

## REHABILITATION OF NATIVE HAWAIIANS.

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APRIL 15, 1920.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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Mr. CURRY of California, from the Committee on the Territories, submitted the following

### REPORT.

[To accompany H. R. 13500.]

The Committee on the Territories, to whom was referred the bill (H. R. 13500) to amend an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, to establish a Hawaiian Homes Commission, and for other purposes, having considered the same, report thereon with the recommendation that it do pass.

#### WORK OF THE COMMITTEE.

The basis of the present bill is a series of concurrent resolutions passed by the Legislature of the Territory of Hawaii during the session of 1919, proposing various amendments to the organic act of the Territory. On the last day of the session of 1919, the legislature of the Territory, also by concurrent resolution, authorized the governor to appoint a "Legislative Commission of the Territory" to come to Washington and assist the Territorial Delegate to Congress in the presentation of any measures formulated in pursuance of the recommendations contained in the resolutions passed by the legislature. The legislative commission was comprised of C. J. McCarthy, governor; Harry Irwin, attorney general; Robert W. Shingle, member of the senate; John H. Wise, member of the senate; W. T. Rawlins, member of house of representatives; and Henry J. Lyman, member of house of representatives.

The legislative commission offered, at the hearings held by the committee from February 3 to February 10 of this year, their views as to the necessity for the passage by Congress of measures along the lines indicated in the resolutions. The more important of the propositions discussed related to the land situation in the Territory and consisted of amendments to the existing land laws, together with what is commonly known as Senator Wise's plan for the rehabili-

tation of the Hawaiian race. (See Hawaiian S. Con. Res. No. 2, and reference thereto in Hawaiian H. Con. Res. No. 28.) The legislative commission expressed itself as unanimously in favor of legislation upon these subjects; and subsequently a general bill, H. R. 12683, comprehending these matters, together with some minor amendments of the organic act of the Territory, was introduced by the Delegate, Hon. J. K. Kalaniana'ole. The committee's painstaking and detailed consideration of H. R. 12683, both in the subcommittee and the full committee, resulted in its complete revision and the introduction and report to the House of the present bill, H. R. 13500, to be known as the Hawaiian Homes Commission Act, 1920.

#### NATIVE HAWAIIANS—A DYING RACE.

As shown by the following charts, the number of full-blooded Hawaiians in the Territory has decreased since the estimate of 1826 from 142,650 to 22,500, while the death rate has correspondingly increased until it is now greatly in excess of that of any other race inhabiting the islands:

*Population—native Hawaiians.*

Years.	Part Hawaiians.	Full- blooded Hawaiians.
1826, estimated by missionaries.....		142,650
<b>Hawaii official census:</b>		
1832.....		130,313
1836.....		108,579
1850.....		82,208
1853.....		71,019
1860.....		67,084
1866.....		58,765
1872.....	2,487	49,044
1878.....	3,420	44,088
1884.....	4,218	40,014
1890.....	6,186	34,436
1896.....	8,485	31,019
<b>United States official census:</b>		
1900.....	8,835	29,799
1910.....	12,606	26,041
1919, estimated June 30.....	16,660	22,600

*Race death rate for year ending June 30, 1919.*

	Death rate.
<b>Hawaiian:</b>	
Full-blooded.....	39.42
<b>Part:</b>	
Asiatic.....	14.58
Caucasian.....	16.17
Filipino.....	18.55
Korean.....	14.31
Chinese.....	14.12
Porto Rican.....	13.70
Japanese.....	13.35
Portuguese.....	12.48
Spanish.....	9.58
Caucasian, other than specified.....	6.26
All others.....	35.41

Furthermore, due to the rapid decrease in the number of the full-blooded Hawaiians, the race is fast becoming a minority element among the races of the Islands, with the probable result that in the future political control will pass into other hands. According to the latest estimates not only the Japanese and Portuguese, but also the Chinese, now outnumber the full-blooded Hawaiians.

Population, all races.

Races.	Census of 1910.	Estimated June 30, 1919.
Japanese.....	79,675	110,000
Caucasian, other than specified.....	14,867	31,000
Hawaiian:		
Full-blooded.....	26,041	22,600
Part.....	12,506	16,660
<b>Total Hawaiian.....</b>	<b>38,547</b>	<b>39,260</b>
Portuguese.....	22,301	25,000
Chinese.....	21,674	22,800
Filipino.....		22,000
Porto Rican.....	4,890	5,400
Spanish.....	1,990	2,400
All others.....	7,964	5,806
<b>Total.....</b>	<b>191,908</b>	<b>1,263,666</b>

<sup>1</sup> The results of the 1920 United States Census, just announced, show the total population of the Territory to be 249,992. The results by races are not yet available.

And among the registered voters the full-blooded Hawaiian and the part Hawaiian combined are not holding their own with the other nationalities:

Registered voters, by races, at each general election.

	Population, 1910.		Registered voters.											
	Total.	Male citizens of voting age.	1900	1902	1904	1906	1908	1910	1912	1914	1916	1918	Gain.	Loss.
Hawaiian, full blooded and part....	38,547	9,802	8,680	9,260	9,635	8,967	9,619	9,435	10,306	10,763	10,901	138	.....	
Portuguese....	22,301	2,025	594	728	999	1,230	1,530	1,769	2,317	2,610	2,644	284	.....	
Chinese....	21,674	670	143	175	220	272	396	486	654	777	954	177	.....	
Japanese....	79,675	53	3	2	.....	6	13	48	112	179	287	108	.....	
American....	29,711	5,788	1,932	1,872	1,674	1,715	1,763	2,365	3,020	3,284	3,810	520	.....	
British....			546	542	563	567	554	544	629	648	636	.....	12	
German....			309	301	391	322	338	299	659	720	692	.....	28	
Others....			405	373	240	195	234	239	.....	.....	.....	.....	.....	.....
<b>Total.....</b>	<b>191,908</b>	<b>18,333</b>	<b>11,216</b>	<b>12,612</b>	<b>13,253</b>	<b>13,578</b>	<b>13,274</b>	<b>14,442</b>	<b>15,185</b>	<b>17,699</b>	<b>18,981</b>	<b>20,124</b>	<b>1,153</b>	<b>40</b>
Increase.....			1,396	641	325	304	1,168	743	2,514	1,282	1,143	.....	.....	

Witnesses testified before the committee that the reasons for the decline of the Hawaiian race are many. Certain causes and remedies are suggested in the opinions of ex-Secretary Lane and Senator Wise of the Territorial Legislature, as stated in the hearings:

Mr. Wise. I will come to the next point of my claim, and that is that the Hawaiian people are a dying people. \* \* \* I would like to have the committee just pause for a moment and look back at the Hawaiians, a noble race, who in 1778, according to Cook's estimate, were 400,000 individuals. Allowing that Capt. Cook's estimate was much too high, the first official census was taken in 1832 and the number placed at 113,319. The estimated population in 1919 was 22,600 pure Hawaiians and 16,660 part Hawaiians. The Hawaiians were never savages, as I said. They had their system of schools even though they did not have a written language.

The causes of the decline of this race are many. \* \* \* Now, the taro, the Hawaiian food, was the only food they had for generations, outside of sweet potatoes. When civilization came into the country, other kinds of food were brought in. When they

leased their land, the cultivation of taro became scarcer, and they had to pay higher prices to get taro, and consequently the poor Hawaiians had to take what taro they had and mix it with flour and other things, which made the quantity but not the quality.

Right here I would like to take up the time of the committee in explaining the different values of food, the ingredients of food. You take rice. A Chinaman would pick his own rice and say, "Do not give me any Japanese rice, because I would not be able to live on it." And the Japanese would select the Japanese rice, not the same rice that the Chinaman uses. Yet a lot of men could not tell the difference between the two kinds, except that one is stouter. If for centuries the Japanese have not been able to live on the Chinese rice and the Chinese have not been able to live on the Japanese rice, how could the Hawaiians live on this mixed food they get to-day? That, I contend, is why they are deteriorating and becoming extinct. The idea in trying to get the lands back to some of the Hawaiians is to rehabilitate them. I believe we should get them on lands and let them own their homes. I believe it would be easy to rehabilitate them. The people of New Zealand are increasing to-day because they have the lands to live on and are working out their own salvation.

Mr. DOWELL: Do they want to homestead these lands and care for them?

Mr. WISE. Yes. \* \* \* The Hawaiian people are a farming people and fishermen, out-of-door people, and when they were frozen out of their lands and driven into the cities they had to live in the cheapest places, tenements. That is one of the big reasons why the Hawaiian people are dying. Now, the only way to save them, I contend, is to take them back to the lands and give them the mode of living that their ancestors were accustomed to and in that way rehabilitate them. We are not only asking for justice in the matter of division of the lands, but we are asking that the great people of the United States should pause for one moment and, instead of giving all your help to Europe, give some help to the Hawaiians and see if you can not rehabilitate this noble people. (Hearings, pp. 38-39.)

\* \* \* \* \*  
Secretary LANE. One thing that impressed me there was the fact that the natives of the islands, who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty. They never owned the land of the islands. The land was owned by the King originally, and they had in 1848 what they called a mahele, in which there was a division. As a result of that and legislation that passed subsequently, we have approximately 1,600,000 acres of public lands in the islands. Most of that land is not suitable for making homes. Large bodies of it are lava land or grazing land. Some of it is the very finest quality of land, perhaps 120,000 acres, approximately.

Nobody knows just what the population, the Hawaiian population, was 100 years ago when the missionaries came. Perhaps it was as much as 200,000, probably less. At any rate, now the population is approximately 40,000 of those who have full Hawaiian blood or part Hawaiian blood. In my judgment, from the limited knowledge I have of the history of the islands, those people, the natives, were not treated fairly in the division of the lands that was made in 1848. At any rate, they are a problem now and they ought to be cared for by being provided with homes out of the public lands; but homes that they could not mortgage and could not sell. They are a most lovable people, a kindly people, and a generous people. They have arts of their own which endear them to the people who visit the islands. It is not altogether the beauty of the islands that attracts people there. It is the spirit that they see and the old civilization that they meet. There is a thriftlessness among those people that is characteristic among peoples that are raised under a communist or feudal system. They do not know what the competitive system is and they will get rid of property that is given them. They do not look forward. They can not see to-morrow. Therefore, they should be given as close identification with their country as is possible and yet be protected against their own thriftlessness and against the predatory nature of those who wish to take the land from them, and who have in the past \* \* \*

Mr. MONAHAN. And, a second question I want to ask is, What has caused this dying away of the race from 200,000 down to 35,000 or 40,000?

Secretary LANE. Two things. It is always incident to the coming in of civilization, and we always carry disease germs with us to which those people are not immune. Take in Alaska to-day, the influenza and smallpox goes into a village in Alaska and will take one-half of the population. Of course, there are no such ravages in the United States because we, in the course of time, have become somewhat immune to those germs.

Mr. DOWELL. And then, too, we are better equipped to care for them.

Secretary LANE. Yes, better equipped to fight, both on the insides of ourselves and outside of ourselves. We have better medical facilities and, of course, we have developed within ourselves a fighting germ in opposition.

No one can say what the fate of a race is. To-day the Indian in the United States is probably increasing. We have 320,000 people of some Indian blood, one hundred and more thousand of those who might be called full-blood Indians. By reason of the facts of putting hospitals on the reservations and doctors and bringing the women when they are bearing children to the hospital, their population is increasing so that we probably have more Indians in the United States to-day than we had during Lincoln's time. And we shall probably have more Indians 10 years from now than we have to-day. These people, the Hawaiians, of course, live an out-of-door life, but they are subjected to the diseases that were brought to them by the sailors a long time ago. \* \* \*

Mr. HUMPHREYS. I was told when in the islands that probably the measles had killed more of them than anything else.

Secretary LANE. Of course that is a very dangerous disease when it is not properly taken care of.

Mr. WISE. If I may interrupt, it was the smallpox that carried off more than any other disease.

The CHAIRMAN. Is it not true that the measles carried off almost one-half?

Mr. WISE. The measles carried off a big lot of the people, but we lost more from smallpox than from anything else.

(Hearings, pp. 121-2 and 127-8.)

#### THE PRESENT LAND SITUATION IN HAWAII.

The second great factor demanding the passage of this bill lies in the ineffectiveness of all previous systems of land distribution, when judged practically by the benefits accruing to the native Hawaiians from the operation of such systems. In 1845 an act was passed creating an executive department in which a Board of Royal Commissioners to Quiet Land Titles was established. This board decided that there were but three classes of vested original rights in land, those of the King or Government, the chiefs, and the people. Later, in 1848, a division was made setting apart the land in three portions. The King and chiefs received for their portion 1,619,000 acres and the Government 1,505,460 acres. Of the balance, amounting approximately to 984,000 acres, the common people received but 28,000 acres at that time, and the residue reverted to the Crown. But having been recognized as owners of a third interest in the lands of the kingdom, the common people, believing that in the future means were to be adopted to place them in full possession of these lands, assumed that the residue was being held in trust by the Crown for their benefit. However, the lands were never conveyed to the common people and, after a successful revolution, were arbitrarily seized, and by an article in the Hawaiian constitution became the public lands of the Republic of Hawaii.

Subsequently upon the report of a commission sent to investigate the land laws of New Zealand as applied to the Maoris, the Hawaiian land act of 1895 was adopted. An attempt was made to place the Hawaiians back upon the land; and so under the act homesteading was commenced in the Islands. Leases of 999 years were granted for small sums with restrictions upon occupation, alienation, and descent. After the annexation, the act of 1895 was continued in force, with certain implied amendments and repeals, by section 73 of the Hawaiian organic act passed by Congress, June 14, 1900. In 1910, section 73 was amended in several respects. The most important of these amendments are that leases of agricultural lands are limited to

terms of 15 years and must contain a withdrawal clause, and that upon the application of 25 citizens of the United States, or persons eligible to become citizens of the United States, it is mandatory upon the land commissioner to homestead any desired lands, the lease of which has expired or contains a withdrawal clause. About one-half of the homesteads went to the native Hawaiians, though these homesteads average less per acre in value than those of the other races. (Hearings, p. 58.) The Hawaiians also in a great many cases proved unable to fulfill the conditions necessary to obtain patents for their lands, and so forfeited the homesteads.

Your committee thus finds that since the institution of private ownership of lands in Hawaii the native Hawaiians, outside of the King and the chiefs, were granted and have held but a very small portion of the lands of the Islands. Under the homestead laws somewhat more than a majority of the lands were homesteaded to Hawaiians, but a great many of these lands have been lost through improvidence and inability to finance farming operations. Most frequently, however, the native Hawaiian, with no thought of the future, has obtained the land for a nominal sum, only to turn about and sell it to wealthy interests for a sum more nearly approaching its real value. The Hawaiians are not business men and have shown themselves unable to meet competitive conditions unaided. In the end the speculators are the real beneficiaries of the homestead laws. Thus the tax returns for 1919 show that only 6.23 per centum of the property of the Islands is held by native Hawaiians and this for the most part is lands in the possession of approximately a thousand wealthy Hawaiians, the descendants of the chiefs.

*Tax returns for 1919.*

Taxpayers.	Number of tax-payers.	Valuation of real property.	Number of tax-payers.	Valuation of personal property.	Total valuation.	Per-centage.
Corporations, firms, etc.....	783	\$88,909,410	1,023	\$96,715,185	\$185,624,595	74.09
Anglo-Saxons.....	3,312	26,698,188	3,499	4,728,276	31,379,464	12.53
Hawaiians.....	5,878	13,870,508	1,813	1,634,609	15,605,117	6.23
Portuguese and Spanish.....	2,665	5,619,079	1,622	917,411	6,536,487	2.61
Chinese.....	1,631	3,140,345	1,397	1,656,250	4,796,595	1.91
Japanese.....	1,183	1,897,764	3,461	4,684,364	6,582,128	2.63
Total.....	15,452	139,898,261	12,885	110,631,095	250,524,346	100.00

**Gov. McCarthy says, in this connection:**

Gov. McCARTHY. I see what you are driving at, and theoretically it is all right, but our experience in homesteading has been this, that a man gets Government land at a nominal price, what is considered a nominal price in Hawaii, and he goes on it, and just as soon as he has perfected his title, the first thing he wants to do is to sell it, and he gets the real value. Now, mind you, the Territory passes the title of the land to the man and they say that the welfare of the country depends on numerous small farmers; put the people on the land and the country is going to be successful. That is the theory. In practice these people go on these lands until they have acquired the title, and then they sell them at their real value. Some of them have made money possibly in that land while they have been cultivating it. Others have just eked out an existence. (Hearings, pp. 78, 79.)

The public lands of the Islands were, upon June 30, 1917, the latest officially reported figures, composed as follows:

REHABILITATION OF NATIVE HAWAIIANS.

Public lands of the Territory of Hawaii, June 30, 1917.

Classification.	Area in acres.	Estimated valuation.
<b>Agricultural lands:</b> <sup>1</sup>		
Sugar-cane land.....	31,659	\$3,387,515
Other agricultural lands, including fruit and coffee.....	18,793	419,444
<b>Total</b> .....	<b>50,452</b>	<b>3,816,959</b>
<b>Pastoral lands:</b>		
First class (estimated).....	169,130	.....
Second class (estimated).....	316,980	.....
<b>Total</b> .....	<b>486,110</b>	<b>1,361,303</b>
<b>Wet lands (rice and taro)</b> .....	<b>1,299</b>	<b>163,840</b>
<b>Fish ponds</b> .....	<b>358</b>	<b>3,534</b>
<b>Forest lands:</b>		
Forest lands without reserves.....	215,085	.....
Forest lands within reserves.....	349,945	.....
<b>Total</b> .....	<b>565,030</b>	.....
<b>Waste lands</b> .....	<b>507,950</b>	.....
<b>Lands under homestead leases, but not yet patented (June 30, 1919)</b> .....	<b>40,400</b>	.....
<b>Grand total (comprises approximately one-third of the lands of the islands)</b> .....	<b>1,651,599</b>	.....

<sup>1</sup> Agricultural lands are by law (see sec. 351 of the Revised Laws of Hawaii of 1915) classified as first-class agricultural lands and second-class agricultural lands. First-class agricultural lands include "lands suitable for the cultivation of fruit, coffee, sugar, or other perennial crops, with or without irrigation." Second-class agricultural lands include "lands suitable for the cultivation of annual crops only." Statistics, however, are not available for this method of classification.

TITLE II OF THE BILL—THE HAWAIIAN HOMES COMMISSION.

*General policy.*—In view of the conditions above outlined, your committee believes it necessary to provide another and different method of homesteading in the Territory of Hawaii, as a basis for the solution of the problem confronting it. Your committee is, however, of the opinion that (1) the Hawaiian must be placed upon the land in order to insure his rehabilitation; (2) alienation of such land must, not only in the immediate future but also for many years to come, be made impossible; (3) accessible water in adequate amounts must be provided for all tracts; and (4) the Hawaiian must be financially aided until his farming operations are well under way. In framing such a program your committee is in a general way following the broad outlines of Senator Wise's plan. Moreover, not a dollar is required to be appropriated by the Federal Government.

*Hawaiian Homes Commission.*—Sections 203 and 204 set aside for these purposes approximately 194,300 acres of undeveloped agricultural and pastoral lands, to be known as "Hawaiian home lands." No cultivated sugar-cane lands are included. No existing lease covering any of the lands is condemned, but is to be terminated only in accordance with its provisions, by expiration or withdrawal if a clause to that effect is contained in it. These Hawaiian home lands are placed under the control of a commission to be known as the Hawaiian Homes Commission. The commission is composed of five members, the governor of Hawaii and four members to be appointed by him, by and with the advice and consent of the Senate of the legislature of the Territory. At least two of the appointed members of the commission must be native Hawaiians. (See sec. 202.) The

term "native Hawaiian" is defined (see par. (7) of sec. 201) as descendants of not less than one-thirty-second part of the blood of the original races which inhabited the islands at the time of their discovery by Capt. Cook. The governor is the chairman of the commission, but the active work of the commission will be mainly undertaken by an executive officer and secretary to be designated by the commission from among its own members. The executive officer and secretary will receive an annual salary, not to exceed \$6,000 to be determined by the commission. The other members of the commission receive an annual salary of \$500 each. The term of the members of the commission is four years.

*Leases of Hawaiian home lands.*—The Hawaiian home lands are placed under the control of the commission to be used and disposed of for the purpose of aiding native Hawaiians. (See sec. 204.) Under the provisions of section 207 the commission is authorized to lease to any native Hawaiian a tract of Hawaiian home lands of any one of the following three acreages: (1) Not less than 20 nor more than 80 acres of agricultural lands; (2) not less than 200 nor more than 500 acres of first-class pastoral lands; or (3) not less than 500 nor more than 2,000 acres of second-class pastoral lands. The leases run for a term of 99 years at a nominal rental of \$1 a year. The title to these lands, as is true of all public lands of the Territory, remains in the United States. (See secs. 207 and 208.) The native Hawaiian must personally occupy these lands and may not in any manner alienate them except to another native Hawaiian and then only with the approval of the commission. Upon the death of the lessee his lands may not be willed but must descend within his family as provided by the existing laws of the Territory relating to homesteads. The commission is required to pay all delinquent taxes upon such lands in order to prevent their being sold and thus passing out of the control of the commission. The commission, however, has a lien upon the lands for any taxes so paid. (See sec. 208.) Any violation of the terms of the lease causes the termination of the lease and reversion of the lands to the commission. (See sec. 210.) Under the provisions of section 211 the commission is required to establish community pastures adjoining small leases of agriculture lands in order to provide the lessees with sufficient pasturage. Any lands not immediately leased to native Hawaiians are to be kept in use under temporary leases by the commissioner of public lands. (See sec. 212.)

*Hawaiian home-loan fund—Revenue from sugar-cane lands.*—In order to provide for necessary loans to the native Hawaiians to the end that their farming operations for the first few years may be stabilized and in order to provide for the expenditures of the commission for administration and the acquisition of such water rights as it may be necessary to obtain in condemnation proceedings, there is established a "Hawaiian home-loan fund." This is a revolving fund whose main source of receipts is 30 per centum of the rentals obtained from the leasing of cultivated sugar-cane lands and from water licenses. (See sec. 213.) The most important of the leases covering sugar-cane lands expire this year or in the immediate future. These leases were for the most part originally entered into from 1887 to 1900, at a time during the greater part of which the sugar industry was at low ebb. The rentals stipulated in the leases did not in con-



sequence include the rental value of the lands as cane lands, and many lands suitable for cane were leased to ranchers for pasture, rather than to planters for cultivation. In consequence the Territory is now receiving from such leases a sum greatly less than their real value as compared with private leases and rentals from public leases which have recently been executed. The 1910 amendments to section 73 of the Hawaiian organic act, however, provide that future leases of agricultural lands, including sugar-cane lands, shall not be made without the inclusion therein of a withdrawal clause to the effect that the lands may be withdrawn from the lessee in case 25 or more homesteaders apply for them. And it is further made mandatory upon the commissioner of public lands to withdraw such lands upon proper application.

Your committee, however, has provided (see subdivision (d), p. 25 of the bill), that the commissioner of public lands may, with the approval of the governor and at least two-thirds of the members of the land board, lease the sugar-cane lands in the future without a withdrawal clause. Much larger revenues for the Hawaiian home loan fund will thereby be obtained from the leases. The report of the commissioner of public lands for 1917 shows annual rentals of \$123,128 from agricultural and pastoral lands and an estimate made by his office at the time gave \$324,692 as the probable rentals for the same lands if the leases, upon their expiration, were renewed for the 15-year term without a withdrawal clause. The present annual rentals for agricultural and pastoral lands are \$154,600. At a proportionate rate of increase the estimate rental value of the lands upon 15-year rentals without a withdrawal clause would be approximately \$400,000. In addition the present annual receipts from water licenses are \$122,750.

*Leases extant.*—The leases of agricultural and pastoral lands now extant are as follows:

*Leases of public lands, June 30, 1919.<sup>1</sup>*

Date of expiration of lease.	Area in acres.					Annual rental.
	Sugar cane.	Other agricultural and wet lands.	Pastoral lands.	Forest lands.	Waste lands.	
1919.....	5,103	208	9,548	1,579	6,456	\$17,053
1920.....	6,943	1,937	26,868	5,826	29,673	11,442
1921.....	1,858	3,001	21,884	84,537	2,578	8,442
1923.....	2,099	882	31,772	6,189	207	10,162
1925.....	54	847	1,295	307	.....	1,161
1926.....	609	22	3,060	2,400	2,749	3,785
1927.....	964	967	11,997	68	103	8,052
1928.....	1,310	979	97,574	516	161	25,929
1929.....	.....	.....	90,653	7,585	29,297	7,097
1930.....	.....	.....	53,379	.....	24,520	10,556
1931.....	.....	91	.....	.....	110	304
1932.....	100	107	10,951	.....	.....	2,802
<b>Total.....</b>	<b>19,040</b>	<b>9,041</b>	<b>358,981</b>	<b>59,007</b>	<b>95,854</b>	<b>106,735</b>

<sup>1</sup> The above statistics do not include leases which were made since June 30, 1917, and which expire later than 1932. The rentals from leases of agricultural and pastoral lands, as given in the previous paragraph, include also the rentals from such omitted leases.

*Loans to lessees.*—Loans from the Hawaiian home loan fund may be made to any native Hawaiian in sums not in excess of \$3,000 for the purpose of undertaking improvements upon his land and purchasing live stock and farm equipment. (See secs. 214, 215.) Such loans are to be repaid upon an amortization plan within 30 years and the Government has a lien upon the land and improvements and live stock to the amount of the loan.

*Recovery of lands for violation of lease or contract of loan.*—Section 217 of the bill provides for ejectment or summary proceedings by court order in case any lessee of Hawaiian home lands fails to comply with any condition of his lease or of his contract of loan.

*Agricultural experts.*—Section 219 authorizes the commission to employ agricultural experts. The total annual expenditure for their compensation is not to exceed \$6,000. Such experts are to instruct the Hawaiians as to the methods of diversified farming and stock raising.

*Water supply—Projects.*—Your committee has further found that suitable provision must be made in order to bring sufficient water upon the Hawaiian home lands for even the domestic uses of the Hawaiians and the watering of their live stock. As the situation now exists the Government is in possession, as on the island of Molokai, of undeveloped Government-owned waters on the top of the mountains which flow, however, to the side of the island opposite that upon which the Hawaiian home lands are situated. Again, other Government-owned waters are leased to private individuals, sometimes with and sometimes without a reservation of a right of use for the benefit of the public. In other cases private waters upon the lands of their owners are allowed to be wasted without the privilege of use by nearby neighbors less fortunately situated. To meet these varying situations your committee has in sections 220 and 221 of the bill (1) authorized the commission to undertake water development projects whenever funds for such projects are appropriated by the legislature of the Territory; (2) required that the commissioner of public lands insert in all water leases issued by him after the passage of the Act, a reservation of any waters necessary to the use of the commission; and (3) authorized the commission to use any water covered by leases issued previous to the passage of the Act which contain such a reservation, to use Government-owned waters not covered by a license, and to contract for the use of or to condemn surplus waters privately owned or covered by a water license not containing a reservation for the benefit of the public. In all cases, except as to Government-owned waters upon the island of Molokai and Government-owned surplus water tributary to the Waimea River upon the island of Kauai, the use by the commission is limited to such amounts as are necessary adequately to supply the live stock or the domestic needs of individuals upon any tract. In the case of the two exceptions, waters may also be used for irrigation.

*Appointments and expenditures.*—Section 222 of the bill authorizes the commission to make regulations and with the approval in writing of the governor of the Territory as such, to make expenditures and to appoint and remove employees and agents. No cost to the Federal Government is involved. The commission is required to make a biennial report to the legislature of the Territory.

## CONSTITUTIONALITY.

In the opinion of your committee there is no constitutional difficulty whatever involved in setting aside and developing lands of the Territory for native Hawaiians only. The privileges and immunities clause of the Constitution, and the due process and equal protection clauses of the 14th amendment thereto, are prohibitions having reference to State action only, but even without this defense the legislation is based upon a reasonable and not an arbitrary classification and is thus not unconstitutional class legislation. Further, there are numerous congressional precedents for such legislation in previous enactments granting Indians and soldiers and sailors special privileges in obtaining and using the public lands. Your committee's opinion is further substantiated by the brief of the attorney general of Hawaii (see hearings, pp. 162-164) and the written opinion of the solicitor of the Department of the Interior (see hearings, pp. 130-131).

## TITLE III OF THE BILL—AMENDMENTS TO THE HAWAIIAN ORGANIC ACT.

## I. HOMESTEAD LEASES.

*Withdrawal clause.*—Subdivision (d) of section 73 of the Hawaiian organic act is amended in the respects already discussed so as to permit the lease without a withdrawal clause of lands suitable for the cultivation of sugar cane and of arid lands, which by irrigation can be developed into agricultural lands, provided the lease is approved by the governor and at least two-thirds of the members of the board of public lands. (See p. 25 of the bill.)

*Additional homesteads—Preference rights.*—Subdivision (f) of section 73 (see p. 26 of the bill) permits a homesteader who holds less than 10 acres of land to take out additional lands. Additional homesteading is entirely barred by the existing law. Subdivision (j) of section 73 (see pp. 27-28 of the bill) permits the substitution of lands of similar character, value, and area for any parcel of public lands to which the homesteader has a preference right but which has subsequently been reserved for public purposes by either the United States or the Territory.

*Classification and size of homesteads.*—Under the existing law homesteads are limited to 80 acres regardless of the character of the land. Subdivision (n) of section 73 (see p. 28 of the bill) now provides for two classes of homesteads, agricultural homesteads which may consist of 80 acres of agricultural lands and 250 acres of first-class pastoral lands or 500 acres of second-class pastoral lands, and pastoral homesteads which may be composed of 500 acres of first-class pastoral lands or 1,000 acres of second-class pastoral lands.

*Holdover leases.*—Subdivision (o) of section 73 (see p. 29 of the bill) is new matter authorizing the commissioner of public lands, with the approval of the governor, to permit a lessee under general laws to continue in possession of withdrawn lands after the termination of his lease therefor, until such time as the homesteader takes actual possession of the lands.

## 2. MISCELLANEOUS AMENDMENTS TO THE ORGANIC ACT.

*Compensation of legislators.*—Section 26 of the Hawaiian organic act is amended so as to increase the compensation of the legislators from \$600 to \$1,000 for a regular session and from \$200 to \$500 for a special session. Mileage is increased from 10 cents to 20 cents. Members of the Legislature of the Territory of Alaska are paid at the rate of \$15 per day, which would amount to a session salary of \$900 in Hawaii. (See p. 21 of the bill.)

*Bond limit.*—Section 55 of the Hawaiian organic act is amended so as to increase the limit of the total public indebtedness from 7 per centum to 10 per centum of the assessed value of the property of the Territory. This increase is needed to prevent the curtailment of many needed public improvements, such as roads, bridges, docks, schools, sewerage systems, and other public utilities and structures. County expenditures are now provided for by the insertion of bond items in the Territorial loan bills. The use of the Territorial credit is a matter of economy and expedition. In consequence the Territorial debt limit of 7 per centum has had also to care for the 3 per centum debt limit authorized for the counties. (See p. 21 of the bill.)

*Residence requirement for officials.*—Sections 66, 89, and 86 of the Hawaiian organic act have been amended in the interests of home rule so as to require that the governor and the Territorial officers in general shall be citizens of the Territory and shall have resided therein for at least three years next preceding their appointment. (See pp. 22, 30–32 of the bill.)

*Abolish one office of district judge.*—At present there are two judges provided for the Federal district court at Honolulu. One judge, in the opinion of the committee, will suffice to handle the cases before the court. In consequence your committee submits an amendment to section 86 of the Hawaiian organic act providing that whenever a vacancy occurs in the office of district judge that office shall be abolished and the powers and duties incident thereto transferred to the office of the remaining judge. (See p. 32 of the bill.)

*Increased compensation of officials.*—In view of the greatly increased cost of living, it is the opinion of your committee that the salaries of a number of the officers of the Territory should be increased. Accordingly such increases in salary are included in the bill. (See p. 33 of the bill.)

*Employment of aliens on public works.*—An additional section is added to the Hawaiian organic act providing that no person shall be employed upon any public work in the Territory unless he is a citizen of the United States or eligible to become such a citizen. (See p. 33 of the bill.) This provision is requested by the Hawaiian legislature and the legislative commission and is in accord with a similar provision in the statutes of the Territory regulating the employment upon public works in the Islands carried on by the Territorial government. It is further hoped to provide a more favorable opportunity for employment to American mechanics and laborers and thereby induce them to go to the Islands.