

LATE TESTIMONY

March 15, 2011

Testimony in support of SB01, Relating to the State Recognition of  
the Native Hawaiian People, Their Lands, Entitlements, Health  
Education, Welfare, Heritage and Culture.

Submitted to: The House Committee on Hawaiian Affairs

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

Aloha Representative Hanohano and Members of the Committee,

We support SB1 SD2 as a process to begin the establishment of a self-governing entity for native Hawaiians. SB1 SD2 proposes to address Native Hawaiian Indigenous rights by facilitating self-governance through the establishment of a 9-member Commission. It proposes an interim commission to be established through the selection of three members, each, by the Governor, Senate President and Speaker of the House.

We support and appreciate the Legislature's recognition of the right of Native Hawaiians to organize a governing entity.

Our club members are meeting to discuss recognition of Hawaiian rights to self governance. The Hawaiian people have waited for more than 30 years to begin the process. As each year goes by the challenges to our rights, assets and lands increase.

We urge continuance of the legislative oversight of the ceded lands until indigenous self-governance is achieved.

We look forward to a continuing dialogue on this extremely important legislation.

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



TESTIMONY AGAINST CREATION OF HAWAII'S VERSION OF THE AKAKA BILL

**LATE TESTIMONY**

3/15/11

I AM JOHN AGARD AND STRONGLY OPPOSE HAWAII LITIGATION PASSAGE OF ANY PROPOSED CREATION OF THE "AKAKA BILL" THAT IS BEING SUPPORTED BY THE OFFICE OF HAWAIIAN AFFAIRS.

PERMIT ME TO QUALIFY MYSELF AS A HAWAIIAN NATIONAL WHO IS AUTHORIZED TO TESTIFY ON HAWAII'S VERSION OF THE "AKAKA BILL" (I USE THE DESCRIPTION OF HAWAIIAN NATIONAL TO ACCURATELY IDENTIFY NATIVE HAWAIIANS WHO STILL BELONG TO A DORMANT SOVEREIGN NATION OF HAWAII WHICH STILL EXISTS TODAY BECAUSE OF AN INVALID AND FAULTY RESOLUTION OF ANNEXATION ILLEGALLY PASSED, IN VIOLATION OF THE US CONSTITUTION, BY CONGRESS IN 1898). ON MY MOTHER'S SIDE, I CAN TRACE MY HAWAIIAN NATIONAL ANCESTORS BACK 14 GENERATIONS TO KING ALAPAINUI OF THE BIG ISLAND. MORE RECENTLY, MY GREAT GRANDFATHER, KEPOHONI KEALOHA AND SOME OF HIS FAMILY MEMBERS SIGNED AN AVAILABLE PETITION, ALONG WITH APPROXIMATELY 38,000 HAWAIIAN NATIONAL SIGNERS, TO REFUSE THE ANNEXION OF AN INTERNATIONAL, TREATY RECOGNIZED, SOVEREIGN HAWAIIAN NATION TO THE US IN 1897. THESE ARE ONLY TWO FACTS THAT HAS MOTIVAGED ME TO SPEAK AGAINST ANY QUESTIONABLE POLITICAL RULINGS THAT ADVERSELY AFFECT HAWAIIAN NATIONALS. IN ADDITION, I AM A 1945 GRADUATE OF THE KAMEHAMEHA BOYS SCHOOL, MILITARY ACADEMY, PAST ISLANDS WIDE PRESIDENT OF THE CONGRESS OF HAWAIIAN PEOPLE AND PAST ACTIVE MEMBER OF THE COUNSEL OF HAWAIIAN ORGANIZATIONS WHEN MY BORTHER, LOUIS K. AGARD II AND I INTRODUCED THE MOVEMENT OF ACHIEVING HAWAIIAN SOVEREIGNTY AT THE ALOHA ASSOCIATION CONVENTION ON THE BIG ISLAND IN THE 1980'S

AS A PRIMARY ISSUE AND AS HAWAIIAN NATIONALS, WE ADAMANTLY OBJECT TO BEING IDENTIFIED AS AN INDIAN TRIBE WHICH WAS THE REAL INTENTION OF THE AKAKA BILL THAT HAS REPEATEDLY FAILED



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TO PASS IN THE US CONGRESS DURING THE PAST DECADE. TODAY, THE HAWAII LEGISLATURE APPEARS TO BE TRYING TO DO THE SAME THING. IT TRULY PUZZLES ME WHY THE HAWAII LEGISLATURE IS ACTUALLY MAKING AN ATTEMPT TO CONSIDER ANY FAULTY LEGISLATION SPECIFICALLY APPLICABLE TO HAWAIIAN NATIONALS. IF PASSAGE HAS CONTINUALLY FAILED IN THE US CONGRESS IS IT NOT COMPLETELY CLEAR TO US, IN ALL OF HAWAII, THAT SUCH LEGISLATION IS FAULTY? ARE THERE SOME HIDDEN REASONS WHY HAWAII SHOULD BE PURSUING SUCH A DANGEROUS EFFORT THAT MAY EXTINGUISH OUR SUPERIOR LEGAL STATUS AS AN INDEPENDENT NATION?

AS A SENSATIVE ISSUE REGARDING RIGHTS, A MAJORITY OF HAWAIIAN NATIONALS WERE NOT GIVEN AMPLE OPPORTUNITY TO TESTIFY ON THE LANGUAGE CONTAINED IN THE VARIOUS VERSIONS OF REVISED AKAKA BILL THAT WERE DISCUSSED AT THE CONGRESSIONAL HEARINGS. IN MOST CASES, WE WERE IN TOTAL DARKNESS AND HAD NO IDEA HOW DETREMENTAL THE REVISED WORDING WOULD IMPACT ON OUR DORMANT LEGAL RIGHTS. CONSEQUENTLY, WE NEED TO ALWAYS BE DILIGENT IN BEING AWARE OF ANY ATTEMPTS BY ANY POLITICAL GROUP WHO MAY WANT TO DECIDE ON HARMFUL LEGAL MATTERS FOR HAWAIIAN NATIONALS ESPECIALLY WHEN THERE IS NO PRIOR CONSULTATION WITH THE MAJORITY OF HAWAIIAN NATIONALS RESIDING IN AND OUT OF OUR COMMUNITIES. THERE ARE SEVERAL LEGAL RIGHTS THAT WE NEED TO PROTECT AND KNOW FROM PAST EXPERIENCE CAN BE CLEVERLY ABOLISHED IF WE ARE NOT CAREFUL IN PRESERVING THEM ESPECIALLY FOR FUTURE GENERATIONS.

IT IS WELL KNOWN THAT THERE ARE NUMEROUS FACTS SUPPORTED BY ACTUAL LEGAL DOCUMENTS THAT TRUTHFULLY CORRECTS ALL TRAITOROUS AND FAULTY ACTS IMPOSED ON HAWAIIAN NATIONALS SINCE THE ILLEGAL OVERTHROW OF 1893. ALL OF THESE TRUTHS HAVE BEEN CLEVERLY DISGUISED BY THE US SINCE THE OVERTHROW TO A POINT WHERE MOST OF THE LOCALS IN AND OUT OF HAWAII HAVE BEEN IN A STATE OF COMPLACENCY AND UNFORTUNATELY NOT WILLING TO TAKE THE TIME TO



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STUDY THE TRUE FACTS WHICH CAN BE MADE AVAILABLE BY MY BROTHER. MY PRESENTATION DOES NOT PROVIDE ME THE TIME TO SHARE THESE SPECIFIC TRUTHS NOW BUT THE ENTIRE WORLD WILL HAVE THE OPPORTUNITY TO HAVE ACCESS TO SUCH AN HONEST TREASURE THROUGH THE PUBLICATION OF BOOK BY MY BROTHER.

IF THE HAWAII LEGISLATURE REALLY WANTS TO HELP AND SUPPORT HAWAIIAN NATIONALS TODAY, MAY I SUGGEST THAT YOU ARRANGE TO INITIALLY CREATE AN OPERATING FUND FOR US TO CONDUCT OUR OWN ELECTION OF CANDIDATES WHO WILL BE NOMINATED TO BECOME THE RESTORED HAWAIIAN NATIONAL GOVERNMENT, AN ENTITY WHICH HAS BEEN IN RECESS THE PAST 118 YEARS AND RECENTLY RECOMMENDED FOR RESTORATION BY THE US APOLOGY BILL OF 1993, SIGNED BY PAST PRESIDENT CLINTON. IT IS OBVIOUS THERE IS A HUGE NEED TO EDUCATE THE POPULATION OF VOTERS IN AND OUTSIDE OF THE HAWAIIAN ISLANDS ABOUT EVENTUAL RESTORATION OF THE HAWAIIAN NATIONAL GOVERNMENT. PERHAPS THE HAWAII LEGISLATURE (AND THE NEWS MEDIA) CAN ALSO ASSIST US THROUGH THE SUCCESSFUL ACCOMPLISHMENT OF THIS GIGANTIC ENDEAVOR.

IN CLOSING, THERE EXISTS, EVEN TODAY, A LITTLE KNOWN FACT THAT THE PRESIDENT OF THE US HAS THE SOLE AUTHORITY AND JUSTIFICATION, WITHOUT INTERFERENCE FROM CONGRESS OR THE US JUSTICE DEPARTMENT, TO ALLOW THE FORMATION AND RESTORATION OF OUR HAWAIIAN NATIONAL GOVERNMENT BY WHAT IS KNOWN AS AN EXECUTIVE AGREEMENT THAT WAS ESTABLISHED BETWEEN QUEEN LILIUOKLANI AND PRESIDENT GROVER CLEVELAND. ALL WE EVER NEEDED THE PAST 118 YEARS WAS TO HAVE THE USE OF ADEQUATE FUNDING TO CONDUCT A RESTORATION OF OUR SOVEREIGN NATIONAL GOVERNMENT.

THANK YOU FOR THIS PRIVILEGE,

JOHN AGARD  
KAHALA OAHU





Testimony submitted to the  
House Committee on Hawaiian Affairs  
Hearing  
8:30 AM, Wednesday, March 16, 2011

LATE TESTIMONY

Relating to SB 1 and SB 1520

Testimony from

Poka Laenui, Chairperson of the Aha Hawai'i O'iwi

(Native Hawaiian Convention)

Aloha Kakou:

I submit the following for your consideration of the above two referenced bills.

When the Hawaii society, during the 1990's and following, addressed the concept of the native Hawaiian people as the indigenous peoples of this place, and the additional concept of self-determination including concepts of autonomy and sovereignty, there were a multitude of historical, legal, philosophical, civic, and cultural considerations added to a blend of ideas and concerns. Due to the limitation of space and time within which this venue of committee hearings provide, I will limit my present intervention to two aspects which appears to have been missing from this committee's purview which may assist the committee in reaching an informed decision on the two bills before it.

These two aspects I have chosen address the concept of indigenous peoples' rights and the international law rights of the Native Hawaiian people.

Beginning in the early 1990's during the periods in which the Sovereignty Advisory Council, the Hawaiian Sovereignty Advisory Commission, the Hawaiian Sovereignty Elections Council, and the Native Hawaiian Vote took place, it was certainly not lost to the participants in all of those processes, the continuing international implications of the rights of the Hawaiian people to self-determination, and of the special rights of Native Hawaiians to self-determination. International law and the processes which were taking place in international venues were instructive of these two areas of concern.

Beginning in 1945 with the formation of the United Nations itself, we could trace the development of rights of the Hawaiian people to self determination from the perspective of the Charter of the United Nations. Beginning in 1982 with the formation of the U.N. Working Group on Indigenous Populations, we could trace the development of Native Hawaiians as indigenous peoples which eventually culminated in the United Nation's Declaration on the Rights of Indigenous Peoples.



I will trace these dual sources of rights and its implications to the Native Hawaiian people.

The first development mentioned, i.e. from the formation of the United Nations in 1945, addressed the political right to self-government. In the Charter of the United Nations, confirmed in the U.N. meeting in San Francisco, there was developed Article 73 regarding the situations of "Non-Self Governing Territories" to which those "administering powers" were to be obligated to assist the people of such territories to self-governance. The names of those territories were not listed in the Charter, nor were the "administering authorities" named.

It was not until 1946 during the first General Assembly of the United Nations, under General Assembly Resolution 66, were the non-self governing territories (subsequently known as "colonies") named, along with their "administering authorities" (subsequently known as colonial states). The United States of America submitted itself as the administering authorities for a number of territories or colonies. These territories were Guam, American Samoa, Alaska, Puerto Rico, Virgin Islands, Panama Canal Zone, and Hawai'i.

In exercising self-governance (later more generally called self-determination), the people under those non-self governing conditions, are to exercise self-governance by selecting one of three options, independence, free association, or integration within the administering authority. (See U.N. G.A. Resolution 1514 and 1541 along with their associated documents and other U.N. reporting requirements.)

In 1959, Hawaii's self-determination act was considered to be the "Statehood Plebiscite" in which the question posed was, "Shall Hawaii be immediately admitted into the Union as a State?" A vote yes would be a vote for integration of Hawaii into the United States. A vote no would have been a vote for Hawaii to remain a territory of the United States.

The option for independence or free-association were never placed before the people.

In 1959, the U.S. reported to the United Nations that the people of Hawaii exercised its right of self-determination and in that exercise, had elected to be integrated into the United States as a State. The U.N. General Assembly thus removed Hawaii from the list of places to be decolonized.

In about the 1970's and following, people became more aware of the history of the overthrow of the Hawaiian nation and began tracing the international development of the right of self-determination. Hawaiian sovereignty groups and activities began to be more exploratory of the cultural and political rights of Hawaiians. This helped to ignite the discussions and debate over the legitimacy of Statehood, the continuing right of self-determination, and the uncovering of the events which led to the presumption that there was a valid exercise of self-determination in Hawaii resulting in the termination of the claim for Hawaiian independence.

The discussion which circulated around the Native Hawaiian Vote and the formation of the Native Hawaiian Convention very much included this history of Hawaii and the rights of the people of Hawaii.



The second area of discussion revolved around the rights of indigenous peoples. In 1982, the United Nations struck the Working Group on Indigenous Populations, with two mandates, a) to review the events affecting indigenous peoples around the world, and b) to draft a set of standards to form the basis for an explicit statement of the rights of indigenous peoples throughout the world. The International Labor Organization (ILO) began their own review of the only existing international convention (treaty of multiple states) dealing with the rights of indigenous peoples approximately 1986.

The work at the United Nations and at the ILO was not lost to the general discussions in Hawaii during the 1990's as Hawaiians also started discussing the Hawaiian expression of self-determination in our communities. I had not only personally served on all of the Hawaiian organizations previously mentioned leading to the run-up of the Native Hawaiian Vote and the Native Hawaiian Convention, but had also acted as the political spokesperson for the World Council of Indigenous Peoples and as its head of delegation to the United Nations working group; designated by the ILO as the Indigenous Expert to the committee on the redrafting of the ILO Convention which resulted in ILO Convention 169 dealing with the rights of Indigenous Peoples; and, addressed the General Assembly of the United Nations in 1993 during the International Year of the World's Indigenous Peoples. Information of these international activities was very much available to our local discussions regarding the rights of Native Hawaiians as indigenous peoples, and how we wanted to formulate our own governing entity.

Thus, when the Native Hawaiian Vote was taken in which the Hawaiian constituents voted to follow a process of electing their own delegates to a Native Hawaiian Convention, it was with a clear understanding of the complexity of both the right of self-determination given our historical background and obligations of the United States as well as the rights of indigenous peoples within a colonial country.

The vote result which called for an election of delegates to the Native Hawaiian Convention was a clear call for Hawaiian's elected delegate to meet among themselves and make their recommendation to the Hawaiian people on questions of independence, free association or integration within the United States.

The vote for a Native Hawaiian Convention was a call to give the Hawaiian people the right to determine the future of the people, both as an indigenous people within the United States, and/or as a people independent from the United States, without having their choice pre-determined by the State government or the United States of America.

The only appropriate action for the Legislature to take now, is to respect the outcome of that vote, allow the Native Hawaiian Convention to complete its work, and provide the support necessary for that work to be completed.

Sincerely,

Poka Laenui



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March 16, 2011

House Committee of Hawaiian Affairs  
Hawaii State Capitol  
415 S. Beretania Street, RM 303  
Honolulu, HI 96813

Dear Chair Hanohano, vice chair Lee and committee members:

I am a Native Hawaiian individual testifying in opposition to SB1. I am one of many who will be affected by the outcome of this bill but have not been properly introduced to its ideas, concepts, or intended impact.

There has been much said and unsaid about the history of the Native Hawaiian people. There is also a lack of education, and cultural encouragement regarding our people. The result is as it stands; generations of misguided attempts to prove the "wrongfulness" of our kingdom's hostile takeover. For some, this bill seems the answer to a long historical fight with an unseen opponent. For me it seemed a noose to hang our people with, and the guidelines to accomplish such a feat.

I do not think it should be the state's burden to identify us as Native Hawaiians. Neither should you bear the burden of micromanaging our nation as a whole. As I stated before it is the lack of cultural education and encouragement that hinders our growth as a people and the future we hope to attain. I like many of my generation know the history of our Nation's demise as a separate kingdom. Through verbal and written history the tale has been told. Through education and personal recognition of the past, we should be able to change or affect the future we will live in.

The bill first recognizes the Native Hawaiians as what most should have been raised to know they are--- Native Hawaiians. It then implements a self-governing system adapted from a society accustomed to the tribal council style of governance.

To better understand the makings of this Native American tribal council, you would have to understand their hardship and planning prior the implementation of such a government. Generally, it took years of educating generations in the right fields such as law, medicine, even government, etc to prepare for the system they now have in place. Also, their American education was a supplement to their heritage and cultural education. As I stated before our people lack the knowledge, culture, and yes formal education and experience it would take to operate as a separate nation.

Furthermore, we as a Native people have not been subject to what other Polynesian people would commonly refer to as a "talking chief". Being born American as most of us have been we are used to





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exercising our rights as is when necessary. Implementing this governing council, will only cause much chaos and distrust, and maybe in the end destroy itself. It is as if our rights are once again being annexed without our proper consideration or even proper consent.

I cannot express the importance of having this bill or any like it discussed not with the heads of the Hawaiian groups, organizations, and businesses alone but the community of people it will ultimately affect. As a taxpaying citizen I would very much like to know if my voice in the government I am currently a part of will be altered or affected in ANY way.

I know I am of a generation often overlooked or not taken seriously enough. However, I am also of the generation who has growing families and am currently in the workforce. Regardless of our age or social standing we should be entitled to know. By simply asking my surrounding neighbors and peers leads me to believe this measure was never shown or discussed within the neighborhood.

Thus, my prime example for an ineffective council government comes from observing something simply known as the neighborhood board. I would be lying to myself and you if I did not make mention the biased, often one sided stewardship of those community leaders placed in charge. Be it a new program, a reinvention of an old program, or something as commonplace as letting your neighbor know. The ineffectiveness comes when those in charge to address and convey our needs fail to do so simply because there is no personal connection or gain. In essence this model alone should give an idea of exactly how the nine member council will operate locally. Bluntly put, the only voices or input to be relayed will be those of personal affiliation to the new government council members themselves.

In conclusion, I am old enough and have lived through the years of protest and issues regarding Native Hawaiian government. This is why I do not think this is an answer to any of those problems. This simple act of identifying, separating, and in essence disassociating the Hawaiian people from their given right to act, think, and manage themselves individually cannot be the nation you intended. I do not understand how this will improve the state of the Native Hawaiian kingdom issue.

I thank you for your time and consideration, should there be any questions do not hesitate to contact me.

Yours Truly,

Fredrene K.L.M. Balanay





**Native Hawaiian Chamber of Commerce**  
P.O. Box 597 • Honolulu, Hawaii 96809 • p.(808) 531.3744

For the Hearing of the House Committees on Hawaiian Affairs  
and

Culture and the Arts

Scheduled for Wednesday, March 16, 2011, at 8:30 a.m.  
Conference Room 329, Hawai'i State Capitol

TESTIMONY OF DIRK SOMA, PRESIDENT  
NATIVE HAWAIIAN CHAMBER OF COMMERCE

IN SUPPORT OF

**SENATE BILL NO. 1, SENATE DRAFT NO. 2  
RELATING TO STATE RECOGNITION OF THE NATIVE HAWAIIAN PEOPLE, THEIR  
LANDS, ENTITLEMENTS, HEALTH, EDUCATION, WELFARE, HERITAGE, AND  
CULTURE**

Aloha kakou;

Founded in 1974, the Native Hawaiian Chamber of Commerce (NHCC) strives to encourage and promote the interests of Native Hawaiians engaged in commerce, services and the professions NHCC members participate in a variety of economic, social and public affairs.

Our Mission

Mission Statement – To strengthen Native Hawaiian business and professions by building on a foundation of relationships, resources, and Hawaiian values.

In keeping with our mission, NHCC:

- Provides opportunities for networking among members, the people of Hawai'i and those engaged in business and industry.
- Serves as a means to organize the Hawaiian business community into a viable economic and social voice.

*"The voice of Hawaiian business"*

- Provides the necessary facilities for members' educational advancement in subject areas relevant to business, industry and commerce. Hawaiian Values & Principles of Conduct for NHCC Members

The Native Hawaiian Chamber of Commerce is **IN SUPPORT** of the concepts expressed in Senate Bill No. 1, Senate Draft No. 2, concerning the State Recognition of the Native Hawaiian People, their lands, entitlements, health, education, welfare, heritage and culture.

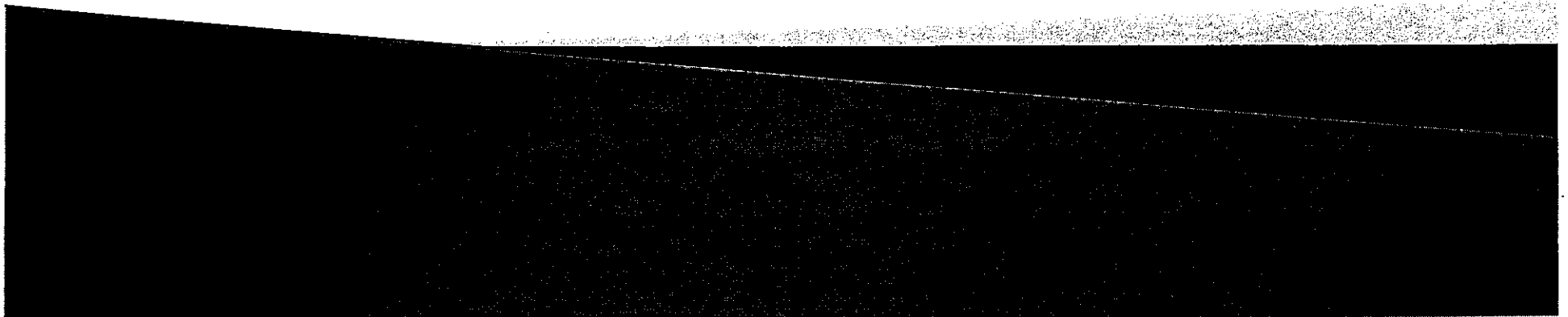
We stand ready to help the Committees to work out the processes necessary to effect these concepts, if asked.

Mahalo for this opportunity to testify in favor of this Bill.

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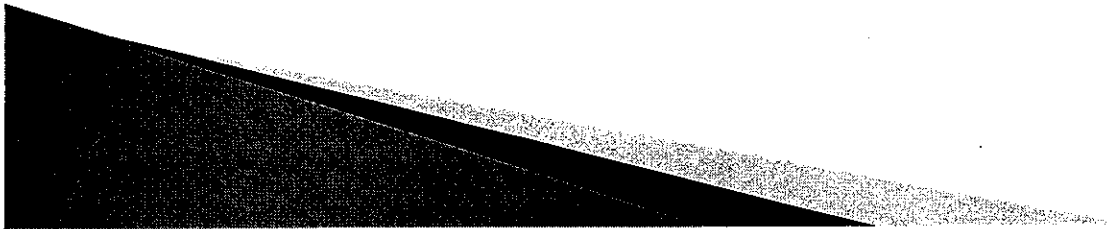
# Native Sovereignty

**“It is American as Apple Pie”  
Judge Thomas Berger**



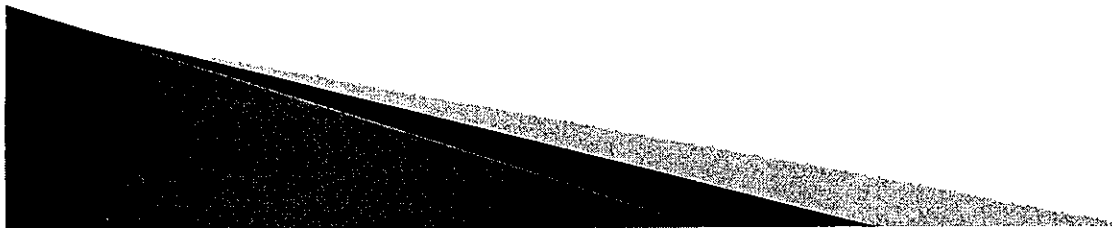
- ▶ “The United States in Congress assembled shall also have the sole and exclusive right and power of ... regulating the trade and managing all affairs with the Indians, ... provided that the legislative right of any State within its own limits be not infringed or violated ....”

Articles of Confederation, adopted by the Second Continental Congress in November, 1777 (Article IX, Fourth Paragraph)



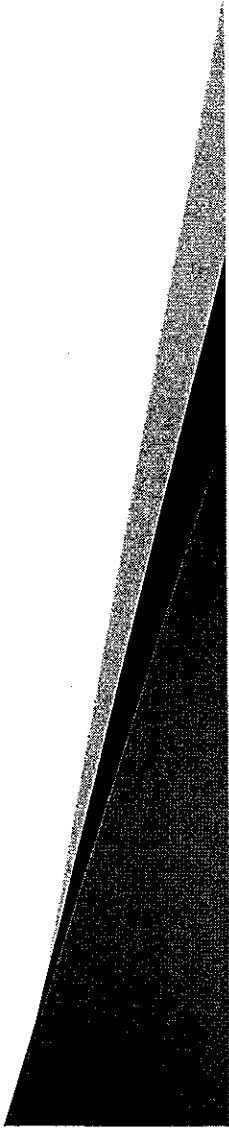
- ▶ “The Congress shall have the power ... To regulate Commerce with foreign nations, and among the several States, and with the Indian tribes ....”

United States Constitution ratified on June 21, 1788  
(Article I, Section 8, Clause 3)



- ▶ “The President . . . shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur . . . .”

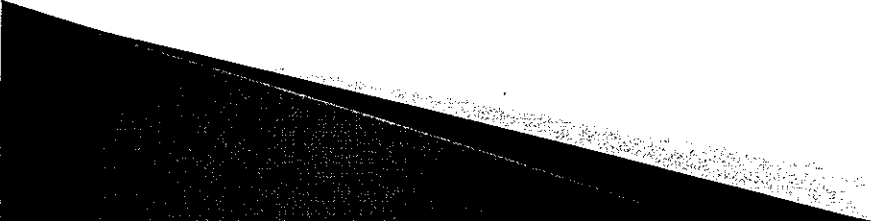
United States Constitution ratified on June 21, 1788  
(Article II, Section 2, Clause 2)





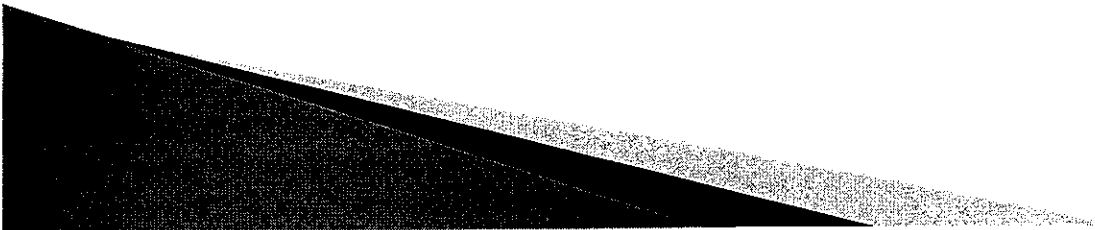
- ▶ “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

14<sup>th</sup> Amendment to the United States Constitution ratified on July 9, 1868



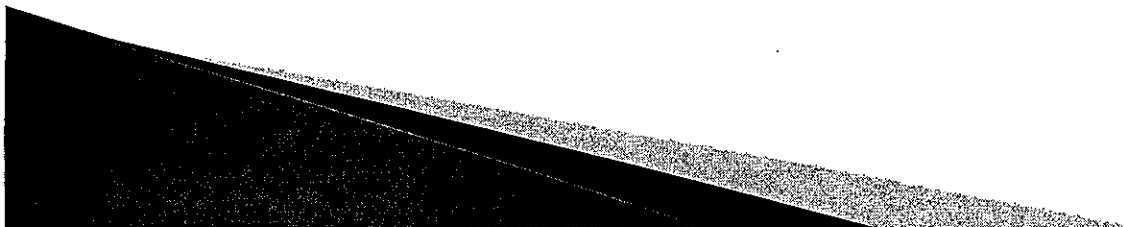
- ▶ “1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude. 2. The Congress shall have power to enforce this article by appropriate legislation.”

15<sup>th</sup> Amendment to the United States Constitution ratified on February 3, 1870



- ▶ An employment preference for Indians was upheld under the 14<sup>th</sup> Amendment by U.S. Supreme Court which applied the “**rational basis**” test and said: Indians in tribes have “[a] unique status . . . the[is] preference is **political** rather than racial in nature.” In other words, a program is o.k. if it is “rationally tied” to Congress’ obligation to aid natives – especially in furthering self-governance.

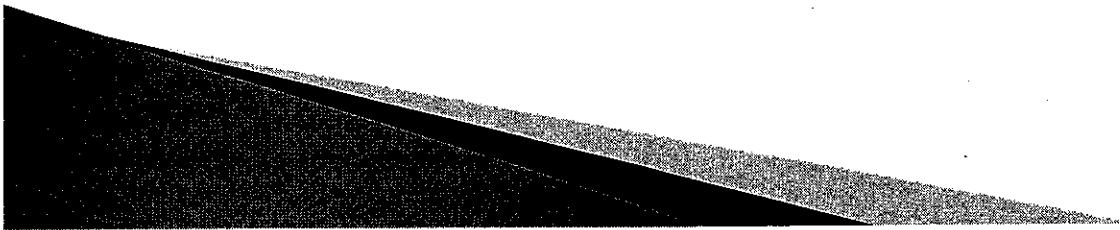
*Morton v. Mancari* (1974):



- ▶ Race-based minority programs are subject to “strict scrutiny” test and are legal only if they are “narrowly tailored to further a compelling government interest”.

*City of Richmond v. J.A. Crosson Co.*

(1989) and *Adarand Constructors, Inc., v. Peña* (1995)



- ▶ U.S. Supreme Court invalidates Hawaiians-only OHA voter registration, saying: “If a non-Indian lacks a right to vote in tribal elections, it is for the reason that such elections are the internal affair of a quasi-sovereign.” and “The OHA elections, by contrast, are the affair of the State . . . and they are elections to which the Fifteenth applies.”

*Rice v. Cayetano* (2000):

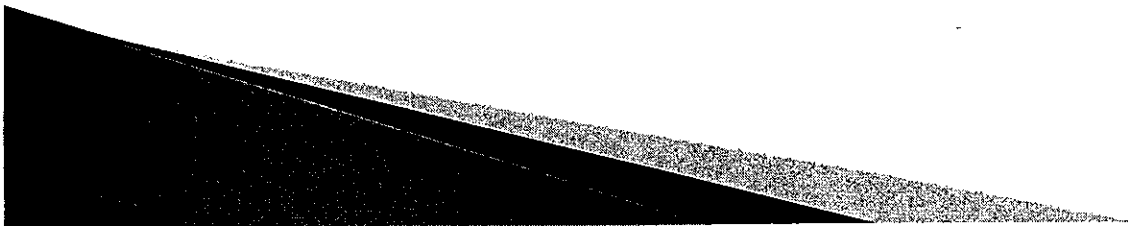


# **SB1 SD2**

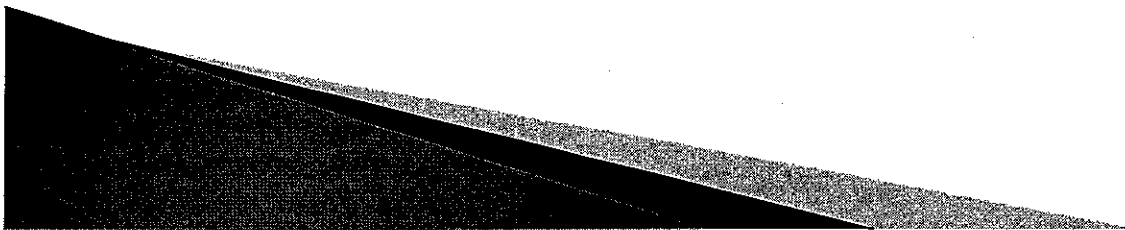
**RELATING TO STATE RECOGNITION OF THE NATIVE  
HAWAIIAN PEOPLE, THEIR LANDS, ENTITLEMENTS, HEALTH,  
EDUCATION, WELFARE, HERITAGE, AND CULTURE.**



- ▶ The legislature finds that the State has never explicitly acknowledged that Native Hawaiians, as described in section 2 of this Act, are the only indigenous, aboriginal, “maoli” Hawaiian population.

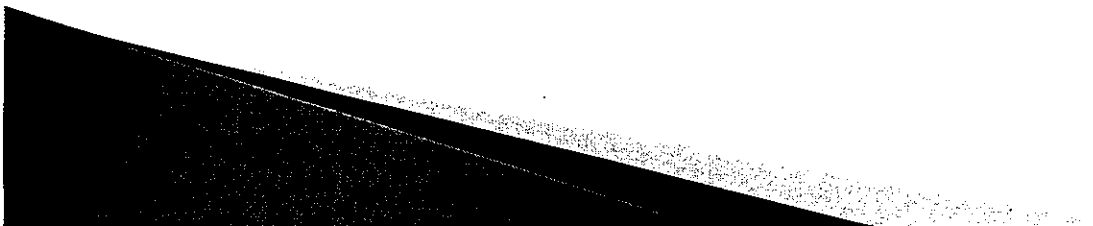


- ▶ Native Hawaiians are the indigenous, native people of the Hawaiian archipelago that is now part of the United States and the State of Hawaii and are a distinctly native community. From its inception, the State has had a special political and legal relationship with the Native Hawaiian people and has continually enacted legislation for the betterment of their conditions.

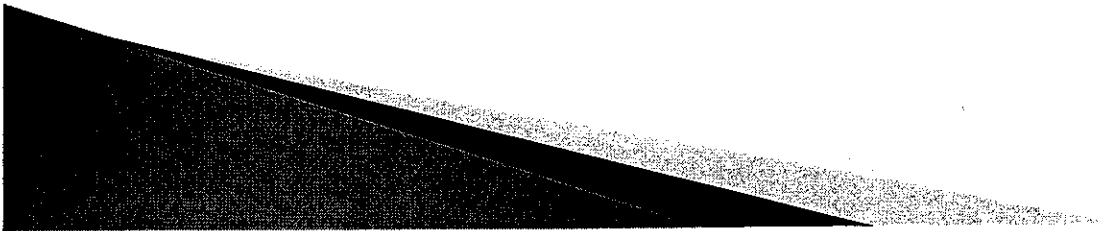




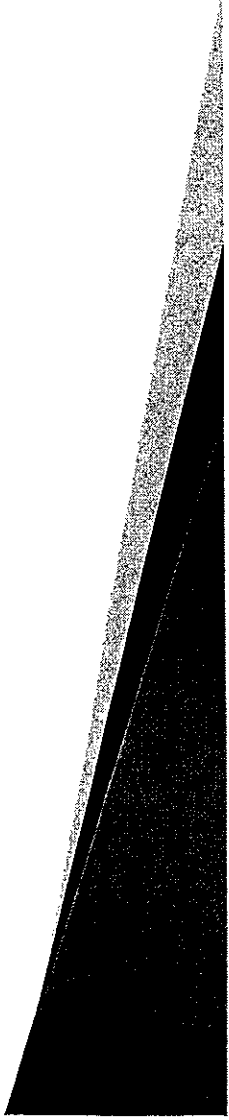
- ▶ In Section 5(f) of the 1959 Admission Act (An Act to Provide for the Admission of the State of Hawaii into the Union, Public Law 86-3), Congress created what is commonly known as the ceded lands trust.



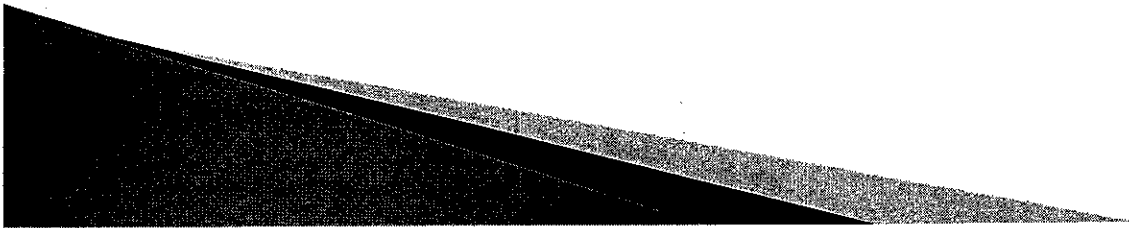
- ▶ At the 1978 Constitutional Convention, the State established the office of Hawaiian affairs, approved by the voters on November 7, 1978 (Hawaii State Constitution, article XII, sections 5 and 6) and codified as chapter 10, Hawaii Revised Statutes.
- ▶ The State's designation of the office of Hawaiian affairs as a trust vehicle to act on behalf of native Hawaiians and Hawaiians until a Native Hawaiian governing entity could be reestablished reaffirmed the State's obligations to the Native Hawaiian people.



- ▶ In 1993, the United States formally apologized to Native Hawaiians for the United States' role in the overthrow of the Kingdom of Hawaii. (Public Law 103-150, commonly known as the "Apology Resolution").
- ▶ The Apology Resolution acknowledges that the illegal overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States, and further acknowledges that the Native Hawaiian people never directly relinquished their claims to inherent sovereignty to the United States as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum.



- ▶ While the Native Hawaiian community is still in the process of reorganizing a governmental structure, Native Hawaiians have continued to maintain their separate identity as a single, distinctly native political community through cultural, social, and political institutions and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency.

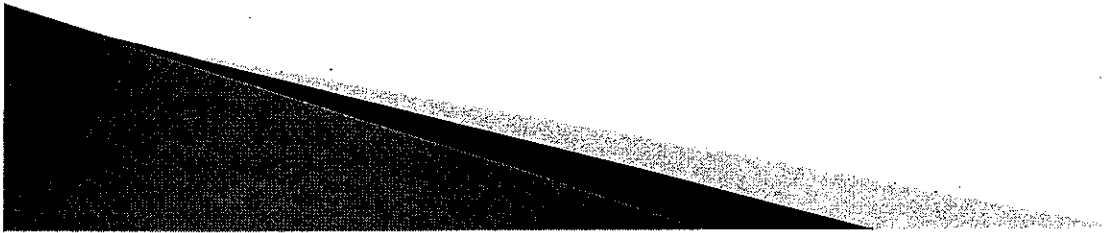


- ▶ The purpose of this Act is to recognize Native Hawaiians as the only indigenous, aboriginal, "maoli" population of Hawaii. It is also the State's desire to recognize a soon-to-be reorganized Native Hawaiian governing entity and to promote the ultimate federal recognition of Native Hawaiians.
- ▶ The legislature urges the office of Hawaiian affairs to facilitate the organization process of that entity.

## ▶ **NATIVE HAWAIIAN RECOGNITION**

### ▶ **Statement of recognition.**

- The Native Hawaiian people are hereby recognized as the only indigenous, aboriginal, maoli people of Hawaii.



- ▶ **Purpose.** The purpose of this chapter is to provide for and to implement the recognition of the Native Hawaiian people by means and methods that will facilitate their self governance, including the establishment of or the amendment to programs, entities, and other matters pursuant to law that relate, or affect ownership, possession, or use of lands by the Native Hawaiian people, and by further promoting their entitlements, health, education, welfare, heritage and culture.

► **Native Hawaiian roll commission.**

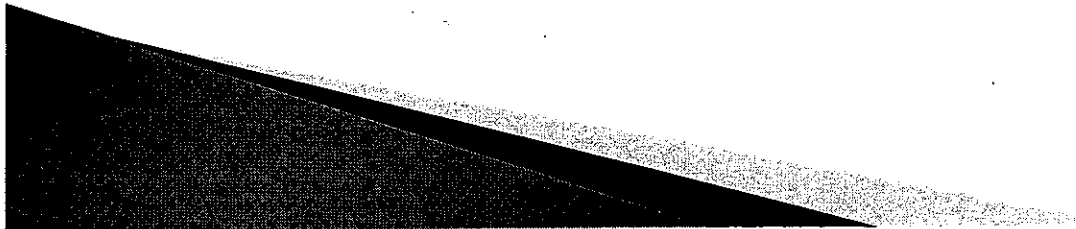
- (a) There is established a nine-member Native Hawaiian roll commission for the purpose of:
  - (1) Preparing and maintaining a roll of qualified Native Hawaiians
  - (2) Certifying that the individuals on the roll of qualified Native Hawaiians meet the definition of qualified Native Hawaiians. For purposes of establishing the roll, a "qualified Native Hawaiian" means an individual who the commission determines has satisfied the following criteria and who makes a written statement certifying that the individual:



► **Notice of qualified Native Hawaiian roll.**

- (a) The commission shall publish notice of the certification of the qualified Native Hawaiian roll, update the roll as necessary, and publish notice of the updated roll of qualified Native Hawaiians.
- (b) The publication of the initial and updated rolls shall serve as the basis for the eligibility of qualified Native Hawaiians whose names are listed on the rolls to participate in the organization of the Native Hawaiian governing entity.

- After the publication of the roll of qualified Native Hawaiians,
- Dissolution of the Native Hawaiian roll commission.
- The governor shall dissolve the Native Hawaiian roll commission
- Native Hawaiians to independently commence the organization of convention of qualified Native Hawaiians, established for the purpose or organizing themselves.

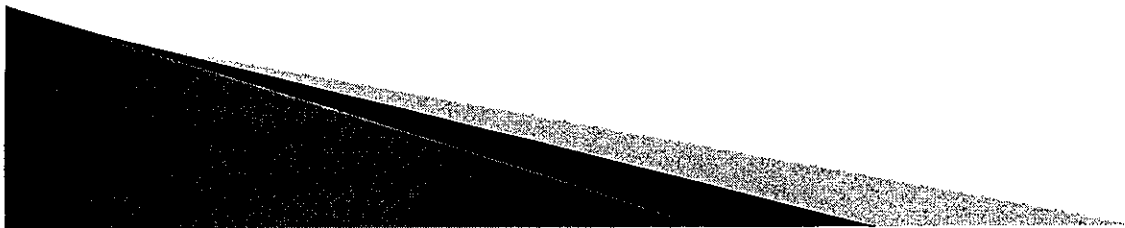


S –5 [interim council.]  
Native Hawaiian Convention.

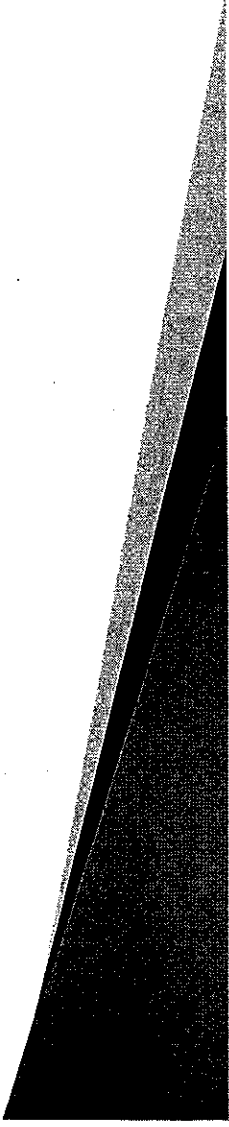
[(a) After t]  
The publication of the roll of qualified Native  
Hawaiians,

[the commission shall appoint an interim council of  
nine members from the roll of qualified Native  
Hawaiians to]

as provided in section-4 is intended to facilitate the  
process under which qualified Native Hawaiians may  
independently commence the organization of a  
convention of qualified Native Hawaiians, established  
for the purpose or organizing themselves.



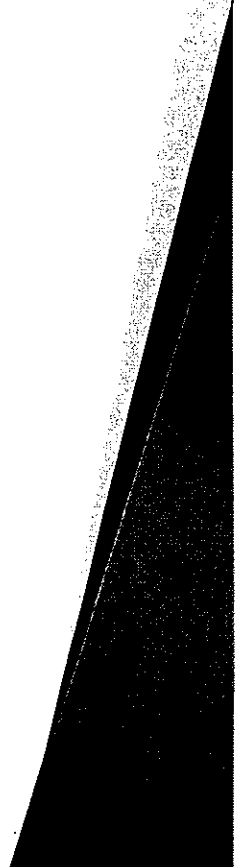
- ▶ [ (b) The commission may appoint as members of the interim council members of Native Hawaiian organizations that were established in April 1865 or December 1918 and are currently active as a Native Hawaiian organization. ]



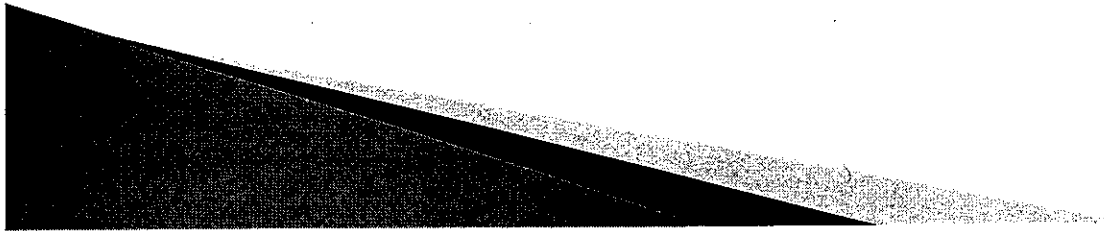
► S-6 Dissolution of the Native Hawaiian roll commission.

The governor shall dissolve the Native Hawaiian roll commission [after the interim council is appointed and the governor has received notice from the interim council that it has organized and is ready to commence the organization of a convention of qualified Native Hawaiians.]

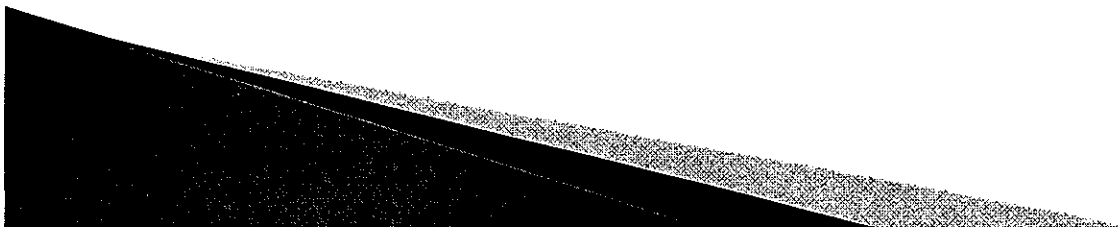
Upon being informed by the Native Hawaiian roll commission that it has published notice of any updated roll of qualified Native Hawaiians, as provided in section -4, and thereby completed its work.



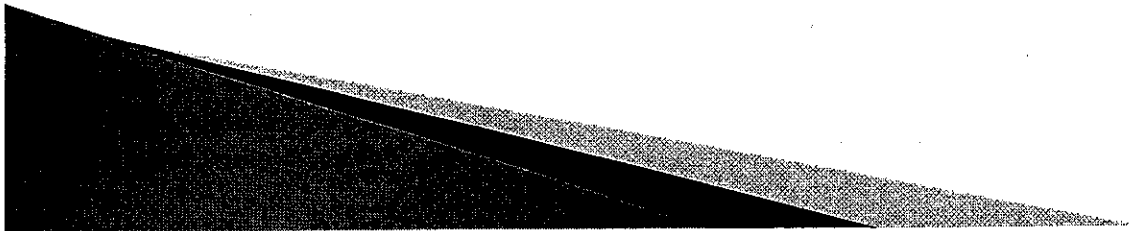
- ▶ No diminishment of rights or privileges.  
Nothing contained in this chapter shall diminish, alter, or amend and existing rights or privileges enjoyed by the Native Hawaiian people that are not inconsistent with the provisions of this chapter.



- ▶ **Reaffirmation of delegation of federal authority; governmental authority and power; negotiations.**
  
- (a) The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled "An Act to Provide for the Admission of the State of Hawaii into the Union, approved March 18, 1959 (Public Law 86-3), is reaffirmed.



- ▶ (b) Consistent with the policies of the State of Hawaii, the inherent powers and privileges of self-government of the members of the qualified Native Hawaiian roll, as certified by the Native Hawaiian roll commission, shall be acknowledged by the State of Hawaii. These powers and privileges may be modified by agreement with the State of Hawaii.





- ▶ Disclaimer. Nothing in this chapter is intended to serve as a settlement of any claims against the State of Hawaii, or affect the rights of the Native Hawaiian people under state, federal, or international law."

