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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 24, 2011

The Honorable Danny A. Mateo, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 96793

Dear Chair Mateo and Members:

**SUBJECT: URGING SUPPORT OF THE INTENT OF HOUSE
CONCURRENT RESOLUTION NO. 107, ESTABLISHING A
JOINT LEGISLATIVE INVESTIGATING COMMITTEE
TO INVESTIGATE THE STATUS OF EXECUTIVE
AGREEMENTS KNOWN AS THE LILI'UOKALANI
ASSIGNMENT AND THE AGREEMENT OF
RESTORATION (PAF 11-083)**

At the Council meeting of April 1, 2011, I intend to propose that the attached proposed resolution, entitled "URGING SUPPORT OF THE INTENT OF HOUSE CONCURRENT RESOLUTION NO. 107, ESTABLISHING A JOINT LEGISLATIVE INVESTIGATING COMMITTEE TO INVESTIGATE THE STATUS OF EXECUTIVE AGREEMENTS KNOWN AS THE LILI'UOKALANI ASSIGNMENT AND THE AGREEMENT OF RESTORATION", be adopted.

The purpose of the proposed resolution is to urge that the Legislature establish a joint legislative investigating committee to inquire into the status of two executive agreements entered into in 1893 between United States President Grover Cleveland and Queen Lili'uokalani of the Hawaiian Kingdom, known as the Lili'uokalani Assignment and the Agreement of Restoration. The investigating committee would be charged with holding meetings and hearings as necessary, receiving all information from the inquiry, and submitting a final report on the inquiry to the Legislature no later than 20 days prior to the convening of the Regular Session of 2012. A copy of HCR No. 107 is attached for your reference.

Because the proposed resolution urging support of HCR No. 107 does not have the force and effect of law, waiver of the requirement of committee referral and report is not required. The deadline for the first lateral for House Concurrent Resolutions is April 5, 2011, by which date this measure must have moved to the third committee. Accordingly, there is insufficient time to refer the attached resolution to the appropriate Council committee for review and report.

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On March 23, 2011, the measure passed out of the first committee, the House Committee on Hawaiian Affairs, unamended. The measure must successfully pass out of the House Committee on Judiciary and be reported to the House Legislative Management Committee by April 5.

Therefore, at the Council meeting, I intend to make the following motions:

First, I intend to move that the attached proposed resolution entitled "URGING SUPPORT OF THE INTENT OF HOUSE CONCURRENT RESOLUTION NO. 107, ESTABLISHING A JOINT LEGISLATIVE INVESTIGATING COMMITTEE TO INVESTIGATE THE STATUS OF EXECUTIVE AGREEMENTS KNOWN AS THE LILI'UOKALANI ASSIGNMENT AND THE AGREEMENT OF RESTORATION" be ADOPTED.

Second, I intend to move that this communication be FILED.

Thank you for your consideration.

Sincerely,



ELLE COCHRAN
Council Member

paf:cmn:11-083b

Attachments

Resolution

No. _____

**URGING SUPPORT OF THE INTENT OF HOUSE
CONCURRENT RESOLUTION NO. 107,
ESTABLISHING A JOINT LEGISLATIVE
INVESTIGATING COMMITTEE TO INVESTIGATE
THE STATUS OF EXECUTIVE AGREEMENTS
KNOWN AS THE LILI'UOKALANI ASSIGNMENT
AND THE AGREEMENT OF RESTORATION**

WHEREAS, on March 14, 2011, Representative Mele Carroll introduced House Concurrent Resolution No. 107, to establish a joint legislative investigating committee to investigate the status of two executive agreements entered into in 1893 between United States President Grover Cleveland and Queen Lili'uokalani of the Hawaiian Kingdom, called the Lili'uokalani Assignment and the Agreement of Restoration; and

WHEREAS, on March 23, 2011, the House Committee on Hawaiian Affairs considered the measure and recommended that it be passed, unamended; and

WHEREAS, given the passage of 118 years since these agreements were made and the desire for clarification on still unsettled issues concerning their effect, an inquiry into the status of these agreements through the efforts of an investigative committee is warranted; and

WHEREAS, by supporting the establishment of an investigative committee, the Maui County Council takes no position on the facts or assertions contained in House Concurrent Resolution No. 107; and

WHEREAS, the information gathered and reported on by the investigative committee will help to inform the public; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby urges support of the intent of House Concurrent Resolution No. 107, entitled "Establishing a Joint Legislative Investigating Committee to Investigate the Status of Two Executive Agreements Entered into in 1893 between United States President Grover Cleveland and Queen Lili'uokalani of the Hawaiian Kingdom, Called the Lili'uokalani Assignment and the Agreement of Restoration"; and

Resolution No. _____

2. That certified copies of this resolution be transmitted to the Honorable Mele Carroll, Majority Whip, State House of Representatives; the Hawaii State Legislature; the Honorable Neil Abercrombie, Governor, State of Hawaii; the Honorable Members of the Honolulu City Council, Hawaii County Council, and Kauai County Council; the Honorable Mayors of the City and County of Honolulu, Hawaii County, and Kauai County; and the Hawaii Delegation to the United States Congress.

paf:cmn:11-083a1

HOUSE CONCURRENT RESOLUTION

ESTABLISHING A JOINT LEGISLATIVE INVESTIGATING COMMITTEE TO INVESTIGATE THE STATUS OF TWO EXECUTIVE AGREEMENTS ENTERED INTO IN 1893 BETWEEN UNITED STATES PRESIDENT GROVER CLEVELAND AND QUEEN LILI'UOKALANI OF THE HAWAIIAN KINGDOM, CALLED THE LILI'UOKALANI ASSIGNMENT AND THE AGREEMENT OF RESTORATION.

1 WHEREAS, on December 19, 1842, United States President John
2 Tyler recognized the Hawaiian Kingdom as an independent and
3 sovereign State, extended full and complete diplomatic
4 recognition to the Hawaiian Government, and entered into
5 treaties and conventions with the Hawaiian government in 1849,
6 1875, and 1887; and

7
8 WHEREAS, on January 14, 1893, John L. Stevens (hereinafter
9 referred to as the "United States minister"), the United States
10 minister plenipotentiary assigned to the Hawaiian Kingdom
11 government, conspired with a small group of insurgents of
12 diverse nationalities to overthrow the Hawaiian Kingdom
13 government; and

14
15 WHEREAS, in pursuance of the conspiracy, the United States
16 Minister and naval representatives of the United States caused
17 armed naval forces to invade the Hawaiian Kingdom on January 16,
18 1893, and to position themselves near government buildings and
19 Iolani Palace in order to provide protection to the insurgents;
20 and

21
22 WHEREAS, on the afternoon of January 17, 1893, this small
23 group of insurgents declared themselves to be a Provisional
24 Government; and

25
26 WHEREAS, the United States minister thereupon extended
27 diplomatic recognition to the insurgents in violation of



1 treaties between the United States and the Hawaiian Kingdom and
2 in violation of international law; and
3

4 WHEREAS, because the police force was unable to apprehend
5 the insurgents for violating the law of treason without the risk
6 of bloodshed between the police and the United States troops,
7 Queen Lili'uokalani issued the following protest temporarily,
8 conditionally yielding her executive power to the United States
9 government:

10
11 "I Liliuokalani, by the Grace of God and under
12 the Constitution of the Hawaiian Kingdom, Queen, do
13 hereby solemnly protest against any and all acts done
14 against myself and the Constitutional Government of
15 the Hawaiian Kingdom by certain persons claiming to
16 have established a Provisional Government of and for
17 this Kingdom.
18

19 That I yield to the superior force of the United
20 States of America whose Minister Plenipotentiary, His
21 Excellency John L. Stevens, has caused United States
22 troops to be landed at Honolulu and declared that he
23 would support the Provisional Government.
24

25 Now to avoid any collision of armed forces, and
26 perhaps the loss of life, I do this under protest and
27 impelled by said force yield my authority until such
28 time as the Government of the United States shall,
29 upon facts being presented to it, undo the action of
30 its representatives and reinstate me in the authority
31 which I claim as the Constitutional Sovereign of the
32 Hawaiian Islands.
33

34 Done at Honolulu this 17th day of January, A.D.
35 1893"; and
36

37 WHEREAS, under Article 31 of the Constitution of the
38 Kingdom of Hawaii, as the constitutional monarch of the
39 Hawaiian islands, the Queen was vested with the executive
40 power to faithfully execute and administer Hawaiian law:
41 "To the King belongs the Executive power"; and
42

43 WHEREAS, on March 9, 1893, President Grover Cleveland
44 accepted the temporary and conditional assignment of executive



1 power from the Queen and investigated the circumstances of the
2 overthrow of the Hawaiian Kingdom government; and

3
4 WHEREAS, on October 18, 1893, the investigation concluded
5 that the United States violated international law and the
6 Hawaiian Kingdom government must be restored to its status
7 before the landing of United States troops; and

8
9 WHEREAS, negotiations for settlement and restoration took
10 place between Queen Lili'uokalani and United States minister
11 plenipotentiary, Albert Willis, between November 13, 1893, and
12 December 18, 1893, at the United States Embassy in Honolulu; and

13
14 WHEREAS, a settlement was reached on December 18, 1893,
15 whereby Queen Lili'uokalani signed the following declaration
16 that was dispatched to the United States State Department by the
17 United States minister on December 20, 1893:

18
19 "I, Liliuokalani, in recognition of the high
20 sense of justice which has actuated the President of
21 the United States, and desiring to put aside all
22 feelings of personal hatred or revenge and to do what
23 is best for all the people of these Islands, both
24 native and foreign born, do hereby and herein solemnly
25 declare and pledge myself that, if reinstated as the
26 constitutional sovereign of the Hawaiian Islands, that
27 I will immediately proclaim and declare,
28 unconditionally and without reservation, to every
29 person who directly or indirectly participated in the
30 revolution of January 17, 1893, a full pardon and
31 amnesty for their offenses, with restoration of all
32 rights, privileges, and immunities under the
33 constitution and the laws which have been made in
34 pursuance thereof, and that I will forbid and prevent
35 the adoption of any measures of proscription or
36 punishment for what has been done in the past by those
37 setting up or supporting the Provisional Government.

38
39 I further solemnly agree to accept the
40 restoration under the constitution existing at the
41 time of said revolution and that I will abide by and
42 fully execute that constitution with all the
43 guaranties as to person and property therein
44 contained.



1
2 I furthermore solemnly pledge myself and my
3 Government, if restored, to assume all the obligations
4 created by the Provisional Government, in the proper
5 course of administration, including all expenditures
6 for military or police services, it being my purpose,
7 if restored, to assume the Government precisely as it
8 existed on the day when it was unlawfully overthrown.
9

10 Witness my hand this 18th of December, 1893"; and

11
12 WHEREAS, there exist two agreements:

- 13
14 (1) The Lili'uokalani Assignment, whereby President Grover
15 Cleveland accepted the obligation of administering
16 Hawaiian Law in an assignment of executive power; and
17
18 (2) The Agreement of Restoration, whereby the Queen agreed
19 to grant amnesty after return of executive power and
20 restoration of the government; and
21

22 WHEREAS, President Cleveland and his successors in office
23 have violated these agreements by not administering Hawaiian
24 Kingdom Law and not restoring the Hawaiian Kingdom government;
25 and
26

27 WHEREAS, for the past one hundred eighteen years the Office
28 of President has retained the temporary and conditional
29 assignment of Hawaiian executive power from the Queen; and
30

31 WHEREAS, these agreements are called sole executive
32 agreements under United States constitutional law and the basis
33 of a federal lawsuit in Washington, D.C., filed by Dr. David
34 Keanu Sai against President Barack Obama, Secretary of State
35 Hillary Clinton, Secretary of Defense Robert Gates, Admiral
36 Robert Willard, and Governor Linda Lingle (case no. 1:10-CV-
37 00899CKK) on June 1, 2010; and
38

39 WHEREAS, on November 13, 2010, the Association of Hawaiian
40 Civic Clubs at its 51st Convention at Keauhou, Island of Hawaii,
41 unanimously passed Resolution No. 10-15, "Acknowledging Queen
42 Lili'uokalani's Agreements with President Grover Cleveland to
43 Execute Hawaiian Law and to Restore the Hawaiian Government";
44 and



1
2 WHEREAS, under the Supremacy Clause of the United States
3 Constitution, "all Treaties made, or which shall be made, under
4 the Authority of the United States, shall be the supreme Law of
5 the Land; and the Judges in every State shall be bound thereby,
6 any Thing in the Constitution or Laws of any State to the
7 contrary notwithstanding"; and

8
9 WHEREAS, the United States Supreme Court declared in United
10 States v. Belmont, 301 U.S. 324 (1937), that executive
11 agreements arising out of the President's sole authority over
12 foreign relations does not require ratification by the Senate or
13 the approval of Congress, and has the force and effect of a
14 treaty; and

15
16 WHEREAS, statutes enacted by the Legislature of the State
17 of Hawaii that conflict with valid executive agreements would be
18 considered void under the Supremacy Clause; and

19
20 WHEREAS, a joint legislative investigating committee would
21 settle the issue of whether certain statutes enacted by the
22 Hawaii State Legislature violate the United States Constitution;
23 and

24
25 WHEREAS, section 21-3, Hawaii Revised Statutes, authorizes
26 the establishment of a legislative investigating committee by
27 resolution, and Rule 14 of the Rules of the House of
28 Representatives and Rule 14(3) of the Rules of the Senate allow
29 for the establishment of special committees; now, therefore,

30
31 BE IT RESOLVED by the House of Representatives of the
32 Twenty-sixth Legislature of the State of Hawaii, Regular Session
33 of 2011, the Senate concurring, that:

34
35 (1) The Legislature hereby establishes a joint legislative
36 investigating committee to investigate the status of
37 two executive agreements entered into between
38 President Grover Cleveland of the United States and
39 Queen Lili'uokalani of the Hawaiian Kingdom in 1893,
40 called the Lili'uokalani Assignment and the Agreement
41 of Restoration;

42
43 (2) The purpose and duties of the joint investigating
44 committee shall be to inquire into the status of the



1 executive agreements by holding meetings and hearings
2 as necessary, receiving all information from the
3 inquiry, and submitting a final report to the
4 Legislature;

5
6 (3) The joint investigating committee shall have every
7 power and function allowed to an investigating
8 committee under the law, including without limitation
9 the power to:

10
11 (A) Adopt rules for the conduct of its proceedings;

12
13 (B) Issue subpoenas requiring the attendance and
14 testimony of the witnesses and subpoenas duces
15 tecum requiring the production of books,
16 documents, records, papers, or other evidence in
17 any matter pending before the joint investigating
18 committee;

19
20 (C) Hold hearings appropriate for the performance of
21 its duties, at times and places as the joint
22 investigating committee determines;

23
24 (D) Administer oaths and affirmations to witnesses at
25 hearings of the joint investigating committee;

26
27 (E) Report or certify instances of contempt as
28 provided in section 21-14, Hawaii Revised
29 Statutes;

30
31 (F) Determine the means by which a record shall be
32 made of its proceedings in which testimony or
33 other evidence is demanded or adduced;

34
35 (G) Provide for the submission, by a witness's own
36 counsel and counsel for another individual or
37 entity about whom the witness has devoted
38 substantial or important portions of the
39 witness's testimony, of written questions to be
40 asked of the witness by the chair; and

41
42 (H) Exercise all other powers specified under chapter
43 21, Hawaii Revised Statutes, with respect to a
44 joint investigating committee; and



1
2 BE IT FURTHER RESOLVED that the joint investigating
3 committee shall consist of the following ten members:
4

- 5 (1) The Chairperson of the House Committee on Finance;
6
7 (2) The Chairperson of the House Committee on Water, Land,
8 and Ocean Resources;
9
10 (3) The Chairperson of the House Committee on Hawaiian
11 Affairs;
12
13 (4) One member of the majority leadership from the House
14 of Representatives who shall be appointed by the
15 Speaker of the House of Representatives;
16
17 (5) One member of the minority leadership from the House
18 of Representatives who shall be appointed by the House
19 Minority Leader;
20
21 (6) The Chairperson of the Senate Ways and Means
22 Committee;
23
24 (7) The Chairperson of the Senate Committee on Water,
25 Land, and Agriculture;
26
27 (8) The Chairperson of the Senate Hawaiian Affairs
28 Committee;
29
30 (9) One member of the majority leadership from the Senate
31 who shall be appointed by the President of the Senate;
32 and
33
34 (10) One member of the minority leadership from the Senate
35 who shall be appointed by the Senate Minority Leader;
36 and
37

38 BE IT FURTHER RESOLVED that the joint investigating
39 committee shall submit its findings and recommendations to the
40 Legislature no later than twenty days prior to the convening of
41 the Regular Session of 2012 and shall dissolve upon submission
42 of its report; and
43



1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the President of the
3 United States, members of Hawaii's congressional delegation, the
4 Governor, the President of the Hawaii State Senate, the Speaker
5 of the Hawaii State House of Representatives, the Director of
6 Finance, the Attorney General, and the Auditor.

7
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9

OFFERED BY: Mel Carroll

MAR 11 2011

