

BOARD OF LAND AND NATURAL RESOURCES

HAWAIIAN KINGDOM

IN THE MATTER of Contested Case Hearing Re)	Case No. BLNR-CC-16-002
Conservation District Use Application)	
(CDUA) HA-3568 For the Thirty Meter)	Objection to PUEO's motion to set
Telescope at the Mauna Kea Science Reserve,)	the issues [Doc-99]
Ka'ohe Mauka, Hamakua, Hawaii, TMK (3))	
404015:009)	
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Objection to PUEO's motion to set the issues [Doc-99]

I Dwight J. Vicente am objecting to the Hearing's Officer granting PUEO's motion to set Issues Doc-99. This limits to five issues to try to avoid Constitutional questions and questions of law that PUEO's believes are political question's, however these questions are valid and need to be addressed. The 1875 Treaty of Reciprocity as amended in 1887 between The Hawaiian Kingdom and the U.S., that was continued in 1894 by the Republic of Hawaii Constitution Article 94 and again in 1898 Treaty of Annexation and the U.S. Congress by a joint resolution. I believe that the 1875 treaty as amended in 1887 is still in effect today. 13 Haw. 32 EX Parte Edwards, 12 Haw. 27 Peacock & co. Rep. Haw. The U.S. extended their Treaties with foreign Nations to this Kingdom. This is a Constitutional violation. The annexation of Crown and Government lands to the Ohio River valley, Article 5 Northwest Ordinance 1787. To give the U.S. Congress jurisdiction over these lands Article 4 sec. 3 clause 2, U.S. Constitution and to create the Territory of Hawaii in the year 1900 to expand the limited powers of Congress and the President beyond the 13 states Article 1 sec 2 clause 3 U.S. Constitution. Walter F. Fear appointed Governor Proclamation 1909 created the Forest Reserve/Conservation lands under the U.S. Dept. of Interior, which the General Lease No. S-4191 relies on. The U.S. Congress in 1920 created the

Received
Office of Conservation and Coastal Lands
2016 Sept 19 11:29 am
Department of Land and Natural Resources
State of Hawaii

Hawaiian Homes Commission Act, known as the public trust doctrine, to continue to Usurp control over these Crown and Government Kingdom lands. These Hawaiian Homes lands consisted of 1.5 Million acres of land, the lands under lease by the Hawaiian Kingdom to the Sugar Plantations and other lands were left out. The Territory of Hawaii in 1950 wrote the state constitution, Ingram M. Stainback appointed Governor in his first message on page 361 Constitutional Convention 1950, stated that territories and states are created by the Northwest Ordinance of 1787. The U.S. Congress and President while in full control claimed in 1959 to have created and admitted the State of Hawaii into the union on an equal footing by Northwest Ordinance, to which is not equal to the 13 perpetual union states. In Admission Act 1959 Article 4 there is a compact between the U.S. and the State of Hawaii, to take control of the Hawaiian Homes Commission Act. The State of Hawaii was given Hawaiian Home Lands consisting of only 1.5 Million Acres of lands. The Native Hawaiians were to share these lands with a large population of "aliens" that are here without a valid Treaty. The U.S. Government without constitutional authority and the Sugar Plantations kept the other millions of acres of Crown and Government Kingdom Lands. The Hawaiian Kingdom has jurisdiction over Crown and Government Lands. The Admission Act sec. 19. does not give you nationality, that is why non-nationals of this Kingdom should be questioned (ex. David Ige, Riki May Amano and others). Because TMT is an international entity, there for their respected Country becomes the question of conflict of interest. Admission Act Sec 22 Separability clause, violates the U.S. Constitution. Queen Liliuokalani's protest January 17, 1893 against U.S. Minister Steven's has yet to be heard in the U.S. Supreme Court. Article 3 Sec. 2 Clause 2 Original Jurisdiction, limited to U.S. Minister Steven's only. H.R.S. Chapter 91-14, (g), (1), allows this Hearing to take up this questions of law. And make these questions a part of the record rather than avoiding these

questions of Law. Attached is exhibit A copies of the 1950 Constitutional Convention Ingram M. Stainback message No. 1 on page 361 that speaks about the Northwest Ordinance of 1787.

Dated: September 18, 2016

Under protest, all rights reserved,


Dwight J. Vicente

CERTIFICATE OF SERVICE

I, **Dwight J. Vicente** hereby certify that a true and correct copy of the foregoing was served upon the following parties by the means indicated:

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DATED: this 18th day of September 2016.

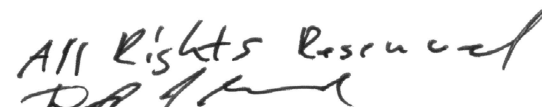
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Dwight J. Vicente
In Pro Se

EXHIBIT A

Proceedings of the

**CONSTITUTIONAL
CONVENTION OF HAWAII**

1950

— *Volume I* —

JOURNAL AND DOCUMENTS

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State of Hawaii

HONOLULU, HAWAII

1960

his seat be declared vacant, and the Governor be requested to fill the vacancy in the manner provided by law.

Benjamin O. Wist,
Chairman

—April 18, 1950
J. Garner Anthony
Marguerite K. Ashford

Alexander Castro
Frank C. Luiz
Chuck Mau
Frederick Ohrt

Tom T. Okino
Harold S. Roberts
Arthur K. Trask
Arthur D. Woolaway

5. Governor's Messages

GOVERNOR'S MESSAGE NO. 1

I wish to welcome the members of this Convention and assure you that I will be only too glad to assist you in any way within my power.

Today is a momentous day in the history of Hawaii, a day looked forward to by the people of Hawaii since the Newlands Resolution of 1898 which effected the admission of Hawaii to the United States. The Newlands Resolution contemplated an Organic Act which would complete the incorporation of Hawaii as an integral part of the United States. This was enacted in April 1900 and under it Hawaii resembles in every respect the territories created in continental United States by the Northwest Ordinance of 1787 and other acts setting up territorial governments as a preliminary to statehood.

By the Organic Act of 1900 giving Hawaii territorial status, Congress then and there committed the United States to the ultimate granting of statehood to Hawaii. A long line of decisions of the United States Supreme Court sets out "the ephemeral nature of a territorial government" and statehood as the ultimate destiny of a territory. Mr. Justice White, in *Downs v. Biddle*, said "Since the constitution provides for the admission by Congress of new states, it properly may be said that the outlying continental public domain, of which the United States was the proprietor, was, from the beginning, destined for admission as a state or states into the Union; that as a preliminary step towards that afore-ordained end—to tide over the period of ineligibility—Congress, from time to time, created territorial governments, the existence of which was necessarily limited to the period of pupillage." Again, this same court has pointed out "a territory under the constitution and laws of the United States is an inchoate state."

During the 50 years that Hawaii has been a part of the United States, 50 years of pupillage, Hawaii has increased and developed in wealth and in population so that under the last census it exceeded four states in population, was comparable to four other states, and had an assessed value in property greater than any state at the time of admission, with the exception of Oklahoma.

I need not review for you Hawaii's economic development but in addition to its economic development Hawaii is in every respect a modern community, maintaining a high standard in government service. It has a high standard of wealth and for a number of years has had a lower death rate than any state in the Union. The maternal mortality rate has been less than that of the average mainland state for the past seven years; it is continuing to decline. Our schools are well equipped and well attended; our teachers are far better paid than the average teachers in mainland United States schools. Hawaii has progressive labor laws and a well-organized Department of Labor. It has an apprenticeship program, a child labor law, a minimum wage and maximum hours work law, and workmen's compensation laws.

The people of Hawaii have shown skill and ability in local self-government. For more than one hundred years Hawaii has had constitutional government and for approximately 50 years the Territory has had complete local self-government except for the appointment of the Governor, the Secretary, and the Judges. The Legislature has exercised general legislative power, subject only to the restrictions of the Organic Act and the United States Constitution.

The Territory is a modern unit with an economic, social and political status of the highest order. It is and has been for many years entirely self-supporting, paying all the expenses of the Territory and County governments except the salaries of the legislators and those officers appointed by the President.

The people have shown a keen interest in public affairs with a larger percentage of registered voters voting in elections than in any state in the Union.

As long ago as 1937 a congressional committee found that "Hawaii has fulfilled every requirement for statehood heretofore exacted of territories" but recommended a plebescite of the voters be held. Such a plebescite was held in 1940 with two-thirds of the votes for statehood.

In December 1941 came the outbreak of World War II with an attack on Hawaii. The Territory had set up a full scale organization for civilian defense which went into immediate action on December 7th. In less than two hours after the attack, civilian first-aid units, well equipped and well staffed, were in active service. The Civilian Defense also had on hand a blood bank which saved the lives of hundreds of our wounded soldiers and sailors.

The record of Hawaii throughout the dark days that followed December 7th bespeaks the loyalty, fortitude and energy of its people. When the history of that period is written the activities of the civilian volunteers, men and women, will be a record of which Hawaii may be justly proud. Our citizens of every race and every color also served in the armed services, Army, Navy and Marine Corps, in the Merchant Marine, and in war work of every kind and description. The roll of Hawaii's honored dead throughout the word is proof positive of the loyalty of Hawaii's sons and their patriotism was not measured by the color of their skin. Our populations tested by the fire of battle and the trials of war, both at home and abroad, were not found wanting.

The war threw more light upon the loyalty and patriotism of our population than the many preceding years of peace, and settled for all time a question that had been the cause of concern to many sincere democratic citizens who honestly questioned whether children of non-Caucasian parents, of alien cultures, of alien religions, of many races, could be truly knit by a common idealism into a nation. The situation here had no precedent in the older states where the alien population in such states had the same religions, customs, habits and ways of thinking, more or less common with that of its citizens. No state had had to absorb and deal with a

large group of Asiatic aliens who could not be naturalized under our existing laws and whose very religions in many cases were foreign and strange to us. However, during the years preceding the war there had been tremendous changes in our population since annexation, changes climaxed by the war. Our public schools, our boy and girl scout organizations, and all of our free and democratic institutions had been gradually but efficiently Americanizing each of the coming generations. Hawaii proved to be truly a melting pot with much more than a third of its marriages inter-racial. This is especially conspicuous among the Japanese for, at the time of annexation, marriage among the Japanese people outside of their own race was unheard of; in the meantime our percentage of citizenship population had increased from less than 40% to more than 85% and, as stated, the war removed all doubt of the thorough Americanization of our peoples of all races. In this connection I call to your attention that Hawaii not only furnished its quota under selective service, but by voluntary enlistment it raised a battalion of infantry among those of Japanese descent which finished the war with an outstanding record and was one of, if not the most, decorated units of the American Army.

Suggestions from certain individuals from time to time to place the Territory of Hawaii under naval or military control or some form of commission government calls to our attention that our existing rights of local self-government can be secured only by statehood as under a territorial status Congress may modify or completely repeal the Territorial Organic Act.

Equally important with making secure the existing rights of local self-government is a representation in national affairs. With merely a voice in the House of Representatives, and neither voice nor vote in the Senate, it is difficult to secure due consideration and prevent discrimination against us in national legislation. Thousands of young men of these Islands were drafted during World War II though neither they nor their parents had any voice in the passage of the draft act, nor vote in the declaration of war which sent them into battle.

The citizens of Hawaii pay Federal taxes on exactly the same basis as do the citizens of a state, yet they have no vote either in the levying of the taxes or in the disbursing of the revenues. These conditions are contrary to traditional American principles. No taxation without representation, no government without the consent of the governed, are axioms as much alive and as important to the people of Hawaii today as they were to the Revolutionary fathers who first gave them utterance, and these principles are particularly applicable when we remember that the overwhelming mass of the residents of Hawaii are citizens of the United States, citizens whose loyalty, patriotism and ability in self-government cannot be questioned.

As previously stated, a territorial government is a transitory one, tolerable for a reasonable period but should be endured no longer than is necessary to show that the people of the Territory are loyal citizens of the United States and capable of self-government. That time has come. The House of Representatives has so decided, the President of the United States and the Secretary of the Interior have endorsed statehood for Hawaii, the Legislature of Hawaii has petitioned for statehood, the people of Hawaii have voted for statehood, and now your actions here will largely determine whether statehood will be granted now or be further delayed. I have every confidence that you will meet this test and prepare for Hawaii a constitution of which we may be justly proud; and, if I may add one word of advice, make it truly a framework for government and do not clutter it up with legislative

enactments however desirable you may consider such legislation.

In conclusion, I wish to read a radio (message) to you from the Secretary of the Interior;

Please extend to the presiding officer and members of the Constitutional Convention meeting on April Four the greetings and cordial good wishes of the Interior Department and the Administration as they undertake the important task for which they have been chosen. The very high caliber and often demonstrated interest in public affairs of the elected delegates is a guarantee that the results of their labors will be a constitution fully responsive to the needs of Hawaii and fully within the great traditions of American Democracy. Such a Constitution will be the indispensable basis of the Government of the new State of Hawaii which I am hopeful will be approved by the present Congress and will be convincing evidence to the American people and the world that Hawaii is a mature and responsible member of the great American partnership of self-governing democratic communities.

GOVERNOR'S MESSAGE NO. 2

Territory of Hawaii
Executive Chambers
Honolulu

April 12, 1950

Hawaii State Constitutional Convention
Samuel Wilder King, President
Honolulu, Hawaii

You are hereby notified that, pursuant to the power vested in me by Section 2 of Act 334, Session Laws of Hawaii 1949, I have this day appointed John R. Phillips who is an elector of the Combination of Precincts 11, 15, 16, 17, 18, 24 and 32, Fourth Representative District, to fill the vacancy caused by the resignation of Mr. Richard M. Kageyama.

Sincerely yours,

INGRAM M. STAINBACK
Governor of Hawaii

GOVERNOR'S MESSAGE NO. 3

Territory of Hawaii
Executive Chambers
Honolulu

April 21, 1950

Honorable Samuel Wilder King
President, Constitutional Convention
of Hawaii of 1950
Honolulu Armory
Honolulu, T. H.

Dear Mr. King:

This will acknowledge receipt of your letter of April 20, 1950 addressed to the Governor, in which you advise him that a vacancy exists in the membership of the Hawaii Constitutional Convention because of the disqualification and subsequent expulsion by the Convention of Delegate Frank G. Silva who represented Precinct Combination BB (Pre-