



SECOND OPINION, July 21, 2006

OHA's 'stealth Akaka bill' still dangerous

By Cliff Slater

The Office of Hawaiian Affairs has now come up with a stealth Akaka bill, “Plan B”,ⁱ designed to circumvent any federal government interference.

Undoubtedly, our elected officials will play down its dangers as they have with the Akaka bill. They will once more murmur soothingly that Plan B is “just a process.” However, if we think through the probable outcomes of it there are still clear danger signs.

OHA is relinquishing neither its sovereignty aims nor what the Akaka bill said was to be negotiated between the state and Native Hawaiian governments:

“(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;”ⁱⁱ

The Native Hawaiian government teamⁱⁱⁱ will negotiate these items with state officials armed with many of the state’s 20 percent Native Hawaiian voters in their back pocket and \$350 million in OHA funds, some of which they will likely commit to campaign contributions.

The politics of it dictates that it will not be an even-handed negotiation; it will be a giveaway.

If sovereignty for Native American Indian tribes is any indication, and since Plan B, like the Akaka bill, will be silent on the details of what sovereignty may mean, non-Native Hawaiian citizens must prepare for the worst. For example:

- Property taxes, general excise taxes and income taxes are unlikely to be paid on Native Hawaiian property and retail operations. This means that non-Native Hawaiians would have to make up the shortfalls.
- On Native Hawaiian lands, state and city police forces would likely not have jurisdiction over criminal offenders.
- State and county land use and building regulations would likely not apply to Native Hawaiian government lands.

In short, anyone who believes that this process will not shortchange non-Native Hawaiian citizens is not thinking clearly.

Like the Akaka bill, Plan B is, in essence, a suit against the current non-Native Hawaiian citizens of Hawaii for claimed past wrongs stemming from the Overthrow.^{iv}

Native Hawaiians should not look to Hawaii's other citizens for compensation. These other citizens are entitled to believe that the 113 year-old Overthrow issue is settled history. Especially considering the statehood vote 50 years ago when 95 percent of all voters approved of statehood and polls taken at the time showed that Native Hawaiians were no more opposed to statehood than were the Caucasians.^v

In any case, the vast majority of today's Hawaii citizens had nothing to do with the Overthrow. At that time, Asians did not have the vote and the overwhelming majority of today's Caucasians arrived long after the Overthrow.

Native Hawaiians who believe that the United States harmed them through its actions at the time of the Overthrow should look to the United States for compensation not to Hawaii's other citizens.

"But we want our lands in Hawaii," says the Office of Hawaiian Affairs. The remedy is for the U.S. to buy the land from the state at market prices and transfer it to those who were deprived of the land by U.S. actions.

"But we want the funds we have been getting for our impoverished Native Hawaiians," says OHA. A considerable amount of money is already available for poor Native Hawaiians as it is for poor people in Hawaii of any race.^{vi}

Additional funds are available for schools that specialize in teaching Hawaiian language and culture providing that the schools do not discriminate against applicants of the basis of race. In practice, few, if any applicants would be of other races since their parents overwhelmingly want them to learn English. For example, of the charter schools currently offering Hawaiian immersion education, Native Hawaiian children are more than 95 percent of the enrollment.^{vii}

And Kamehameha Schools may discriminate based on race providing it pays taxes on the profits that it makes; it can hardly expect U.S. taxpayers to subsidize racial exclusion.

"But we want to preserve our language and culture," say OHA. This does not pose a problem unless such programs are race-based. The state and the federal governments both have a vital interest in seeing that Hawaiian culture is not only preserved, but thrives.

If programs that subsidize Hawaiian language and culture require a certain level of understanding for applicants to qualify, that alone would a) increase Native Hawaiians' understanding of their own language and culture, and b) make it more difficult for non-natives to apply. One would expect that a few non-natives who understand the language and culture better than Native Hawaiians would apply for such programs and this would be healthy; the more non-natives who understand the culture the better for everyone.

There are healthy ways to achieve nearly all of the stated aims of Native Hawaiians. It is time we all began to explore them.

Cliff Slater is a regular columnist whose footnoted columns are at www.cliffslater.com

Footnotes:

ⁱ <http://the.honoluluadvertiser.com/article/2006/Jun/24/ln/FP606240344.html> In addition, Sen. Inouye is also planning an Akaka bill rewrite, see

<http://the.honoluluadvertiser.com/article/2006/Jun/14/ln/FP606140343.html>

ⁱⁱ The exact wording of the preamble reads, "... The United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—"

ⁱⁱⁱ Let us also face the fact that the new Native Hawaiian governing entity will select its representatives from a pool of Native Hawaiian elites. Among them are likely to be some highly skilled politicians such as John Waihee, Clayton Hee, and Dan Akaka. Some outspoken activists such as Haunani and Mililani Trask; and some skilled business people such as Oz Stender.

^{iv} There were citizens of the Kingdom of Hawaii at the time of the Overthrow who were not of Hawaiian blood but not favorable to the Overthrow. It is also true that there were Native Hawaiians who were favorably disposed to the Overthrow. To simply discriminate on the basis of race in the matter of the Overthrow is an oversimplification of what happened.

^v *Fuchs, Lawrence H. Hawaii Pono. Bess Press, Honolulu. 1961. p. 412.*

^{vi} The U.S. has over the last 25 years spent \$1.2 billion on Native Hawaiian programs. It would be of great interest if the State Auditor were to determine where those funds actually went, and what, if any, beneficial effect it had on our Native Hawaiian underclass rather than the highly educated Native Hawaiian elites. Since it appears to have made little difference to Native Hawaiian outcomes this will be a worthwhile exercise.

^{vii} http://www.ksbe.edu/pase/pdf/Reports/Demography_Well-being/DataBoard/DOE_AYP_2004.xls
Check lines 265, 275, 283, and 279 for percentage of Native Hawaiians in the four immersion schools and <http://www.hcsao.org/hicharters/profiles.html> for enrollment in these schools.