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View Point

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Autonomy bill is an affront to Hawaiians

**Bill would eliminate possibility
of reconciliation of historic land claims**

By Mahealani Kamaau



EXTINGUISH all Hawaiian claims and roll back the sovereignty movement. Eliminate the state Department of Hawaiian Home Lands (DHHL). Amend Hawaii's Constitution to eliminate the Office of Hawaiian Affairs (OHA).

These are but some of the goals of state Rep. Ed Case's Native Hawaiian "Autonomy" Act. The bill is the latest in what has been a devastating series of anti-Hawaiian bills at the Legislature.

Last year, for example, lawmakers passed Act 329, giving themselves permission to stall and avoid paying OHA what it is owed. Legislators are still awaiting the results of a costly (and thus far, losing) court battle, which they hope will permanently cut funding to OHA.

After years of legal hoop-jumping, the Legislature also denied DHHL beneficiaries payment for their proven claims.

This session, the 1998 Legislature will continue its efforts to regulate cultural practices associated with access and gathering rights.

In his latest proposal, Rep. Case takes deadly aim, at point-blank range, against Hawaiians. He seeks once and for all to rid the state of all its trust obligations to Hawaiians.

Because trust obligations are so inextricably tied to congressional enactments, the bill threatens Native Hawaiians' legal status with the federal government as well.

The bill would repeal the 1920 Hawaiian Homes Commission Act, thereby eliminating DHHL. It would also repeal amendments to the state Constitution, thus eliminating OHA.

It would get rid of any and all obligations owed by the state to Hawaiians, shifting responsibility to a nonprofit corporation run by elected individuals.

This nonprofit would suffer an indignity not usually associated with nonprofits - its every exercise of authority would be subject to legislative control. The state would also retain control of lands transferred to the nonprofit.

In fact, there would be a great diminishment of Hawaiian autonomy, for OHA is already a semi-autonomous fourth branch of government. It is already vested with authority to hold and control its own lands.

No reasonable person could conclude from reading this bill that Hawaiian autonomy could be enhanced, in any way, by its passage. It clearly has a contrary intent.

The bill is patronizing and mean to the extreme. Case has taken it upon himself to solve what he characterizes as the Hawaiian "problem" by approaching it like an abusive parent approaches his child.

He kicks the kid out of the house without support. His excuse is that the kid has been a "problem" and wants out anyway.

Under the rubric of lifting Hawaiians out of their wardship status and helping them get out from under the state (who asked him for help, anyway?), Case puts Hawaiians out with only the clothes on their backs.

His bill offers no guarantees once Hawaiians are cut loose - only a possibility that the state will allow the nonprofit to borrow money (special purpose revenue bonds) collateralized by the non-profit's own assets.

The bill is bruising and unfair in its public policy declaration, without factual basis, that the majority of Hawaiians do not want sovereignty.

That contention is not only appreciated, but is ill-timed and inappropriate.

The bill is particularly despicable in its attempts to undermine and eliminate any possibility of achieving reconciliation of historic claims, a declaration of support for which is found in Public Law 103-150, passed by Congress and signed into law by President Clinton.

As every Hawaiian knows, the thrust of claims for which reconciliation is sought derives from the 1893 theft of Hawaiian land and political sovereignty.

At hundreds of gatherings over many decades, Hawaiians have met to determine for themselves their own path to autonomy, an integral part of which requires reconciliation of historic claims.

These claims include:

- Recognition of a Native Hawaiian government with sovereign authority over its land base and surrounding waters.
- A substantial land and natural resource base comprised of a reformed Hawaiian Homes program, a fair share of the ceded lands trust, submerged lands and offshore waters, Kahoolawe and other appropriate lands.
- Guarantees of water; substantial beach and trails access; fishing, hunting and gathering rights; protection for Native Hawaiian spiritual and cultural practices; and protection of cultural and burial sites, along with associated patrimony.
- Appropriate compensation for use of ceded lands and for lands not returned to Hawaiians.

Besides attempting to extinguish Hawaiian claims forever, the bill contains other provisions relating to blood quantum and sale of trust lands, which Case has no business toying with.

For Hawaiians who already have a deep mistrust of the state, Case has now earned the singular appellation of quintessential state bogeyman.

Our office has received a rash of calls and requests for close legal analysis of the bill. While some may feel it appropriate to do so, I am of the opinion, along with many others whom I respect, that the bill is such an affront to Hawaiians, that we should not waste our time.

We just need to kill Rep. Ed Case's abomination.

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