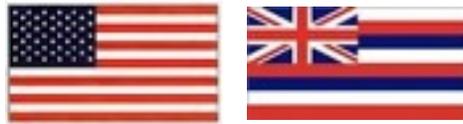


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Unity, Equality, Aloha for all



Testimony regarding RIN 1090-AB05 (Regulation Identifier Number)
Procedures for Reestablishing a Government-to-Government
Relationship With the Native Hawaiian Community

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Advance notice of proposed rulemaking; solicitation of
comments.

Federal Register

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Testimony submitted August 15, 2014
(in honor of today's Hawaii Statehood Day holiday)
by Kenneth R. Conklin, Ph.D.
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the Aloha State"
<http://tinyurl.com/2a9fqa>

Topics my testimony will address:

Nineteen questions were asked in the Federal Register.

Question 1 is "Should the Secretary [of Interior] propose an administrative rule that would facilitate the reestablishment of a government-to-government relationship with the Native Hawaiian community?" Question 3 is "Should there be a reorganization of a Native Hawaiian government in order to reestablish and maintain a government-to-government relationship between the Native Hawaiian community and the United States?"

My answer is emphatically NO to questions 1 and 3. Most of my testimony will explain why there is no historical, legal, or moral justification for race-based political sovereignty for ethnic Hawaiians. Numerous essays and documents will be cited in relation to various aspects of that topic, as outlined in my table of contents.

Other issues I will address after that are
Federal Register Question 8: "To be included on the roll, what should constitute adequate evidence or verification that a person has a

significant cultural, social, or civic connection to the Native Hawaiian community?"

Federal Register Question 16: "Should there be a minimum turnout requirement for any referendum to ratify a Native Hawaiian constitution or other governing document?"

Federal Register Question 19 (portion): "Should reorganization of a Native Hawaiian government require a ... constitution or other governing document that ... has been ratified by a majority vote of "qualified Native Hawaiians"?"

and some questions that were not asked but should have been, such as:

Considering the unique demographics of Hawaii where Native Hawaiians are an enormously larger percentage of the population than the indigenous peoples of other states, should federal recognition of a Native Hawaiian governing entity be contingent upon approval by the general population of Hawaii in a yes/no ballot question to be decided according to the same rules for ratification of an amendment to the state Constitution?

Congress passes laws which the executive branch is empowered to implement. When laws lack detail or specificity, the executive branch can engage in rulemaking to implement the intent of the law. But does the executive branch have power to pass laws all by itself, which are contrary to the clear intent of Congress? For thirteen years Congress repeatedly refused to pass the Akaka bill to create a Native Hawaiian tribe and recognize it. Unelected bureaucrats might make rules to implement laws, but they have no authority to make rules directly opposite to the clear intent of Congress.

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1. ALOHA FROM KEN CONKLIN. WHO I AM. I SUPPORT UNITY AND EQUALITY; OPPOSE RACIAL SEPARATISM.

Aloha kakou. O Ken Conklin ko'u inoa. Mai ke ahupua'a o He'eia mai au.

I am Kenneth R. Conklin, Ph.D., retired professor of Philosophy. I have been a citizen of Hawaii and permanent resident of the ahupua'a of He'eia, Ko'olaupoko, O'ahu since 1992. I came to live here primarily because of my love and respect for Hawaiian history and culture, and appreciation of our fully integrated multiracial society. I have attended hundreds of Hawaiian sovereignty meetings and demonstrations; and I speak Hawaiian language with moderate fluency. I maintain a very large website on the topic of Hawaiian sovereignty and related issues including history, law, and the Akaka bill, at:

<http://tinyurl.com/6gkzk>

and am the author of a 302-page book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" with portions available at

<http://tinyurl.com/2a9fqa>

My goals as a civil rights activist are to protect and strengthen the unity of Hawaii's people under the undivided sovereignty of the State of Hawaii; the unity of Hawaii with the United States; and equality under the law for all Hawaii's people.

<http://tinyurl.com/2c49g>

In keeping with those goals, I oppose dividing the lands and people of Hawaii along racial lines as envisioned by the Akaka bill and by current proposals to create a Hawaiian race-based government and give federal recognition to it as an Indian tribe; I oppose efforts to rip the 50th star off the flag by restoring Hawaii's previous status as an independent nation; and I oppose Hawaii's amazingly large number of racial entitlement programs whose dollar value and institutional power structure are primary motivators of demands for federal recognition to convert the favored racial group into a federally recognized Indian tribe.

2. THE ADVANCE NOTICE OF PROPOSED RULEMAKING REPEATEDLY REFERS TO A "REORGANIZED NATIVE HAWAIIAN GOVERNMENT" OR "REESTABLISHING A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE NATIVE HAWAIIAN COMMUNITY." BUT THERE NEVER WAS A GOVERNMENT OF A UNIFIED ARCHIPELAGO OF HAWAII WHERE THE GOVERNMENT CONSISTED SOLELY OF NATIVE HAWAIIANS NOR WHERE THE CITIZENRY WITH VOTING AND PROPERTY RIGHTS WERE SOLELY NATIVE HAWAIIAN. THUS THERE WAS NEVER A NATIVE HAWAIIAN GOVERNMENT WHICH COULD NOW BE REORGANIZED. ALL YOU COULD DO IS CREATE ONE OUT OF THIN AIR WITH NO BASIS IN HISTORY.

For more than a thousand years, from the time the Hawaiian islands were first settled until 1810, there was constant warfare among the natives. Each chief or warlord ruled over parts of one island, or perhaps as much as two or three islands. But there was never a government presiding over all native Hawaiians or encompassing a unified archipelago of the eight major islands. The natives had no metal except what washed up in driftwood; so their weapons were quite primitive and none of the local warlords could defeat all the other ones, especially on other islands.

The first recorded contact between Europeans and native Hawaiians occurred when British explorer Captain Cook arrived in 1778 at Waimea, Kaua'i. He stayed only briefly and then resumed his journeys. Later he returned to the islands, circling Maui offshore for a couple weeks before finally dropping anchor and staying for a while at Kealahou, Hawaii Island. He was greeted ceremonially as a god because his spectacular arrival at Kealahou coincided with the Makahiki period when prophecy said the god Lono would return to that place (The name Kealahou means pathway of the god). The elderly high chief of that district came aboard Captain Cook's ship. Accompanying the high chief was a young native chieftain named Kamehameha, who saw the metal tools on the ship, saw the guns and swords, and saw the ship's cannons being fired. He immediately realized how such powerful weapons, and oceangoing ships, could enable him to conquer all the Hawaiian islands.

Gradually more Europeans arrived. Kamehameha acquired large stockpiles of weapons, and also the services of some British sailors. He defeated the other warlords on his home island (Hawaii Island), and then invaded and conquered Maui, Moloka'i, Lana'i, Kaho'olawe, and finally O'ahu in the famous Battle of Nu'uuanu Pali in 1795. After twice failing to invade Kaua'i due to bad weather and disease, he prepared a fleet of war canoes for a third attempt. Kaumuali'i, king of Kaua'i and Ni'ihau, finally made a deal to surrender sovereignty to Kamehameha in return for being allowed to remain as governor of his own island. Kamehameha The Great had finally unified all the 8 major islands under his rule. 1810 is accepted by all historians as the first year when there was a unified Kingdom of Hawaii encompassing all the islands and including all the native Hawaiians.

Without British weapons, British men to teach the natives how to use them, and British men performing as battlefield generals, Kamehameha could never have succeeded in doing what no native chief had been able to do for a thousand years -- unifying all of Hawaii.

The Hawaiian Kingdom was created with Caucasians in leadership roles in battle during the late 1700s. The Kingdom was sustained and governed with Caucasians in leadership roles throughout its 83 year history from 1810 to 1893.

Kamehameha's closest advisor was Englishman John Young, who trained the troops and led them in battle. He became a high chief and Governor of Hawaii's largest island, which was Kamehameha's home island -- Hawaii Island, which gave its name to the entire archipelago. Young was given a house immediately next to the great heiau Pu'ukohola, which had been built by Kamehameha to fulfill a prophecy that the chief who built it would become conqueror of all the islands. The oldest bones in Mauna Ala, the Royal Mausoleum, belong to John Young, whose tomb is in the shape of a heiau (ancient-style stone temple) and is guarded by a pair of pulo'ulo'u (sacred taboo sticks). Although John Young was the earliest Caucasian high chief and governor, there were many others who came after him.

The Kingdom's first Constitution, marking the beginning of a Western-style government, was proclaimed in 1840. From then until the monarchical government was overthrown in 1893, most of the cabinet ministers, nearly all the department heads and judges, and 1/4 to 1/3 of the members of the legislature were Caucasian. More than 1000 men from China, and some from Japan, took the oath to become naturalized subjects of the Kingdom, with full voting and property rights. University of Hawaii Professor Jonathan Osorio's book "Dismembering Lahui" includes several pages listing the members of the Hawaiian Kingdom legislature's House of Nobles and House of Representatives at different dates throughout the Kingdom's history; and it's easy to see the numerous non-native names among the legislators.

In 1890, under King Kalakaua, ethnic Hawaiians were already a minority. Between 1890 and 1900 there was rapid immigration, primarily from Asia, further reducing the ethnic Hawaiian percentage of the population. The explosion of Asian population in Hawaii was partly due to King Kalakaua's trip to Japan in 1881 and his invitation for Japanese laborers for the Hawaii sugar plantations. The following figures are taken from the Native Hawaiian Databook:

Hawai'i Census of 1890 (Kingdom): Total population 89,990; Hawaiian 34,436; Part Hawaiian 6,186. Therefore ethnic Hawaiians (full or part) total 40,622 out of 89,990 which is 45%.

Hawai'i Census of 1896 (Republic): Total population 109,020; Hawaiian 31,019; Part Hawaiian 8,485. Therefore ethnic Hawaiians (full or part) total 39,504 out of 109,020 which is 36%.

U.S. Census of 1900 (Territory): Total population 154,001; Hawaiian 29,799; Part Hawaiian 9,857. Therefore ethnic Hawaiians (full or part) total 39,656 out of 154,001 which is 26%. Japanese were 61,111 out of 154,001 which is an astonishing 40%, far outnumbering any other ethnic group.

Straight-line interpolation is not entirely appropriate due to differences in which month the census was done, and the accelerating rate of immigration; but the approximate figures for 1893 (overthrow of the monarchy) and 1898 (annexation) would be:

1893 (overthrow) ethnic Hawaiians (full or part) 40,063 out of 99,505 which is 40%.

1898 (annexation) ethnic Hawaiians (full or part) 39,580 out of 131,511 which is 30%.

The U.S. Department of State, Office of the Historian has a small webpage about the relationship between the United States government and the Kingdom of Hawaii, at <https://history.state.gov/countries/hawaii>

It says "On December 20, 1849, the U.S. and the Kingdom of Hawaii signed a Treaty of Friendship, Commerce, and Navigation and Extradition. The treaty, negotiated by U.S. Secretary of State John M. Clayton and the Hawaiian special Commissioner to the Government of the United States James Jackson Jarves, was signed in Washington, D.C." Notice that the special Commissioner authorized to sign a treaty on behalf of the Kingdom of Hawaii was a Caucasian from New England.

The State Department historian also says "On January 30, 1875, United States Secretary of State Hamilton Fish and the Kingdom of Hawaii's Envoy Extraordinary and Minister Plenipotentiary to the United States Elisha H. Allen signed a Treaty of Reciprocity. This treaty provided for duty-free import of Hawaiian agricultural products into the United States. Conversely, the Kingdom of Hawaii allowed U.S. agricultural products and manufactured goods to enter Hawaiian ports duty-free. This treaty was originally intended to last for a duration of seven years." Notice that the Kingdom of Hawaii's Envoy Extraordinary and Minister Plenipotentiary to the United States was Elisha H. Allen, a Caucasian from New England who had served as an American congressman, lawyer and diplomat; and then moved to Hawaii where he became a judge and diplomat for the Kingdom of Hawaii.

The point is that right from the beginning, and throughout the history of the Kingdom of Hawaii, people with no native blood were intimately involved in creating, sustaining, and governing it. There never was a Hawaiian nation limited to ethnic Hawaiians as a racial group. The Kingdom was fully multiracial in both its citizenry and its government. Nearly all "Native Hawaiians" have some or most of their ancestry from Europe, America, and Asia. Non-natives cannot be pushed out of land ownership and governance in Hawaii any more than non-native ancestry can be cleansed from the blood of "Native Hawaiians."

It is blatantly false to say that a group of people defined by race, required to have Hawaiian native ancestry, could in any way be a reorganization or revival of a previously sovereign multiracial Hawaiian nation. If the State of Hawaii and/or the U.S. government create a Hawaiian tribe through the Kana'ioloowalu racial registry or any similar process, they will be creating a wholly artificial entity that never existed before. The U.S. Department of Interior has no authority to single out a racial group and endow it with governmental authority.

3. THE ADVANCE NOTICE OF PROPOSED RULEMAKING REFERS TO “THE SPECIAL POLITICAL AND TRUST RELATIONSHIP THAT CONGRESS HAS ESTABLISHED BETWEEN THAT [THE NATIVE HAWAIIAN] COMMUNITY AND THE UNITED STATES.” BUT IT IS DOUBTFUL WHETHER SUCH A TRUST RELATIONSHIP EXISTS.

There are two theories about an alleged federal trust relationship with ethnic Hawaiians. One theory is that the repeated generosity of Congress in passing legislation to give handouts to ethnic Hawaiians has established such a trust relationship. For example, on page 35298 the Federal Register says "Over many decades, Congress has enacted more than 150 statutes recognizing and implementing a special political and trust relationship with the Native Hawaiian community. Among other things, these statutes create programs and services for members of the Native Hawaiian community that are in many respects analogous to, but separate from, the programs and services that Congress has enacted for federally recognized tribes in the continental United States."

Commonsense shows that concept of how a trust relationship gets established is nonsense. Here's a parody of it. On Monday I pass by a beggar on my way to work and drop a dollar into his tin cup. On Tuesday I do it again. Also on Wednesday. But on Thursday I walk past the beggar and do not put anything into his tin cup. The beggar then shouts and runs after me, demanding the dollar he says I owe him. He claims my actions on the first three days have established a "trust relationship." And when I hesitate, he demands I sign a document pledging to give him "his" dollar every day forever. Clearly my generosity on the first three days does not impose any legal or moral obligation on me to continue giving the beggar "his" dollar. I do not owe him anything. His attitude shows the danger that my generosity will injure him by making him dependent on me, and make him resentful and perhaps violent if I refuse to comply with his expectations. Indeed, that's the attitude that over 850 racial "entitlement" programs have engendered in the "Native Hawaiian community." See a compilation of the programs as of a few years ago, at <http://4hawaiiansonly.com>

How did those 150 Hawaiian racial entitlement programs cited in the Akaka bill and the Federal Register get established? Senators Akaka and Inouye sat on the Indian Affairs Committee for decades. Until 2013 Hawaii was the only state that had both of its senators serving together on the Indian Affairs Committee; and they did it together year after year. Why did Akaka and Inouye do that when there were no Indian tribes in Hawaii? It's all about the pork barrel; i.e., bringing billions of federal dollars home to Hawaii. Over the years, whenever a bill came through the committee intended to provide federal benefits to real Indian tribes, they quietly inserted the words "and Native Hawaiians." What a clever strategy! And then, after enough of those bills get enacted into law, it is claimed that the passage of these bills shows that Congress treats "Native Hawaiians" just like Native Americans and Native Alaskans! It is claimed that a "federal trust relationship" has been established with "Native Hawaiians" which now finally deserves to be formally recognized. That's just as ridiculous as the beggar claiming I have established a trust relationship with him.

A second theory is that provisions have been written into laws, especially the Hawaiian Homes Commission Act (1921) and the Hawaii statehood Admissions Act (1959), which give Congress authority to supervise the way certain lands in Hawaii are administered by the State of Hawaii on behalf of ethnic Hawaiians, and that relationship effectively makes the United States a trustee for ethnic Hawaiians with at least 50% native blood quantum (now 25% after a law was passed allowing descendants of 25% to inherit a lease from a 50%er to whom it was originally granted).

This theory has a degree of plausibility. And there are several official memorandums written over the years by high officials of the Department of Interior specifically focused on the alleged trust relationship. The problem is that the memorandums change from affirming to denying and back to affirming the trust relationship, depending entirely whether the writer is working for a Democrat or Republican administration. Democrats always assert the trust relationship exists; Republicans say there is no trust relationship -- just

as Democrats pushed the Akaka bill for 13 years while Republicans blocked it. In other words, whether the trust relationship exists is a purely political assertion, not a clear and convincing legal conclusion. The timing of those memorandums is also highly politicized, occurring at the end of one party's governance and followed by the opposite assertion near the beginning of the next administration of the opposite political party. The timing of the memorandums asserting that a trust relationship exists is also closely tied to the timing of other political events related to ethnic Hawaiians; namely, the apology resolution of 1993.

On January 19, 1993, the last full day of the Republican administration of President George H.W. Bush (the elder), Thomas L. Sansonetti, Solicitor General of the Department of Interior, issued a 20-page official Opinion (Memorandum number M-36978) that there is no federal trust relationship with Native Hawaiians. On page 20 his concluding paragraph said "For the reasons discussed above, we conclude that the United States is not a trustee for native Hawaiians. We further conclude that the HHCA [Hawaiian Homes Commission Act] did not create a fiduciary responsibility in any party, the United States, the Territory of Hawaii, or the State of Hawaii. Deputy Solicitor Ferguson's opinion of August 27, 1979, is superseded and overruled to the extent that it is inconsistent with this memorandum."

But later that same year, on November 15, 1993, after Democrat Bill Clinton had assembled his cabinet and subcabinet officials, the new Solicitor General of the Department of Interior, John D. Leshy, issued a one-page un-numbered Opinion formally withdrawing the Sansonetti Opinion without giving good legal reasons why. Leshy's Opinion was issued on November 15 to coincide with the joint resolution apologizing to ethnic Hawaiians for the U.S. role in the overthrow of Hawaii's monarchy, which passed the Senate on October 27, passed the House on November 15, and was signed by President Clinton on November 23, 1993.

Toward the end of his second term President Clinton sent high officials of the U.S. Department of Interior and Department of Justice to Hawaii

in December 1999 to hold "reconciliation" hearings asking ethnic Hawaiians what goodies they would like to get from the government to help compensate them for the overthrow; and then on October 23, 2000, just weeks from the end of his Presidency, Bill Clinton's DOI and DOJ jointly published the propaganda book "From Mauka to Makai: The River of Justice Must Flow Freely."

<http://www.doi.gov/ohr/library/upload/Mauka-to-Makai-Report-2.pdf>

Now remember that the Republican Sansonetti Opinion concluded that "Deputy Solicitor Ferguson's opinion of August 27, 1979, is superseded and overruled to the extent that it is inconsistent with this memorandum." Who was President in 1979? Democrat Jimmy Carter. And so the claim there is a trust relationship established by law is shown to be a political football.

The wheel has now once again turned full circle, as the Democrat President Obama sends officials from the Department of Interior and Department of Justice to Hawaii to hold public hearings to somehow develop some procedure for creating a Hawaiian tribe and giving it federal recognition -- a process timed to reach a conclusion barely before the end of Obama's Presidency.

The "Mauka to Makai" report on pp. 39-40 explores a longer time frame regarding the alleged trust relationship. It says:

"The United States has never acted to enforce the trust protections against the State. The United States' view on the Federal Government's responsibility to Native Hawaiians has changed over the years. First, in 1979, Deputy Solicitor Frederick Ferguson responded to a letter inquiring what role the United States held with regard to Native Hawaiians in the context of the HHCA and the subsequent transfer of lands under the HHCA to the State of Hawai'i through the Admission Act. Despite the transfer of lands and administrative responsibility to the state in 1959, the Deputy Solicitor reasoned that the role of the United States under the HHCA remained that of a trustee as evidenced by the fact that the United States retained the authority to enforce the provisions of the HHCA. The Solicitor

specifically stated that “[a]lthough the United States transferred the lands and the responsibility for administering the act to the state under the Admission Act, the Secretary of the Interior retained certain responsibilities . . . which should be considered to be more than merely ministerial or nondiscretionary.” (letter from Frederick Ferguson, Deputy Solicitor U.S. Department of the Interior to the U. S. Commission on Civil Rights at 3 (Aug. 27, 1979)). The letter further stated “it is the Department’s position that the role of the United States under section 5(f) [of the Admissions Act] is essentially that of a trustee...”. (Id.).

Then, on January 19, 1993, Solicitor Thomas Sansonetti overruled the Department’s prior position that the United States was a trustee with regard to Native Hawaiians under the HHCA. He issued an opinion that set forth the broad proposition that the United States had little responsibility under the HHCA, which caused a great deal of controversy in the Native Hawaiian community. (Memorandum from Thomas Sansonetti, Solicitor, U.S. Department of the Interior to the Counselor to the Secretary and Secretary’s Designated Offices for the HHCA, The Scope of Federal Responsibility for Native Hawaiians Under the Hawaiian Homes Commission Act (M-36978) (Jan. 19, 1993)). As a result of the controversy surrounding the Sansonetti opinion and pending litigation in the Federal court on whether there was a Federal trust responsibility to Native Hawaiians, Solicitor John Leshy withdrew the Sansonetti opinion in its entirety on November 15, 1993.

(Statement of John Leshy, Solicitor, U.S. Department of the Interior (Nov. 15, 1993)). Because the question of a Federal trust responsibility and an alleged corresponding duty to sue on behalf of Native Hawaiians was in litigation, the Solicitor also stated, “[t]o avoid confusion, I am at the same time disclaiming any future Departmental reliance upon an August 27, 1979, letter of the Deputy Solicitor (overruled in the [Sansonetti] opinion) to the extent it could be construed as inconsistent with the position of the United States in the litigation.” That litigation resulted in the decision in *Han v. United States Department of Justice*, 45 F. 3d 333 (9th Cir. 1995) where the court ruled: “Assuming without deciding that a general trust ... relationship exists between the United States and Native Hawaiians similar to that between the United States and recognized Indian tribes,

the [Hawaiian] admission act does not impose any duty upon the [Federal] government to bring an enforcement action against the State of Hawaii ...” Subsequently, the United States took the clear position that the United States has a trust responsibility to Native Hawaiians. See the Brief of Amicus Curiae United States at 22, *Rice v. Cayetano* 120 S. Ct. 1044 (2000). In that brief, the Solicitor General stated that: “Congress does not extend benefits and services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once-sovereign nation as to whom the United States has a recognized trust responsibility.” (Brief of Amicus Curiae United States at 22, *Rice v. Cayetano* 120 S. Ct. 1044 (2000)). The Supreme Court did not decide the trust responsibility question in *Rice*, but the majority did note that: “It is a matter of some dispute, for instance, whether Congress may treat the native Hawaiians as it does the Indian tribes.” (120 S. Ct. at 1057).”

The conclusion of this portion of testimony regarding an alleged trust relationship between the United States and "the Native Hawaiian community" is as follows. The fact that generous benefits have been given repeatedly over time does not create a trust relationship nor any sort of ongoing obligation between donor and recipient. The assertion that there is a federal trust relationship with ethnic Hawaiians is a political football affirmed by Democrat administrations but denied by Republican administrations, demonstrating that the assertion is a matter of politics but not established in law. Even if the Hawaiian Homes Commission Act (1921) and its incorporation into the Hawaii statehood Admissions Act (1959) are viewed as establishing a federal trust relationship, the largest group with whom that relationship would exist would be native Hawaiians with at least 50% (or perhaps now 25%) blood quantum; but it could well be argued that only the smaller group of people officially registered on the DHHL waiting list would have that trust relationship; or perhaps only the much smaller list of people who actually have been granted a lease from DHHL would have that trust relationship. The alleged trust relationship based on HHCA certainly cannot be used to open the door to federal recognition of a governing entity for more than 527,000 people who have as little as one drop of Hawaiian blood. The fact that the U.S. has never taken

action to enforce the alleged trust relationship, even in the face of well-documented and highly publicized corruption and mismanagement by DHHH, tends to show that even in a Democrat administration the government does not feel sufficiently confident that the alleged trust relationship actually exists.

4. AUTHORITATIVE SOURCES SINCE 2001 WARN THAT CREATING A RACE-BASED GOVERNMENT FOR ETHNIC HAWAIIANS WOULD BE BOTH UNCONSTITUTIONAL AND BAD PUBLIC POLICY: U.S. HOUSE SUBCOMMITTEE ON THE CONSTITUTION; U.S. COMMISSION ON CIVIL RIGHTS; AND OTHERS.

The U.S. Commission on Civil Rights spoke loud and clear against the Akaka bill in 2006 and 2009; and in September 2013 four Commissioners sent a letter to President Obama warning that it would be unconstitutional to use administrative rulemaking or executive order to create a Hawaiian tribe and give it federal recognition.

In January 2006 the U.S. Commission on Civil Rights held a hearing on the Akaka bill at its Washington D.C. headquarters. Two supporters and two opponents presented testimony with cross-examination by Commissioners. In May the Commission issued its booklet-length report opposing the Akaka bill. "The Commission recommends against passage of the Native Hawaiian Government Reorganization Act of 2005, or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege." The complete report approved by a 5-2 vote including the controversial "findings", and some news reports and commentaries, are at <http://tinyurl.com/ocap3>

August 28, 2009: U.S. Commission on Civil Rights letter to Congressional leaders once again blasted the Akaka bill: calling it unconstitutional, racially divisive, setting a bad precedent, and contrary to the multiracial polity of the Hawaiian Kingdom. On official stationery signed by Commissioners. <http://tinyurl.com/kqt39k>

September 16, 2013: 4 of the 8 members of the U.S. Commission on Civil Rights jointly wrote a strongly-worded 5-page letter to President Obama opposing any attempt to use executive action to give federal recognition to an Akaka tribe. The letter reiterated reasons for

opposing the concept of the Akaka bill, expressed in official statements by USCCR in previous years, and added objections to the new concept of using executive authority to do what Congress has refused to do for 13 years. The USCCR letter, dated September 16, 2013 on official letterhead and bearing the signatures of the 4 Commissioners, can be seen at

<http://tinyurl.com/nnqtnvt>

In 2001 and 2005 the House Committee on Judiciary, and its subcommittee on the Constitution, took the unusual step of publicly opposing the Akaka bill even though a different committee had jurisdiction over "Indian" legislation.

On September 26, 2000 Congressman Neil Abercrombie succeeded in passing the Akaka bill in the House by a stealth maneuver. He placed it on the calendar of non-controversial bills to be passed by unanimous consent during the dinner hour when only a handful of Congressmen were present, all of whom were lined up to pass their own bills through the same procedure. He sandwiched it between two other bills regarding bureaucratic transfers of small parcels of land in Washington D.C. It passed in six minutes. But the bill never passed in the Senate.

The following year, in a new Congress, Judiciary Committee Chairman Jim Sensenbrenner was warned that a similar stealth maneuver might be tried again. On July 19, 2001 Chairman Sensenbrenner wrote an urgent letter to Speaker Dennis Hastert demanding that the Akaka bill be killed, or at least referred to his committee for hearings on its (un)constitutionality. The entire letter can be seen at <http://tinyurl.com/49p55>

Chairman Sensenbrenner wrote in part: "I request that the bill not be brought to the floor of the House for a vote until the Committee on the Judiciary has had an opportunity to conduct oversight hearings on the constitutionality of creating a quasi-sovereign state limited to persons of the Native-Hawaiian race. ... as the Supreme Court stated in Rice, '[i]t is a matter of some dispute ... whether Congress may treat the native Hawaiians as it does the Indian tribes.' And if Congress is

powerless to treat the Native-Hawaiian race in the same manner in which it treats Indian tribes, then the establishment of a quasi-sovereign state limited to persons of the Native-Hawaiian race would likely be in contravention of the Constitution. According to the Supreme Court, any racial preference enacted into law must satisfy the strict scrutiny standard to be deemed constitutional under the Equal Protection Clause -- a standard that is rarely met."

Four years later the Akaka bill was expected to come to the floor of the Senate immediately after the August recess. Once again Judiciary Chairman Sensenbrenner did his best to derail it. Although his committee did not have jurisdiction over the bill, he nevertheless had his Subcommittee on the Constitution hold a hearing on July 19, 2005, exactly four years after his letter to Speaker Hastert. The hearing title was "Can Congress Create A Race-Based Government? The Constitutionality of S. 147/H.R. 309" Two attorneys testified in favor of the bill, including Hawaii Attorney General Mark Bennett; while two attorneys testified against the bill, including Constitutional law expert Bruce Fein. Subcommittee Chairman Steve Chabot said "I believe that this bill, and the companion bill in the Senate, raise constitutional questions of such magnitude that we would be doing a disservice to the public and to our constituents if we did not closely examine the constitutional implications of H.R. 309. ... unlike Native American Indian and Alaskan tribes, the only factor that would bind together a quasi-sovereign Native Hawaiian government if formed today would be race. Chairman Chabot's complete statement, some news reports, some videos and some of the testimony is available at <http://tinyurl.com/c3kg9>

Constitutional law expert Bruce Fein published several articles opposing the Akaka bill, some of which were republished in the Congressional Record at the request of Senator Jon Kyl. Mr. Fein also wrote a monograph "Hawaii Divided Against Itself Cannot Stand." Mr. Fein's essay is of special interest to scholars because of his analysis of the apology resolution of 1993 as well as the provisions of the Akaka bill. Links to download all these items are at <http://tinyurl.com/65waz>

Editorials, newspaper columns, and statements by politicians are not exactly authoritative, but they do show careful thinking and sometimes courage. Some of these items are statements by nationally known experts and opinion leaders from outside Hawaii who have nothing to gain or lose personally by what happens in Hawaii, but who are patriotic Americans defending fundamental principles. Several hundred items have been compiled on a webpage: Major Articles Opposing the Hawaiian Government Reorganization bill (Akaka bill) and the creation of a state-recognized tribe under Hawaii Act 195 (Session laws of 2011) -- INDEX for years 2000 - 2014.

<http://tinyurl.com/5eflp>

5. AUTHORITATIVE SOURCES CONFIRM THE HAWAIIAN REVOLUTION OF 1893 WAS LEGITIMATE AND THE U.S. OWES NOTHING TO ETHNIC HAWAIIANS BEYOND WHAT IS OWED TO ALL THE CITIZENS OF THE UNITED STATES: 808-PAGE REPORT OF THE U.S. SENATE COMMITTEE ON FOREIGN AFFAIRS (1894); LETTERS FROM AT LEAST 19 FOREIGN HEADS OF STATE GRANTING FORMAL DE JURE RECOGNITION TO THE REPUBLIC AS THE RIGHTFUL GOVERNMENT OF HAWAII (1894); NATIVE HAWAIIANS STUDY COMMISSION REPORT (JOINTLY AUTHORIZED BY SENATE AND HOUSE, 1983); AND OTHERS

The U.S. Commission on Civil Rights spoke loud and clear against the Akaka bill in 2006 and 2009; and in September 2013 four Commissioners sent a letter to President Obama warning that it would be unconstitutional to use administrative rulemaking or executive order to create a Hawaiian tribe and give it federal recognition.

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6. EVIDENCE THAT "NATIVE HAWAIIANS" AND ALSO THE GENERAL CITIZENRY OF HAWAII DO NOT WANT FEDERAL RECOGNITION OF A "NATIVE HAWAIIAN" GOVERNING ENTITY OR TRIBE. ZOGBY SURVEY; TWO GRASSROOT INSTITUTE SURVEYS; NEWSPAPER AND OHA SCIENTIFIC SURVEYS SHOW ETHNIC HAWAIIANS AND THE GENERAL POPULATION PLACE "NATIONBUILDING" AT BOTTOM OF PRIORITIES; INFORMAL NEWSPAPER POLLS SHOW MAJORITY OPPOSES HAWAIIAN CREATING A HAWAIIAN TRIBE AND RACIAL ENTITLEMENTS; HUNDREDS OF ESSAYS FROM 2000 TO 2014 BY NATIONALLY KNOWN EXPERTS AND OPINION-MAKERS.

Over the years there have been numerous surveys of public opinion regarding federal recognition for a Hawaiian tribe. Some of those surveys were designed by and paid for by the Office of Hawaiian Affairs as part of its propaganda to shape public opinion and/or to use when lobbying Congress to pass the bill; those surveys are therefore not credible. Some of those surveys were designed and paid for by the Honolulu Advertiser or the Honolulu Star-Bulletin newspapers, which have consistently and repeatedly editorialized in favor of the Akaka bill; and the results are not credible because the company paid to perform the surveys (Ward Research) was the same company routinely paid by the Office of Hawaiian Affairs to do surveys of "Native Hawaiians" to measure the effectiveness of OHA programs or to make decisions about prioritizing OHA goals. All the surveys referred to thus far were done by survey-takers who are local Hawaii residents, sitting face-to-face with survey respondents or contacting them by phone, under circumstances where respondents might have felt reluctant to tell their true feelings for fear they might offend another local person.

The most reliable and credible survey on the Akaka bill and Hawaiian racial entitlements was done by the highly reputable professional Zogby International company, where the survey takers lived outside Hawaii, probably had no knowledge about or personal involvement in the highly controversial issues raised in the survey, and respondents would realize they were not talking with neighbors or other local people.

An announcement from Zogby International dated November 24, 2009 provides the results of its survey of 501 voters in Hawaii from 11/18/09 through 11/23/09, whose margin of error is +/- 4.5 percentage points. 51% of all respondents say they are firmly decided against the bill or leaning against it, while 60% of all respondents who have a firm decision one way or the other oppose the bill. Overall, 51% oppose the bill, 34% support it and 15% are not sure. With regard to racial discrimination, only 28% say the bill is fair. 58% say there should be a vote by all Hawaii voters, regardless of race, before the bill can become law; only 28% say no vote is needed. 76% oppose higher taxes to pay for a Hawaiian tribe. Only 7% favor separate laws and regulations for a new native government. 60% say the ceded lands are for all of the people of Hawaii; only 21% say they should be for native Hawaiians only. See complete results including the wording of the questions, in the announcement at <http://big09a.angelfire.com/AkakaZogbyReleased121509.pdf>

Previously, in 2005 and 2006, the Grassroot Institute of Hawaii commissioned surveys done by a professional polling firm outside Hawaii. Both surveys called every publicly listed landline telephone in the State of Hawaii -- 290,000 households.

The Grassroot survey results from 2005 showed 67.11% of all respondents oppose the Akaka Bill. 44.88% of respondents said they would be less likely to vote for an elected official who supported the Akaka bill. 22.71% of all respondents identified themselves as Native Hawaiians, which is slightly more than the percentage of Native Hawaiians in Hawaii's population. More data, including the wording of the questions and a spreadsheet, can be found at <http://www.angelfire.com/hi5/bigfiles3/AkakaScientificSurvey070505.html>

The other Grassroot survey, released May 23, 2006, once again called all 290,000 Hawaii households with publicly listed landline phones. The purpose of the second survey was to reconfirm the first survey and to gather very detailed political and demographic information about the

respondents including topics not addressed in the first survey. 18.84% of respondents said they are Native Hawaiian. 66.95 percent of the entire state continue to oppose the Akaka bill. 80.16 percent of Hawaii's residents do not support laws that provide preferences for people groups based on their race. 69.89 percent of Hawaii's residents want to vote on the Akaka Bill before it is considered at the national level. Results were also broken down according to whether respondents were Republicans or Democrats, supporters of Ed Case vs. supporters of Dan Akaka in the Democrat primary for U.S. Senate, and other topics. Detailed results, including numerous detailed spreadsheets, are at <http://www.angelfire.com/hi5/bigfiles3/AkakaGRIHsurvey052306.html>

In 2003 two different scientific surveys were done to discover the relative importance of various priorities as ranked by the people of Hawaii in general, and by ethnic Hawaiians in particular. One survey was paid for by the Honolulu Advertiser newspaper, and conducted by the data-gathering and analysis company Ward Research which is often used by OHA. The other survey was paid for directly by the Office of Hawaiian Affairs -- it included data gathered both at public long-range planning meetings hosted by OHA in numerous neighborhoods, and also a survey conducted by the data-gathering and analysis company SMS Research which is frequently hired by OHA to do in-house surveys. Both surveys produced remarkably similar results. It is also interesting that the results were nearly the same for ethnic Hawaiians as for the general public. Top priorities are education, healthcare, housing, the environment, and traffic. The lowest priorities are Native Hawaiian rights, race-based handouts -- and, lowest of all -- ethnic Hawaiian "nationhood" (i.e., the Akaka bill or administrative rule-making to create a Hawaiian tribe).

For complete details, including links to charts and graphs published on the newspaper website, see:

<http://www.angelfire.com/hi2/hawaiiansovereignty/prioritieshawnonhaw.html>

Newspaper online polls are not scientific surveys, and represent only the views of those who take time to respond. Nevertheless, they are

good indicators of public opinion among newspaper readers who are generally well-informed and sufficiently concerned about particular issues to respond to polls on those issues. All the newspapers in Hawaii have editorially supported the Akaka bill for many years, and are now supporting the Kana'ioloowalu nation-building process and also the Department of Interior rule-making concept for creating a hawaiian tribe. So it is especially significant that every newspaper poll on these issues during the period from 2000 to 2014 has shown strong public opposition to race-based political sovereignty for ethnic Hawaiians. Often the margin of opposition has been fairly close to the levels shown in the two Grassroot scientific surveys and the Zogby scientific survey.

75% of respondents opposed the Akaka bill in an on-line poll conducted by the Honolulu Star-Bulletin newspaper. In March 2005 the Honolulu Star-Bulletin asked the question "Would you like to see the Akaka bill become law?" When the poll ended, the votes were "Yes" 436 and "No" 1301. This poll is especially significant because the Star-Bulletin has repeatedly editorialized in favor of the Akaka bill for several years. Although this poll was neither a scientific sample like the initial Grassroot Institute survey, nor a comprehensive survey like the final Grassroot survey that contacted all 290,000 households with telephones; it nevertheless measures the opinions of people who feel strongly enough about the issue to take the time to respond to the poll (the newspaper eliminated multiple votes from the same computer). For details of the Star-Bulletin poll, see: <http://www.angelfire.com/hi2/hawaiiansovereignty/AkakaSBpollmarch2005.html>

The Maui News took an an online poll open for about two weeks in July 2005. The question was: "The Akaka Bill granting Native Hawaiians federal recognition has been held up in Congress by a group of Republican senators. What do you think Congress should do?" When the poll closed on July 28, 8075 votes had been cast with the following results: Reject the Akaka Bill: 58.2 %. Pass the Akaka Bill: 36.2 %. Revise and pass the Akaka Bill: (0.7 %. Don't know: 5.0 %. The Maui News has conducted many polls on many topics, and there

seems to be no permanent URL to preserve the results of any particular poll once the next poll has started.

Every day the Honolulu Star-Advertiser posts a "Big Question" poll which offers several possible answers and asks readers to vote online. On August 14, 2013 the Honolulu Star-Advertiser asked the following poll question:

Should President Obama use his executive authority to achieve federal recognition for Native Hawaiian sovereignty?

B. No (70%, 2,103 Votes)

A. Yes (30%, 911 Votes)

Total Voters: 3,014

<http://hawaii-newspaper.com/polls/honolulu-star-advertiser-poll-archive/>

On June 2, 2014, immediately after an editorial propagandizing in favor of federal recognition for a Hawaiian tribe, the Star-Advertiser Big Question was "What kind of future do you favor for Native Hawaiians?" Four choices were offered. The winner, with 41% of the vote, was "No entitlements at all." In second place "Federal recognition" with 31%. "The status quo" got 22%; and "Independence" got only 6%.

<http://poll.staradvertiser.com/honolulu-star-advertiser-poll-archive/>

During July the Star-Advertiser published additional propaganda in favor of federal recognition for a Hawaiian tribe, warning that failure to get such recognition would endanger Hawaii's racial entitlements empire. (The entitlements are unconstitutional under the 14th Amendment equal protection clause, but federally recognized Indian tribes are allowed to engage in racial discrimination). On July 15, following more of this propaganda, the Star-Advertiser once again ran a poll: "Should the U.S. Department of Interior keep open the process for federal recognition of Native Hawaiians?" 67% said NO.

<http://poll.staradvertiser.com/honolulu-star-advertiser-poll-archive/>

Of course there are individual opinions on all sides of controversial issues. In some ways individual opinions are less worthy of attention than scientific surveys or even the online opinion polls conducted by newspapers where hundreds or thousands of people express their opinions. Nevertheless individual opinions are sometimes written by people with expertise, or by nationally-known columnists followed by large numbers of readers -- these are writers who have nothing personal to gain from whatever might happen, and who speak from a larger perspective. They do not hold salaried positions or consultation contracts with the wealthy, powerful Hawaiian institutions whose lifeline is federal grants for race-based programs. From 2000 to 2014 a collection of hundreds of these opinions has been compiled. See: Major Articles Opposing the federal Hawaiian Government Reorganization bill (Akaka bill) and the creation of a state-recognized tribe under Hawaii Act 195 (Session laws of 2011) -- INDEX for years 2000 - 2014
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7. PEOPLE OF ALL RACES JOINTLY OWN HAWAII AS FULL PARTNERS. IT WOULD BE HISTORICALLY, LEGALLY, AND MORALLY WRONG TO PUSH PEOPLE WITH NO NATIVE BLOOD TO THE BACK OF THE BUS. WHY THE METAPHORS OF STOLEN CAR OR STOLEN HOUSE ARE WRONG. THE BATTLE FOR HEARTS AND MINDS OF HAWAII PEOPLE OF ASIAN ANCESTRY. PRESIDENT OBAMA HIMSELF OPPOSES TRIBALISM AND ERECTING WALLS BETWEEN NATIVES AND IMMIGRANTS. THE HISTORY OF THE BLACK CIVIL RIGHTS MOVEMENT IS INSTRUCTIVE -- MARTIN LUTHER KING'S MODEL OF FULL INTEGRATION WON THE HEARTS AND MINDS OF AFRICAN AMERICANS AND OF ALL AMERICANS, DEFEATING THE RACIAL SEPARATISM OF "THE NATION OF ISLAM."

A previous section of this testimony concluded that right from the beginning, and throughout the history of the Kingdom of Hawaii, people with no native blood were intimately involved in creating, sustaining, and governing it. There never was a Hawaiian nation limited to ethnic Hawaiians as a racial group. The Kingdom was fully multiracial in both its citizenry and its government. Nearly all "Native Hawaiians" have some or most of their ancestry from Europe, America, and Asia. Non-natives cannot be pushed out of land ownership and governance in Hawaii any more than non-native ancestry can be cleansed from the blood of "Native Hawaiians."

The social contract for a century beginning in 1778 was that Hawaiians supplied land, Europeans and Americans supplied money and technological expertise, and Asians supplied labor. Since the late 1800s all groups have supplied everything. Everyone worked together as full partners to help the Kingdom grow and prosper. And I hope it we all will continue as full partners going forward.

This full partnership among equals, between natives and non-natives, is unprecedented among the Indian tribes on the continent. A few tribes might have had a few Caucasians who were welcomed into the tribe; and in rare cases the Caucasians might have intermarried and spent their lives as members of the tribe or (very rarely) might even have held leadership positions. But in Hawaii the natives eagerly embraced

Caucasian and Asian newcomers not only sexually but also spiritually, culturally, economically, and politically. Especially during the late 1700s and early 1800s it wasn't a case of newcomers overwhelming and dominating the natives, forcing them to abandon their religion and their lands; rather it was the natives in huge numbers choosing to assimilate to the European and Asian lifestyles and attitudes.

A rhetorical phrase has become popular, in which ethnic Hawaiians call themselves "hosts" and those without native ancestry are relegated to the status of "guests." This concept is illustrated in the work of Lily Dorton, who renamed herself Lilikala Kame'eleihiwa -- a tenured professor and former Chair of the Center for Hawaiian Studies at the University of Hawai'i flagship campus at Manoa. She discusses the concept of hosts vs. guests in her book "Native Land and Foreign Desires" (Honolulu: Bishop Museum Press, 1992). She uses the term "foreigner" to refer to anyone who lacks Hawaiian native ancestry; thus, even a Caucasian or Asian person whose family has been born and raised in Hawai'i for eight generations spanning perhaps 200 years would be called a "foreigner."

Here's what she says, starting at page 325: "Foreigners must learn to behave as guests in our 'aina and give respect to the Native people. If foreigners cannot find it in their hearts to do this, they should leave Hawaii. If foreigners truly love Hawaiians they must support Hawaiian sovereignty. They must be humble and learn to serve Hawaiians. If foreigners love us and want to support our political movements they must never take leadership roles. Leadership must be left to [ethnic] Hawaiians, for we can never learn to lead our Lahui [race-based nation] again until we do it ourselves. Foreigners who love us can donate their land and money into a trust fund for Hawaiian economic self-sufficiency, to promote agriculture, aquaculture, fishing and the Native initiative for sovereignty."

This evil concept cries out for rebuttal. It is historically, legally, and morally wrong to regard people as mere guests when they have multiple generations here, or they were born and raised here, or Hawaii has been their permanent home for many years.

For at least 25 years Hawaiian sovereignty activists have used two analogies to stake their claims, talking about a stolen car or a stolen house.

The stolen car analogy was raised in some of the Department of Interior's public hearings in Hawaii in Summer 2014. Here's a typical example of it written by Foster Ampong on June 6, 2004 (cleaned up for grammar and spelling). It might have been published in "The Maui News" or else was being circulated through emails

"It is like my grandfather steals your grandfather's car 111 years ago ... in this stolen car, he drives past your grandfather numerous times throughout their respective lives ... my grandfather eventually dies, his son/my father inherits it knowing how the car came into his family's possession ... drives past your father numerous times throughout their respective lives ... my father now dies and I inherit this car knowing all the historical facts ... drive past you numerous times, while your family is still walking with no car ... however, you are more cognitive and educated ... you make an issue of this crime and stolen property my family still has, and rightfully so. I eventually write and offer you an apology and admit to the culpability and crime ... give you this apology and say oops, I am sorry for my grandfathers action ... THEN DRIVE OFF WITH YOUR FAMILY'S CAR!!!!!!! OK, Now my brother wants to just say lets just forget all this stuff and accept what my family is offering to heal wounds and such ... and by the way, my family is going to keep the stolen car because it is part of what YOUR FAMILY IS NOW AGREEING TO!!!!!! [i.e., the Akaka bill or nation-within-a-nation status including federal assistance programs]

Here's my rebuttal about the car.

The story about the stolen car left out the letter "t". It wasn't a car, but merely a carT. And it became a car only because the Hawaiian got help from several wealthy and knowledgeable neighbors who who bought a lot of stuff and worked side by side to turn that broken-down carT into a car.

See, the Hawaiians had not yet invented the wheel, and didn't have horses; so that old CART was actually a travois -- a type of sled formerly used to carry goods, consisting of two joined poles dragged by a person or dog. So when newcomers showed up in the ahupua'a and became friends, they offered to help the Hawaiian family. The Hawaiians eagerly accepted. The newcomers invested a lot of money and expertise. They brought in wheels for the cart, and horses to make it easier to pull. Later they built a roof over the cart to keep the rain out. Now it was a very useful cart, and fancy too. The Hawaiians and their neighbors were full partners who had built and improved the cart together. Later the newcomers bought an engine and turned what used to be a broken old cart into a fast and powerful car.

But now all of a sudden the great-grandchildren of the original Hawaiians started talking crazy. They said the car everyone had built together actually belonged to them alone and the newcomers had stolen it. Go figure! The real thief today is the person trying to take the car away from us all and drive off with it as though he alone owns it.

Analogy of the stolen house

The following analogy of the stolen house was included in an anonymous e-mail widely circulated in August, 2001, with subject header "How Hawaiians feel about the overthrow." Let's pretend I visit your house: You offer me food and rest. I decide to stay. I order you and your family around, use your things and rearrange the rooms. I take down your photos and religious symbols, replace them with my own and make you speak my language. One day, I dig up your garden and replace it with crops that I can sell. You and your family must now buy all your food from me. Later, I invite my father and his buddies over. They bring guns. We take your keys. I forge a deed and declare my father to be owner of the house. I bring more people. Some work for me. Some pay me to stay in your house. I seize your savings and spend it on my friends. You and your family sleep on the porch. Finally, you protest. Being reasonable, I let you stay in a corner of the house

and give you a small allowance, but only if you behave. I tell you, "Sorry, I was wrong for taking the house." But when you demand your house back, I tell you to be realistic. "You are a part of this family now, whether you like it or not," I say. "Besides, this is for your own good. For all that I have done for you, why aren't you grateful?"

Here's the analogy of the stolen house written by Michael Locey and published in the Garden Island News letters to editor on December 31, 2002, which I have excerpted and cleaned up:

A Hawaiian mo'olelo: David has some land. He lives on and uses it for business that feeds his family. Fred comes to visit. Fred and his friends tell David: "now you have to live under our rules... or leave all together". Fred goes to see Sam who is in the business of taking over other people's property and provides muscle for Fred. Fred offers Sam David's property. Sam says "Too hot", so Fred goes back to Sam with phony paperwork for a fictitious owner "Alice" and sells David's home to Sam. Fred disappears ... Alice was never real, and Sam has David's home. Do you call it the home Alice ceded to Sam? You do if you are trying to conceal the fact that it is stolen. The reality is it's David's home, and it will remain so until David says otherwise. Sam uses the home for business. Is he entitled to the money he makes from David's stolen home? Is Sam entitled to keep David's home? Sam argues his business is superior to David's and serves the community better, that he is a better suited to run David's home. Sam's friends and family all live well while David's family goes hungry. (Here's where the Akaka Bill comes in) Sam says he will RECOGNIZE David's rights to live in the home if David agrees Sam has the right to live there and make the rules. He even offers to feed David's family if they agree to Sam's terms. David's family divides against itself ... some believing it's all over; their home is lost and they must take what they can get. Others in David's family will never give up their birthright. Sam bribes a handful of people in David's family to convince David and his family to give up their claims to the land. Fact: Crown and Government Lands belong to the Crown and Government of the Kingdom of Hawaii until Hawaiians say otherwise. (Beware of claims extinguishments by a governing entity elected by and representing Hawaiians.) The same goes for

political control of the Hawaiian Islands. This is today; tomorrow is closer than you might think. Hawaiians, tell your children.

Here's a letter to editor written by myself, Ken Conklin, and published in the Garden Island News on January 6, 2003. For the present testimony I have removed the portion filled with historical facts in order to focus on the analogy of the stolen house.

Michael Locey's "Historical Analogy" (GIN 12/31/02) was wildly inaccurate. Now, here is Mr. Locey's "Hawaiian mo'olelo" as corrected.

David lives on a large tract of land and uses some of it to feed his family. His family lives in a little grass shack. Fred comes to visit. David is amazed by Fred's material and spiritual wealth, and asks Fred and his friends to help him. David gives up his old religion even before meeting Fred's priest. David likes Fred's religion and adopts it as his own. Fred also helps David learn to read and write. As a century goes by, David and his children ask Fred and his friends to help build a new house and learn new methods for using the land to produce great wealth. David's family, and Fred and his friends, all work together to build a huge mansion. They move into the mansion and live together, while also getting wealthy from using new methods and machinery to make the land more productive. Most of Fred's grandchildren and their friends decide they'd like to form a partnership and incorporate with the next valley over. Some of David's grandchildren like that idea too, but most don't like it. The conflict gets pretty bad, but the people favoring the partnership seem stronger than those opposing it, and also get a few friends from that neighboring valley to help a little. The partnership sponsors win, and the corporation is formed. There's no turning back now.

Some of David's descendants who had opposed the partnership even go to work at corporate headquarters in the other valley, and many of David's descendants work in the satellite offices near home. More houses are built, and new friends come to live in them who are not descended from either David or Fred.

David grows old and dies, and Fred and his friends also grow old and die. But their children and grandchildren for several generations continue living and playing together, sometimes intermarrying but always building more houses together on their shared land, while farming and fishing with equipment they buy or build together as full partners. People from outside have a hard time telling which children are descended from David and which are not. Even some of the children and their parents don't know for sure.

Then all of a sudden, 200 years after David and Fred became close friends, a few of David's great great grandchildren get selfish and go a little crazy. They get jealous of all the people in the 'ohana who are doing so well but are not descended from David. The crazy, selfish ones start talking stink about the "outsiders," and start saying "this land belongs only to us; this house is ours; it's time for all you guests to get out or start paying rent; we're gonna call the cops." Some of David's craziest descendants actually go to see the cops, who tell them there's nothing really wrong going on and they should all just try harder to get along. Some of David's descendants build high walls around a few houses and pieces of land, and try to keep out anyone who can't prove David was an ancestor. But after a while the community elders order the walls to be torn down and say everyone should try to get along together.

(Here's where the Akaka Bill comes in) Some of David's descendants got some friends of theirs at headquarters to try to CREATE a new rule that David's descendants can build those walls and keep out Fred's descendants. Some of Fred's descendants even think that might be a good idea if it's what David's descendants want, while some of David's descendants think the David-only walls should enclose just about everything they all used to share. Some folks not descended from either David or Fred, but who love all their descendants, say "Can't we just all get along?"

There's a struggle underway for the hearts and minds of Hawaii's people of Asian ancestry regarding the issue of Hawaiian sovereignty. A book published in 2008 by our University of Hawaii Press, entitled

"Asian Settler Colonialism", is a piece of strident propaganda by zealous advocates for race-based political sovereignty for ethnic Hawaiians. The book tries to lay a guilt trip on Hawaii's Asian population in hopes of enlisting them to support an ethnic Hawaiian agenda of blood nationalism. The good thing about this book is that it brings brings to public awareness a truly frightening belief-system. People inclined to support Hawaiian sovereignty, but who lack native blood, will discover that they are actually supporting the destruction of their own hard-won freedoms and individual rights. Asian "settlers" in Hawaii are told that unless they enlist as footsoldiers in the Hawaiian sovereignty movement to throw off the yoke of American occupation, they are guilty of collaborating with Caucasians in the oppression of ethnic Hawaiians. The book is deeply insulting to Hawaii's people of Asian ancestry. "Asian Settler Colonialism: From Local Governance to the Habits of Everyday Life in Hawai'i" edited by Candace Fujikane and Jonathan Y. Okamura. Honolulu: University of Hawaii Press, 2008. A detailed book review, including lengthy quotes and rebuttals, is at <http://www.angelfire.com/big09a/AsianSettlerColonialism.html>

The first insult to Hawaii's people of Asian ancestry comes by telling them that they are guilty of collaborating with Caucasians to oppress ethnic Hawaiians. The next insult comes by telling them that even if their families have lived in Hawaii for several generations, they are merely "settlers" in someone else's homeland and they have a duty to abandon their hard-won equal rights in order to accept a position of subservience to ethnic Hawaiians. Perhaps the deepest insult of all is the book's attempt to undermine the patriotism of Asian Americans by telling them they have a moral duty to help Hawaiian sovereignty activists liberate Hawaii from American colonialism and rip the 50th star off the flag. If anyone thinks this paragraph is an exaggeration, or a case of fear-mongering, then please read the entire book review, including the book's five-page celebratory explanation of the metaphors in a political cartoon showing Hawaii's first Filipino Governor, Ben Cayetano, lynching a Native Hawaiian in order to give pleasure to a Caucasian.

Will Hawaii's people of Asian ancestry remain loyal to the United States, or will they join with ethnic Hawaiian nationalists seeking to kick the U.S. completely out of Hawaii and create a racial supremacist independent Hawaii? Will Hawaii citizens of Asian descent see themselves primarily as victims of historical domination and exploitation by Caucasians, and join the ethnic Hawaiian grievance industry expressing resentment and demanding group reparations for "people of color"? Or will they see themselves as individuals whose forebears freely came to Hawaii to work as sugar plantation laborers, nurses, and hotel maids to make a better life and who succeeded in harvesting a piece of the American dream for themselves, their families, and descendants?

An effort has been underway for 15 years to enable creation of a phony Indian tribe through the Akaka bill, and current efforts by the Obama administration to change administrative rule-making in the Department of Interior. It's understandable that powerful, wealthy race-based institutions work hard to do everything possible to protect the flow of federal dollars to themselves. But why would the rest of Hawaii's people want to build a wall of apartheid?

A great American president, Ronald Reagan, once looked at the Berlin wall and said "Mr. Gorbachev, tear down this wall." And not long after, through the power of many hands working together on both sides of the wall, that's exactly what happened.

In July 2008 presidential candidate Barack Obama gave a ringing endorsement of the ideal of inter-racial unity, making clear that divisiveness and tribalism must come to an end. Here's what he said in the shadow of the Berlin wall: "... the greatest danger of all is to allow new walls to divide us from one another. ... The walls between races and tribes; natives and immigrants; Christian and Muslim and Jew cannot stand. These now are the walls we must tear down. ... Not only have walls come down in Berlin, but they have come down in Belfast, where Protestant and Catholic found a way to live together; in the Balkans, where our Atlantic alliance ended wars and brought savage

war criminals to justice; and in South Africa, where the struggle of a courageous people defeated apartheid."

The whole purpose of the Akaka bill and the proposal for administrative creation of a Hawaiian tribe is to divide the lands and people of Hawaii along racial lines. -- to declare that the descendants of natives should be a hereditary elite with a racially exclusionary government walling out all who lack a drop of the magic blood.

Why should such an abomination be inflicted on us in the very place where King Kamehameha III proclaimed racial unity and equality as law? In the first sentence of the first Constitution (1840) of the multiracial Kingdom of Hawaii, the King wrote: "God hath made of one blood all races of people to dwell upon this Earth in unity and blessedness." Why should we now erect a wall of racial separatism in the land of aloha? Please, Mr. President, help bring us together instead of ripping us apart.

On March 15, 2009 I wrote a letter to President Obama asking him to consider the history of the Black civil rights movement and therefore to change his mind and to oppose the Akaka bill. Here is a portion of that letter. The complete letter is at <http://www.angelfire.com/big09a/AkakaObamaOpenLetter.html>

Sir, you have a deep personal understanding of the quest for racial identity because of your own black/white heritage. You know the historical struggle for identity within the African-American community. Elijah Muhammad's Nation of Islam, and the early Malcolm X, advocated racial separatism and portrayed the white man as a devil. Some radicals called for setting aside several southern states for a Nation of New Africa.

Fortunately Martin Luther King used Gandhi's spiritual tool of non-violence to appeal to people's inner goodness, which led to full integration. After his pilgrimage to Mecca Malcolm X understood the universal brotherhood of people of all races, but was gunned down by the separatists when he tried to persuade them to pursue integration.

In your extensive work as a community organizer you saw how some demagogues use racial grievances to stir up hatred, and leaders use victimhood statistics to build wealthy and powerful institutions on the backs of needy people who end up getting very little help. During your campaign for the Presidency the whole nation saw your heart-rending decision to reject the outrageously divisive black liberation theology in the rhetoric of the pastor whose church you had belonged to for 20 years.

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

But Hawaiians are voting with their feet against the Akaka bill. After five years [2009] and untold millions of dollars in advertising, fewer than one-fourth of those eligible have signed up for the Kau Inoa racial registry likely to be used as a membership roll for the Akaka tribe. Sadly, if the bill passes then the separatists will be able to create their tribe even though the majority of ethnic Hawaiians oppose the idea. And 80% of Hawaii's people, having no native blood, will see our beautiful Hawaii carved up without even asking us.

8. TWO QUESTIONS ASKED BY THE DEPARTMENT OF INTERIOR FOCUS ON WHETHER THERE SHOULD BE A REQUIREMENT FOR A MINIMUM TURNOUT AND/OR MAJORITY VOTE AMONG ETHNIC HAWAIIANS IN A REFERENDUM TO RATIFY ANY PROPOSED GOVERNING DOCUMENT. I WILL ANSWER THOSE QUESTIONS AND THE LARGER QUESTION WHETHER MAJORITY APPROVAL BY ALL HAWAII VOTERS SHOULD BE REQUIRED IN ORDER TO ALLOW A RACE-BASED GOVERNMENT TO BE CREATED AND RECOGNIZED.

Federal Register Question 16 asks: "Should there be a minimum turnout requirement for any referendum to ratify a Native Hawaiian constitution or other governing document?"

Federal Register Question 19 asks, in part: "Should reorganization of a Native Hawaiian government require a ... constitution or other governing document that ... has been ratified by a majority vote of "qualified Native Hawaiians"?"

Here's the diabolical process now being implemented by the State of Hawaii through Act 195 (Session Laws of 2011) and being contemplated by the U.S. Department of Interior.

All ethnic Hawaiians who wish to do so may sign up on a racial register requiring them to prove they have Hawaiian native ancestry (and perhaps also make other affirmations). Vast amounts of money have already been spent by the state government (and later perhaps by the federal government) to recruit signatures, verify ancestry by documentary evidence, and maintain the list. Ethnic Hawaiians who oppose the whole idea have no way at all to register their opposition. The government points out to them that they don't have to sign up if they don't want to; it's purely voluntary. The suggestion is that if you oppose the process, sign up so you can participate in the discussion. Furthermore, the opponents are warned that if they don't sign up they and their descendants might thereby forfeit any of the future benefits of membership (such as handouts of tribal dividends or participation in

health and welfare programs given by the government to the tribe for its members).

A fairly small percentage of ethnic Hawaiians actually signed the racial registry. Apparently only about 30,000 actually signed the Kana'ioloalua list including its never-before-seen affirmation of a belief in the unrelinquished sovereignty of the Native Hawaiian nation, while about 90,000 additional names were simply transferred from earlier racial registries that did not include that affirmation, making it appear that more than 120,000 people are now fully engaged in building a tribe. However, Census 2010 reported that 527,000 people checked the box as having Hawaiian native ancestry. Considering that there were 401,000 "Native Hawaiians" in Census 2000 and 527,000 in 2010, straight-line interpolation says we should add 12,600 to the count every year, or a bit more than 1,000 per month for every month after April 1, 2010. So in mid-August 2014 there are now about 582,000. A majority would be 291,000.

If things go as planned, that five percent (30,000 out of 582,000) or 21% (120,000 out of 582,000) minority among the minority of ethnic Hawaiians will receive federal recognition as a tribe, and will be perceived as speaking for all ethnic Hawaiians. How absurd is that!

Ethnic Hawaiians who oppose the whole idea have no way to register their opposition. The voters of the State of Hawaii also have no way to register their opposition, and the Department of Interior seems to have no intention of ever asking us. Our views are, quite simply, irrelevant if we are ethnic Hawaiian and refuse to participate, or if we lack a drop of the magic blood.

On the mainland, the decision whether to grant federal recognition to a tribe is entirely up to Congress or the Department of Interior. There is never a vote on the ballot by the citizens of the state. One reason is that the federal government sees it as its responsibility to protect a tribe against discrimination or even hostility from the people or government of the states.

But Hawaii is unique among all the states, because more than 20% of our population is "Native Hawaiian" according to Department of Interior definitions. No other state has anywhere near 20% of its people who have native ancestry, let alone 20% who are eligible to join a single tribe. To single out a 20% minority and create a separate government for them, and carve out a tribal land base with perhaps 50% of all the land in Hawaii, can properly be called apartheid. See my 302-page book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" at <http://tinyurl.com/2a9fqa>

Although ethnic Hawaiians claim to be "indigenous" to Hawaii while African-Americans have no claim to be indigenous to America and could never become a tribe, the relative size of the two ethnic groups is very instructive regarding the practical impact on the State of Hawaii if "Native Hawaiians" become a federally recognized tribe.

In the entire U.S. perhaps 13% of the population are African-American. In Hawaii more than 20% are racially Hawaiian and eligible to join the Indian tribe now being created. Should America make a list of African-Americans, identify them as a tribe, and give them land, money, and governmental powers as a racial group? Would that be good for America? Would it be good for African-Americans to do that? Martin Luther King's dream would turn into a nightmare! There would be hatred, constant legal battles, and perhaps riots in the streets. Creating a Native Hawaiian tribe would be 50% more catastrophic for Hawaii than creating an African-American tribe would be for America, because 20% (the percentage of Hawaii's people who are racially Hawaiian) is half again larger than 13% (the percentage of America's people who are black).

That's why the process for recognizing a Hawaiian tribe must include a requirement for a majority of voters to approve creation of the tribe by marking "yes" on a question on the ballot in a general election, according to the same rules for ratifying a state Constitutional amendment.

In conclusion:

Federal Register Question 16 asks: "Should there be a minimum turnout requirement for any referendum to ratify a Native Hawaiian constitution or other governing document?" The answer is YES. The minimum turnout should be 291,000.

Federal Register Question 19 asks, in part: "Should reorganization of a Native Hawaiian government require a ... constitution or other governing document that ... has been ratified by a majority vote of "qualified Native Hawaiians"?" The answer is YES. The number of "Yes" votes required should be 291,000 if the ratification vote were held in August 2014; or add 12,600 to that requirement for every year after August, 2014.

Department of Interior did not ask, but should have asked: Should approval by a ballot vote by Hawaii's registered voters be required before a Native Hawaiian governing entity can be federally recognized? The answer is YES. A majority of voters must approve creation of the tribe by marking "yes" on a question on the ballot in a general election, according to the same rules for ratifying a state Constitutional amendment, before a Native Hawaiian governing entity can be federally recognized.

9. ADMINISTRATIVE RULE-MAKING SHOULD NOT BE USED TO ENACT LEGISLATION EXPLICITLY REJECTED BY CONGRESS DURING 13 YEARS AND MEGABUCKS SPENT PUSHING IT. LEGITIMATE AUTHORITY FOR RULE-MAKING SHOULD NOT BE REGARDED AS A LICENSE FOR ARBITRARY AND CAPRICIOUS RULE-BREAKING. IF THE RULES ARE CHANGED IN SUCH A RADICAL WAY TO ALLOW SUCH A FULLY ASSIMILATED, SCATTERED GROUP AS "NATIVE HAWAIIANS" TO GET FEDERAL RECOGNITION, HUNDREDS OF OTHER GROUPS CANNOT BE DENIED.

The first sentence of the U.S. Constitution, Article 1, Section 1, says "All legislative Powers hereby granted shall be vested in a Congress of the United States ..."

Article 2 Section 1 says "The executive Power shall be vested in a President of the United States of America." article 2, Section 3 says "...[H]e shall take Care that the Laws be faithfully executed ..." The executive branch has no authority to legislate, only to FAITHFULLY execute what Congress legislated.

During the past few years President Obama has repeatedly overstepped his authority and encroached on the powers of Congress, as the Supreme Court has ruled 9-0 on at least 12 recent cases. When there's a law he doesn't like, he simply refuses to enforce it, as shown when he refused to defend in court the Congressionally mandated Defense of Marriage Act, thereby failing to "take care that the laws be faithfully executed." He unilaterally decided to administratively pass the "Dream Act" which Congress had very recently voted to reject, by ordering immigration officials to decline to deport illegal immigrants who had been brought to America when they were children.

In both of those cases President Obama asserted that he has "prosecutorial discretion" to choose which laws to enforce, and against which criminals, because resources are limited and choices must be made. There are many more examples too numerous to list here. But the assertion that discretion is needed because of limited resources is

simply not credible when a highly controversial law enacted after lengthy Congressional deliberation is ignored or undermined because the President disagrees with Congress. It is not sufficient merely to say that Congress is caught in gridlock and unable to act, therefore I will use my pen and my phone to do what Congress seems unable to do. Inaction by Congress is a form of action -- Congress is not mired in gridlock; rather it chooses not to pass a new law. The President violates the separation of powers if he uses his pen to do what Congress refuses to do.

It's generally acknowledged that the executive branch has the authority to exercise "implementation latitude" to write regulations to implement laws passed by Congress, because those laws are often broad in scope, are sometimes vague and need interpretation, or fail to take account of all the details encountered in daily life. But all such uses of executive authority in exercising implementation latitude must be done in conformity with the intent of Congress and not in opposition to it.

Using an executive order or administrative rule-making to create a new law rejected by Congress is far worse than refusing to faithfully execute a law enacted by Congress. It has nothing to do with using discretion in the face of limited resources to choose which laws to ignore. Administrative creation of a new law which Congress has rejected is a blatantly unconstitutional usurpation of the power of Congress and probably an impeachable offense.

What the Department of Interior is trying to do through administrative rule-making to create a phony Hawaiian tribe is exactly opposite to the clear intent of Congress, which has repeatedly refused to enact the Akaka bill during a 13-year period from 2000 through 2012. What the Department of Interior is trying to do with rule-making in this situation is not an exercise of implementation latitude; it is rather a violation of the separation of powers -- an attempt to seize the power of Congress to legislate on a topic where Congress has spoken in opposition to what DOI is trying to do. The executive branch only has the authority to make rules to implement laws passed by the legislative branch; the

executive branch does not have the power to legislate through rule-making a policy which Congress has repeatedly rejected.

For many years the Department of Interior has been in the business of discovering Indian tribes which it says have always existed but are only now coming to the attention of the federal government and seeking "acknowledgment" as federally recognized tribes. Recognition allows the federal government to take land into trust, making it federal land where tribal businesses escape state and local taxation, and where local zoning laws no longer apply; thus allowing the tribe to build casinos and rake in megabucks. A tribe can own land communally on behalf of its members, and can have its own laws and institutions separate and apart from the non-Indian population.

A very clear set of rules has long been in place spelling out in legal jargon the commonsense understanding of what distinguishes a real Indian tribe from merely a bunch of Indians "on the loose" as it were. I believe, but am not certain, that a majority of people who have Native American ancestry are not members of any tribe and would not be eligible to join a tribe even if they wanted to.

The seven mandatory criteria a group of Indians must prove they satisfy in order to get federal recognition are found at 25 CFR 83.7. All 7 criteria must be satisfied; failure to meet even one of the 7 has been the reason why some groups were rejected. So-called "Native Hawaiians" clearly fail at least three of the criteria.

"A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present." But as discussed in another section of this testimony, ethnic Hawaiians eagerly embraced Europeans, Americans, and Asians not only sexually but also spiritually, economically, culturally, and politically; becoming thoroughly integrated and assimilated; living, working, praying, and playing together throughout the 1800s, 1900s, and still today. May it always be so! We don't want the Department of Interior to pull us apart.

"The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present." But as discussed in another section of this testimony, native Hawaiians never had a unified government of all 8 major islands where the people being governed, or their political leaders, were entirely of Hawaiian ancestry. A unified Kingdom of Hawaii existed only after 1810, and was created only with the indispensable materials and leadership supplied by England. A majority of its cabinet ministers, nearly all department heads, and perhaps 1/4 to 1/3 of the members of its legislature were Caucasians. The only people and places today where the leaseholders and the governing authority are entirely native Hawaiian are the Department of Hawaiian Homelands, which was artificially created by an Act of Congress, the Hawaiian Homes Commission Act passed in 1921. The tribe now being created through the Kana'ioloalua process based on Act 195 (Hawaii Session Laws of 2011) is vastly larger than the number of DHHL leaseholders or waiting list placeholders.

"A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures." But there is no Native Hawaiian Governing Entity and no Constitution or governing document; and there has never been any such thing. The closest things would be the Kingdom of Hawaii Constitutions of 1840, 1852, 1864, and 1887; but those Constitutions governed a multiracial nation in which ethnic Hawaiians of any blood quantum had already declined to a minority of about 40% at the time the monarchial government was overthrown in 1893.

In a series of 15 community meetings throughout Hawaii in June and July, 2014, Assistant Attorney General Sam Hirsch asserted that the Department of Interior has authority to rewrite the rules for federal recognition. He even said there were one or two sentences in the 9th Circuit Court of Appeals ruling in Kahawaiola'a which could be interpreted to mean that DOI can change its longstanding rules in such a way to make it possible for a Hawaiian tribe to be recognized.

I'm not a lawyer. But even if I were, I'm sure that Sam Hirsch and his battery of highly paid lawyers would figure out some way to torture the Kahawaiola'a ruling or the enabling legislation for the rules in 25 CFR 83.7 until it screams "uncle" and says OK go ahead and do what you want to do. But just because he can do it does not mean he should.

If The Department of Interior tries to gerrymander the long-accepted criteria that distinguish a genuine tribe from a mere group of unaffiliated Indians, in such a way as to allow ethnic Hawaiians to be recognized as a tribe. then it seems unimaginable that the new rules could prevent hundreds of other groups that are not really tribes from getting federal recognition. Just look at three of the criteria described above which ethnic Hawaiians clearly fail to meet. If those criteria were deleted from the requirements to facilitate recognition of Mr. Hirsch's favorite group, there would no doubt be a large number of brand new federally recognized tribes very soon.

What Sam Hirsch seems to be advocating resembles a practice sometimes used by unscrupulous companies and contractors in cahoots with each other where the company puts out a request for proposals, a contractor bribes a company official to write the specifications in such a way that only that particular contractor can easily meet them, and then the company awards the contract. Or, as is said more informally: if the football team has trouble scoring a field goal, just move the goalposts closer for them.

I remember on my elementary school playground there was a bully who would change the rules whenever he wasn't winning. It looks like the Department of Interior is the biggest bully in Hawaii today. Fortunately the American voters collectively are bigger. The next Republican President will put a muzzle on the snout of DOI and put it back in its cage. The affable Sam Hirsch will find a happy retirement home among his friends in the ethnic Hawaiian community, even if he has trouble pronouncing the magic codeword Kahawaiola'a.

10. THE PEOPLE AND LANDS THAT MIGHT BE COBBLED TOGETHER TO CREATE A HAWAIIAN TRIBE ARE FULLY INTEGRATED, FULLY ASSIMILATED, AND WIDELY SCATTERED THROUGHOUT ALL NEIGHBORHOODS IN HAWAII AND ALL 50 STATES. GENUINE TRIBES BEGAN LONG AGO AS DEMOGRAPHICALLY HOMOGENEOUS AND GEOGRAPHICALLY COMPACT; AND THE PURPOSE OF FEDERAL RECOGNITION IS TO ENABLE THEM TO CONTINUE THEIR LIFESTYLE AND SELF-GOVERNANCE. BUT FEDERAL RECOGNITION FOR A HAWAIIAN TRIBE WOULD TAKE THINGS IN THE OPPOSITE DIRECTION -- HERDING INTO DEMOGRAPHIC AND GEOGRAPHIC RACIAL GHETTOS PEOPLE AND LANDS THAT HAVE LONG BEEN FULLY ASSIMILATED, WIDELY SCATTERED, AND GOVERNED BY A MULTIRACIAL SOCIETY. MAP SHOWING PUBLIC LANDS LIKELY TO BE DEMANDED BY A HAWAIIAN TRIBE; CENSUS 2010 TABLE SHOWING NUMBER OF NATIVE HAWAIIANS IN EVERY STATE; CENSUS 2010 TABLE SHOWING NUMBER OF NATIVE HAWAIIANS IN EVERY CENSUS TRACT IN HAWAII.

The following information is provided in this section of testimony.

1. A four-color map shows all eight major Hawaiian islands and identifies some (but not all) of the lands that a Hawaiian tribe might expect to govern. The map was retrieved on July 2, 2014 from <http://aloha4all.org/wordpress/basic-issues/land-map/>

Areas in white are private lands that might remain unaffected by creation of a Hawaiian tribe. However, some very large amounts of private lands are owned by wealthy race-based institutions which are likely to re-incorporate under the authority of a race-based Hawaiian tribe in order to avoid taxes and racial discrimination lawsuits. For example, Kamehameha Schools Bishop Estate is the largest private landowner, holding approximately 9% of all the land in Hawaii, and also owns buildings and large tracts of land in other states.

Lands colored orange are more than 200,000 acres of Hawaiian Homelands governed by the Department of Hawaiian Homelands under the Hawaiian Homes Commission Act passed by Congress in 1921.

There are more than 60 geographically separate DHHL parcels on 6 islands, but only the largest ones are shown on the map. Leases can originally be issued only to people with at least 50% Hawaiian native blood quantum, although a lessee's child can inherit with 25% or more native ancestry.

Areas colored green are federal lands including military bases and national parks. Only the largest federal areas are shown. Hawaiian activists have asserted that many of these areas are sacred in their religion or their history.

Areas colored blue are state lands.

All the federal lands, and approximately 95% of all lands owned by the state government, are "ceded lands." These are formerly the government and crown lands of the Hawaiian kingdom which were ceded to the U.S. in the 1898 Treaty of Annexation. Later the lands now owned by the State of Hawaii were ceded back under terms of the statehood act of 1959. The U.S. apology resolution of 1993 says all the ceded lands were taken from Native Hawaiians against their will and without compensation -- that assertion is untrue for many reasons, but Hawaiian activists have been asserting it for decades. The activists cite the apology resolution as evidence that the U.S. has admitted its theft of the land, and many Hawaii citizens have come to believe it. Today's Hawaiian activists say all these lands rightfully belong to Native Hawaiians collectively and should be handed over to a future sovereign independent nation of Hawaii or, presumably, to any tribal government created under the U.S. Department of Interior.

2. A table shows the number of Native Hawaiians living in each of the 50 states according to Census 2010, and their percentage of each state's total population. The table was retrieved on July 2, 2014 from the Native Hawaiian Databook for Census 2010 results at http://www.ohadatabook.com/QT-P9_United%20States.pdf

Some states have a large number of Native Hawaiians, who might very well create their own branches of a Hawaiian tribe and might then

purchase land in those states, have the Department of Interior place it into trust, and build casinos or other tax-exempt businesses such as gasoline stations and liquor stores. For example, in 2010 California had 74,932 Native Hawaiians -- a large increase above the 60,000 living there in 2000. Nevada had 16,399 mostly clustered in Las Vegas.

The point is that ethnic Hawaiians are scattered throughout all states. In Census 2010, 289,970 ethnic Hawaiians live in Hawaii out of 527,077 nationwide, meaning that 45% of the potential members of a Hawaiian tribe live outside Hawaii! Is there any genuine Indian tribe so widely scattered?

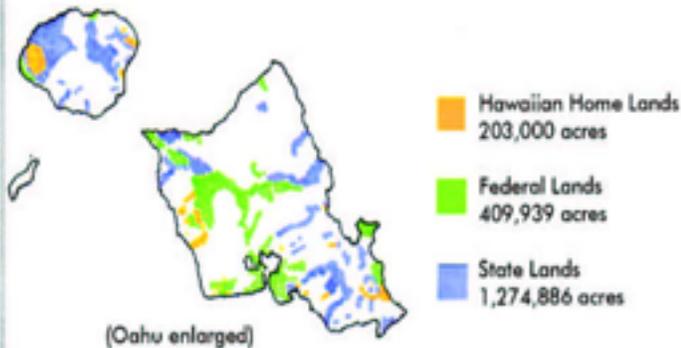
It's important to use the columns at the right, which identify "Native Hawaiian" as anyone having at least one drop of Hawaiian blood -- the same definition used in all versions of the Akaka bill from 2000 through 2012 and the same definition contemplated for the tribe being created by the State of Hawaii Kana'iolowalu process and Department of Interior rule-making. But the columns at the left are also interesting, because they claim to show how many "pure Hawaiians" there are -- these are people who claimed only "Native Hawaiian" ancestry on the Census form even though they could have claimed all their multiracial ancestries by checking more than one race box. There are probably no more than a few thousand "pure Hawaiians." But Kamehameha schools and OHA and other Hawaiian racist institutions urged their beneficiaries to check only the one box for "Native Hawaiian" for fear that government handouts might be diluted for people whose racial pedigree was diluted. The vast majority of those who identified as "pure Hawaiian" did so to emphasize the strength of their social/political activism, even though by doing so they repudiated what in many cases was the majority of their ancestors. For example Hawaii shows 80,337 "pure" Hawaiians, which is absurd; California shows 21,423 "pure" Hawaiians, Nevada shows 6,459 and even New York shows 1,802 "pure" Hawaiians which is probably more than the number of "pure" Hawaiians who actually exist in Hawaii.

3. A lengthy table shows the number of "Native Hawaiians" in each and every Census tract in the State of Hawaii. It clearly shows that

ethnic Hawaiians are widely dispersed and thoroughly assimilated throughout all neighborhoods of the state. There are a few tracts where ethnic Hawaiians are more than 50% of the population -- that happens on the Hawaiian Homelands created by Congress in 1921, which have artificially rounded up native Hawaiians and herded them into racial ghettos. Why is the percentage of Native Hawaiians not 100% in these ghettos? Because only the leaseholder is required to have at least 50% Hawaiian blood; but spouses, children, and other family members might have much less native ancestry or even no native ancestry at all. For purposes of measuring the dispersion of ethnic Hawaiians throughout all Census tracts, it's important to use the columns at the right, which identify "Native Hawaiian" as anyone having at least one drop of Hawaiian blood -- the same definition used in all versions of the Akaka bill from 2000 through 2012 and the same definition contemplated for the tribe being created by the State of Hawaii Kana'iolo'alu process and Department of Interior rule-making. The table was retrieved on July 2, 2014 from the Native Hawaiian Databook for Census 2010 results at http://www.ohadatabook.com/QT-P9_Tracts.xls

IF THE AKAKA BILL BECOMES LAW:

Q: WHAT LANDS ARE ON THE TABLE FOR TRANSFER TO THE NEW GOVERNMENT?



Akaka Bill §8(b)(1):

Native Hawaiian governing entity, U.S. & State of Hawaii may negotiate agreement for transfer of lands, natural resources & other assets; civil & criminal jurisdiction; delegation of governmental powers & authorities to Native Hawaiian governing entity.

A: ALL THE LANDS IN COLOR ARE UP FOR NEGOTIATION.

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www.grassrootinstitute.com

Nurturing the rights and responsibilities of the individual in a civil society...

Transfer of land and natural resources. The sponsors of the bill have said that the approximately 200,000 acres of Hawaiian home lands plus the island of Kahoolawe would be given to the new government. But the bill specifies no limit on the amount of land to be transferred. In the past, OHA has demanded all the ceded lands (former government and crown lands), including those held by the U.S. for military bases, national parks and civil purposes.

Crazyquilt of separate enclaves. This map shows that, unlike typically contiguous Indian reservations, the proposed Native Hawaiian government's territory would be a patchwork of separate sovereign enclaves.

Visualize the transmission lines. Indian tribes charge right-of-way fees for transmission lines across reservations or interrupt service. Look at the map above and visualize the transmission lines for electricity, telephone, gas, cable, water, sewer, storm drain, traffic lights and street lights. Every one that crosses the territory of the proposed Native Hawaiian government would be fair game for right-of-way charges or interruption of service.

Your utility bills. Imagine the effect on your home utility bill. You will pay more, not because you receive better

service, but only because a sovereign Hawaiian government has the right to charge for or withhold transmission over its sovereign territory. Ditto for utilities to business, emergency services, airports, harbors, parks, military bases, national parks, the University of Hawaii and the summit of Mauna Kea

QT-P9 - United States: Race reporting for the Native Hawaiian by Selected Categories: 2010

2010 Census Summary File 1

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/sf1.pdf>.

Geography	Native Hawaiian						Total Population
	Native Hawaiian Alone [1]		Native Hawaiian Alone & Combination within Same Race [2]		Native Hawaiian Alone or in Any Combination [3]		
	No.	%	No.	%	No.	%	
Alabama	522	0.01%	553	0.01%	1,529	0.03%	4,779,736
Alaska	949	0.13%	1,117	0.16%	3,006	0.42%	710,231
Arizona	3,837	0.06%	3,986	0.06%	9,549	0.15%	6,392,017
Arkansas	537	0.02%	552	0.02%	1,251	0.04%	2,915,918
California	21,423	0.06%	22,940	0.06%	74,932	0.20%	37,253,956
Colorado	1,783	0.04%	1,858	0.04%	5,670	0.11%	5,029,196
Connecticut	322	0.01%	328	0.01%	1,017	0.03%	3,574,097
Delaware	74	0.01%	78	0.01%	266	0.03%	897,934
District of Columbia	75	0.01%	77	0.01%	264	0.04%	601,723
Florida	2,809	0.01%	2,912	0.02%	8,023	0.04%	18,801,310
Georgia	1,319	0.01%	1,409	0.01%	3,976	0.04%	9,687,653
Hawai'i	80,337	5.91%	84,480	6.21%	289,970	21.32%	1,360,301
Idaho	637	0.04%	669	0.04%	1,921	0.12%	1,567,582
Illinois	1,122	0.01%	1,151	0.01%	3,636	0.03%	12,830,632
Indiana	728	0.01%	742	0.01%	2,223	0.03%	6,483,802
Iowa	381	0.01%	408	0.01%	1,109	0.04%	3,046,355
Kansas	505	0.02%	527	0.02%	1,554	0.05%	2,853,118
Kentucky	541	0.01%	573	0.01%	1,505	0.03%	4,339,367
Louisiana	466	0.01%	481	0.01%	1,245	0.03%	4,533,372
Maine	115	0.01%	123	0.01%	350	0.03%	1,328,361
Maryland	634	0.01%	658	0.01%	2,346	0.04%	5,773,552
Massachusetts	520	0.01%	536	0.01%	1,780	0.03%	6,547,629
Michigan	753	0.01%	775	0.01%	2,708	0.03%	9,883,640
Minnesota	573	0.01%	584	0.01%	1,847	0.03%	5,303,925
Mississippi	252	0.01%	259	0.01%	699	0.02%	2,967,297
Missouri	958	0.02%	1,045	0.02%	2,673	0.04%	5,988,927
Montana	295	0.03%	303	0.03%	868	0.09%	989,415
Nebraska	227	0.01%	239	0.01%	794	0.04%	1,826,341
Nevada	6,459	0.24%	6,860	0.25%	16,339	0.61%	2,700,551
New Hampshire	120	0.01%	121	0.01%	385	0.03%	1,316,470
New Jersey	674	0.01%	689	0.01%	2,066	0.02%	8,791,894
New Mexico	660	0.03%	683	0.03%	1,854	0.09%	2,059,179
New York	1,802	0.01%	1,862	0.01%	5,108	0.03%	19,378,102
North Carolina	1,389	0.01%	1,438	0.02%	4,182	0.04%	9,535,483
North Dakota	88	0.01%	91	0.01%	282	0.04%	672,591
Ohio	928	0.01%	950	0.01%	3,037	0.03%	11,536,504
Oklahoma	942	0.03%	1,002	0.03%	2,766	0.07%	3,751,351
Oregon	3,060	0.08%	3,229	0.08%	9,719	0.25%	3,831,074

Pennsylvania	940	0.01%	975	0.01%	3,043	0.02%	12,702,379
Rhode Island	96	0.01%	106	0.01%	397	0.04%	1,052,567
South Carolina	570	0.01%	589	0.01%	1,654	0.04%	4,625,364
South Dakota	95	0.01%	99	0.01%	336	0.04%	814,180
Tennessee	771	0.01%	802	0.01%	2,224	0.04%	6,346,105
Texas	4,794	0.02%	4,955	0.02%	13,192	0.05%	25,145,561
Utah	1,911	0.07%	2,340	0.08%	6,525	0.24%	2,763,885
Vermont	47	0.01%	49	0.01%	158	0.03%	625,741
Virginia	1,410	0.02%	1,473	0.02%	4,699	0.06%	8,001,024
Washington	5,861	0.09%	6,373	0.09%	19,863	0.30%	6,724,540
West Virginia	141	0.01%	145	0.01%	442	0.02%	1,852,994
Wisconsin	547	0.01%	572	0.01%	1,638	0.03%	5,686,986
Wyoming	147	0.03%	152	0.03%	457	0.08%	563,626
TOTAL	156,146	0.05%	164,918	0.05%	527,077	0.17%	308,745,538

[1] One category alone (e.g., Samoan).

[2] One category alone (as in footnote 1), or in combination with one or more other categories within the same race group (e.g., Native Hawaiian, Samoan, and Other Pacific Islander). Individuals are included in each category.

[3] One category alone (as in footnote 1), or in combination with one or more other categories within the same race group (as in footnote 2), or in combination with any other race group (e.g., Native Hawaiian, Samoan, White, and Black or African American).

Source: U.S. Census Bureau, 2010 Census.

2010 Census Summary File 1, Tables PCT8, PCT9, PCT10

QT-P9 - Hawaii-Census Tracts: Race reporting for the Native Hawaiian by Selected Categories: 2010

2010 Census Summary File 1

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/sf1.pdf>.

Geography	Native Hawaiian					
	Native Hawaiian Alone [1]		Native Hawaiian Alone or in Combination with one or More other Categories of same race [2]		Native Hawaiian Alone or in Any Combination [3]	
	No.	%	No.	%	No.	%
Hawaii County	15,812	8.5%	16,355	8.8%	54,919	29.7%
Census Tract 201	304	5.8%	311	6.0%	1,170	22.4%
Census Tract 202.02	361	14.1%	362	14.1%	696	27.1%
Census Tract 203	386	9.8%	407	10.3%	1,171	29.8%
Census Tract 204	298	9.0%	309	9.4%	1,074	32.6%
Census Tract 205	500	8.4%	533	9.0%	1,945	32.8%
Census Tract 206	1,637	30.4%	1,678	31.1%	3,485	64.6%
Census Tract 207.01	290	6.4%	304	6.7%	1,254	27.8%
Census Tract 207.02	270	5.6%	274	5.6%	1,250	25.7%
Census Tract 208.01	322	7.5%	328	7.6%	1,310	30.4%
Census Tract 208.02	454	7.3%	462	7.5%	1,664	26.9%
Census Tract 209	301	6.4%	304	6.4%	1,508	31.9%
Census Tract 210.03	630	9.9%	651	10.2%	2,207	34.5%
Census Tract 210.05	947	8.6%	997	9.1%	3,556	32.3%
Census Tract 210.10	670	8.5%	706	9.0%	2,555	32.4%
Census Tract 210.11	344	8.6%	358	8.9%	1,578	39.4%
Census Tract 210.13	329	6.6%	341	6.9%	1,466	29.5%
Census Tract 211.01	203	5.7%	209	5.9%	514	14.6%
Census Tract 211.06	850	11.3%	896	11.9%	2,641	35.1%
Census Tract 212.02	704	8.3%	719	8.5%	2,409	28.5%
Census Tract 213	658	11.0%	685	11.5%	1,840	30.8%
Census Tract 214.02	359	8.9%	367	9.1%	1,184	29.4%
Census Tract 215.02	444	9.2%	453	9.4%	1,338	27.6%

Census Tract 215.04	525	13.2%	561	14.1%	1,646	41.5%
Census Tract 215.07	579	6.8%	612	7.2%	2,268	26.7%
Census Tract 215.09	238	4.6%	249	4.8%	846	16.4%
Census Tract 216.01	469	6.0%	488	6.2%	1,543	19.7%
Census Tract 216.04	293	3.9%	302	4.0%	1,180	15.6%
Census Tract 217.02	1,166	12.2%	1,182	12.4%	3,655	38.3%
Census Tract 217.04	434	5.4%	448	5.5%	1,470	18.2%
Census Tract 218	542	8.6%	546	8.6%	2,284	36.1%
Census Tract 219.02	177	4.5%	180	4.6%	1,156	29.5%
Census Tract 220	65	2.5%	68	2.6%	635	24.5%
Census Tract 221.02	63	3.1%	65	3.2%	421	20.6%
Census Tract 9900	0		0		0	
Census Tract 9901	0		0		0	
Census Tract 9903	0		0		0	
Census Tract 9904	0		0		0	
Census Tract 9905	0		0		0	
Census Tract 9906	0		0		0	
Census Tract 9907	0		0		0	
Census Tract 9908	0		0		0	
Census Tract 9909	0		0		0	
Census Tract 9910	0		0		0	
Census Tract 9911	0		0		0	
Census Tract 9912	0		0		0	
Census Tract 9913	0		0		0	
Census Tract 9914	0		0		0	
Census Tract 9915	0		0		0	
Census Tract 9916	0		0		0	
Census Tract 9917	0		0		0	

Geography	Native Hawaiian					
	Native Hawaiian Alone [1]		Native Hawaiian Alone or in Combination with one or More other Categories of same race [2]		Native Hawaiian Alone or in Any Combination [3]	
	No.	%	No.	%	No.	%
Honolulu County	47,951	5.0%	51,091	5.4%	182,120	19.1%
Census Tract 1.06	123	1.6%	124	1.6%	694	9.0%
Census Tract 1.07	48	1.7%	51	1.8%	345	12.2%
Census Tract 1.08	62	1.9%	64	2.0%	306	9.4%
Census Tract 1.10	121	2.8%	123	2.9%	595	13.9%
Census Tract 1.11	134	2.7%	135	2.7%	796	15.8%
Census Tract 1.12	126	2.3%	130	2.3%	761	13.7%
Census Tract 1.14	26	1.6%	26	1.6%	128	8.0%
Census Tract 2	246	4.3%	256	4.5%	1,147	20.0%
Census Tract 3.01	70	2.1%	70	2.1%	355	10.7%
Census Tract 3.02	74	2.5%	75	2.5%	438	14.6%
Census Tract 4.01	61	2.1%	61	2.1%	253	8.7%
Census Tract 4.02	32	0.8%	32	0.8%	240	6.0%
Census Tract 5	80	2.1%	83	2.2%	326	8.6%
Census Tract 6	16	1.3%	16	1.3%	118	9.7%
Census Tract 7	57	1.9%	58	2.0%	373	12.6%
Census Tract 8	160	4.2%	162	4.3%	560	14.9%
Census Tract 9.01	30	1.1%	30	1.1%	235	8.6%
Census Tract 9.02	104	2.5%	106	2.6%	507	12.4%
Census Tract 9.03	92	3.2%	94	3.3%	439	15.4%
Census Tract 10	92	3.0%	92	3.0%	506	16.3%
Census Tract 11	183	4.7%	205	5.3%	754	19.5%
Census Tract 12.01	86	2.9%	88	3.0%	446	15.3%
Census Tract 12.02	104	3.4%	105	3.5%	486	16.0%
Census Tract 13	136	3.2%	143	3.4%	714	17.0%
Census Tract 14	68	2.7%	68	2.7%	328	12.9%
Census Tract 15	109	3.1%	113	3.2%	598	17.0%

Census Tract 16	172	4.5%	174	4.6%	620	16.4%
Census Tract 17	45	1.8%	45	1.8%	189	7.8%
Census Tract 18.01	58	3.4%	59	3.4%	151	8.8%
Census Tract 18.03	59	1.8%	67	2.0%	205	6.1%
Census Tract 18.04	29	1.6%	29	1.6%	107	5.8%
Census Tract 19.01	28	3.3%	28	3.3%	55	6.6%
Census Tract 19.03	26	0.9%	26	0.9%	119	4.3%
Census Tract 19.04	80	2.0%	83	2.1%	201	5.1%
Census Tract 20.03	41	1.7%	41	1.7%	102	4.1%
Census Tract 20.04	26	1.9%	27	1.9%	74	5.3%
Census Tract 20.05	43	1.8%	43	1.8%	138	5.8%
Census Tract 20.06	38	1.6%	42	1.8%	132	5.6%
Census Tract 21	183	4.7%	192	5.0%	670	17.3%
Census Tract 22.01	140	3.8%	151	4.1%	486	13.2%
Census Tract 22.02	62	1.8%	62	1.8%	280	8.2%
Census Tract 23	135	2.4%	140	2.5%	671	12.1%
Census Tract 24.01	89	2.9%	101	3.3%	410	13.2%
Census Tract 24.02	80	2.5%	86	2.7%	430	13.3%
Census Tract 25	91	2.3%	98	2.5%	407	10.4%
Census Tract 26	130	3.1%	136	3.2%	616	14.5%
Census Tract 27.01	131	2.6%	138	2.7%	636	12.5%
Census Tract 27.02	165	3.3%	169	3.3%	644	12.7%
Census Tract 28	63	1.7%	64	1.7%	399	10.8%
Census Tract 29	46	1.9%	47	1.9%	159	6.6%
Census Tract 30	51	1.2%	51	1.2%	415	9.6%
Census Tract 31.01	68	1.8%	71	1.9%	338	9.2%
Census Tract 31.02	37	1.1%	40	1.2%	291	8.7%
Census Tract 32	43	5.2%	43	5.2%	144	17.3%
Census Tract 33	102	9.0%	106	9.4%	314	27.7%
Census Tract 34.03	166	3.0%	177	3.2%	631	11.4%
Census Tract 34.04	137	2.9%	139	2.9%	498	10.6%
Census Tract 34.05	76	2.3%	79	2.4%	360	11.1%

Census Tract 34.06	188	3.3%	195	3.4%	731	12.7%
Census Tract 34.07	13	1.4%	13	1.4%	53	5.8%
Census Tract 35.01	54	2.4%	56	2.5%	206	9.0%
Census Tract 35.02	81	2.1%	92	2.4%	383	9.9%
Census Tract 36.01	89	2.2%	93	2.3%	434	10.6%
Census Tract 36.03	51	1.8%	60	2.1%	232	8.3%
Census Tract 36.04	42	1.7%	42	1.7%	105	4.2%
Census Tract 37	119	2.1%	121	2.2%	350	6.3%
Census Tract 38	114	2.9%	119	3.0%	391	9.8%
Census Tract 39	25	3.8%	28	4.3%	76	11.6%
Census Tract 40	45	2.9%	46	3.0%	139	9.0%
Census Tract 41	144	3.2%	148	3.3%	615	13.7%
Census Tract 42	103	3.0%	105	3.1%	313	9.1%
Census Tract 43	241	4.3%	243	4.3%	1,030	18.4%
Census Tract 44	870	16.8%	881	17.1%	2,060	39.9%
Census Tract 45	117	2.3%	121	2.4%	656	12.8%
Census Tract 46	104	2.8%	107	2.9%	536	14.4%
Census Tract 47	181	4.0%	191	4.2%	825	18.1%
Census Tract 48	404	6.0%	440	6.6%	1,583	23.6%
Census Tract 49	74	2.3%	75	2.3%	415	13.0%
Census Tract 50	127	3.1%	137	3.4%	520	12.8%
Census Tract 51	34	1.1%	35	1.1%	116	3.8%
Census Tract 52	101	3.1%	116	3.5%	329	10.0%
Census Tract 53	137	3.8%	139	3.8%	415	11.4%
Census Tract 54	50	3.1%	59	3.6%	181	11.1%
Census Tract 55	55	2.6%	75	3.6%	219	10.5%
Census Tract 56	190	2.8%	197	2.9%	652	9.7%
Census Tract 57	127	5.9%	150	7.0%	378	17.6%
Census Tract 58	128	3.7%	145	4.2%	563	16.4%
Census Tract 59	632	18.8%	641	19.1%	858	25.6%
Census Tract 60	140	2.6%	151	2.8%	431	8.0%
Census Tract 61	134	3.2%	144	3.4%	431	10.3%
Census Tract 62.01	223	3.7%	256	4.2%	744	12.3%
Census Tract 62.02	59	3.5%	90	5.3%	248	14.6%

Census Tract 63.01	134	3.6%	141	3.7%	476	12.6%
Census Tract 63.02	114	4.2%	155	5.7%	448	16.5%
Census Tract 64.01	47	2.3%	52	2.5%	209	10.2%
Census Tract 64.02	254	4.0%	284	4.4%	1,089	17.1%
Census Tract 65	151	3.3%	157	3.5%	676	14.9%
Census Tract 66	1	0.3%	1	0.3%	4	1.1%
Census Tract 67.01	100	1.7%	100	1.7%	614	10.5%
Census Tract 67.02	98	4.9%	103	5.2%	349	17.5%
Census Tract 68.02	197	2.9%	205	3.0%	934	13.7%
Census Tract 68.04	15	0.5%	21	0.7%	53	1.9%
Census Tract 68.05	177	2.9%	178	2.9%	608	9.9%
Census Tract 68.06	18	1.1%	18	1.1%	156	9.2%
Census Tract 68.08	103	2.3%	105	2.4%	526	11.9%
Census Tract 68.09	158	3.1%	169	3.4%	749	14.9%
Census Tract 69	21	0.5%	21	0.5%	112	2.9%
Census Tract 70	13	0.3%	13	0.3%	75	1.9%
Census Tract 71	29	1.1%	30	1.1%	76	2.8%
Census Tract 73.02	15	0.4%	26	0.7%	106	2.7%
Census Tract 73.03	0	0.0%	0	0.0%	1	0.3%
Census Tract 74	17	0.4%	17	0.4%	42	1.1%
Census Tract 75.02	321	23.3%	334	24.3%	345	25.1%
Census Tract 75.03	178	3.4%	181	3.5%	863	16.7%
Census Tract 75.04	185	5.8%	237	7.5%	857	27.0%
Census Tract 75.05	154	2.9%	155	2.9%	694	13.0%
Census Tract 75.06	4	0.4%	4	0.4%	7	0.8%
Census Tract 77.01	124	2.9%	136	3.2%	577	13.6%
Census Tract 77.02	214	4.2%	218	4.3%	897	17.6%
Census Tract 78.04	42	2.2%	43	2.3%	313	16.4%
Census Tract 78.05	200	3.9%	215	4.2%	1,085	21.1%
Census Tract 78.07	146	2.7%	151	2.8%	673	12.5%
Census Tract 78.08	152	4.5%	164	4.9%	669	20.0%
Census Tract 78.09	42	1.2%	44	1.3%	395	11.7%
Census Tract 78.10	95	1.7%	98	1.8%	575	10.6%
Census Tract 78.11	156	3.1%	166	3.3%	776	15.6%

Census Tract 80.01	94	4.7%	96	4.8%	443	22.1%
Census Tract 80.02	98	3.5%	99	3.5%	461	16.2%
Census Tract 80.03	211	4.5%	222	4.8%	884	18.9%
Census Tract 80.05	328	4.8%	336	4.9%	1,761	25.7%
Census Tract 80.06	102	2.1%	108	2.2%	691	14.2%
Census Tract 80.07	178	3.4%	180	3.4%	792	14.9%
Census Tract 83.01	157	3.4%	184	3.9%	802	17.2%
Census Tract 83.02	382	5.7%	416	6.2%	1,714	25.4%
Census Tract 84.02	525	6.4%	563	6.9%	2,008	24.5%
Census Tract 84.05	138	3.0%	160	3.4%	819	17.6%
Census Tract 84.06	86	1.4%	102	1.7%	934	15.6%
Census Tract 84.07	83	2.5%	94	2.8%	439	13.2%
Census Tract 84.08	80	1.7%	82	1.7%	493	10.4%
Census Tract 84.10	30	1.3%	32	1.4%	336	14.3%
Census Tract 84.11	120	3.5%	121	3.5%	761	22.1%
Census Tract 84.12	243	3.7%	259	4.0%	1,426	21.8%
Census Tract 85.02	140	6.6%	151	7.1%	519	24.3%
Census Tract 86.06	660	6.8%	706	7.3%	2,831	29.2%
Census Tract 86.09	108	5.2%	115	5.6%	357	17.3%
Census Tract 86.10	12	1.1%	12	1.1%	34	3.2%
Census Tract 86.11	3	3.6%	3	3.6%	26	31.0%
Census Tract 86.12	261	4.3%	293	4.9%	1,341	22.3%
Census Tract 86.13	69	7.6%	75	8.3%	296	32.7%
Census Tract 86.14	328	4.0%	360	4.4%	1,896	23.0%
Census Tract 86.17	381	4.1%	418	4.5%	1,928	20.6%
Census Tract 86.22	274	6.7%	303	7.4%	1,223	30.1%
Census Tract 87.01	181	2.1%	185	2.1%	868	9.9%
Census Tract 87.02	139	2.5%	143	2.6%	548	9.8%
Census Tract 87.03	230	3.4%	299	4.4%	1,161	17.0%
Census Tract 88	119	1.5%	132	1.6%	658	8.2%
Census Tract 89.06	124	3.3%	125	3.3%	705	18.7%
Census Tract 89.07	217	5.1%	231	5.5%	1,079	25.5%
Census Tract 89.08	178	3.0%	179	3.1%	1,027	17.6%

Census Tract 89.09	127	3.3%	131	3.4%	789	20.7%
Census Tract 89.12	53	2.1%	59	2.3%	220	8.6%
Census Tract 89.13	148	3.6%	158	3.8%	676	16.4%
Census Tract 89.14	96	1.9%	132	2.6%	609	11.9%
Census Tract 89.15	199	3.8%	222	4.2%	1,180	22.5%
Census Tract 89.17	122	2.7%	124	2.7%	774	17.0%
Census Tract 89.18	191	3.5%	192	3.5%	1,026	18.9%
Census Tract 89.20	165	3.8%	168	3.9%	790	18.4%
Census Tract 89.21	95	3.6%	97	3.6%	420	15.7%
Census Tract 89.22	152	2.0%	168	2.2%	1,070	14.3%
Census Tract 89.23	135	2.8%	141	3.0%	810	17.1%
Census Tract 89.24	194	2.5%	200	2.6%	1,019	13.4%
Census Tract 89.25	207	3.0%	227	3.3%	1,036	15.0%
Census Tract 89.26	45	2.9%	49	3.1%	218	13.9%
Census Tract 89.27	119	2.3%	123	2.4%	949	18.3%
Census Tract 89.28	90	2.3%	91	2.3%	642	16.5%
Census Tract 89.29	124	2.6%	124	2.6%	763	15.8%
Census Tract 89.30	36	1.4%	36	1.4%	285	11.1%
Census Tract 89.31	158	4.8%	158	4.8%	506	15.3%
Census Tract 90	10	0.6%	10	0.6%	29	1.8%
Census Tract 91	121	2.3%	130	2.4%	842	15.8%
Census Tract 92	360	4.5%	370	4.6%	2,116	26.6%
Census Tract 93	341	7.2%	366	7.7%	1,313	27.6%
Census Tract 94	299	5.8%	328	6.4%	1,354	26.3%
Census Tract 95.01	11	0.2%	17	0.3%	102	2.1%
Census Tract 95.02	11	0.3%	13	0.3%	86	2.0%
Census Tract 95.03	12	0.4%	26	0.8%	86	2.5%
Census Tract 95.04	8	0.6%	14	1.1%	32	2.5%
Census Tract 95.07	11	0.4%	21	0.8%	58	2.3%
Census Tract 96.03	1,491	14.5%	1,611	15.7%	4,985	48.4%
Census Tract 96.08	1,214	21.4%	1,306	23.0%	3,299	58.1%
Census Tract 97.01	1,111	16.7%	1,224	18.4%	3,667	55.3%
Census Tract 97.03	1,553	24.9%	1,640	26.3%	3,947	63.4%
Census Tract 97.04	640	20.9%	658	21.5%	1,686	55.0%

Census Tract 98.01	570	20.1%	603	21.3%	1,253	44.2%
Census Tract 98.02	1,188	18.6%	1,257	19.7%	3,591	56.2%
Census Tract 99.02	318	8.5%	323	8.6%	1,095	29.3%
Census Tract 99.04	213	3.6%	228	3.8%	1,067	17.8%
Census Tract 100	38	1.1%	40	1.2%	214	6.4%
Census Tract 101	495	6.3%	576	7.3%	1,651	20.9%
Census Tract 102.01	1,028	17.5%	1,146	19.5%	2,935	49.9%
Census Tract 102.02	640	8.4%	885	11.6%	2,123	27.8%
Census Tract 103.03	687	14.4%	707	14.8%	2,240	47.0%
Census Tract 103.05	491	9.7%	498	9.8%	1,991	39.3%
Census Tract 103.06	360	5.7%	373	5.9%	1,664	26.1%
Census Tract 103.08	165	5.0%	166	5.0%	809	24.4%
Census Tract 105.03	198	10.0%	213	10.8%	733	37.0%
Census Tract 105.04	567	11.1%	597	11.7%	2,213	43.3%
Census Tract 105.05	256	7.3%	261	7.4%	984	27.9%
Census Tract 105.07	510	9.4%	536	9.9%	2,056	37.9%
Census Tract 105.08	122	4.7%	122	4.7%	489	19.0%
Census Tract 106.01	378	11.0%	381	11.1%	1,262	36.9%
Census Tract 106.02	356	6.5%	359	6.6%	1,632	30.0%
Census Tract 107.01	112	3.1%	119	3.3%	549	15.0%
Census Tract 107.02	193	5.3%	208	5.7%	942	25.7%
Census Tract 108.01	8	0.3%	8	0.3%	43	1.4%
Census Tract 108.02	12	0.2%	14	0.2%	74	1.1%
Census Tract 109.01	118	3.8%	119	3.8%	502	16.0%
Census Tract 109.03	360	8.7%	377	9.1%	1,454	35.2%
Census Tract 109.04	211	5.9%	214	6.0%	984	27.6%
Census Tract 109.05	165	6.6%	169	6.7%	713	28.4%
Census Tract 110	357	8.6%	362	8.7%	978	23.6%
Census Tract 111.03	225	5.9%	245	6.5%	930	24.5%
Census Tract 111.04	315	6.5%	327	6.7%	1,268	26.1%
Census Tract 111.05	144	4.5%	144	4.5%	550	17.2%
Census Tract 111.06	329	5.6%	344	5.8%	1,438	24.3%

Census Tract 112.01	156	3.6%	158	3.6%	617	14.1%
Census Tract 112.02	23	1.4%	23	1.4%	163	10.1%
Census Tract 113	949	17.4%	1,008	18.5%	2,791	51.2%
Census Tract 114	35	0.7%	40	0.7%	80	1.5%
Census Tract 115	991	18.0%	1,050	19.1%	2,842	51.7%
Census Tract 9400.01	1,838	40.4%	1,892	41.6%	3,687	81.0%
Census Tract 9400.02	2,836	38.3%	3,038	41.1%	5,976	80.8%
Census Tract 9800	0		0		0	
Census Tract 9802	84	11.9%	95	13.5%	264	37.5%
Census Tract 9803	0		0		0	
Census Tract 9806	0		0		0	
Census Tract 9807	0		0		0	
Census Tract 9808	0		0		0	
Census Tract 9810	5	38.5%	5	38.5%	5	38.5%
Census Tract 9811	0		0		0	
Census Tract 9812	0		0		0	
Census Tract 9813	0		0		0	
Census Tract 9814	26	26.8%	26	26.8%	35	36.1%
Census Tract 9900.01	0		0		0	
Geography	Native Hawaiian					
	Native Hawaiian Alone [1]		Native Hawaiian Alone or in Combination with one or More other Categories of same race [2]		Native Hawaiian Alone or in Any Combination [3]	
	No.	%	No.	%	No.	%
Kalawao County	37	41.1%	37	41.1%	46	51.1%
Census Tract 319	37	41.1%	37	41.1%	46	51.1%
Census Tract 9900	0		0		0	

Geography	Native Hawaiian					
	Native Hawaiian Alone [1]		Native Hawaiian Alone or in Combination with one or More other Categories of same race [2]		Native Hawaiian Alone or in Any Combination [3]	
	No.	%	No.	%	No.	%
Kauai County	5,097	7.6%	5,215	7.8%	16,127	24.0%
Census Tract 401.03	210	3.2%	211	3.3%	629	9.7%
Census Tract 401.04	150	11.2%	150	11.2%	288	21.4%
Census Tract 402.04	324	6.4%	328	6.5%	1,154	22.9%
Census Tract 402.05	252	6.6%	256	6.7%	816	21.2%
Census Tract 403	585	7.0%	602	7.2%	2,176	26.0%
Census Tract 404	466	5.3%	472	5.4%	1,700	19.5%
Census Tract 405	331	5.6%	340	5.7%	1,311	22.1%
Census Tract 406.03	151	5.9%	153	6.0%	466	18.3%
Census Tract 406.04	205	6.5%	212	6.8%	723	23.0%
Census Tract 407	317	3.8%	329	3.9%	1,611	19.2%
Census Tract 408	357	9.5%	367	9.7%	1,085	28.8%
Census Tract 409	690	12.4%	718	12.9%	2,069	37.2%
Census Tract 412	146	85.9%	146	85.9%	149	87.6%
Census Tract 9400	913	24.6%	931	25.1%	1,950	52.5%
Census Tract 9901	0		0		0	
Census Tract 9902	0		0		0	
Census Tract 9903	0		0		0	

Geography	Native Hawaiian					
	Native Hawaiian Alone [1]		Native Hawaiian Alone or in Combination with one or More other Categories of same race [2]		Native Hawaiian Alone or in Any Combination [3]	
	No.	%	No.	%	No.	%
Maui County	11,440	7.4%	11,782	7.6%	36,758	23.7%
Census Tract 301	610	26.6%	615	26.8%	1,314	57.4%
Census Tract 302.01	128	5.2%	135	5.5%	412	16.8%
Census Tract 302.02	445	5.8%	448	5.9%	1,624	21.3%
Census Tract 303.01	643	8.0%	666	8.3%	1,988	24.8%
Census Tract 303.03	46	1.3%	48	1.3%	164	4.6%
Census Tract 304.02	691	8.0%	716	8.3%	2,510	29.0%
Census Tract 304.03	192	5.9%	197	6.0%	879	26.9%
Census Tract 304.04	352	6.3%	361	6.4%	1,649	29.4%
Census Tract 305.01	176	6.5%	176	6.5%	618	23.0%
Census Tract 307.05	120	3.2%	123	3.2%	592	15.6%
Census Tract 307.06	62	2.5%	70	2.9%	342	14.0%
Census Tract 307.07	237	3.0%	269	3.4%	1,017	12.7%
Census Tract 307.08	124	4.3%	131	4.5%	334	11.5%
Census Tract 307.09	74	2.0%	74	2.0%	200	5.4%
Census Tract 307.10	44	1.8%	47	1.9%	131	5.4%
Census Tract 308	997	14.4%	1,012	14.7%	2,757	39.9%
Census Tract 309.01	265	10.1%	280	10.7%	947	36.2%
Census Tract 309.02	245	7.6%	251	7.8%	920	28.7%
Census Tract 309.03	829	12.8%	847	13.1%	2,265	34.9%
Census Tract 310	611	7.3%	621	7.4%	2,139	25.4%

Census Tract 311.01	705	8.6%	723	8.9%	2,131	26.1%
Census Tract 311.02	296	5.5%	310	5.7%	1,014	18.7%
Census Tract 311.03	283	3.7%	289	3.8%	1,411	18.6%
Census Tract 314.02	288	9.6%	297	9.9%	857	28.5%
Census Tract 314.04	160	4.9%	173	5.3%	460	14.2%
Census Tract 314.05	256	4.7%	275	5.0%	832	15.2%
Census Tract 315.01	101	4.3%	102	4.3%	274	11.6%
Census Tract 315.02	140	2.8%	142	2.8%	451	9.0%
Census Tract 315.03	73	3.1%	78	3.3%	205	8.7%
Census Tract 316.01	137	4.4%	140	4.5%	611	19.5%
Census Tract 317	1,042	23.1%	1,064	23.6%	2,616	58.1%
Census Tract 318.01	732	26.6%	753	27.4%	1,865	67.8%
Census Tract 319	298	5.3%	310	5.5%	1,117	19.9%
Census Tract 320.00	38	3.8%	39	3.9%	112	11.3%
Census Tract 9800	0		0		0	
Census Tract 9900	0		0		0	
Census Tract 9902	0		0		0	
Census Tract 9912	0		0		0	

[1] One category alone (e.g., Samoan).

[2] One category alone (as in footnote 1), or in combination with one or more other categories within the same race group (e.g., Native Hawaiian, Samoan, and Other Pacific Islander). Individuals are included in each category.

[3] One category alone (as in footnote 1), or in combination with one or more other categories within the same race group (as in footnote 2), or in combination with any other race group (e.g., Native Hawaiian, Samoan, White, and Black or African American).

Source: U.S. Census Bureau, 2010 Census.

2010 Census Summary File 1, Tables PCT8, PCT9, PCT10

11. RULE-MAKING TO GIVE FEDERAL RECOGNITION TO A "NATIVE HAWAIIAN" GOVERNING ENTITY WOULD SUDDENLY IMPOSE UPON HAWAII A LARGE BODY OF FEDERAL INDIAN LAW WHICH WOULD OVERRIDE WELL-ESTABLISHED HAWAII LAWS BECAUSE OF THE SUPREMACY CLAUSE IN THE CONSTITUTION. FOR 13 YEARS VARIOUS VERSIONS OF THE AKAKA BILL INCLUDED PROTECTIONS, FOR HAWAII AND FOR GENUINE INDIAN TRIBES, AGAINST SOME OF THOSE LAWS. BUT THERE WOULD BE NO SUCH PROTECTIONS IF A NEW DEPARTMENT OF INTERIOR REGULATION SIMPLY ADDS "NATIVE HAWAIIAN" TO THE LIST OF FEDERALLY RECOGNIZED TRIBES. THIS SECTION OF TESTIMONY IDENTIFIES SOME ESPECIALLY TROUBLING COMPONENTS OF FEDERAL INDIAN LAW AND RECALLS SOME OF THE PROTECTIONS IN VARIOUS VERSIONS OF THE AKAKA BILL. INDIAN CHILD WELFARE ACT; VIOLENCE AGAINST WOMEN ACT; INDIAN NON-INTERCOURSE ACT; INDIAN GAMING REGULATORY ACT; LAND INTO TRUST (PERHAPS WITH CARCIERI FIX); NO TIME LIMIT FOR FINAL SETTLEMENT OF PAST GRIEVANCES.

During a period of 13 years, from 2000 to 2012, many different versions of the Akaka bill were formally introduced in the U.S. Senate and House. Often the version that languished at the close of one biennial Congress became the first version introduced in the next Congress, in much the way a team of relay runners might pass a baton from one runner to the next. Sometimes a version of the bill that had died several years before was suddenly introduced again. In 2006 a new version of the bill was introduced just a few days before a cloture motion was filed in the Senate on an earlier version -- the purpose was apparently to use the new version as a decoy, to allow Senator Inouye to praise the gentler features of the new version in order to deceive his colleagues into voting in favor of cloture on the older version (the deception was unsuccessful). In 2009, the first year of the 111th Congress, there were three very different versions all active at the same time in both the Senate and House. On February 4, 2009 the matched pair (same content, different chamber) S.381 and H.R.862 were introduced; on March 25 the matched pair S.708 and H.R.1711

were introduced; and on May 7 the matched pair S.1011 and H.R.2314 were introduced. Why did Hawaii's Senators and Representatives do this in 2009? Nobody ever explained.

The final legacy version of the Akaka bill was introduced in the Senate Committee on Indian Affairs on September 13, 2012 and passed one minute later on a voice vote with most committee members absent. That version had none of the protections for the people of Hawaii and for mainland tribes that were included in previous versions. Indeed, it was far more dangerous than any previous version, including many features never before proposed.

Senator Akaka had already announced his retirement at the end of the year, and Senator Inouye died on December 17 -- this final version was what Senators Akaka and Inouye had probably wanted all along; and they certainly knew it would be their last chance to seek federal recognition for a Hawaiian tribe through Congressional action.

During 13 years from 2000 through 2012 there were many different "protections" offered in various versions of the Akaka bill. The word "protection" refers to a clause, sentence, or paragraph which imposed a limit on the Akaka tribe to stop it from running too roughshod over the rights of Hawaii citizens or the rights of the genuine tribes.

None of those protections would be available if a Hawaiian tribe is simply added to the list of federally recognized tribes. On several occasions from 2010 to 2012 Senator Inouye tried to sneak a sentence into appropriations bills for the Department of Interior to do exactly that; but his stealth maneuver was caught in time for his colleagues to force removal of the offending sentence.

Now, in 2014 we are once again faced with an attempt to simply add a Hawaiian tribe, that does not yet exist, to the list of federally recognized tribes through a bureaucratic rule change. Such a rule change or executive order would probably not include any of the protections offered in various versions of the Akaka bill.

On the mainland, the decision whether to grant federal recognition to a tribe is entirely up to Congress or the Department of Interior. There is never a vote on the ballot by the citizens of the state. One reason is that the federal government sees it as its responsibility to protect a tribe against discrimination or even hostility from the people or government of the states.

But Hawaii is unique among all the states, because more than 20% of our population is "Native Hawaiian" according to Department of Interior definitions (at least one drop of Hawaiian native blood). No other state has anywhere near 20% of its people who have native ancestry, let alone 20% who are eligible to join a single tribe. To single out a 20% minority and create a separate government for them, and carve out a tribal land base with perhaps 50% of all the land in Hawaii, can properly be called apartheid. The people of Hawaii should have a right to a ballot vote to stop or veto any breakup of our state along racial lines. We cannot rely upon our elected legislators to make such a decision, because many of our legislators are themselves ethnic Hawaiian with a conflict of interest and because many more of them are "in the pockets of" wealthy, powerful ethnic Hawaiian institutions. See my 302-page book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" at <http://tinyurl.com/2a9fqa>

What are some of the more worrisome elements of federal Indian law that would immediately or eventually invade jurisprudence in Hawaii and the continental U.S. if a Hawaiian tribe gets federal recognition, overturning long-settled Hawaii laws and customs and threatening mainland tribes? What protections were there in various versions of the Akaka bill? How does the absence of those protections in an administrative rule change contemplated by the Department of Interior threaten the 80% of Hawaii's people who have no Hawaiian native ancestry? Why should genuine tribes on the mainland oppose creation of a federally recognized Hawaiian tribe?

Consider the Indian Child Welfare Act. The Supreme Court, on June 25, 2013 issued a highly controversial decision in *Adoptive Couple v. Baby*

Girl, also known as the Baby Veronica case, concerning interpretation of the ICWA. The original purpose of ICWA was to protect the future population levels of federally recognized Indian tribes, and the cultural knowledge of their members, by stopping Indian children from being adopted by people who have no Indian blood or are not members of the child's tribe. If one biological parent is a member of a federally recognized tribe and the other parent is not, then both the Indian parent and the tribe have very strong rights to demand that custody of the child be given to the Indian parent or to another member of the tribe, rather than to a biological or adoptive parent with no Indian blood. The best interest of the child, which is usually paramount in child custody or adoption rulings, is completely irrelevant under ICWA. To put it bluntly: it's more important to protect an Indian tribe with thousands of members from dying out than to protect any particular child by ensuring it will be adopted into a stable family with good finances and good moral values.

In the Baby Veronica case an absentee father with two percent Cherokee blood, who was not a participant in tribal affairs, suddenly invoked the Indian Child Welfare Act at the behest of the tribe to nullify an adoption of a child he had previously abandoned and after he had signed documents waiving his parental rights. The biological mother had no Indian blood. The state courts felt compelled to rule in favor of the father because of ICWA; state and federal appellate courts went back and forth ruling one way or the other; but the U.S. Supreme Court gave custody to the adoptive parents for technical reasons (for example the biological father had never actually had custody of the baby, so parts of ICWA did not apply). Veronica got passed around like a hot potato during her first couple years of life as one court after another reversed the decision of a previous court. The toddler might have ended up in a very bad situation merely because she has one percent Cherokee blood.

The relevance to Hawaii is obvious. For many years we have all been bombarded with news reports and victimhood propaganda saying that Native Hawaiians have the worst statistics for poverty, drug abuse, child abuse, incarceration, heart disease, diabetes, etc. We also know

that the rate of intermarriage across racial lines, and the rate of unmarried girls having babies, is very high among Native Hawaiians. At present judges are required to award child custody between divorcing parents, or among prospective adoptive parents, based on the best interests of the child. But if a Hawaiian tribe gets federal recognition, then state and federal judges will be required to put not merely a thumb on the scale but a huge, nearly insurmountable weight in favor of an ethnic Hawaiian parent or adopter for any child who has even a single drop of Hawaiian native blood, regardless of poverty, alcoholism, drug abuse, or debilitating illness. An absentee ethnic Hawaiian father of very low Hawaiian blood quantum who previously signed documents waiving parental rights can suddenly show up in court demanding custody of his long abandoned child; or an attorney representing the tribe can make such a demand even without the father. Even if the demand is somehow dismissed (as it was in the Baby Veronica case), the monetary and emotional costs of protracted litigation could be horrendous for the individuals and governments, not to mention the toll on the child.

No version of the Akaka bill has ever provided any protection against the Indian Child Welfare Act. Very few people in Hawaii have heard of it. Yet its effects on child custody and adoption in Hawaii would be huge.

The Violence Against Women Act (VAWA) was reauthorized by Congress in 2013 following lengthy and highly contentious debate. A main purpose of VAWA is to strengthen the authority of federally recognized tribes to use their police powers and their tribal courts to prosecute serious crimes on Indian reservations -- especially domestic violence and rape. In previous years VAWA did not allow the tribal justice system to prosecute non-Indians; the state and county lack jurisdiction on an Indian reservation; and the federal bureaucracy was slow; so often crimes on the reservation committed by non-Indians would simply be ignored. One of the most controversial provisions newly added in this reauthorized VAWA is that tribal police and tribal courts now have jurisdiction to enforce tribal laws against criminals who are not members of the tribe and who are not even Indians.

The right to due process and trial by a jury of one's peers is likely to be severely affected if a person with no native blood is arrested by tribal police, forced into a Hawaiian tribal court with tribal laws and jurors who are all tribal members. The situation would be especially worrisome for Caucasians because of more than a century of racial grievances by ethnic Hawaiians against Caucasian Americans.

Another section of this testimony proved that ethnic Hawaiian people live in every Census tract in Hawaii, and large numbers of them live in each of the 50 states. A map showed that lands likely to be claimed by a Hawaiian tribe are scattered throughout all areas of Hawaii. Thus in Hawaii the impact of VAWA on people with no native blood would be vastly greater than on the mainland due to the wide scattering of ethnic Hawaiian people and Hawaiian tribal lands.

No version of the Akaka bill has ever provided any protection against the Violence Against Women Act. Very few people in Hawaii have heard of it. Yet it would have huge effects on criminal jurisdiction, prosecution, and racial conflict in Hawaii. Something as outrageous as the Massey Case from 80 years ago, but in reverse, would not be inconceivable.

All land titles in Hawaii -- both government and private -- could be at risk because of the Indian Non-Intercourse Act(s). Land title challenges under INIA would have nothing to do with the bogus assertion put forward by some Hawaiian sovereignty activists that title transfers after the overthrow of the monarchy in 1893 have been illegal merely because the successor governments that certify land title transfers have been illegitimate. INIA is a very different issue, which has decades -- actually two centuries -- of precedent in statute and case law throughout the United States.

From 1790 to 1834 a series of six laws were passed by Congress to protect Indian tribes from unfair or deceptive land transactions whereby tribes often gave away or sold their land very cheaply to white businessmen or to state or municipal governments. Those laws,

collectively known as the Indian non-intercourse act, required the approval of Congress before any land transactions with Indian tribes could be confirmed lawfully. During recent decades numerous tribes have gone to court demanding huge amounts of land or money based on claims that tribal lands were sold without Congressional approval a century or two ago. Often those lands now have been fully developed, with entire towns on them, or farms and factories. Thousands of homeowners have been unable to get mortgages or to sell their homes because of the cloud on their land title when a tribe files a lawsuit under the non-intercourse act. Thus private lands are attacked along with federal, state and municipal lands.

In Hawaii there's great controversy over the "ceded lands" and assertions by Hawaiian activists that all lands formerly owned by the government and/or the monarch of the Kingdom of Hawaii were improperly ceded to the U.S. at the time of annexation (1898) and continue to be improperly held by the federal and state governments today. The ceded lands include all Hawaii federal lands such as military bases and national parks; and about 95% of all the land and water owned by Hawaii state and county governments used for schools, airports, harbors, roads, parks, drinking and irrigation, etc. If a Hawaiian tribe is created and gets federal recognition, it would be armed with the Indian non-intercourse act just like all the genuine Indian tribes. The Hawaiian tribe would be free to file lawsuits to take control of such lands or to receive massive compensation for them, similar to what has happened on the mainland even in long-established towns in Maine, New York, and many other places. Privately owned lands could be at risk if originally granted to Hawaiian natives in the Mahele of 1848 and then later sold to someone with no native blood. A unanimous U.S. Supreme Court decision on March 31, 2009 ruled that the ceded lands are rightfully owned by the State of Hawaii in fee simple absolute, and the state does not need permission from Native Hawaiians to sell those lands. However, OHA and individual Native Hawaiian activists, federally recognized and armed with the Indian non-intercourse act, might now be able to re-open that whole can of worms.

The Akaka bill S.310 of the 110th Congress (2008) protected the State of Hawaii against such claims. It said:

"SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS. (c) Real Property Transfers- The Indian Trade and Intercourse Act (25 U.S.C. 177), does not, has never, and will not apply after enactment to lands or lands transfers present, past, or future, in the State of Hawaii. If despite the expression of this intent herein, a court were to construe the Trade and Intercourse Act to apply to lands or land transfers in Hawaii before the date of enactment of this Act, then any transfer of land or natural resources located within the State of Hawaii prior to the date of enactment of this Act, by or on behalf of the Native Hawaiian people, or individual Native Hawaiians, shall be deemed to have been made in accordance with the Indian Trade and Intercourse Act and any other provision of Federal law that specifically applies to transfers of land or natural resources from, by, or on behalf of an Indian tribe, Native Hawaiians, or Native Hawaiian entities."

Clearly Senators Akaka and Inouye thought there was a very real threat from the Indian Non-Intercourse Act. They thought it was important to put that protection into the Akaka bill. But none of that protective language would be applicable to a Hawaiian tribe created and recognized through administrative rule-making or executive order.

The Indian Gaming Regulatory Act is a set of federal laws controlling whether and how Indian tribes can set up casinos and earn money from gambling games such as slot machines, poker, craps, roulette, etc. All versions of the Akaka bill prohibited a Hawaiian tribe from conducting gambling operations in Hawaii or on the mainland.

The Akaka bill S.310 (2008) protected not only the State of Hawaii but also all the mainland Indian tribes against gambling by a Hawaiian tribe. It said "SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS. (a) Indian Gaming Regulatory Act- (1) The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C.

2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission. (2) The foregoing prohibition in section 9(a)(1) on the use of Indian Gaming Regulatory Act and inherent authority to game apply regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or Territory of the United States."

But none of that protective language would be applicable to a Hawaiian tribe created and recognized through administrative rule-making or executive order.

One of the ways real Indian tribes get the right to build a casino is by putting land "into trust" with the federal government -- either original tribal lands or lands newly purchased in fee simple. Putting land into trust also makes it "Indian Country" under federal law, meaning that the tribes can establish their own civil and criminal laws there, and pay no taxes on tribal businesses. S.310 from 2008 included this provision protecting Hawaii's people:

"SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS. (b) Taking Land Into Trust- Notwithstanding any other provision of law, including but not limited to part 151 of title 25, Code of Federal Regulations, the Secretary shall not take land into trust on behalf of individuals or groups claiming to be Native Hawaiian or on behalf of the native Hawaiian governing entity."

But none of that protective language would be applicable to a Hawaiian tribe created and recognized through administrative rule-making or executive order. In fact, the Department of Interior might believe it has power to write a regulation to provide a unique Carcieri fix to the Hawaiian tribe. According to the Supreme Court decision in *Carcieri v. Salazar*, only tribes that were federally recognized before 1934 are allowed to put tribal land into trust. Many recently recognized tribes desperately want Congress to pass a "Carcieri fix." One way for a Hawaiian tribe to get its own unique Carcieri fix would be for the Department of Interior rule-makers to say that the Hawaiian Homes Commission Act passed in 1921 essentially established land in federal trust for Hawaiians with 50% native blood quantum, and thus the

Hawaiian tribe was recognized well before 1934. Such language was actually written into the final legacy version of the Akaka bill passed by the Senate Committee on Indian Affairs on September 13, 2012, and might serve as a template for the DOI regulation rewriters: "... a single Native Hawaiian governing entity that exercises the inherent powers of self-government of a native government under existing law with the same privileges and immunities available to other federally recognized Indian tribes" and the Hawaiian tribe shall "be considered to be an Indian tribe for purposes of section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1)" and "The Secretary may consider the Native Hawaiian governing entity to be an Indian tribe for purposes of carrying out any activity authorized under the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et seq.)." and "RATIFICATION AND CONFIRMATION OF ACTIONS. -- Any action taken by the Secretary pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et. seq.) for the Native Hawaiian governing entity is ratified and confirmed to the extent that the action is challenged based on the question of whether the Native Hawaiian governing entity was federally recognized or under Federal jurisdiction on June 18, 1934."

On April 7, 2004 Senator Akaka introduced major amendments to the Akaka bill, then known as S.344. Section 8(c)(2) provided a time limit of 20 years after enactment of the bill for any claims to be filed regarding things that happened at any time before enactment of the bill. Thus all claims related to the revolution of 1893, annexation of 1898, ceded lands, etc. would need to be filed by the tribe in the U.S. District Court in Honolulu within that time limit. Of course those claims might take many years to be settled or adjudicated. Many Hawaiian activists expressed outrage that there should be any time limit at all, prompting OHA Administrator Clyde Namu'o to issue a statement saying "this 20-year statute of limitation is considered by experts in the field of Indian Law to be extremely generous. In other federal recognition legislation, the statute of limitations has ranged from one year to six years."

But a tribe created administratively by rule-making would have no time limit whatsoever, thereby allowing the Hawaiian tribe to keep coming back for more "reparations" forever. This ensures permanent racial strife and the constant drumbeat of "Gimme gimme gimme" which we have all seen in recent years.

12. WHY ADMINISTRATIVE RULE-MAKING TO GIVE FEDERAL RECOGNITION TO NATIVE HAWAIIANS WOULD BE HARMFUL TO THE GENUINE TRIBES: HUGE NEW TRIBE COMPETING FOR GOVERNMENT BENEFITS; COMPETITION FROM HAWAIIAN CASINOS IN THE LOWER 48 STATES; NEW RULE FOR FEDERAL RECOGNITION OPENS THE DOOR TO HUNDREDS MORE PHONY TRIBES COMPETING AGAINST THE GENUINE TRIBES.

The result of federal recognition for Native Hawaiians would be a huge new phony tribe competing against the genuine tribes for government benefits for housing, healthcare, education etc. even while federal budget cuts will be reducing the number of dollars available for Indian programs. Census 2010 counted 527,000 Native Hawaiians. About 130,000 have already signed up merely to participate in creating their new tribe, and hundreds of thousands more would no doubt enroll as members if the tribe actually gets recognized and begins distributing benefits.

The Hawaiian tribe might build competing casinos in the backyards of genuine tribes because Census 2010 counted more than 237,000 Native Hawaiians living in the other 49 states. As discussed below, Senators Inouye and Akaka showed their intention to make that possible in the final, legacy version of the Akaka bill which they pushed through the Senate Committee on Indian Affairs barely three months before Senator Inouye died and Senator Akaka retired.

Finally, if DOI creates a new rule that allows Native Hawaiians to be federally recognized, then the new rule would probably also allow hundreds of other Indian groups to get recognition and to begin competing for federal benefits and casinos. That's because Native Hawaiians fall far short of satisfying the seven criteria for federal recognition under 25 CFR 87.3; which is why Native Hawaiians have never applied for recognition through the Department of Interior but always tried to push a bill through Congress. Any rule change that would allow Native Hawaiians to get recognition would need to be so wide-ranging that most organized Indian groups would qualify, including

hundreds of tribes currently recognized by their states but lacking federal recognition.

The Native Hawaiian Government Reorganization bill submitted to Congress from 2000 through 2012 always included restrictions that would have prevented the Hawaiian tribe from competing against the mainland tribes for gambling casinos or for money for healthcare, housing, education, etc. Those restrictions were put into the Akaka bill to stop the tribes and the U.S. Senators representing the tribes from objecting to the bill, and to encourage them to actively support it. But even Tex Hall, President of the National Congress of American Indians, in his testimony to the Senate Indian Affairs Committee, felt it necessary to remind everyone about the promise in those restrictions and to express his concern that the restrictions needed strengthening. Federal recognition of a Hawaiian tribe through an executive process would contain none of the protections offered in Congressional legislation.

To avoid objections by Senators from states where genuine tribes have headquarters, Hawaii Senators Dan Akaka and Dan Inouye included the following provisions in the bill S.147 in 2005:

"SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS."

(a) INDIAN GAMING REGULATORY ACT.--Nothing in this Act shall be construed to authorize the Native Hawaiian governing entity to conduct gaming activities under the authority of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."

(b) BUREAU OF INDIAN AFFAIRS.--Nothing contained in this Act provides an authorization for eligibility to participate in any programs and services provided by the Bureau of Indian Affairs for any persons not otherwise eligible for the programs or services."

Relying on those restrictions, Tex Hall, President of the National Congress of American Indians, testified in support of the bill at its hearing before the Senate Committee on Indian Affairs on March 1, 2005, but he expressed concern that even stronger restrictions should

be added to the bill to protect the genuine tribes against the Hawaiian tribe. His complete testimony is at <http://tinyurl.com/l35ah4o>

Tex Hall said: "As the committee is aware, NCAI is the largest coalition of tribal governments in the United States, defending tribal government treaty rights and the Federal trust responsibility since 1944. So on behalf of NCAI and the Alaska Federation of Natives, we join in strong support of S.147, the Native Hawaiian Government Reorganization Act. NCAI first offered testimony in support of Native Hawaiian sovereignty and self-determination in 2000, a position that has not been changed in our recent resolutions ..."

But then Mr. Hall noted that the NCAI support for the bill was relying on a promise from Senator Inouye that the Hawaiian tribe would not compete against the genuine tribes for federal money, and he expressed concern that there should be even stronger restrictions on the Hawaiian tribe. Mr. Hall said: "... if I could briefly address one specific issue concerning the bill. When the bill was first introduced in 2000, many people questioned the possible effect that Federal recognition of Native Hawaiian Government could have on funding for Indian programs. NCAI points out that Senator Inouye has promised that Native Hawaiian programs will never be funded at the expense of Indian programs, and that has always been the case. Section 9 of this bill provides that any appropriations for Native Hawaiians are to be funded independently of the Bureau of Indian Affairs. NCAI would request that the committee add clarifying language to include not just BIA appropriations, but also Indian Health Service and other appropriations for services provided to Indians by the United States."

The restrictions against a Hawaiian tribe promised in Congressional legislation, which would have protected the genuine mainland tribes against the demands of a huge Hawaiian tribe, would be missing from administrative recognition to simply add the Hawaiian tribe to the list of tribes. The promises made by Senator Inouye to the tribes died when Inouye died. And Senator Akaka showed his true intent in the final version of the Hawaiian bill he rammed through the Indian Affairs

Committee in one minute on a voice vote on September 13, 2012 as his legacy shortly before retiring from the Senate. It contained no restrictions at all, and affirmed that the Hawaiian tribe would be fully equal to all the mainland tribes and its gambling operations would be governed by the Indian Gaming Regulatory Act. There's even a Carcieri fix applicable only to the Hawaiian tribe, which was included in the bill at a time when there was no Carcieri fix for any other tribes. Full text of the bill is at

<http://big09.angelfire.com/AkakaS675Amended091312.pdf>

The bill creates "a single Native Hawaiian governing entity that exercises the inherent powers of self-government of a native government under existing law with the same privileges and immunities available to other federally recognized Indian tribes" and the Akaka tribe "shall be considered to be an Indian tribe for purposes of section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1)" and "The Secretary [of Interior] may consider the Native Hawaiian governing entity to be an Indian tribe for purposes of carrying out any activity authorized under the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et seq.)" and "Hawaiian governing entity ... is subject to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission)..."

And here's the Carcieri fix tailor-made for Senator Akaka's very own tribe but not available to any other tribes, in Akaka's legacy bill, which could easily be included in whatever new rule the Department of Interior might create for a Hawaiian tribe:

"RATIFICATION AND CONFIRMATION OF ACTIONS. -- Any action taken by the Secretary pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et. seq.) for the Native Hawaiian governing entity is ratified and confirmed to the extent that the action is challenged based on the question of whether the Native Hawaiian governing entity was federally recognized or under Federal jurisdiction on June 18, 1934."

13. FEDERAL REGISTER QUESTION 8: "TO BE INCLUDED ON THE ROLL, WHAT SHOULD CONSTITUTE ADEQUATE EVIDENCE OR VERIFICATION THAT A PERSON HAS A SIGNIFICANT CULTURAL, SOCIAL, OR CIVIC CONNECTION TO THE NATIVE HAWAIIAN COMMUNITY?" WITHOUT SUCH PROOF THE RACIAL GROUP HAS NOT YET BEEN CONVERTED INTO A POLITICAL ENTITY.

Section 2 of this testimony provided proof that there has never been a government presiding over a unified archipelago of the Hawaiian islands where high government officers, or citizens, all had Hawaiian native blood. Race has been neither a necessary requirement, nor a sufficient condition, for a position as a Hawaiian government official, or for citizenship, or for ownership of property.

The Akaka bill, the Kau Inoa racial registry, and the Kana'ioloalua racial registry have all been attempts to set up a government and citizenship based solely on race, in a place where there has never been such a government or citizenship. The Department of Interior is badly mistaken if it believes it can create such a polity and then give it federal recognition merely by changing a few rules. The Department of Interior is not a tailor with magical powers capable of doing a little sewing to convert a sow's ear into a silk purse.

OHA and other race-based Hawaiian groups have often said the U.S. Constitution provides Congress the authority to give federal recognition to all aboriginal or indigenous groups in the U.S. That's absolutely false. Nowhere does the Constitution use the word "aboriginal." Nowhere does it say "indigenous." It says Congress has the power "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes." Everything named in that "Indian Commerce clause" refers to governments, not to racial groups or aboriginal or indigenous people. That clause does not authorize Congress (nor the Department of Interior) to round up a bunch of widely scattered and thoroughly assimilated individuals who have nothing in common with each other except race, and create a government for them. If that were to be allowed, then Congress could also create a new "Nation of Aztlan" consisting of all people in the U.S.

who have Mexican ancestry and who live in those parts of the U.S. that formerly belonged to Mexico. The theory is the same.

Congress and the Department of Interior can only recognize a political entity, not merely a racial group. The U.S. does not recognize "Native Americans"; it recognizes individual tribes with histories and governmental structures that are very different from each other. To say that Native Hawaiians deserve parity with Native Americans is nonsense; the question is whether Native Hawaiians deserve parity with genuine tribes like Apaches, Seminoles, and Navajo; or whether Native Hawaiians deserve parity with hundreds of Indian groups which have been rejected for federal recognition because they are not really tribes.

The requirement to be a political entity and not merely a racial group is why Kau Inoa and Kana'ioloowalu have tried very hard to make it appear that the people who register have something they share in common besides race. And this is why it is absolutely essential that someone who asserts a political commitment or a political connection with the Native Hawaiian community must be required to prove it during the application process.

Both Kau Inoa and Kana'ioloowalu registration forms demand absolute documented proof of Hawaiian native ancestry. And both forms have no requirement for any proof of any element of alleged political connectedness. This difference between the standards of proof demanded for racial and political connectedness clearly shows that race is taken seriously but political connectedness is not. The assertions of political connectedness are merely for show. If a Native Hawaiian governing entity is to be given federal recognition, it must have been created by members who have a strong, provable political relationship with the Native Hawaiian community.

The Kau Inoa registration form says "I hereby declare my intent to participate in a process to create a Native Hawaiian governing entity and to be included on an official public list." The Kana'ioloowalu form says "I affirm ... my intent to participate in the process of self-governance" and on the back is a disclaimer of privacy rights letting the registrant know that "the registry is public in the same way that a voter registration list is public" but "birth certificates and other

documents provided by the registrant are confidential by law." Thus both Kau Inoa and Kana'iolowalu are identical in having registrants affirm their desire to participate in creating a governing entity and acknowledging that their names will be placed on a publicly available list. No proof of this intention is required on either form. But the fact that the registrant signs the affirmation might be deemed self-authenticating IF the signature itself is directly below a printed sentence saying the same thing found on voter registration forms; namely, "I hereby swear (or affirm) that the [following] information is true and correct." The only warning or penalty for falsification is in this sentence: "I hereby declare that the information provided is true and accurate to the best of my knowledge. If any of the statements are proved to be misleading or false my name may be removed from the official list and other penalties may be imposed under law." There is no demand for notarization or witnessing on either of the Native Hawaiian forms. There is no warning that the information must be true under penalties of perjury.

There are two statements on the Kana'iolowalu form that create an impression of political connectedness. These two affirmations were NOT included on the Kau Inoa form nor any other predecessor of Kana'iolowalu. That's very important, because roughly 3/4 of all the names OHA claims are on Kana'iolowalu were not directly signed for Kana'iolowalu — they were simply transferred from Kau Inoa and earlier lists without asking the individual signers for permission. Thus 3/4 of all the names on Kana'iolowalu never made either of the two political affirmations described below. Those 3/4 have provided documented proof of race, and have affirmed that they want to participate in the process; but they never affirmed the more substantial political statements. One of the statements is quite controversial — future employers, including government agencies requiring background checks, could regard it as seditious or treasonous.

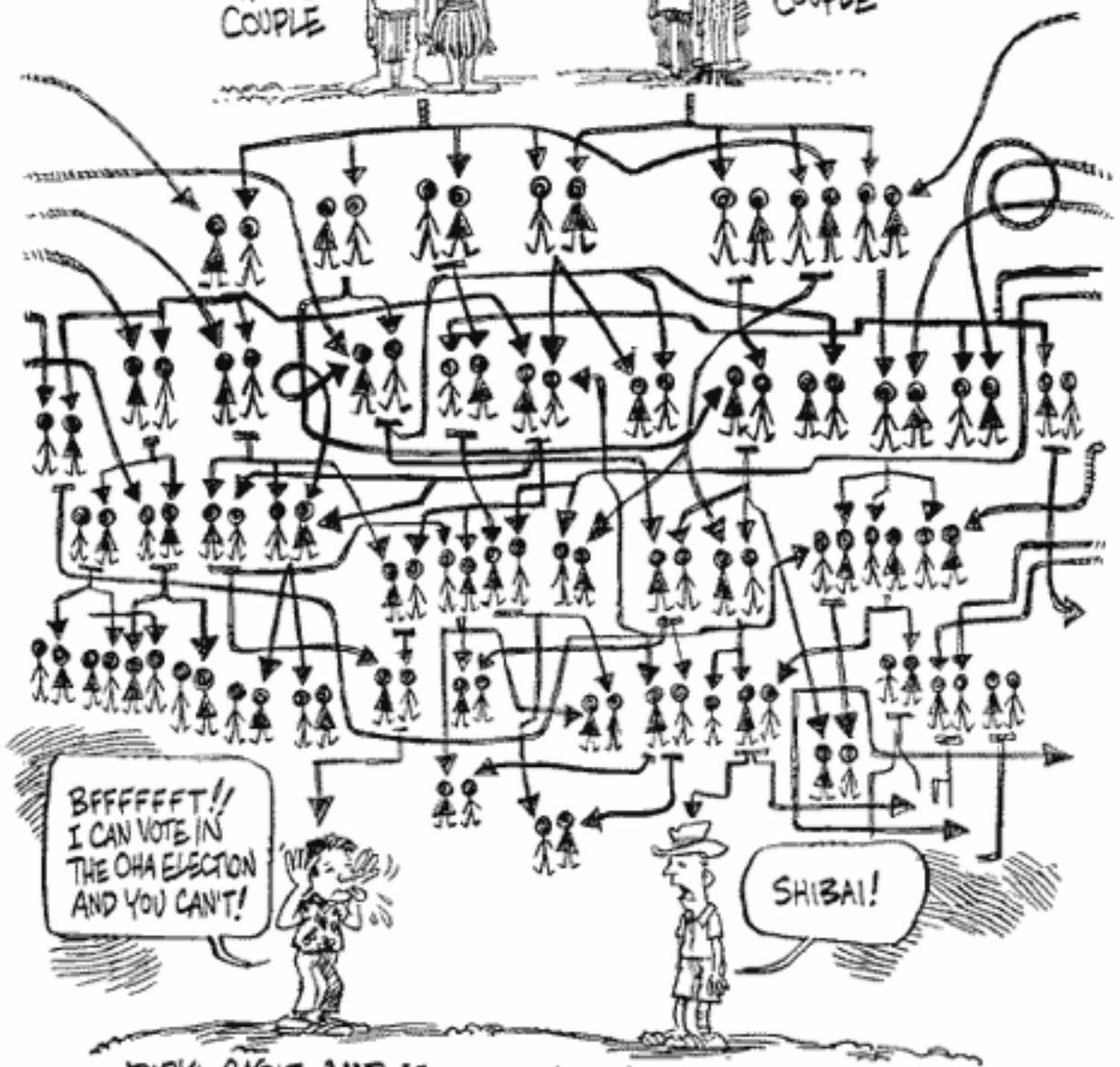
The most serious political affirmation says "I affirm the unrelinquished sovereignty of the Native Hawaiian people." That means the signer regards the Hawaiian revolution of 1893, annexation of 1898, and

statehood vote of 1959 were illegitimate. It means the signer regards himself as being Hawaiian but not American. It could and should raise questions about whether the signer should be hired for any job requiring U.S. citizenship or requiring a pledge to "support and defend the Constitution of the United States" — jobs such as federal, state, or local government employee or candidate for office; police officer, recipient of a government scholarship or contract, etc. And 3/4 of the names on the Kana'ioloowalu list are people who never actually signed such a statement but are being put forward to the world as though they actually did sign it. That is immoral, illegal, and could become the focus of a lawsuit by anyone whose career or reputation is injured by this misrepresentation.

The other political affirmation which 3/4 of people on the list never directly made says "I have a significant cultural, social, or civic connection to the Native Hawaiian community." Furthermore, there is no definition of "significant connection," nor any requirement to provide the name of any organization to which the signer is connected, nor any demand for proof of such a connection. Would membership in a canoe club or hula halau satisfy this requirement? But lots of members of such organizations have no Hawaiian native blood; and such organizations do not normally impose any requirements other than paying dues and showing up for practice. Shouldn't an assertion of political connectedness demand more loyalty and submission to authority than an employee's connection to his job or political party or college alumni association?

For both the assertion of unrelinquished sovereignty and the assertion of connectedness, the signer's mere affirmation is woefully insufficient. Proof should be demanded. For example, citations of published letters to editor, membership cards, letters of recommendation from generally acknowledged leaders, etc. — the same sort of evidence required of job applicants, or conscientious objector status in the Selective Service System.

FREDDY RICE VS. NATIVE HAWAIIAN FAMILY TREE



BFFFFFFT!!
I CAN VOTE IN
THE OHA ELECTION
AND YOU CANT!

SHIBAI!

DARYL CAGLE MIDWESTER www.cagle.com/hawaii daryl@cagle.com



YEAH - BUT DID YOUR GREAT, GREAT, GREAT, GREAT GRANDFATHER SUFFER THE INDIGNITY OF HAVING HIS SOVEREIGN NATION STOLEN BY GREEDY AMERICAN IMPERIALISTS?

NO - MY GRANDFATHERS ALL DIED IN WARS DEFENDING AMERICA.



SO - YOU'RE NOT A NATIVE HAWAIIAN AND YOU CAN'T VOTE IN THE OHA ELECTIONS.

THAT'S RIGHT.



DARYL COGLE
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BFFFFFFFFFT!!

THIS WOMAN HAS SUFFERED. WOULD SOMEBODY PLEASE PAY HER?



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DARYL CAGLE
www.cagle.com/hawaii
MIDWEEK