Thank you,  
5 Chairman Apoliana. Michael Daly?

6 MR. DALY: Hello, committee. My name is  
7 Michael Daly. I am an Australian citizen. I  
8 actually decided not to become a US citizen while I  
9 was living in Hawaii because of the occupation of  
10 Hawaii. I have lived on the Island of Kauai for  
11 over twelve years, and I am currently living in  
12 Honolulu, and I work in a restaurant as a wage  
13 earner, and I have come to support those Hawaiians  
14 and other people who spoke to oppose the Akaka Bill,  
15 those who oppose the Akaka Bill on the grounds that  
16 it is not aligned with their aspirations and then  
17 their values of a sovereign nation.

18 Those Hawaiians that you have listened  
19 to today have a deep regard for their nation. They  
20 understand that it still exists today. It is  
21 impaired. It's being -- the land and territory is  
22 being occupied. Their queen is in distress. So the  
23 fact of the matter is that this is an international  
24 issue that's probably not going to be resolved by  
25 this hearing today whereby the occupiers come to

1 listen to the victims.

2 The overthrow of the palace was an act  
3 of war instigated by a bunch of thugs, businessmen,  
4 and others with the support of the US Government.  
5 Annexation was an instrument of that same war,  
6 statehood was an instrument of that same war, and it  
7 appears that those who are pushing for the Akaka  
8 Bill want to produce another instrument of war to  
9 continue the occupation. From what I can see, it is  
10 just layers and layers of corruption and deceit and  
11 disregard for international law.

12 Let me be clear that the nation for  
13 Hawaii still exists under international law, that  
14 the nation of the USA is equally a nation, but the  
15 US has trodden on the land, disregarded the people  
16 and the monarch. The nation of Hawaii exists as an  
17 impaired state, and the US is an unlawful occupier  
18 of this territory. It is as if the USA like a young  
19 puppy that it was or a teenager nation that didn't  
20 understand or realize what it was doing back in  
21 1893. Both the United Kingdom and Russia had  
22 occupied these territories prior to your occupation,  
23 and both had decided that they would withdraw. The  
24 United States never did that.

25 You know the United Kingdom was one of

1 the greatest colonizers of the whole world. If I  
2 was speaking in India prior to the time of Ghandi  
3 and told the united -- and I was addressing a group  
4 of United Kingdom people at a panel such as this and  
5 told them that these lands, this territory, this  
6 soil will return to its people and its rightful  
7 nation, I would be laughed at. But, indeed, India  
8 did return to its people, and the United Kingdom,  
9 despite all of the infrastructure that they put in,  
10 the millions of dollars spent in developing that  
11 country, railroads across a huge continent, they had  
12 to leave.

13 I believe that you will leave. I  
14 believe that the Akaka Bill, whether it goes ahead  
15 or not, will be overridden by international  
16 jurisdiction, and I believe that if it is not, we  
17 are in a world of global -- a global jungle with a  
18 rule of militarism and terrorism is the rule, and  
19 you can not -- the United States can not afford  
20 while it's in Iraq to be disregarding international  
21 law. You would not even be in Iraq if the -- just  
22 let me finish this sentence, Madam Chairperson. You  
23 would not be in Iraq if in 1893 you did the right  
24 thing in the Pacific. Thank you.

25 HEARINGS OFFICER FUJIMORI: Thank you,

1 Mr. Daly. Juewels Ioka.

2 MS. IOKA: Aloha.

3 THE AUDIENCE: Aloha.

4 MS. IOKA: (Speaks in Hawaiian). First  
5 of all, I would like to say I am proud to be a  
6 Hawaiian, and I oppose the Akaka Bill. I am a  
7 Native Hawaiian. I am not a native Indian, nor am I  
8 a Native American, and I would not like to be known  
9 as any of these things.

10 I would like to address my people by  
11 asking have we not forgotten what our Queen has done  
12 for us? Everything she has gone through? All the  
13 trials and tribulations, everything she has fought  
14 for her people, have we forgotten what she has done  
15 for us? If not, then why is it that we have to deal  
16 with all of these things? These issues that come  
17 about?

18 My future is not in your hands. My  
19 future has nothing to do with you people here. My  
20 future is mines, and I will not have that taken away  
21 from me because of some people who think that they  
22 can control all these things around them, the people  
23 around them or anything that has to do with this.

24 I would just like to ask you as the  
25 board, how would you feel if someone came into your

1 home and started taking things from your house? I'm  
2 pretty sure you would be upset. I'm pretty sure you  
3 would call the cops if somebody stole stuff from  
4 your house. Having people from America, America,  
5 come here into our home and start claiming things  
6 that is theirs, it's not right. This is not their  
7 land. We are not their people.

8 I would like to mahalo you for this time  
9 and mahalo all my people here, and I would just like  
10 you to know that I am against the Akaka Bill.  
11 Mahalo.

12 HEARINGS OFFICER FUJIMORI: Thank you,  
13 Ms. Ioka. Last to testify today is Laverne  
14 Fernandes Moore. After Ms. Moore's speech, we will  
15 be going through questions from the individuals who  
16 provided testimony to the committee.

17 MS. IOKA: Good afternoon. Speaking on  
18 behalf of the National Education Association Asian  
19 and Pacific Islander Caucus as their chairperson and  
20 as a 22nd generation Native Hawaiian, the National  
21 Association Education at its 2000 national  
22 convention in Chicago with its 9,000 plus voting  
23 delegates passed legislative amendment two which is  
24 the recognition of Native Hawaiians as an indigenous  
25 people who have a special relationship with the

1 United States and a right to self-determination  
2 under the Federal law. I want to read to you my  
3 speech given on that floor at the 2000 NEA  
4 convention.

5 As a Native Hawaiian, my heritage is one  
6 of harmony with self, family, and the environment.  
7 My ancestors lived off the land, had our own  
8 religion, had our own form of government, and took  
9 care of each other. We were self-sufficient. After  
10 the illegal overthrow of our government, everything  
11 changed. Our land was taken away, our religion was  
12 taken away, and our government was taken away.  
13 Hawaiians' self respect was taken away.

14 Like the American Indians, our culture  
15 was in danger of extinction. It was against the law  
16 to speak Hawaiian. Even the government degenerate,  
17 whatever, downgraded Hawaiians asserting that we  
18 were only good enough to become common laborers. We  
19 were labeled stupid, lazy, good for nothing, and  
20 told we would amount to nothing. It was no surprise  
21 that our Native Hawaiian children, myself included,  
22 were embarrassed to call ourselves Hawaiian. In the  
23 past decade, there has been a resurgence of the  
24 Hawaiian culture. We are once again proud to call  
25 ourselves Hawaiian.

1           Now winding its way through Congress is  
2 a bill that will give Native Hawaiians another  
3 reason to stand tall. This bill will establish four  
4 things. Number one, it will clarify the political  
5 relationship between Native Hawaiians and the  
6 Federal government. Two, it will create an office  
7 to effectuate and enforce a trust responsibility of  
8 the United States to promote the welfare of native  
9 peoples, including Native Hawaiians. Three, it will  
10 create a group that will coordinate Federal policies  
11 and programs among agencies ending a long history of  
12 disjointed and uncoordinated efforts to serve Native  
13 Hawaiians, and the bill also creates a process for  
14 Native Hawaiians to form an entity for government to  
15 government relationship within the United States.

16           In a matter of speaking, this simple  
17 bill will set the stage for Federal recognition. We  
18 have received favorable support from the White House  
19 and Federal officials, and this tells us that we  
20 have a window of opportunity that we can not pass  
21 up. The time is now.

22           As our distinguished Native Hawaiian  
23 Senator Daniel Akaka said, for far too long, efforts  
24 to resolve long-standing issues for Native Hawaiians  
25 have been delayed. We have been told we need more

1 input. We have been told the time is not right. We  
2 have been told we will not succeed. We will never  
3 move forward unless we try. We must not be afraid  
4 to help ourselves and ask others to support our  
5 endeavors.

6 So I stand before you a keiki o ka aina,  
7 a Native Hawaiian, to ask for your support in our  
8 efforts to become a federally recognized native  
9 people. I ask you to help us help our Hawaiian  
10 children to be proud and to stand tall. Please vote  
11 yes on legislative amendment two, and the 9,000 plus  
12 delegates overwhelmingly passed this at our national  
13 convention, and the National Education Association  
14 works effortlessly to help pass this bill, and I ask  
15 for your support in this, and thank you for the  
16 opportunity to testify today. Mahalo.

17 HEARINGS OFFICER FUJIMORI: Thank you,  
18 Ms. Moore. I am getting ready to start, but I see  
19 another sheet of paper coming which might be another  
20 testifier. Kaonani Malama?

21 MR. MALAMA: Good afternoon, committee  
22 members. My name is Kaonani Malama. I have this  
23 opportunity to speak. Technically, I am for the  
24 Akaka Bill. Due to the situation that the United  
25 States Congress has some education to do, I propose,



1 actually, my mother proposed it years ago in the  
2 legislature, you have educational packets given to  
3 the 111th or the 112th Congress in the coming years  
4 to be educated on the issues about the Native  
5 Hawaiian plight starting with the overflow of the  
6 Kingdom of Hawaii.

7           This Kingdom had a treaty, a sovereign  
8 state, with the United States of America. It was  
9 overthrown by local businessmen who may or may not  
10 have a lineage, a blood quantum, with the Native  
11 Hawaiians or the kanaka maoli. These are  
12 businessmen who coerced people from the United  
13 States Congress into having displaced a republic.  
14 Therefore, after the republic, you know what  
15 happened afterwards. It became a state.

16           Now, I know and history shows that in  
17 1898, I believe, or in 1893, there was a petition  
18 sent forth to the United States of America, and  
19 these people are all people of native blood and  
20 non-native, these are not people who have the kokua,  
21 the blood of Native Hawaiians. These are both  
22 people of Native Hawaiians and non-Native Hawaiians  
23 who had a petition set up to go to the Congress.  
24 This is before the 20th Century at the end of the  
25 19th century. I saw the petition. There's a name

1 from Kauai, and that's where my family is from.

2 I believe that the United States  
3 Congress, even this governor, this present governor,  
4 has no pull as a Republican governor with the  
5 Republican President. This Republican President  
6 right now doesn't care about our status in this  
7 situation. He has got bigger problems.

8 This government, this President and this  
9 Congress, I believe that they should be educated  
10 first. I don't need the education. You don't need  
11 the education. You're not from Washington. The  
12 advisory committee, the commission should be  
13 educated up in Washington. Give each member of your  
14 commission a packet explaining the situation of what  
15 happened, what occurred prior to the overthrow, and  
16 the 111th and the 112th Congress should be educated.

17 Now, if by some reason we have a  
18 President of the United States, whether it be a she  
19 or a he who is a Democrat, God, hopefully, since  
20 this Republican Congress for the past six-and-a-half  
21 or seven years has not even moved one inch, and this  
22 President who kept his mouth shut until last year of  
23 2006 who did not say one word until the United  
24 States solicitor general made an opinion to the  
25 United States Congress, therefore, we are in a hold

1 situation. That's why the Akaka Bill is not going  
2 to go through.

3 I believe deep down that if there's a  
4 Democratic President, and we have a Senate that's  
5 controlled by the Democrat Party, we have a chance  
6 to move the bill to go through. You don't need the  
7 education. They don't need it. The United States  
8 Congress, both houses, should be educated of what  
9 happened to this Kingdom over here, what happened to  
10 the people in Hawaii. That's all I got to say.  
11 Thanks a lot.

12 HEARINGS OFFICER FUJIMORI: Thank you,  
13 Mr. Malama. For the audience, what we will be doing  
14 right now is I am going to be going through the list  
15 of 27 of you that testified today and asking the  
16 committee members as I go through each name if they  
17 have questions for the particular speaker. We are  
18 hoping to get through this process fairly quickly,  
19 and for those of who have stuck around from the  
20 beginning of the hearing, we really do appreciate  
21 it.

22 So we are going to be going through the  
23 list of the speakers that came here today. We have  
24 27 speakers that spoke. When I go over each name of  
25 the person who spoke, I will be looking to our

1 committee members to see if they have questions.  
2 Each committee member will be allowed one question  
3 and one clarifying follow-up. After that, we will  
4 continue to move through.

5 I ask the committee members to please be  
6 aware that it is currently five to four, and that we  
7 have some members of the public that have been here  
8 since one o'clock this afternoon.

9 I am going to start first with David  
10 Rosen, if any committee members have any questions  
11 for Mr. Rosen? Okay. Mr. Twigg-Smith, does anyone  
12 have any questions for Mr. Twigg-Smith? Mr. Kevin  
13 O'Grady? Ms. Su Yates?

14 BOARD MEMBER BARBEE-WOOTEN: I have a  
15 question.

16 HEARINGS OFFICER FUJIMORI: Ms. Su  
17 Yates, can you please step forward to the  
18 microphone?

19 BOARD MEMBER BARBEE-WOOTEN: My name is  
20 Daphne Barbee-Wooten. My question, Ms. Yates, I  
21 think you ran out of time when you were testifying,  
22 and so I wanted to provide you with a little time,  
23 but you at the very end of your testimony, you  
24 stated that there are other overriding issues which  
25 the advisory committee should consider in Hawaii.

1 What are the overriding issues that you feel we  
2 should be exploring?

3 MS. YATES: Well, actually, I have to  
4 say that I am meant overriding issues, not  
5 necessarily that the committee has to. I wasn't  
6 speaking specifically of the committee, but that all  
7 of us are going to be facing whether it's global  
8 warning, or I just meant kind of universal issues  
9 that we all need to work on, not specific to the  
10 committee. I'm sorry.

11 HEARINGS OFFICER FUJIMORI: Any others  
12 for Ms. Yates? Thank you, Ms. Yates. Kaleolani  
13 Kekoa, any questions? I am asking if anyone has any  
14 questions of you.

15 MR. KEKOA: William --

16 HEARINGS OFFICER FUJIMORI: No, no, no,  
17 not for you to ask questions, but for us to ask you  
18 questions.

19 MR. KEKOA: Okay.

20 HEARINGS OFFICER FUJIMORI: I think no  
21 one has questions I think of you. Thank you.  
22 Chen Wei-Yuan? Marian Grey? Deanna Espinas?  
23 Charlene Cuaresma? Trustee Oswald Stender? Trustee  
24 Stender is still here?

25 BOARD MEMBER AGBAYANI: I have one. May

1 I ask you a question, Mr. Stender? Am I  
2 understanding that you are a member of a past  
3 advisory committee?

4 MR. STENDER: Yes.

5 BOARD MEMBER AGBAYANI: And I think with  
6 the exception of one person here, we are all new,  
7 and would you describe the process that your  
8 committee went through to identify and get  
9 information from the community and vote on the Akaka  
10 Bill?

11 MR. STENDER: The HSAC committee was  
12 requested by the Justice Department to look into  
13 that issue, the Akaka Bill, and we had a number of  
14 hearings. I remember the one that lasted the  
15 longest was at the Hawaiian Village. Then after the  
16 hearings were over, it took, I think, nearly a year  
17 to write the report because it had to float between  
18 ourselves, the attorneys for the Justice Department,  
19 and I think it was finished in 2001.

20 BOARD MEMBER AGBAYANI: Okay, and that  
21 report had recommendations that you gave to the US  
22 Commission, and then what happened to that report?

23 MR. STENDER: It was forwarded to the  
24 United States, to the commission, and it's, I  
25 imagine, filed. I have not heard anything more

1 about it, and I know it is on file, which I checked  
2 on it the other day.

3 BOARD MEMBER AGBAYANI: Thank you very  
4 much. So this comprehensive report is on file, and  
5 it represents a number of hearings?

6 MR. STENDER: Yes, it is on file. It  
7 was finished in June of 2001.

8 BOARD MEMBER AGBAYANI: Thank you very  
9 much.

10 HEARINGS OFFICER FUJIMORI: I  
11 understand, Trustee Stender, that Mr. Burgess also  
12 has a question for you.

13 BOARD MEMBER BURGESS: Mr. Stender, do  
14 you think that if the seven mandatory criteria that  
15 apply to recognition by the United States Native  
16 American groups as a tribe, if those criteria -- are  
17 you familiar with those criteria?

18 MR. STENDER: No, I'm not.

19 BOARD MEMBER BURGESS: Okay. Do you  
20 understand that those criteria require that there be  
21 an existing tribe before you can recognize a tribe?

22 MR. STENDER: I can only explain it this  
23 way. We have engaged the services of attorneys, and  
24 these are attorneys who have extensive backgrounds  
25 in Indian law and issues such as what needs to be

1 addressed on the constitutional questions, that  
2 issue has been raised from time to time, and they  
3 advised us that the Akaka Bill meets the criteria  
4 that we, our objective is to receive recognition,  
5 and they tell us it is so, and, of course, we accept  
6 that interpretation.

7 BOARD MEMBER BURGESS: Well, do you  
8 think that if the criteria applicable to Native  
9 Americans were applied to Hawaiians that Hawaiians  
10 would qualify --

11 MR. STENDER: We are not an Indian  
12 tribe, and people keep trying to associate us as  
13 being a tribe. We are the indigenous people of this  
14 land, and that's who we are. We are not Indians, we  
15 can not be compared to Indians, other than the  
16 Indians and Alaskan Americans who like the Hawaiians  
17 are indigenous to this land in Hawaii. The  
18 Hawaiians are indigenous to Hawaii, the Indians are  
19 indigenous to the United States, to the continent,  
20 and Alaskans are indigenous to Alaska.

21 BOARD MEMBER BURGESS: So that --

22 HEARINGS OFFICER FUJIMORI: Mr. Burgess,  
23 we said there would be one question plus one  
24 follow-up.

25 BOARD MEMBER BURGESS: Okay, all right.



1 HEARINGS OFFICER FUJIMORI: Okay,  
2 Mr. Sullivan, you had a question?

3 BOARD MEMBER SULLIVAN: If I might, just  
4 one question on the term indigenous as it applies to  
5 living people today, what is the definition of that?  
6 How do you decide whether an individual or even a  
7 group of individuals is indigenous as you are using  
8 that word?

9 MR. STENDER: The bill spelled out the  
10 definition of indigenous.

11 BOARD MEMBER SULLIVAN: Thank you.

12 HEARINGS OFFICER FUJIMORI: Any other  
13 committee members have any questions of Mr. Stender?  
14 Thank you, Trustee Stender.

15 MR. STENDER: Thank you.

16 HEARINGS OFFICER FUJIMORI: All right,  
17 do committee members have questions for Dexter  
18 Kaiama? Andre Perez? Marcia Linville? Milton  
19 Coleman? Ikaika Hussey? Anthony Sang? Barbara  
20 Youngquist? Renee Telona? Kaylyn Krael?  
21 Pomaika'ilani Miner? Rickey Kamai? Rusty Ko Kamai?  
22 Trustee Apoliana? Michael Daly? Juewels Ioka?  
23 Laverne Fernandes Moore? Kaonani Malama?

24 With that, we will be concluding the  
25 hearing. Can I entertain a motion to close the

1 hearing?

2 BOARD MEMBER AGBAYANI: I move the  
3 motion.

4 BOARD MEMBER BURGESS: I second the  
5 motion.

6 HEARINGS OFFICER FUJIMORI: All in  
7 favor?

8 UNIDENTIFIED BOARD MEMBERS: Aye.

9 HEARINGS OFFICER FUJIMORI: That would  
10 conclude our open hearing on this. Thank you.

11 (Hearing concluded.)

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## C E R T I F I C A T E

STATE OF HAWAII )

) SS.

CITY AND COUNTY OF HONOLULU )

I, PATRICIA ANN CAMPBELL, CSR 108, Notary  
Public, State of Hawaii, do hereby certify:

That on September 12th, 2007, the hearing  
was taken down by me in machine shorthand and was  
thereafter reduced to typewriting under my  
supervision; that the foregoing represents to the  
best of my ability, a true and correct transcript of  
the proceedings had in the foregoing matter.

I further certify that I am not an  
attorney for any of the parties hereto, nor in any  
way concerned with the cause.

DATED this 1st day of October, 2007,  
in Honolulu, Hawaii.



PATRICIA ANN CAMPBELL, CSR 108

Notary Public, State of Hawaii

My Commission Exp: March 8th, 2010