

## STATEHOOD FOR HAWAII

MARCH 5, 1959.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

### R E P O R T

[To accompany S. 50]

The Committee on Interior and Insular Affairs, to whom was referred the bill to provide for the admission of the State of Hawaii into the Union, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The action of the Interior Committee in considering the measure, which is sponsored by 56 Members of the Senate, and voting to report it favorably was unanimous.

The committee held hearings in February of this year on S. 50—the 23d public hearing on Hawaii statehood that has been held by committees of Congress since 1935—followed by executive conferences to amend and perfect the bill.

#### PURPOSE OF MEASURE

The purpose of S. 50 is to provide for the admission of the populous and prosperous Territory of Hawaii, which has been an integral, “incorporated” part of the United States for 60 years, into the Union as a full and equal sovereign State. Passage of this measure would require no further action by the Congress, but several important steps by the people of the Territory and by the President will remain after enactment.

Hawaii is the only incorporated Territory—one to which the Constitution of the United States has been expressly extended—under the American flag which has fulfilled all of our historic precedents for statehood but which has not yet achieved the destiny of all other incorporated Territories. No other area meets the well-established criteria under which 37 States have been admitted since the formation of the Union by the Thirteen Colonies.

## MAJOR PROVISIONS

A section-by-section analysis of S. 50 is set forth later in this report. The major provisions of the bill are:

*Approval of proposed State constitution*

In the tradition of a number of other Territories, the Legislature of Hawaii in 1949 enacted a measure to provide for the holding of a State constitutional convention. The elected delegates drafted a constitution, which was submitted to the people by plebiscite. Despite the active opposition of the leadership of the International Longshoremen's and Warehousemen's Union (the ILWU), the constitution was adopted by the overwhelming majority of more than 3 to 1.

This proposed Hawaiian Constitution was presented to Congress of the United States as a matter of information by the Senate Committee on Interior and Insular Affairs on August 28, 1950, as a supplement to its Report No. 1928, favorably reporting H.R. 49, 81st Congress, a predecessor measure to the present statehood bill. It was set forth in the Senate committee's report on the Hawaii statehood bill in the 82d, 83d, and 85th Congresses, and is again submitted to the Senate in this report [appendix A].

The Hawaiian Constitution has been commended by the National Municipal League as setting "a new high standard in the writing of a modern State constitution by a convention."

S. 50 finds this document to be "republican in form and in conformity with the Constitution of the United States and the Declaration of Independence," and ratifies it with certain provisions that must be adopted by the people of Hawaii. In the event they do not approve, all other provisions of this Statehood Act will cease to be effective.

*State boundaries*

Under S. 50 the boundaries of the new State will include all of the islands and territorial waters of the Territory of Hawaii, except the island of Palmyra. Palmyra Island is a small island nearly a thousand miles south of Honolulu and is owned by one family. The committee does not believe that it is an appropriate part of the State unit even though it has, for census purposes, been included within Honolulu County.

The bill specifically excludes certain other islands which are not considered to be part of the Territory.

*Voter plebiscite*

By plebiscite the qualified voters of Hawaii will adopt or reject three propositions: (a) Shall Hawaii become a State immediately, (b) acceptance of the boundaries of the new State, and (c) acceptance of all the provisions contained in the statehood bill. The new State will not be admitted to the Union if any of these three is turned down by the electorate.

*Land grants*

When Hawaii was annexed in 1898 the crown lands of the former monarchy and the Government lands became Federal lands. Through the years some of these lands have been set aside for special purposes and others have been exchanged for different lands. Those remaining

in unreserved Federal ownership are, for the most part, mountainous and of little value. The Territory has administered the public lands, except Federal reservations, for the United States since annexation and has collected the revenues and spent them for public purposes.

Section 5 of the bill provides that the State of Hawaii shall succeed to the title now held by the Territory to most of the remaining ceded lands, saving to the United States title to all lands set aside for public use under acts of Congress, Executive orders, or Presidential or gubernatorial proclamations. The section also provides that title to any public lands which are controlled by the United States under permit, license, or permission issued by the Territory of Hawaii and which may during the ensuing 5-year period be set aside for the use of the United States by congressional act or Presidential order shall remain in the United States. It also retains in effect the President's authority to restore lands to their previous status after admission. The use of and benefits from the granted lands will remain the same as they now are.

#### *Election of State and Federal officials*

As soon as possible after the enactment, the President is required to certify the fact to the Governor who will call an election of all State elective officers provided in the proposed State constitution and of two Senators and one Representative in Congress.

This additional Representative in Congress will cause a temporary increase in the overall membership of the House until the next apportionment, but the bill does not change the basis for apportionment or the permanent overall membership.

#### *Maritime matters*

Hawaii is on many trade routes to and from the Orient. Therefore, it has been a common port of call for American vessels in foreign trade. Such vessels are often granted certain Federal subsidies to better enable the American merchant marine to compete with foreign fleets. One of the conditions to grants of subsidies is that such vessels will not engage in domestic trade in competition with the nonsubsidized coastwise and intercoastal carriers. The protected routes granted to nonsubsidized vessels include trade between the continental United States and any American possession or Territory. The Merchant Marine Act, 1936, made an exception to this protective rule by allowing subsidized vessels to call at Hawaii while on a voyage in foreign trade, making an adjustment in subsidies to prevent improper competition. This type of shipping is an integral part of the important Hawaiian shipping industry. To change it would cause serious and unnecessary confusion.

The bill retains the right of such subsidized vessels to continue calling at Hawaii after statehood on the same conditions as now exist.

Section 18 of the bill also retains regulatory jurisdiction of water commerce between Hawaii and the mainland in the Federal Maritime Board. Without a special provision retaining jurisdiction, such jurisdiction would automatically fall to the Interstate Commerce Commission. The committee does not feel that the statehood bill is the place to confuse shipping procedures, authorities, and regulations.

#### *Aviation matters*

Hawaii presents a unique situation with respect to the impact of statehood on the Federal regulation of air transportation between the

main islands. This is because of the geographical structure of the Territory, the land areas being separated by substantial expanses of ocean which are not included in the territorial limits of Hawaii. Hence, most, if not all, of the interisland air transportation passes through airspace not a part of the Territory. Under the provisions of the Federal Aviation Act of 1958 and other applicable Federal legislation, the Civil Aeronautics Board exercises economic regulatory jurisdiction over carriers engaged in interstate air transportation, which is defined to include not only transportation between a place in a State and a place in any other State, but also transportation between places in the same State through the airspace over any place outside thereof. Consequently, with the admission of Hawaii as a State, interisland air transportation will remain subject to the economic controls provided by the Federal Aviation Act including other applicable Federal legislation, because that transportation, or most of it, while between places in the same State, will pass through airspace outside the State. In the other States, air transportation of this kind passing through airspace outside the State is of slight volume in comparison with air transportation merely between places in the same State. In the case of Hawaii, the reverse would be true. The committee wishes to make it clear that it believes the application of the provisions of the Federal Aviation Act and other applicable Federal legislation to the State of Hawaii should continue in accordance with the definition of interstate air transportation as contained in that act.

The attention of the Senate is invited to the memorandums on the subject of transportation in Hawaii submitted by the Department of the Interior which appear in the appendix (appendix F), and the testimony of Franklin Stone, General Counsel of the Civil Aeronautics Board, in the Senate hearings.

#### THE COMMITTEE AMENDMENTS

For the most part, the amendments adopted by the committee are clarifying or perfecting. In section 4 the last provision, forbidding the State of Hawaii to take any action that would unreasonably discriminate against any nonresident persons or corporations, has been deleted. This provision was not in the Alaska Statehood Act, and its omission in the case of Hawaii was recommended by the Department of Justice, which pointed out that the provision was merely expository of existing law. (See *Mullaney v. Anderson*, 342 U.S. 415.)

Section 5 is amended to clarify the situation with respect to Federal and Territorial lands in Hawaii. The changes have the approval of all Federal and State agencies concerned.

Section 6 is amended to provide that the new State shall have but one Representative until the apportionment of Congress following the 1960 census. This amendment was adopted by the House committee and the Senate committee decided to be guided by the wishes of the body in which the Representative would sit.

In section 15 the committee has written an amendment to provide that all Territorial laws enacted by Congress for Hawaii shall automatically terminate in 2 years from statehood unless appropriate State legislation has been enacted prior thereto. Such an amendment was recommended by the Bureau of the Budget. Its purpose is to

require the State to take action in areas properly of State responsibility within the cutoff period.

#### BACKGROUND OF LEGISLATION

The first Hawaii statehood bill was introduced in the 65th Congress in 1919. Hearings began 25 years ago with those on H.R. 3034, 74th Congress.

Since then, the House and Senate have held 22 additional hearings on the subject of statehood for Hawaii. The record on the question comprises more than 6,600 printed pages of testimony and exhibits. More than 850 witnesses have been heard in the Territory and in Washington. Seven of the hearings have been held in Hawaii (1935, 1937, 1946, 1948, 1954, and 1958). In addition, at least 12 reports have been made.

The question of admitting Hawaii to statehood has been longer considered and more thoroughly studied than any other statehood proposal that has ever come before Congress. Thirty-seven States have previously been admitted to the Union by action of Congress, yet in no single case has there been such a thoroughly careful study of the qualifications of the applicant as in the case of Hawaii.

Hawaii came under the American flag in 1898, with the adoption of Senate Joint Resolution 55, 55th Congress, sponsored by Senator Newlands, of Nevada (30 Stat. 750). This farsighted measure, after reciting the fact that the "Government of the Republic of Hawaii [had] in due form, signified its consent," proceeded to annex to the United States "the said Hawaiian Islands and their dependencies."

Based on the report of the Commission established by the Newlands resolution, organic legislation for Hawaii was enacted April 30, 1900 (31 Stat. 141; 48 U.S.C. 493), by which American citizenship was granted and the Constitution declared to "have the same force and effect within the said Territory as elsewhere in the United States."

Thus, in the language of the Supreme Court of the United States, Hawaii acquired the status of an "incorporated" Territory (182 U.S. 305), became "an integral part of the United States" (190 U.S. 197), and, as such, became "destined for admission as a State" after a "period of pupilage" as a Territory (289 U.S. 537).

Beginning in 1903 the Territory of Hawaii, through its legislature, has petitioned Congress for statehood on at least 17 different occasions. Since 1920, no fewer than 66 bills have been introduced in successive Congresses providing for statehood.

In June 1947, the House of Representatives passed legislation approving statehood for Hawaii by a vote of 196 to 133. This was the first time either House of the Congress had acted on a Hawaiian statehood measure. Although President Truman indicated that he would sign the bill, the Senate committee decided on further investigation.

In March 1950, the Hawaii statehood bill again passed the House of Representatives, this time by the overwhelming majority of 262 to 110. After public hearings and careful deliberation, the Senate Committee on Interior and Insular Affairs of the 81st Congress reported favorably on the measure in June 1950. However, the time element and impending legislation involving other matters of international concern kept the bill from reaching the floor of the Senate before Congress adjourned.

Before the 82d Congress was 5 months old, the Senate committee had repeated its endorsement of the Hawaii statehood bill, but again the reported Hawaii statehood bill was not brought up for debate and decision on its merits.

In the 83d Congress the House for the third time passed a Hawaii statehood bill. In the Senate, a bill for Alaska statehood was added to the Hawaii measure as a title II and the combined measure passed. The House failed to act on the joint bill, however.

In the 84th Congress, the House Interior Committee favorably reported Hawaii statehood, but the measure was recommitted. As a result, the Senate took no action, although hearings were held. In the 85th Congress, both the House and Senate committees favorably reported Hawaii statehood measures, but no action was taken in the Chamber of either House.

### BASIC PHYSICAL FACTS

#### *Geography*

The present Territory of Hawaii comprises a group of subtropical islands in the North Pacific Ocean. There are eight principal islands in the archipelago and a number of smaller ones. Honolulu, the capital city and center of population lies approximately 2,000 miles southwest of San Francisco, and thus the new State would be nearer to the west coast of the mainland than the west coast is to Washington and New York.

The area of the islands is 6,434 square miles or 4,119,227 acres. This is slightly larger than the combined area of Connecticut and Rhode Island. Of the total acreage, 317,012 acres are held by the Federal Government, 1,415,684 acres by the Territory of Hawaii, and 10,809 acres by the city and county governments. The remaining 2,373,722 acres are held in private ownership.

The climate is moderate throughout the year, with the subtropical heat tempered by the trade winds.

#### *Population*

Hawaii is possessed of great natural riches of soil and climate, as will be shown, but her greatest resource is her vigorous, enterprising people, nearly 600,000 in number, all but a small fraction of whom were born under the American flag, educated in Hawaii's excellent school system, and are thoroughly imbued with American principles and ideals.

Under date of January 14, 1959, Robert W. Burgess, Director of the Bureau of the Census, reported to the committee chairman that the civilian population of Hawaii numbered 578,000 as of July 1, 1958, and the total population for July 1, 1957, as 613,000. An accompanying Census Bureau bulletin showed that the civilian population as of July 1, 1958, had increased by 21.2 percent over the 1950 census.

Eighty-five percent of the population of Hawaii are native-born American citizens. As has been historically the fact in America, their racial backgrounds are diverse. The 1950 census shows the major groups contributing to the ethnological background of the total population are as follows: 23 percent Caucasian, 37 percent Japanese, 17 percent Hawaiian, and the remainder Filipino, Chinese, Korean, Puerto Rican, and others. In the past 50 years the proportion of residents of Japanese ancestry has decreased slightly while the pro-

portion of Caucasians has increased slightly. A complete analysis of the ancestry of Americans in Hawaii is included as an appendix (appendix E) to this report.

#### READINESS FOR STATEHOOD

The Constitution of the United States provides that new States may be admitted into the Union by the Congress, but it sets forth no specific requirements. However, a study of American history, with particular attention to the facts and circumstances surrounding the admission of each of the 37 States that have come into the Union since its founding, shows that the requirements have been—

- (1) That the inhabitants of the proposed new State are imbued with and sympathetic toward the principles of democracy as exemplified in the American form of government;
- (2) That a majority of the electorate desire statehood; and
- (3) That the proposed new State has sufficient population and resources to support State government and to provide its share of the cost of the Federal Government.

The committee is convinced that Hawaii has met each of these requirements, and is in all ways exceptionally well prepared for statehood.

#### *Americanism*

As to the first requirement, Hawaiians have been trained and steeped in American traditions and principles since the New England missionaries landed in the islands in 1820. The constitution adopted in 1840 was modeled after the Constitution of the United States. The people of Hawaii were the prime movers in the early attempts to bring about annexation. This historic direction toward American principles of democracy has continued up to today.

The constitution which was adopted by the people of Hawaii by a 3-to-1 majority is an admirable, thoroughly American document. The Territory has wisely and successfully operated a complete Territorial government, in conformity with the Constitution of the United States, for over half a century.

The loyalty and patriotism of the people of Hawaii has been proved beyond any doubt. Before World War II, the question was voiced in some quarters whether the inhabitants of Japanese ancestry would be loyal to the United States. The answer was dramatically recorded for everyone to see. During World War II American citizens of Japanese ancestry (Nisei) in Hawaii formed the all-Nisei 100th Infantry Battalion. Later, the 100th was integrated into the 442d Regimental Combat Team, an all-Nisei outfit composed of volunteers from Hawaii and the mainland of the United States. In connection with this volunteer combat team, the Army called for only 1,500 volunteers from Hawaii. In less than 3 days, more than 10,000 responded; in a week, more than 15,000 had volunteered.

Between them, the 442d and the 100th made history without parallel in American military annals. According to the record, they were awarded more medals and combat decorations for their size and length of service in the line than any other United States infantry unit in World War II or any previous war.

Fighting in Italy and France, the 100th and 442d became famed as the Purple Heart Regiment. They were in 7 major campaigns, suffering 9,486 casualties, or 314 percent of their original strength.

The unit received 18,143 individual decorations and medals and 7 Presidential distinguished unit citations.

The so-called Nisei served with equal distinction with combat intelligence troops in the Pacific war against their ancestral homeland. After the war thousands of Nisei were called upon to serve in the army of occupation in Japan, contributing in great measure to the success of the occupation and the promotion of democratic principles and general good will toward the United States.

Again, in the fighting in Korea, a much larger percentage of combat troops came from Hawaii than from any other area, and Hawaiian casualties were some 4½ times higher than those from any other area.

Not a single member of the Armed Forces from Hawaii defected, or was susceptible to Communist "brainwashing" as was unfortunately the case with 22 soldiers from other areas. It is perhaps significant, in view of some of the arguments being used against statehood, that many of the steadfast fighting men from Hawaii were members of the ILWU. Not one of these union members defected in any way.

If to be an American is to be willing to live and fight and die in the cause of democracy and freedom, if it is to develop, through industry and initiative, the resources of one's surroundings and within one's self, if it is to obey the laws made by and for the people and to participate in their making, if it is to give of one's self to civic and community development, then the people of Hawaii are beyond any question American in deed, thought, and word.

#### *Desire for statehood*

There can be no doubt of the desire of the nearly 600,000 American citizens in Hawaii for full participation in our national political life as a State. Since 1903, the legislature elected by the people of Hawaii have petitioned Congress for statehood again and again.

In 1940, in a territorywide plebiscite on the subject, the people of Hawaii voted 2 to 1 for statehood. They ratified the proposed State constitution by a margin of 3 to 1.

In the general election last year, a so-called Commonwealth Party was on the ballot. Its candidate for Delegate, the only territorywide office was able to poll only 2,500 votes out of a total of nearly 155,000 cast.

#### *Ability to support statehood*

The ability of the people of Hawaii to support a State government and to continue to pay their full share to the costs of the Federal Government cannot be reasonably questioned.

In fact, Hawaii's economy alone, if we consider this wholly apart from all its other notable qualifications, would entitle Hawaii to take its place among us as a full-fledged and substantial member of our family of States.

Hawaii's resources are implanted deeply in its lands and industries. These the Territory has managed wisely over the past century to build a firm, self-sustaining, and enduring economy. Today, Hawaii's real property assessments, the goods produced, and its annual business turnover exceed greatly those of any of the 30 Territories heretofore admitted to statehood.

Hawaii's marked economic progress is vividly illustrated in the United States Department of Commerce report entitled "Income of Hawaii." This publication reports that from 1939 to 1952 Hawaii's



economy outpaced that of the Nation. In this span of 14 years, the total of all personal incomes in Hawaii almost quadrupled. The totals were \$218 million in 1938 and \$864 million in 1952.

In 1958, Hawaii's personal income totaled \$1.150 billion. This was the third time Hawaii's personal income exceeded \$1 billion during the postwar period. Historically, Hawaii's per capita personal income has tended to approximate that of the mainland. The personal income of \$1.150 billion in 1958 received by residents in Hawaii was equivalent to \$1,876 per person for Hawaii's total population of 613,000. The 1958 per capita income exceeded that of 26 States, as has been the case since 1955.

Territorial tax revenues from all sources for the fiscal year ending June 30, 1958, amounted to \$122,384,550.

**Agriculture.**—Hawaii's economy is a stable economy, founded on agriculture. The Senate Interior and Insular Affairs Committee reported in 1955:

Nowhere in the world have scientific methods been applied to agriculture on the scale that prevails in the sugar and pineapple production of Hawaii.

This is still true today.

In 1957, Hawaii's 27 independent sugar plantations produced over 1 million tons of raw sugar on their 221,000 acres, with a total value of \$146 million. Payrolls of the sugar plantations in 1957 were approximately \$56 million for some 17,000 year-round employees. The daily wage, including fringe benefits, is estimated at \$14.80 per day, the Nation's and the world's highest agricultural wage.

The pineapple crop provides the second largest industry in the islands. For fiscal year ending May 31, 1957, the nine pineapple companies, located on five islands of the Hawaiian group, produced 30,787,208 cases of pineapple and juice, valued at \$110 million. The pineapple industry provides employment for about 22,000 during the peak summer canning season and year-round employment for about 9,000 persons. The industry's annual payroll is estimated at \$36 million.

**Tourism and hotels.**—Hawaii's pleasant climate, scenic beauty, and recreational facilities are also a major asset. The tourist industry expands annually—from a \$6-million-a-year industry in 1946 to \$65 million in 1956. A record total of 197,850 visitors, including transients, came to Hawaii during 1958, spending there \$82,750,000. Tourist expenditures are expected to top \$100 million by 1960. Expenditures by carriers and crews attributable to the visitor industry added \$8,800,000 to this total. Nor do these figures take into account the millions of dollars spent by the airlines and steamship companies serving the Territory, or the spending of service personnel.

Another record-breaking year for isle tourism is predicted for 1959 when it is estimated that \$85 million in new dollars will be derived from more than 200,000 visitors.

The Hawaii Visitors' Bureau reports that roughly 15 percent more seats will be available on flights to Hawaii in 1959 than were available in 1958. Another big increase in capacities will come with the arrival of jets in late 1959 or early 1960. This introduction of faster service will mean an increase in the number of visitors coming to Hawaii from the west coast, the Central States, and the industrialized

East. Also several new ships are scheduled for the Hawaii run, and by 1960 at least two additional 2,000-passenger ships will be making regular calls at Honolulu.

In 1945, the Pacific war came to an end and Hawaii set about refurbishing its facilities after 4 years of combat and defense status. New hotels came slowly. In 1954, four major beach hotels and several smaller ones were erected. This amounted to some 1,000 new hotel rooms. By 1956, there were more than 4,000 rooms at Waikiki. Early 1958 found 450 more hotel rooms in Waikiki than early 1957. In addition, proposed future developments of hotel accommodations have been discussed for the Waikiki area and, when realized, would account for the addition of 1,500 more rooms. Two major hotel chains are currently interested in extending their interests to the Hawaiian Islands.

These expenditures, running into the millions, bolster the Hawaii Visitors' Bureau's optimistic view of the tourist trade as the greatest single source of immediately available revenue, and a potential rival of the sugar industry for first place in the islands' economy.

*National defense expenditures.*—The strategic importance of Hawaii to the defense of America is vital. The recent enlargement of commands and the movement of Armed Forces from forward areas to Oahu has made Hawaii an increasingly important operational center for the entire Pacific area. Hawaii is a bastion of U.S. military strength in the Pacific, the hub of which is the Pearl Harbor Naval Base, headquarters of the Pacific's unified military command.

The Army has six major posts in Hawaii. Schofield Barracks is one of the largest military posts in area in the world. Headquarters for the commanding general, U.S. Army Forces, Pacific, are at Fort Shafter, in Honolulu.

The Military Establishment there represents today, in the interests of national defense, the islands' largest single source of income. The money spent by the Federal Government, and the goods and services purchased by the Armed Forces, are considered Hawaii's most important "invisible export." This in 1958 amounted to over \$300 million.

*Payments into Federal Treasury.*—Reflecting the healthy state of their island economy were the tax totals paid last year by residents of Hawaii, more than \$289 million. Of this sum, \$166,300,000 came into the Federal Treasury on account of personal and corporate income taxes. This is more than was paid in by 10 of our mainland States (Wyoming, Vermont, North Dakota, South Dakota, Nevada, Idaho, Montana, New Mexico, New Hampshire, and Alaska).

Although Hawaii has no vote in the Congress levying such taxes, it pays consistently into the Federal Treasury a larger amount than the Federal Government has spent upon the Territory, not including national defense.

Since its incorporation into the United States, Hawaii has paid into the national coffers the impressive sum of \$2,354 millions.

*The Hawaii labor force.*—Employment in the Territory has reached record totals. The employed labor force increased from 206,000 in 1957 to 210,000 in 1958 and the number of unemployed decreased to 1.6 percent of labor force over the same period. Wages, salaries, and dividends paid to residents of Hawaii during 1957 amounted to over \$700 million.

*Land and building valuations.*—The steady growth of the population of Hawaii since annexation provides another cardinal statistic which further depicts the substance and soundness of her application for statehood. As of January 1, 1957, the gross assessed valuation of real property aggregated \$1,933,325,220. This exceeds by far the assessed valuation of real property in any of the 30 Territories upon their entrance into the Union as States, and represents, almost, the combined values of real property in all States admitted into the Union since 1850 at the time of their admission.

*Important mineral discovery.*—The uncovering in Hawaii of high-grade deposits of bauxite—the raw material for aluminum—may make this country independent of foreign sources for this strategic mineral during the next century. The island of Hawaii alone contains more than 300 square miles of rich ore, enough to supply the United States for 100 years. This is the gist of a report by Dr. Paul L. Magill, chemist and senior scientist of Stanford Research Associates. His report reveals the Territory's reserves of bauxite ore as 60 million tons, 10 times the known mainland reserve.

#### REASONS FOR STATEHOOD

The committee is convinced that the grant of statehood will be in the best interest of the people of the entire Nation as well as the half-million Americans who now reside in the Territory that has been an incorporated part of the United States for 58 years.

In considering the benefits to the Nation of the grant of statehood to any particular Territory, it has never been possible at the time of admission to prove in precise mathematical terms the exact extent to which the residents of the older States would be benefited. The specific advantages accruing to the Federal Government from the admission of any one of the 37 States admitted since the formation of the Union could not have been set forth in concrete terms to the Congress considering admission.

Yet our dramatic history and the greatness of our Nation today prove conclusively that acceptance of new States has benefited the older areas as much as it has the citizens of the new State. Ever since enactment of the Northwest Ordinance of 1787, our people have recognized that our Nation cannot grow strong and prosperous except on a basis of full political equality for every incorporated area the people of which are willing and able to share the burdens of statehood.

The citizens of Hawaii are in precisely the same legal and political status today as were the residents of the Northwest Territory when they were admitted to full citizenship. First, they are residents of an incorporated Territory, one to which the Constitution was extended by the 55th Congress more than a half century ago, thus incorporating it into the Union. Second, the population of the Territory is sufficiently large and its resources sufficiently developed, beyond question, to support statehood. Third, its people are thoroughly imbued with American traditions and ideals and earnestly desire statehood.

A major difference, however, is that Hawaii today has a larger population than 5 of our States (Vermont, Delaware, Wyoming, Nevada, and Alaska), and that with approximately 600,000 people its population is larger than that of any State at the time it entered the Union except Oklahoma. Also, Hawaii is the richest Territory

in the point of economic development ever to enter the Union—in the fiscal year 1958, Hawaii paid more than \$166 million in Federal taxes, a sum greater than that paid by many of the present States.

The admission of Hawaii would constitute a singular achievement in diplomacy. What could be better proof than this to the critical Far Eastern area that the United States is still the land of promise for people of all backgrounds? The Hawaiian-Americans of Japanese and other oriental backgrounds will be the living example that we live by principles of freedom and self-determination for all people. These thoroughly American people of oriental ancestral background can be a catalyst of untold value in accomplishing understanding where understanding is most needed.

The American people believe that statehood for Hawaii is in the best interest of the Nation. Public polls taken over the last 10 years indicate that during that period the public has favored statehood by a majority of 3 to 1 or more. The latest reported poll indicates that the present favorable majority is more than 8 to 1.

The platforms of both major political parties call for immediate statehood as they have for some years past, and President Dwight D. Eisenhower has strongly urged it throughout his administration as did former President Harry S. Truman.

Admission of Hawaii to statehood would give it full and equal participation in the American system of government. It would accord the half-million American citizens who are also citizens of Hawaii the following specific rights which they do not have under the present Territorial system of government:

1. The right to voting representation in both the Senate and the House of Representatives;
2. The right to vote for the President and Vice President of the United States;
3. The right to choose their own Governor and to carry on functions of government by their own elected officials instead of Federal administrators,
4. The right to determine the extent of the powers to be exercised by their own legislature;
5. The right to have local justice administered by judges selected under local authority rather than by Federal appointees;
6. The right to freedom from overlapping of Federal and local authority; and
7. The right to a voice in any proposed amendment of the Federal Constitution, as well as on the taxes which they must pay.

Any concept of permanent inferiority for the residents of any American Territory who have qualified for statehood by every historic and economic standard, and the vast majority of whom fervently desire it, is foreign to the American ideal. On the basis of principles established 170 years ago, our people heretofore always have recognized the right of an incorporated Territory to receive statehood as soon as it demonstrates conclusively that it can meet the requirements for statehood. Hawaii, with its large, thoroughly American population, its economic development, the splendid war record of its people in fighting and dying for American ideals in both Europe and Asia, and the desire of its people for statehood, fits perfectly into the historic pattern under which our Nation has grown great.

## ARGUMENTS AGAINST STATEHOOD

In the past the arguments against statehood have fallen into the following general pattern:

(1) That Communists, through control of the International Longshoremen's and Warehousemen's Union (ILWU), have a stranglehold on the economy of the Hawaiian Islands, and that they have such political power that communism is a threat to the political stability of the Territory; officials would continue to be subject to Communist pressure under statehood;

(2) That the so-called Caucasians are outnumbered by groups of different ancestry;

(3) That the Territory is noncontiguous and hence outside the pattern of the present Union of States;

(4) That two Senators from Hawaii would give the new State representation in Congress disproportionate to its population in comparison with other States.

*Communist control.*—The U.S. Department of Justice, which is charged with responsibility over investigation, prosecution, and control of Communist subversion favors enactment of the bill. The present position of the Department, with all of the resources of the FBI and other investigative agencies at its disposal, is unchanged from previous years. On February 4 of this year the Attorney General of the United States wrote to the committee as follows:

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., February 4, 1959.*

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR: In your letter of January 14, 1959, to the Attorney General you request to be advised whether or not this Department has in its possession evidence that would substantiate allegations "that Communist power and influence in Hawaii is such that the Senators and Congressmen (elected there) necessarily would be subject to Communist influence." Your letter of January 19, 1959, to the Attorney General also relates to the same problem.

Information in our possession would not substantiate the allegation that the Senators or Congressmen elected in Hawaii would be subject to such influence. Moreover, you will recall that in my letter to you of July 9, 1958, concerning statehood for Hawaii, I stated that the Department's position in support of statehood was firm and unequivocal. Our position remains unchanged.

The comments you requested concerning the provisions of your bill for statehood for Hawaii are in the process of preparation and will be forwarded to you upon their completion.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

The Department of Defense has likewise reported favorably on the measure, and witnesses have testified in support in previous years. In the House committee hearings, the Honorable Francis E. Walter, chairman of the House Committee on Un-American Activities, stated

he was of the opinion that, given the machinery provided in the present admission act, the people of Hawaii under statehood could manage the security problems created by Communist activities better than under existing conditions.

The Korean war served as proof of the loyalty of Hawaiian-Americans when fighting against a Communist enemy. In connection with Hawaiian participation in that conflict Gen. J. Lawton Collins wrote to the late Delegate from Hawaii, Hon. Joseph R. Farrington:

The relatively high casualty rate suffered by Hawaii soldiers can be attributed to the large proportion of Hawaii soldiers in the 24th Infantry Division, which includes the 5th Regimental Combat Team, and the 25th Division. At the time of its deployment to the Far East Command, almost 50 percent were Hawaii-born soldiers. I doubt that any other unit of the Regular Army can be associated with a particular geographical area as closely as the 5th Regimental Combat Team is associated with Hawaii. There were also substantial percentages of Hawaii soldiers in the 24th and 25th Divisions which were already in Japan and which were, of course, the first committed in Korea. All enlisted personnel of these units, when the conflict started, were volunteers. The heavy fighting that they have encountered and the regrettably high casualty rates sustained are, of course, well known throughout the United States.

The splendid part played by Hawaii in the Korean war is entirely in keeping with the distinguished record it established in World War II.

The record in the Korean war can be summarized as follows:

Not one case of cowardice by a Hawaii soldier in the face of the Communist enemy was recorded in Korea.

Not one case of successful Red "brainwashing" of any Hawaii soldier was recorded.

Not one case of a Hawaii soldier's desertion to the enemy was recorded.

Of the 22 American servicemen who refused repatriation after the Korean war in favor of remaining with the Communists \* \* \* there was not one from Hawaii.

There were 426 Hawaii boys killed in Korea action, a death toll  $4\frac{1}{2}$  times the killed-in-action average for the rest of the United States. There were 1,352 total battle casualties from Hawaii, a rate three times as great as the casualty rate per capita for the rest of the Nation.

The committee is convinced, and there is no evidence to the contrary, that a grant of statehood will not in any way decrease the ability of the Nation or the people of Hawaii to combat the malignancy of communism. On the contrary, the people of Hawaii have taken unprecedented steps to protect themselves and have shown superior recognition of the menace. Therefore, the committee believes that statehood will provide a suitable and effective political structure through which the people of Hawaii can and will hasten the destruction of the last vestiges of Communist influence.

*The people of Hawaii*

The second objection, that of racial heterogeneity in the Territory, appears to be based on reasons which for the most part rarely are expressed frankly and openly. With the entire free world looking to the United States for moral and spiritual leadership, the committee does not believe that the 86th Congress will deny full political equality to a group of its own citizens who have met every historic test of qualifying for statehood merely because of the ancestry of a part of that group. Hawaii has been thoroughly American in word, thought, and deed for a half century and longer. Its American institutions and school systems have produced American citizens worthy to stand on a basis of full equality with the best citizens of any State in the Union.

The devotion to American ideals of the sons of Hawaii has been indelibly written in the pages of world history on the battlefields of Europe and, more recently, in Korea. In civic, economic, and cultural attainments, also, the people of Hawaii have created a community to stand on a basis of full political equality with every other American community.

*Noncontiguity*

The argument that Hawaii should forever be denied statehood because their islands are not physically contiguous by land to the continental United States is in our judgment fallacious. Physical contiguity is not, and never in all our history has ever been, one of the requirements for statehood. It should play no part in consideration of this measure. Hawaii has for many decades been completely incorporated within the American system in every respect despite its lack of land contiguity. It is within the American judicial, customs, and internal revenue systems. Its churches, fraternities, veterans' and other organizations, its business groups and banking systems, are closely linked with their counterparts on the mainland. In terms of modern communication and transportation Hawaii is today far closer to Washington than were many of the Original Thirteen States when the Constitution was adopted. In short, Hawaii is an integral part of the American scene.

With modern methods of transportation and communication—air, sea, radio, and telephone—the argument that Hawaii is noncontiguous can carry little weight. Hawaii is in fact contiguous to the mainland for all practical purposes. The committee believes that the Union of States that is the United States is more than a mere geographic arrangement. It is a union that comes of a common loyalty and a common purpose. In these respects, Hawaii is, in fact, contiguous.

As an example from the past, when California was admitted to the Union a trip to Washington meant 13,355 nautical miles around Cape Horn or crossing the vast, hostile Indian country of the western plains. When the Panama Canal was opened the voyage by water from Washington to San Francisco was cut to twice the distance from Hawaii to San Francisco.

*Representation in Congress*

The last argument, which asserts that two Senators would dilute the representation of large States, seems to the committee to have been wisely and finally settled 172 years ago by the Founding Fathers. For the information of the House it should be noted that Hawaii has a larger population than six of the present States, and, when

admitted, will join five other States which have two Senators and one Representative in Congress.

Therefore, the committee finds no merit in any of the arguments against statehood, and recommends that statehood be granted.

### CONCLUSION

The committee realizes that the Congress is not bound by court decisions or by congressional precedent; the final decision lies in the sound discretion of the 86th Congress. However, every court utterance on the subject and every action of other Congresses considering other States lead to the inevitable conclusion that the wisdom of the ages is on the side of statehood.

More than one-half million Americans in Hawaii are asking for the responsibilities that go with the kind of government which we know to be best for the Nation and best for individual Americans. The committee believes that Hawaii has proved all qualities that the Nation traditionally demands.

Now is the time to prove to all the world that self-determination applies in the United States just as it must apply wherever in the world human nature can be free to follow its course.

### SECTIONAL ANALYSIS

A section-by-section analysis of S. 50, as reported, is set forth below. Amendments adopted by the committee are included in the analysis.

### GENERAL PROVISIONS

Section 1 declares that, upon issuance of the proclamation required by the act, the State of Hawaii is admitted into the Union on an equal footing with other States, subject to the provisions of the act; finds that the constitution adopted by the people of Hawaii in the election held November 7, 1950, conforms with the Constitution of the United States and the principles of the Declaration of Independence; and confirms the constitution so adopted.

Section 2 defines the area which will comprise the State of Hawaii. It includes the islands, appurtenant reefs, and territorial waters included in the Territory of Hawaii, except the atoll known as Palmyra Island which, together with its reefs and territorial waters, is excluded from the State. The State will not include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, which islands are not now included within the Territory of Hawaii.

Section 3 requires that the constitution of the State of Hawaii shall always be republican in form and not be repugnant to the Constitution of the United States or the Declaration of Independence.

Section 4 requires the State of Hawaii to adopt the Hawaiian Homes Commission Act, 1920, as a provision of its constitution and provides that it shall not be changed in its basic provisions except with the consent of the United States. Article XI of the constitution of Hawaii conforms to this requirement. The Hawaiian Homes Commission Act is a law which set aside certain lands in order to provide for the welfare of native Hawaiians. While the new State will be able to make changes in the administration of the act without the



consent of Congress, it will not be authorized, without such consent, to impair by legislation or constitutional amendment the funds set up under it or to disturb in other ways its substantive provisions to the detriment of the intended beneficiaries.

#### LAND GRANTS

Section 5 concerns property grants to the new State. Subsection (a) confirms in the State the Territory's title to certain lands and other property. Subsection (b) grants to the State title to Federal public lands and other Federal public property in Hawaii held by the United States at the time of Hawaii's admission into the Union. Both of these subsections, however, are subject to the qualification expressed in subsection (c) the effect of which is to reserve to the United States any lands or other properties which are set aside for Federal use by act of Congress or by order of the President or the Governor of Hawaii. Subsection (b) is also qualified by subsection (d) which provides that any public lands or other public property that, at the time of admission, is controlled by the United States under permission from the Territory may be set aside by Congress or by Executive order within 5 years from the date of admission and that, if this is done, these lands and property shall be the property of the United States. Subsection (e) provides that each Federal agency having control of land or property retained under subsections (c) and (d) shall review its needs and report to the President within 5 years after admission of the new State and that the President shall turn over to the State that which is not needed by the Federal Government.

The effect of subsection (f) is to create a trust of the public lands granted to the State and of any proceeds derived from them, the trust to be administered for the support of educational institutions, the welfare of native Hawaiians, the development of farm and home ownership, public improvements, and the provision of land for public use. The language employed with respect to educational institutions supported in whole or in part from this land grant is the same as that used in earlier acts for the admission of States to the Union. It requires that the educational institutions remain under public control and be not sectarian or denominational. The words used are in the nature of a limitation and not a grant and will not interfere with the operation of the Federal Constitution.

Subsection (g) defines the terms "lands and other properties" and "public lands and other public property." Subsection (h) repeals laws of the United States reserving its right to the free use of property which is granted to the State by the act. Subsection (i) makes it clear that the Submerged Lands Act and the Outer Continental Shelf Lands Act will extend to the new State.

#### PROCEDURE FOR ADMITTING THE STATE OF HAWAII INTO THE UNION

Section 6 and the following section establish the machinery for admitting the State of Hawaii into the Union. Section 6 requires the President to certify the enactment of this act to the Governor of Hawaii. The Governor must issue his proclamation for the election of all officers provided for by the State constitution. The officers to

be elected must include two Senators and one Representative in Congress.

Section 7(a) provides details concerning the election mentioned above.

The qualifications of voters and the manner of certifying the results of the elections are defined.

Subsection 7(b) requires that the following three propositions be submitted to the voters for adoption or rejection:

(1) Shall Hawaii immediately be admitted into the Union as a State?

(2) The boundaries of the State of Hawaii shall be as prescribed in the act of Congress approved \_\_\_\_\_, (Date of approval of this act) and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

(3) All provisions of the act of Congress approved \_\_\_\_\_ (Date of approval of this act) reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii, are consented to fully by said State and its people.

If the propositions are adopted by the people the State constitution will be deemed amended to include each of such propositions. If the two propositions are not adopted by a majority of the voters the act shall "cease to be effective."

The act does not designate a date for the election at which such propositions must be submitted to the people; however, the proposed new State cannot be admitted into the Union unless and until the election has been held and both propositions adopted.

Subsection 7(c) provides that upon the finding by the President that the propositions previously mentioned have been duly adopted, and upon certification of the returns of the election described in section 7 of the act, the President shall issue his proclamation announcing the results of the election and the State of Hawaii shall thereupon be deemed admitted into the Union.

The subsection also provides that Territorial officers, including the Delegate in Congress, shall continue in their offices until the new State is admitted. Upon the President's proclamation the officers newly elected will assume their duties under the authority of the State. When the election of the Senators and Representatives in Congress has been duly certified those officers will be entitled to be seated in Congress.

Section 8 provides that the new State shall be entitled to one Representative in Congress until the time of the next apportionment. Such Representative will cause a temporary increase in the overall membership of the House of Representatives; however, the act shall neither increase nor decrease the permanent membership nor affect the basis of apportionment in the House of Representatives.

#### THE JUDICIAL SYSTEM

Section 9 provides for the establishment of a U.S. district court with powers derived from article III, section 1, of the Constitution of the

United States. The existing U.S. District Court for the District of Hawaii, which is hereinafter referred to as the "Territorial court," is converted into a constitutional court by changing the source of judicial authority, terminating the powers of Territorial court judges, and appointing two judges for the new court.

By existing law, the judges now sitting in the Territorial court are appointed for terms of 6 years.

Subsection 9(b) repeals the provision of the Judicial Code establishing eligibility for judges of the Territorial court.

Subsection 9(c) repeals the statutory direction that judges of the Territorial court shall hold office for a term of 6 years.

Therefore, the judges of the Territorial court now hold office pursuant to statutory authority which statutory authority is repealed by this act; and the judges in office when the act takes effect are removed.

Section 10 removes the Territorial court in Hawaii from the purview of a provision of existing law which defines the term "court of the United States." The effect of the section is to place the new Federal court in Hawaii in the same status as other Federal district courts in the United States.

Section 11 makes a number of technical changes in the Judicial Code. The changes are as follows, all of which serve to place the State of Hawaii in equal status with other States:

(a) Repeals a provision of existing law setting special eligibility requirements for U.S. attorneys for the District of Hawaii;

(b) Deletes a provision of existing law which requires a different term of office for U.S. attorneys in Hawaii than for U.S. attorneys elsewhere;

(c) Deletes a provision of existing law which requires a different term of office for U.S. marshals in Hawaii than for U.S. marshals elsewhere; and

(d) Repeals a provision of existing law setting special eligibility requirements for U.S. marshals for the district of Hawaii.

Section 12 provides for the continuity of legal actions notwithstanding the admission of the State of Hawaii into the Union and defines the successor courts according to the nature of pending matters. It should be noted that there are now in existence in Hawaii two separate court systems, one of which handles Federal matters while the other handles Territorial matters. Therefore, the legal business can be continued in the succeeding courts without the necessity of dividing and transferring business which is now handled by a particular court. In short, the courts established on admission of the State into the Union are parallel in function to the existing courts.

Section 13 insures that rights of appeal will not be disturbed by admission of the State into the Union.

Section 14 makes a number of changes in the Judicial Code. The effect of the changes, all of which serve to place the State of Hawaii in equal status with other States, is as follows:

(a) Removes a provision which now gives litigants in any court of record of Hawaii certain rights of direct appeal to the Supreme Court of the United States;

(b) Removes the Territorial Supreme Court of Hawaii from the purview of a special provision of existing law allowing appeals in certain cases to the U.S. Court of Appeals for the Ninth Circuit;

(c) Repeals a provision of existing law which makes special provisions for appeals from the Territorial Supreme Court of Hawaii;

(d) Excludes the Territorial court from a provision authorizing pensions to judges in Territories and possessions, but saves the rights of judges which may have accrued under the provision;

(e) Repeals provisions of existing law setting salaries for the Governor, secretary, and judges of the Territory of Hawaii;

(f) Repeals a provision of law which applies to the Territorial courts of Hawaii the usual rules on removal of lawsuits;

(g) Removes the Territorial supreme court from the purview of a provision of existing law relating to promulgation of rules of criminal procedure;

(h) Removes the Territorial supreme court from the purview of a provision of existing law relating to promulgation of rules on procedure after a verdict in criminal cases;

(i) Includes Palmyra Island within the Hawaii Federal judicial district; and

(j) Extends the civil and criminal jurisdiction of the new U.S. District Court for the District of Hawaii to Palmyra Island.

Subsections 14(i) and 14 (j) do not and are not intended to include Palmyra Island within the State of Hawaii. The amendments only provide a Federal forum for the island.

Section 15 directs that all Territorial laws and all United States laws will continue in effect for a period in any event not to exceed 2 years after the admission of the State of Hawaii to the Union, except as they are changed by the act or may properly be changed by State law.

The term "Territorial laws" is defined by a clarifying amendment to include laws of the United States which are enacted solely under the authority of the United States to provide for the government of Hawaii prior to statehood.

#### JURISDICTION OVER CERTAIN EXISTING FEDERAL RESERVATIONS

Section 16, subsection (a), retains exclusive jurisdiction in the United States over Hawaii National Park, subject to the right of the State to serve process and impose taxes on persons and private property within the park and to the exercise of voting rights by residents within the park. Subsection (b) reserves to Congress the right to exercise its power of exclusive legislation over lands which, immediately prior to admission of Hawaii into the Union are owned or controlled by the United States and held for defense or Coast Guard purposes. The State is authorized, however, to serve process on these lands and, until Congress acts to exercise its reserved power, to exercise all of its other usual functions in the area. The Federal power of exclusive legislation expires when the area ceases to be used for defense or Coast Guard purposes. Notwithstanding other provisions of this subsection, the United States will have sole and exclusive jurisdiction over any military installations that are determined to be critical areas by the President or the Secretary of Defense. The term "defense purposes" is used in the bill to cover military, naval, and Air Force purposes.

## MISCELLANEOUS PROVISIONS

Section 17 includes the State of Hawaii within the Federal Reserve System.

Section 18 concerns maritime matters. Subsection (a) continues the present jurisdiction of the Federal Maritime Board over water transportation to and from the State of Hawaii. Subsection (b) makes three minor changes in the Merchant Marine Act. That act provides that ships which receive operating or construction subsidies from the United States may call at island territories on voyages in foreign trade. Under the existing law such ships do call at Hawaii and it is intended that such calls may continue without prejudice to the carriers' subsidies.

Section 19 provides that the act shall not affect the nationality of any person.

Section 20 makes minor changes in the Immigration and Nationality Act to conform it to the new status of Hawaii. Subsection (a) deletes a specific reference to the territory from the definition of "State" in the Immigration and Nationality Act; subsection (b) removes Hawaii from the coverage of a section of the act which presently includes Hawaii as one of the Territories to which are applied certain standards for denying aliens the privilege of admission into the remainder of the United States; subsection (c) deletes from a section of the act conferring jurisdiction over naturalization proceedings the present reference to the territorial court. Subsection (d) provides that nothing contained in the Hawaii Admission Act shall affect a provision of the Immigration and Nationality Act declaring that persons born in Hawaii in 1898 or later and persons who were citizens of Hawaii in 1898 are citizens of the United States.

Section 21 modifies section 3(b) of the act of September 7, 1957, which deals with guaranteeing of loans for air feeder lines and similar matters, by substituting "State of Hawaii" for "Territory of Hawaii."

Section 22 is a standard separability provision declaring that a determination that any portion of the act or its application in any particular circumstance is invalid shall not affect the remaining portions of the act or its applications in other circumstances.

Section 23 is a standard provision repealing all acts in conflict with the present act.

## EXECUTIVE AGENCY REPORTS

S. 50 was submitted to all of the executive agencies concerned with statehood for Hawaii. All have reported on the measure favorably. Their reports are set forth below:

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., February 4, 1959.*

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR: In your letter of January 14, 1959, to the Attorney General you request to be advised whether or not this Department has in its possession evidence that would substantiate allegations "that Communist power and influence in Hawaii is such that the Senators and Congressmen (elected there) necessarily would be subject

to Communist influence." Your letter of January 19, 1959, to the Attorney General also relates to the same problem.

Information in our possession would not substantiate the allegation that Senators or Congressmen elected in Hawaii would be subject to such influence. Moreover, you will recall that in my letter to you of July 9, 1958, concerning statehood for Hawaii, I stated that the Department's position in support of statehood was firm and unequivocal. Our position remains unchanged.

The comments you requested concerning the provisions of your bill for statehood for Hawaii are in the process of preparation and will be forwarded to you upon their completion.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

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U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
*Washington, D.C., July 9, 1958.*

Hon. JAMES E. MURRAY,  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: Yesterday the Department received word that you were under the impression that your letter of January 13 addressed to the Attorney General had not been answered. I am writing because I am afraid that your files may not show that in response to your letter, Mr. J. Walter Yeagley of this Department did communicate with Mr. Stewart French, counsel to the Committee on Interior and Insular Affairs, as your letter requested. As Mr. French further confirmed yesterday, it was our understanding that we had given you all the information you required.

The Department's position in support of Hawaiian statehood is, of course, firm and unequivocal. It is expressly set forth in Mr. Rogers's letter to you, dated April 8, 1957. In that letter Mr. Rogers wrote:

"The Department of Justice favors the enactment of legislation to grant statehood to Hawaii as recommended by the President in his budget message for the fiscal year ending June 30, 1958. \* \* \*"

Insofar as claims with respect to communism are concerned, the matter was discussed by Mr. Rogers in a letter to Senator Jackson, dated March 28, 1957, which was specifically called to Mr. French's attention by Mr. Yeagley last February.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

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U.S. DEPARTMENT OF JUSTICE,  
*Washington, D.C., March 28, 1957.*

Hon. HENRY M. JACKSON,  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: This refers to your letter of January 17, 1957, in which you requested the views of the Department of Justice with respect to the legislation proposing statehood for Alaska and Hawaii and in which you set forth certain specific questions relating to the subject of communism in Hawaii, and to your subsequent letter of

March 13, 1957, in which you request the testimony of an official of the Department with respect to the subject of communism in Hawaii.

The number of Communist Party members in Hawaii is not large. On January 13, 1954, the Attorney General advised Senator Hugh Butler of your committee that the number of known members of the Communist Party appeared to be fewer at that time than in 1950. Since then there has been no significant change in the number of party members.

As you know, of course, the threat of Communist subversion can never be judged solely by actual numerical strength of the Communist Party. It is rare in the history of the world that Communists have ever obtained power or influence through the electoral process. The serious threat of communism in Hawaii, as elsewhere in this country, is through infiltration into those fields of activity which have an important bearing upon the political and economic life of the Nation and the States. Consideration must be given to the extent of influence and control Communists, Communist sympathizers and their associates may be able to exert particularly through the International Longshoremen's and Warehousemen's Union in the islands. I would think that members of the Senate Internal Security Subcommittee of the Senate Judiciary Committee who were recently in Hawaii investigating these matters from November 30 to December 6, 1956, could furnish you with very helpful information along these lines. You will recall, of course, that the ILWU was expelled in May of 1950 from the Congress of Industrial Organizations on the ground that the ILWU consistently followed the policies of the Communist Party.

In considering the question of statehood for Hawaii I can readily appreciate your desire to study the present extent of Communist influence and control as well as the possible effect in the future the granting of statehood might have upon the Communist threat in the islands. In this regard the principal Federal laws dealing with internal security matters which have been telling legal weapons against Communist infiltration are our criminal laws relating to espionage, sabotage, treason, the Smith Act, and such laws as the Internal Security Act of 1950 and the Communist Control Act of 1954. These statutes apply with equal force to the Territories as they do to the respective States and would be as useful in the event Hawaii were to become a State as they are under the present Territorial arrangement. For example, Jack Hall, leader of the ILWU in the islands, and 6 other Communists were convicted in June of 1953 for violation of the same Smith Act as was used to convict the 11 top leaders of the Communist Party of the U.S.A. in Judge Medina's court in New York in 1949. The seven convicted in Hawaii are presently out on bond pending the outcome of their appeal to the ninth circuit. I will be glad to make available for the inspection of your committee a copy of the transcript of the testimony in that case.

In your January 17 letter you specifically asked whether recent events such as refusal of certain persons to testify before the Senate Internal Security Committee have been of significant value in weakening the strength of communism in Hawaii. The exposure of Communist activities in Hawaii by that committee was undoubtedly most helpful but we cannot, of course, measure exactly the extent to

which Communist influence in the islands may have been lessened by those hearings.

I trust the foregoing will be of assistance to your committee. Inasmuch as the present and future investigative programs of this Department might be jeopardized by disclosure of information obtained from confidential sources and in view of the impropriety of a departmental official commenting on pending matters whether under investigation, in the course of trial, or on appeal, I believe that there is little that could be added to the foregoing through testimony by an official of this Department. I will be happy to talk to you about this matter at your convenience.

Best personal regards.

Sincerely,

WILLIAM P. ROGERS,  
*Deputy Attorney General.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., February 4, 1959.*

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

DEAR SENATOR MURRAY: This will reply to your request for the views of this Department on S. 50, providing for the admission of the Territory of Hawaii into the Union.

We urge the enactment of Hawaii admission legislation. We shall be glad to assist the committee in any way it may desire in connection with the technical language of the bill.

Now that the admission of Alaska as a State in the Union is a fact, we believe that the prompt admission of Hawaii, our only remaining incorporated Territory, will represent a timely addition to this Nation's complement of States. Furthermore, the admission of Hawaii will fulfill a solemn obligation on the part of the United States to the people of Hawaii—first expressed in the treaty of annexation in 1898.

The bill provides for the admission of Hawaii into the Union as a State, and prescribes the procedure to be followed for that purpose. It properly recognizes the actions already taken by the government and the people of the Territory to form and adopt a State constitution, and ratifies those actions.

With the admission into the Union of Alaska, many of the objections formerly argued against the admission of Hawaii are no longer applicable. The opposition to admission of noncontiguous areas, for example, is obviously outdated. In fact, Hawaii is in every way as well-qualified for statehood as is Alaska.

Hawaii is truly American in every aspect of its life. Its people have been citizens of the United States since 1900; they have no other loyalty. They have lived under the same laws, paid the same taxes, and enjoyed the same constitutional guarantees as other Americans for over half a century. The Americanism of the people of Hawaii goes beyond mere legal conformity. Hawaii is pervaded by American ideals and practices in its civic organizations and private charities, in its educational system and its athletics, in its press and radio, and in its way of living generally.



While a substantial proportion of Hawaii's people are of racial extractions originating in a distant continent, we believe there are no finer patriots in the Nation—as was proved by the kind of service given by Hawaii's sons during World War II and the Korean conflict.

Hawaii has also met every objective test of fitness for statehood. The civilian population of Hawaii for 1958 was estimated by the Census Bureau to be 578,000. Although recent figures on military population cannot be revealed for security reasons, it seems likely that the military population in 1958 amounted to about 59,000, the same figure as for 1957, thus giving Hawaii a total of 637,000 for 1958.

Thus, Hawaii's population exceeds that of the following 6 States: New Hampshire, 584,000; Delaware, 454,000; Vermont, 372,000; Wyoming, 320,000; Nevada, 267,000; and Alaska, 214,000.

In recent years Federal internal revenue collections in Hawaii have generally exceeded those in 10 of the present States. In fiscal 1958 such collections in Hawaii amounted to \$166,306,000, which were greater than the collections in New Hampshire, Vermont, North Dakota, South Dakota, Montana, Idaho, Wyoming, New Mexico, Nevada, or Alaska.

The Hawaiian Tax Commissioner has estimated the islands' gross Territorial product for 1958 at the impressive total of \$2,109,890,000.

For many years the people of Hawaii have exercised self-government in a manner that demonstrates their firm adherence to the ideals of free government. The Hawaiian economy is well developed and prosperous. It can easily support the slight additional expense to the Hawaiian taxpayer that will result from statehood.

The Territory of Hawaii has repeatedly petitioned for statehood, and 8 years ago adopted a State constitution which was ratified overwhelmingly by the voters. The constitution evidences a sound and mature grasp of governmental problems.

President Eisenhower has repeatedly recommended statehood for Hawaii. In opening his state of the Union address of January 9, the President said: "May I voice the hope that before my term of office is ended I shall have the opportunity and great satisfaction of seeing the 50th star in our national flag." And in his budget message to the 86th Congress, the President stated: "I again recommend that the Congress enact legislation to admit Hawaii into the Union as a State, and to grant home rule to the District of Columbia. It would be unconscionable if either of these actions were delayed any longer."

We appreciate this opportunity to again express our views on this important subject. And we stand ready to aid your committee, in any manner, to assure early consideration by the Congress of the petition of the people of Hawaii for admission of Hawaii into our Union. As a matter of simple justice, the prompt admission of Hawaii, our last incorporated Territory, should be accomplished as soon as possible.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED A. SEATON,  
*Secretary of the Interior.*

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
*Washington, D.C., February 13, 1959.*

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This will reply to your letter of January 14, 1959, requesting the comments and views of the Bureau of the Budget on S. 50, a bill to provide for the admission of the State of Hawaii into the Union.

The President has strongly urged the enactment of legislation to admit the Territory of Hawaii into the Union. The President stated in his annual budget message transmitted to the Congress on January 19, 1959, that it would be "unconscionable" if this action were delayed any longer. We believe that Hawaii is fully prepared to assume the responsibilities that go with statehood and should be permitted to take its rightful place as an equal member of the Union.

Section 15 of S. 50 would continue in force and effect all Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union, except as modified or changed by the Statehood Act or the State constitution. Territorial laws would be subject to repeal or amendment by the Legislature of the State of Hawaii. Territorial laws are defined to include "all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union."

The purpose of the foregoing section is to assure necessary continuity of laws until such time as the legislature of the new State can enact laws for the control of its internal affairs. The definition of "Territorial laws" as including laws enacted by the Congress for the government of the Territory may have the result, in some instances, of continuing Federal responsibility for the administration of laws regulating intrastate commerce. While it may be highly desirable that Federal officials continue administration of such Territorial laws for a transitional period, considerable confusion might arise if the termination of Federal responsibility were left solely to future action by the State legislature. We suggest, therefore, that section 15 be amended to make clear that such Federal responsibility will cease either on a date specified in the Statehood Act, or on the effective date of any law enacted by the State legislature which modifies or changes such Territorial law, whichever occurs first.

The Bureau of the Budget supports the objectives of S. 50, and you are hereby advised that the enactment of legislation to provide for the admission of the State of Hawaii into the Union would be in accord with the program of the President.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., March 3, 1959.

HON. HENRY M. JACKSON,  
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: We have looked into the history behind the provision found in section 5(c) of S. 50, a bill to provide for the admission of the State of Hawaii into the Union, which states that the "schools and other educational institutions \* \* \* supported out of such public trust shall remain forever under the exclusive control of said State \* \* \*." We have found that S. 49 of the 80th Congress, a bill to admit Hawaii to statehood, did not contain such a provision when introduced. However, when the House Committee on Interior and Insular Affairs reported on that bill, it struck out the entire text, and substituted a new text. In its revised form the bill contained the present language concerning control of the schools, and the bills introduced in the various Congresses since that time have adopted this provision. The committee report in the 80th Congress does not explain the reason for this change. However, it may have been made so that the Hawaii bill would conform to other enabling acts.

Language similar to that in section 5(c) of S. 49 providing that the schools and other educational institutions shall forever remain under the exclusive control of the State has been found in the legislation providing for the admission of the last 11 States. There are slight variations in the actual words, and in the case of Alaska the provision relates to "exclusive control of the State, or its governmental subdivisions." Substantive differences exist in the case of the Oklahoma statute, as pointed out below. Otherwise, the general scope of the provision appears to be the same in each of these 11 situations. We direct your attention to the following statutory provisions:

(1) For Alaska, section 6(j) of the act of July 7, 1958 (72 Stat. 339, 342), which states:

"The schools and colleges provided for in this Act shall forever remain under the exclusive control of the State, or its governmental subdivisions, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university."

(2) For New Mexico and Arizona, section 26 of the act of June 20, 1910 (36 Stat. 557, 573), which states:

"That the schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university."

(3) For Oklahoma, section 8 of the act of June 16, 1906 (34 Stat. 267, 273), which provides in part:

"Such educational institutions shall remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university."

This provision in the Oklahoma statute, it will be noted, differs somewhat from those in the other statutes cited in that it applies only to "such institutions." Apparently this reference is to the institutions listed earlier in section 8, namely, the University of Oklahoma, the normal schools, and the Agricultural and Mechanical College. It is not expressly applicable to all the public schools as are the comparable provisions in the other statutes.

(4) For Utah, section 11 of the act of July 16, 1894 (28 Stat. 107, 110), which states:

"The schools, colleges, and university provided for in this Act shall forever remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or of the income thereof, shall be used for the support of any sectarian or denominational school, college, or university."

(5) For Wyoming, section 8 of the act of July 10, 1890 (26 Stat. 222, 223), which states, in part:

"The schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university."

(6) For Idaho, section 8 of the act of July 3, 1890 (26 Stat. 215, 216), which includes a sentence identical to that quoted above with respect to Wyoming.

(7) For North Dakota, South Dakota, Montana, and Washington, section 14 of the act of February 22, 1889 (25 Stat. 676, 680), which states in part:

"The schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said States, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university."

On the other hand, there is apparently no provision of this type in the act of March 3, 1875 (18 Stat. 474), which provided for the admission of Colorado and which was the last enabling act before those cited above. Nor do provisions of this type seem to have been included in any of the earlier enabling acts.

Sincerely,

THEODORE F. STEVENS,  
*Assistant to the Secretary.*

DEPARTMENT OF THE NAVY,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., February 25, 1959.*

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,  
Washington, D.C.*

MY DEAR MR. CHAIRMAN: Your request for comment on S. 50, a bill to provide for the admission of the State of Hawaii into the Union, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

With regard to the military aspects of statehood for Hawaii, this bill provides for retention of ownership by the United States in all lands held for military purposes. The bill further provides that concurrent jurisdiction over such lands is to be vested in the State of Hawaii and the United States with the reservation to the Congress of the authority, by legislative process, to take exclusive jurisdiction on behalf of the United States. These provisions are satisfactory to this Department.

At the present time the military departments are occupying about 114,000 acres of ceded land under Territorial license. As there is no provision in S. 50 for the continued use of this land without cost, this Department could be deprived of the free use of such land. Following the hearings before the House Committee on Interior and Insular Affairs, H.R. 4221 was introduced. Section 3(d) of that bill reads:

"Any public lands or other public property that is conveyed to the State of Hawaii by subsection (b) of this section but that, immediately prior to the admission of said State into the Union, is controlled by the United States pursuant to permit, license, or permission, written or verbal, from the Territory of Hawaii or any department thereof may, at any time during the five years following the admission of Hawaii into the Union, be set aside by Act of Congress or by Executive order of the President, made pursuant to law, for the use of the United States, and the lands or property so set aside shall, subject only to valid rights then existing, be the property of the United States."

This provision of H.R. 4221 would protect the interests of the Department of Defense and, at the same time, would permit the necessary time for the determination of the land needs of the Department by providing for a 5-year period in which to withdraw for Federal use that land which is being used by the military departments but which has not actually been withdrawn on the date on which Hawaii is admitted to the Union. It is, therefore, recommended that S. 50 be amended to include the above-quoted language.

As a technical matter, it is recommended that there be an explicit showing in any bill enacted that not only the Submerged Land Act of 1953, but also the Outer Continental Shelf Lands Act will apply to the State of Hawaii.

Additionally, section 16(b) of S. 50 retains jurisdiction in the United States over lands controlled or owned by the United States and held for defense or Coast Guard purposes (line 20, p. 20), and provides that such jurisdiction shall vest in the United States only so long as the particular land involved "is owned" by the United States (line 20, p. 21). The quoted words should conform with the preceding language and read "is controlled or owned".

If amended in accordance with the foregoing, the needs of the services would be adequately safeguarded and the Department of the Navy, on behalf of the Department of Defense, would support the provisions of S. 50.

This report has been coordinated with the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on S. 50 to the Congress.

Sincerely yours,

R. L. KIBBE,  
*Captain, U.S. Navy, Deputy Chief of Legislative Liaison*  
(For the Secretary of the Navy)

DEPARTMENT OF AGRICULTURE,  
Washington, D.C.

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate.*

DEAR SENATOR MURRAY: This is in reply to your letter of January 14, 1959, requesting a report on S. 50, a bill to provide for the admission of the State of Hawaii into the Union.

The Department's overall position on this bill may best be set forth by quoting from the President's state of the Union message, dated January 9, 1959:

"May I voice the hope that before my term of office is ended I shall have the opportunity and the great satisfaction of seeing the 50th star in our national flag."

We have no comments on the specific language of the bill because it does not directly affect this Department.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

---

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,  
Washington, D.C., February 11, 1959.

HON. JAMES E. MURRAY,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in response to your letter of January 26, 1959, requesting a report with respect to a bill, S. 50, to provide for the admission of the State of Hawaii into the Union.

The only provisions of this bill that directly affect the Federal Reserve System are those contained in section 17 which would amend section 2 of the Federal Reserve Act to provide (1) that when the State of Hawaii or any State is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors so as to include such State, and (2) that national banks in any new State shall become members of the Federal Reserve System within 90 days after admission of such State into the Union.

These provisions were recommended by the Board of Governors for inclusion in both the Alaskan and Hawaiian statehood bills when such bills were under consideration by the Congress in previous years. The Board hopes, therefore, that these or similar provisions will be retained in the present bill.

As a matter of drafting, it may be noted that the second part of the proposed amendment to section 2 of the Federal Reserve Act, regarding membership in the Federal Reserve System of national banks in a new State, is identical with an amendment which was contained in the Alaskan Statehood Act approved July 7, 1958, and that, therefore, this amendment is no longer necessary. It may also be noted that the first part of the proposed amendment to section 2 of the Federal Reserve Act would have the effect of changing a sentence added to the law by the Alaskan Statehood Act, regarding the readjustment of Federal Reserve districts to include the State of Alaska, so as to refer to "the State of Hawaii or any State" instead of "the State of

Alaska." It would be sufficient, therefore, if the present bill merely amended the next to the last sentence of the first paragraph of section 2 of the Federal Reserve Act to substitute for the words "the State of Alaska" the words "the State of Alaska or Hawaii."

Sincerely yours,

WM. MCC. MARTIN, JR.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 50, as reported, are shown as follows (existing law proposed to be repealed is enclosed in black brackets, additions to existing law are italicized):

#### TITLE 18, UNITED STATES

##### § 3771. PROCEDURE TO AND INCLUDING VERDICT.

The Supreme Court of the United States shall have the power to prescribe, from time to time, rules of pleading, practice, and procedure with respect to any or all proceedings prior to and including verdict, or finding of guilty or not guilty by the court if a jury has been waived, or plea of guilty, in criminal cases and proceedings to punish for criminal contempt of courts in the United States district courts, in the district courts for the district of the Canal Zone and the Virgin Islands, in the [Supreme Courts of Hawaii and Puerto Rico] *Supreme Court of Puerto Rico*, and in proceedings before United States commissioners. Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of ninety days after they have been thus reported. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court.

##### § 3772. PROCEDURE AFTER VERDICT.

The Supreme Court of the United States shall have the power to prescribe, from time to time, rules of practice and procedure with respect to any or all proceedings after verdict, or finding of guilt by the court if a jury has been waived, or plea of guilty, in criminal cases and proceedings to punish for criminal contempt in the United States district courts, in the district courts for the District of the Canal Zone, and the Virgin Islands, in the [Supreme Courts of Hawaii and Puerto Rico] *Supreme Court of Puerto Rico*, in the United States courts of appeals, in the United States Court of Appeals for the District of Columbia, and in the Supreme Court of the United States. This section shall not give the Supreme Court power to abridge the right of the accused to apply for withdrawal of a plea of guilty, if such application be made within ten days after entry of such plea, and before sentence is imposed.

The right of appeal shall continue in those cases in which appeals are authorized by law, but the rules made as herein authorized may prescribe the times for and manner of taking appeals and applying

for writs of certiorari and preparing records and bills of exceptions and the conditions on which supersedeas or bail may be allowed.

The Supreme Court may fix the dates when such rules shall take effect and the extent to which they shall apply to proceedings then pending, and after they become effective all laws in conflict therewith shall be of no further force.

Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court.

TITLE 28, UNITED STATES CODE

§ 91. HAWAII.

Hawaii constitutes one judicial district which includes the Midway Islands, Wake Island, Johnston Island, Sand Island, Kingman Reef, Kure Island, *Palmyra Island*, Baker Island, Howland Island, Jarvis Island, Canton Island, and Enderbury Island: *Provided*, That the inclusion of Canton and Enderbury Islands in such judicial district shall in no way be construed to be prejudicial to the claims of the United Kingdom to said Islands in accordance with the agreement of April 6, 1939, between the Governments of the United States and of the United Kingdom to set up a regime for their use in common.

Court shall be held at Honolulu.

§ 133. APPOINTMENT AND NUMBER OF DISTRICT JUDGES.

The President shall appoint, by and with the advice and consent of of the Senate, district judges for the several judicial districts, as follows:

\* \* \* \* \*

[Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as district judges for the district of Hawaii.]

§ 134. TENURE AND RESIDENCE OF DISTRICT JUDGES.

(a) The district judges, except in [Hawaii and] Puerto Rico, shall hold office during good behavior. The district judges in [Hawaii and] Puerto Rico shall hold office for terms of [six and] eight years, [respectively,] and until their successors are appointed and qualified.

\* \* \* \* \*

§ 373. JUDGES IN TERRITORIES AND POSSESSIONS.

Any judge of the [United States district courts for the Districts of Hawaii or Puerto Rico,] *United States District Court for the District of Puerto Rico*, the United States District Court for the District of the Canal Zone, the District Court of Guam or the District Court of the Virgin Islands [and any justice of the Supreme Court of the Territory of Hawaii] who resigns, retires, or fails of reappointment or is removed by the President of the United States upon the sole ground of mental or physical disability, after attaining the age of seventy years and after serving as judge of one or more of such courts, at least sixteen years, continuously or otherwise, shall continue to receive the salary which he received when he relinquished office.

\* \* \* \* \*



§ 451. DEFINITIONS.

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, [including the district courts of the United States for the districts of Hawaii and Puerto Rico,] including the *United States District Court for the District of Puerto Rico*, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

\* \* \* \* \*

§ 501. APPOINTMENT OF UNITED STATES ATTORNEYS.

The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

[Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as United States attorney for the district of Hawaii.]

§ 504. TENURE AND OATH OF OFFICE; REMOVAL.

(a) The United States attorney for each judicial district shall be appointed for a term of four years[, except in the district of Hawaii, where the term shall be six years]. Upon the expiration of his term a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

\* \* \* \* \*

§ 541. APPOINTMENT, RESIDENCE AND TENURE OF MARSHALS

\* \* \* \* \*

(c) Each marshal shall be appointed for a term of four years[, except in the district of Hawaii where the term shall be six years]. Upon the expiration of his term a marshal shall continue to perform the duties of his office until his successor is appointed and qualifies, unless sooner removed by the President.

[(d) Only citizens of the Territory of Hawaii who have resided therein at least three years next preceding shall be eligible for appointment as United States marshal for the district of Hawaii.]

§ 1252. DIRECT APPEALS FROM DECISIONS INVALIDATING ACTS OF CONGRESS

Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and any court of record of [Hawaii and] Puerto Rico, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party.

\* \* \* \* \*

§ 1293. FINAL DECISIONS OF PUERTO RICO AND HAWAII SUPREME COURTS

The courts of appeals for the [First and Ninth Circuits] *First Circuit* shall have jurisdiction of appeals from all final decisions of the [Supreme Courts of Puerto Rico and Hawaii, respectively] *Supreme*

*Court of Puerto Rico*, in all cases involving the Constitution, laws or treaties of the United States or any authority exercised thereunder, in all habeas corpus proceedings, and in all other civil cases where the value in controversy exceeds \$5,000, exclusive of interest and costs.

§ 1294. CIRCUITS IN WHICH DECISIONS REVIEWABLE

Appeals from reviewable decisions of the district and territorial courts shall be taken to the courts of appeals as follows:

(1) From a district court of the United States to the court of appeals for the circuit embracing the district;

(2) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

(3) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

[(4) From the Supreme Court of Hawaii, to the Court of Appeals for the Ninth Circuit;]

[(5)] (4) From the Supreme Court of Puerto Rico, to the Court of Appeals for the First Circuit.

[(6)] (5) From the District Court of Guam to the Court of Appeals for the Ninth Circuit.

ACT OF APRIL 30, 1900 (31 STAT. 159), AS AMENDED (48 U.S.C., SECS. 645, 536, 539)

[SEC. 86. The laws of the United States relating to removal of causes, appeals, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii.]

\* \* \* \* \*

[SEC. 92. That the following officers shall receive the following annual salaries, to be paid by the United States: The governor, the basic compensation shall be at the rate of \$19,000 per annum; the secretary of the Territory, \$5,400. The governor shall receive annually from the United States, in addition to his salary, (1) the sum of \$1,000 for stationery, postage, and incidentals, and (2) his traveling expenses while absent from the capital on official business. The governor is authorized to employ a private secretary who shall receive an annual salary of \$3,000, to be paid by the United States.]

FEDERAL RESERVE ACT (38 STAT. 251), AS AMENDED BY THE ACT OF JULY 7, 1958, SEC. 19 (72 STAT. 339, 350)

SEC. 2. As soon as practicable, the Secretary of the Treasury, the Secretary of Agriculture and the Comptroller of the Currency, acting as "The Reserve Bank Organization Committee," shall designate not less than eight nor more than twelve cities to be known as Federal Reserve cities, and shall divide the continental United States, excluding Alaska, into districts, each district to contain only one of such Federal Reserve cities. The determination of said organization committee shall not be subject to review except by the Board of Governors of the Federal Reserve System when organized: *Provided*, That the districts shall be apportioned with due regard to the convenience and

customary course of business and shall not necessarily be coterminous with any State or States. The districts thus created may be readjusted and new districts may from time to time be created by the Board of Governors of the Federal Reserve System, not to exceed twelve in all. Such districts shall be known as Federal Reserve districts and may be designated by number. When the State of Alaska or Hawaii is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this Act and shall thereupon be an insured bank under the Federal Deposit Insurance Act, and failure to do so shall subject such bank to the penalty provided by the sixth paragraph of this section.

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ACT OF MAY 29, 1928 (45 STAT. 997), AS AMENDED (48 U.S.C. 634a)

【The following salaries shall be paid to the several judges hereinafter mentioned, namely:

【To the chief justice of the Supreme Court of the Territory of Hawaii, \$12,250 per year, and to each of the associate justices thereof the sum of \$11,900 per year.

【To each of the judges of the circuit courts of the Territory of Hawaii the sum of \$9,375.

【All of said salaries shall be paid in equal monthly installments.】

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MERCHANT MARINE ACT, 1936 (49 STAT. 1999), AS AMENDED (46 U.S.C., SECS. 1156, 1175, 1204)

SEC. 506. Every owner of a vessel for which a construction-differential subsidy has been paid shall agree that the vessel shall be operated exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal parts of the United States, or on a voyage in foreign trade on which the vessel may stop at *the State of Hawaii*, or an island possession or island territory of the United States, and that if the vessel is operated in the domestic trade on any of the above-enumerated services, he will pay annually to the Secretary that proportion of one-twentieth of the construction-differential subsidy paid for such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. \* \* \*

\* \* \* \* \*

SEC. 605. (a) No operating-differential subsidy shall be paid for the operation of any vessel on a voyage on which it engages in coastwise or intercoastal trade: *Provided, however,* That such subsidy may be paid on a round-the-world voyage or a round voyage from the west

coast of the United States to a European port or ports or a round voyage from the Atlantic coast to the Orient which includes intercoastal ports of the United States or a voyage in foreign trade on which the vessel may stop at *the State of Hawaii*, or an island possession or island territory of the United States, and if the subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade the subsidy payment for the entire voyage shall be reduced by an amount which bears the same ratio to the subsidy otherwise payable as such gross revenue bears to the gross revenue derived from the entire voyage. No vessel operating on the Great Lakes or on the inland waterways of the United States shall be considered for the purposes of this chapter to be operating in foreign trade.

\* \* \* \* \*

SEC. 714. \* \* \*

Such charter shall provide for operation of the vessel exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at *the State of Hawaii*, or an island possession or island Territory of the United States, and if the vessel is operated in the domestic trade on any of the above-enumerated services the charterer will pay annually to the Secretary that proportion of one-twentieth of the difference between the domestic and foreign cost of such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

---

ACT OF JUNE 15, 1950 (64 STAT. 217; 48 U.S.C., SEC. 644a)

The jurisdiction of the United States District Court for the District of Hawaii is hereby extended to all civil and criminal cases arising on or within the Midway Island, Wake Island, Johnston Island, Sand Island, Kingman Reef, Kure Island, *Palmyra Island*, Baker Island, Howland Island, Jarvis Island, and, having regard to the special status of Canton and Enderbury Islands pursuant to an agreement of April 6, 1939, between the Governments of the United States and of the United Kingdom to set up a regime for their use in common, the said jurisdiction is also extended to all civil and criminal cases arising on or within Canton Island and Enderbury Island: *Provided*, That such extension to Canton and Enderbury Islands shall in no way be construed to be prejudicial to the claims of the United Kingdom to said islands in accordance with the agreement. All civil acts and deeds consummated and taking place on any of these islands or in the waters adjacent thereto, and all offenses and crimes committed thereon, or on or in the waters adjacent thereto, shall be deemed to have been consummated or committed on the high seas on board a merchant vessel or other vessel belonging to the United States and shall be adjudicated and determined or adjudged and punished according to the laws of the United States relating to such civil acts or

offenses on such ships or vessels on the high seas, which laws for the purpose aforesaid are extended over such islands, rocks, and keys.

The laws of the United States relating to juries and jury trials shall be applicable to the trial of such cases before said district court.

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IMMIGRATION AND NATIONALITY ACT (66 STAT. 163; 8 U.S.C. CH. 12)

SECTION 101. (a) As used in this Act—

\* \* \* \* \*

(36) The term "State" includes (except as used in section 310(a) of title III) **[Hawaii,]** the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

\* \* \* \* \*

SEC. 212.

\* \* \* \* \*

(d)

\* \* \* \* \*

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave **[Hawaii,]** Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States<sup>[:</sup> *Provided*, That persons who were admitted to Hawaii under the last sentence of section 8(a)(1) of the Act of March 24, 1934, as amended (48 Stat. 456), and aliens who were admitted to Hawaii as nationals of the United States shall not be excepted by this paragraph from the application of paragraphs (20) and (21) of subsection (a) of this section, unless they belong to a class declared to be nonquota immigrants under the provisions of section 101(a)(27) of this Act, other than subparagraph (C) thereof, or unless they were admitted to Hawaii with an immigration visa]. \* \* \*

\* \* \* \* \*

SEC. 310. (a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States **[for the Territory of Hawaii, and]** for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. \* \* \*

## ACT OF SEPTEMBER 7, 1957 (71 STAT. 629)

SEC. 3. The Board is hereby authorized to guarantee any lender against loss of principal or interest on any aircraft purchase loan made by such lender to any air carrier holding a certificate of public convenience and necessity issued by the Board (a) designated therein to be for local or feeder air service, or (b) providing for operations wholly within the **【Territory】** State of Hawaii, or (c) providing for operations (the major portion of which are conducted either within Alaska or between Alaska and the United States) within the Territory of Alaska (including service between Alaska and the United States, and between Alaska and adjacent Canadian territory), or (d) providing for operations within the Commonwealth of Puerto Rico (including service to the Virgin Islands and the Dominican Republic), or (e) providing for operations between Florida and the British West Indies (including service to Cuba), or (f) for the purpose of authorizing metropolitan helicopter service. Such guaranty shall be made in such form, on such terms and conditions, and pursuant to such regulations, as the Board deems necessary and which are not inconsistent with the provisions of this Act.

# APPENDIX

## APPENDIX A

### THE CONSTITUTION OF THE STATE OF HAWAII

#### PREAMBLE

We, the people of the State of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage, reaffirm our belief in a government of the people, by the people and for the people, and with an understanding heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii.

#### FEDERAL CONSTITUTION ADOPTED

The Constitution of the United States of America is adopted on behalf of the people of the State of Hawaii.

#### ARTICLE I

##### BILL OF RIGHTS

###### Political Power

SECTION 1. All political power of this State is inherent in the people; and the responsibility for the exercise thereof rests with the people. All government is founded on this authority.

###### Rights of Man

SECTION 2. All persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property. These rights cannot endure unless the people recognize their corresponding obligations and responsibilities.

###### Freedom of Religion, Speech, Press, Assembly and Petition

SECTION 3. No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

###### Due Process and Equal Protection

SECTION 4. No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of his civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.

###### Searches and Seizures

SECTION 5. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

**Rights of  
Citizens**

SECTION 6. No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.

**Enlistment,  
Segregation**

SECTION 7. No citizen shall be denied enlistment in any military organization of this State nor be segregated therein because of race, religious principles or ancestry.

**Indictment,  
Trial by Jury,  
Criminal Cases**

SECTION 8. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against himself.

**Bail, Excessive  
Punishment**

SECTION 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

**Trial by Jury,  
Civil Cases**

SECTION 10. In suits at common law where the value in controversy shall exceed one hundred dollars, the right of trial by jury shall be preserved. The legislature may provide for a verdict by not less than three-fourths of the members of the jury.

**Rights of  
Accused**

SECTION 11. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, or of such other district to which the prosecution may be removed with the consent of the accused; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

**Jury Service**

SECTION 12. No person shall be disqualified to serve as a juror because of sex.

**Habeas Corpus  
and Suspension  
of Laws**

SECTION 13. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

The power of suspending the privilege of the writ of habeas corpus, and the laws or the execution thereof, shall never be exercised except by the legislature, or by authority derived from it to be exercised in such particular cases only as the legislature shall expressly prescribe.

**Supremacy of  
Civil Power**

SECTION 14. The military shall be held in strict subordination to the civil power.

**Right to Bear  
Arms**

SECTION 15. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.



- Quartering of Soldiers** SECTION 16. No soldier or member of the militia shall, in time of peace, be quartered in any house, without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.
- Imprisonment For Debt** SECTION 17. There shall be no imprisonment for debt.
- Eminent Domain** SECTION 18. Private property shall not be taken for public use without just compensation.
- Limitations on Special Privileges** SECTION 19. The power of the State to act in the general welfare shall never be impaired by the making of any irrevocable grant of special privileges or immunities.
- Construction** SECTION 20. The enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

## ARTICLE II

## SUFFRAGE AND ELECTIONS

- Qualifications** SECTION 1. Every citizen of the United States, who shall have attained the age of twenty years, have been a resident of this State not less than one year next preceding the election and be a voter registered in accordance with law, shall be qualified to vote in any state or local election. No person shall be qualified to vote unless he is also able, except for physical disability, to speak, read and write the English or Hawaiian language.
- Disqualifications** SECTION 2. No person who is non compos mentis and no person convicted of felony, unless pardoned and restored to his civil rights, shall be qualified to vote.
- Residence** SECTION 3. No person shall be deemed to have gained or lost residence simply because of his presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning.
- Registration, Voting** SECTION 4. The legislature shall provide for the registration of voters and for absentee voting; and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved.
- Elections** SECTION 5. General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special elections may be held in accordance with law. Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law.

## ARTICLE III

## THE LEGISLATURE

**Legislative  
Power**

SECTION 1. The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

**Senate; Districts;  
Composition**

SECTION 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. The districts, and the number of senators to be elected from each, shall be as follows:

First senatorial district: that portion of the island of Hawaii known as Puna, Hilo and Hamakua, five;

Second senatorial district: that portion of the island of Hawaii known as Kau, Kona and Kohala, two;

Third senatorial district: the islands of Maui, Molokai, Lanai and Kahoolawe, five;

Fourth senatorial district: that portion of the island of Oahu lying east and south of Nuuanu Street and Pali Road and the upper ridge of the Koolau Range from the Nuuanu Pali to Makapuu Point and all other islands not specifically enumerated, five;

Fifth senatorial district: that portion of the island of Oahu lying west and north of the fourth senatorial district, five; and

Sixth senatorial district: the islands of Kauai and Niihau, three.

**House of  
Representatives;  
Composition**

SECTION 3. The house of representatives shall be composed of fifty-one members, who shall be elected by the qualified voters of the respective representative districts. Until the next reapportionment, the representative districts and the number of representatives to be elected from each shall be as set forth in the Schedule.

**Reapportionment  
of House**

SECTION 4. On or before June 1 of the year 1959, and of each tenth year thereafter, the governor shall reapportion the members of the house of representatives in the following manner: The total number of representatives shall first be reapportioned among four basic areas, namely, (1) the island of Hawaii, (2) the islands of Maui, Molokai, Lanai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered at the last preceding general election in each of such basic areas and computed by the method known as the method of equal proportions, no basic area to receive less than one member. Upon the determination of the total number of representatives to which each basic area is entitled, such total shall be reapportioned among the one or more representative

districts within each basic area on the basis of the number of voters registered at the last preceding general election within each of such representative districts and computed by the method known as the method of equal proportions, no representative district to receive less than one member. Upon any reapportionment, should the total number of voters registered in any representative district be less than one-half of the quotient obtained by dividing the total number of voters registered in the State by the total number of members to which the house is entitled, then, as part of such reapportionment, the basic area within which such representative district lies shall be redistricted by the governor in such manner that the total number of voters registered in each new representative district therein shall be more than one-half of such quotient.

The governor shall thereupon issue a proclamation showing the results of such reapportionment, and such reapportionment shall be effective for the election of members to such house for the next five succeeding legislatures.

#### **Mandamus**

Original jurisdiction is hereby vested in the supreme court of the State to be exercised on the application of any registered voter, made within thirty days following the date specified above, to compel, by mandamus or otherwise, the governor to perform the above duty; and made within thirty days following the date of such proclamation, to compel, by mandamus or otherwise, the correction of any error made in such reapportionment.

#### **Election of Members: Term**

SECTION 5. The members of the legislature shall be elected at general elections. The term of office of members of the house of representatives shall be two years beginning with their election and ending on the day of the next general election, and the term of office of members of the senate shall be four years beginning with their election and ending on the day of the second general election after their election.

#### **Vacancies**

SECTION 6. Any vacancy in the legislature shall be filled for the unexpired term in such manner as may be prescribed by law, or, if no provision be made by law, by appointment by the governor for the unexpired term.

#### **Qualifications of Members**

SECTION 7. No person shall be eligible to serve as a member of the senate unless he shall have attained the age of thirty years, have been a resident of the State for not less than three years and be a qualified voter of the senatorial district from which he seeks to be elected. No person shall be eligible to serve as a member of the house of representatives unless he shall have attained the age of twenty-five years, have been a resident of the State for not less than three years and be a qualified voter of the representative district from which he seeks to be elected.

**Privileges  
of Members**

SECTION 8. No member of the legislature shall be held to answer before any other tribunal for any statement made or action taken in the exercise of his legislative functions; and members of the legislature shall, in all cases except felony or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same.

**Disqualifications  
of Members**

SECTION 9. No member of the legislature shall hold any other public office under the State, nor shall he, during the term for which he is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public office", for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications.

**Salary and  
Allowances**

SECTION 10. The members of the legislature shall receive such salary and allowances as may be prescribed by law, but any increase or decrease in the amount thereof shall not apply to the legislature which enacted the same. No salary shall be payable when the senate alone is convened in special session, or when the legislature convenes in special session pursuant to Section 17 of this article.

**Sessions**

SECTION 11. Regular sessions of the legislature shall be held annually. The governor may convene the legislature, or the senate alone, in special session. All sessions shall be held at the capital of the State. In case the capital shall be unsafe, the governor may direct that any session shall be held at some other place. Regular sessions in odd numbered years shall be known as "general sessions" and regular sessions in even numbered years shall be known as "budget sessions".

**Budget  
Sessions**

At budget sessions the legislature shall be limited to the consideration and enactment of the general appropriations bill for the succeeding fiscal year and bills to authorize proposed capital expenditures, revenue bills necessary therefor, urgency measures deemed necessary in the public interest, bills calling elections, proposed constitutional amendments and bills to provide for the expenses of such session and the special session to be convened thereafter in accordance with the provisions of Section 17 of this article. The legislature may also consider and act upon matters relating to the impeachment or removal of officers. No urgency measure shall be considered unless a statement of facts constituting such urgency shall be set forth in one section thereof and until such section shall have been first approved by each house. The approval of such section and the final passage of such measure in each house shall require a two-thirds vote of

all the members to which such house is entitled, taken by ayes and noes and entered upon its journal.

**Sessions:  
Commencement:  
Duration**

Regular sessions shall commence at 10:00 o'clock a. m., on the third Wednesday in February. General sessions shall be limited to a period of sixty days and budget sessions and special sessions to a period of thirty days, but the governor may extend any session for not more than thirty days. Sundays and holidays shall be excluded in computing the number of days of any session.

**Adjournment**

SECTION 12. Neither house shall adjourn during any session of the legislature for more than three days, or sine die, without the consent of the other.

**Organization:  
Discipline:  
Rules:  
Procedure**

SECTION 13. Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

Twenty days after a bill has been referred to a committee in either house, the same may be recalled from such committee by the affirmative vote of one-third of the members to which such house is entitled.

**Quorum:  
Compulsory  
Attendance**

SECTION 14. A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a bill in each house shall require the vote of a majority of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

**Bills;  
Enactment**

SECTION 15. No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawaii."

**Passage of  
Bills**

SECTION 16. No bill shall become law unless it shall pass three readings in each house, on separate days. Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

**Approval or  
Veto**

SECTION 17. Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If he approves it, he shall sign it and it shall become law. If the governor does not approve such bill, he may return it, with his objections to the legislature. He may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but he shall veto other bills, if at all, only as a whole.

The governor shall have ten days to consider bills presented to him ten or more days before the adjournment of the legislature sine die, and if any such bill is neither signed nor returned by the governor within that time, it shall become law in like manner as if he had signed it.

**Reconsideration  
After  
Adjournment**

The governor shall have forty-five days, after the adjournment of the legislature sine die, to consider bills presented to him less than ten days before such adjournment, or presented after adjournment, and any such bill shall become law on the forty-fifth day unless the governor by proclamation shall have given ten days' notice to the legislature that he plans to return such bill with his objections on that day. The legislature may convene at or before noon on the forty-fifth day in special session, without call, for the sole purpose of acting upon any such bill returned by the governor. In case the legislature shall fail to so convene, such bill shall not become law. Any such bill may be amended to meet the governor's objections and, if so amended and passed, only one reading being required in each house for such passage, it shall be presented again to the governor, but shall become law only if he shall sign it within ten days after presentation.

Sundays and holidays shall be excluded in computing the number of days designated in this section.

**Procedures  
Upon Veto**

SECTION 18. Upon the receipt of a veto message from the governor, each house shall enter the same at large upon its journal and proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items, by ayes and noes, which shall be entered upon its journal. If after such reconsideration such bill, or such item or items, shall be approved by a two-thirds vote of all members to which each house is entitled, the same shall become law.

**Punishment of  
Non-Members**

SECTION 19. Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to

attend such house, on his way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

Any person charged with such an offense shall be informed in writing of the charge made against him, and have an opportunity to present evidence and be heard in his own defense.

### Impeachment

SECTION 20. The governor and lieutenant governor, and any appointive officer for whose removal the consent of the senate is required, may be removed from office upon conviction of impeachment for such causes as may be provided by law.

The house of representatives shall have the sole power of impeachment of the governor and lieutenant governor and the senate the sole power to try such impeachments, and no such officer shall be convicted without the concurrence of two-thirds of the members of the senate. When sitting for that purpose, the members of the senate shall be on oath or affirmation and the chief justice shall preside. Subject to the provisions of this paragraph, the legislature may provide for the manner and procedure of removal by impeachment of such officers.

The legislature shall by law provide for the manner and procedure of removal by impeachment of the appointive officers.

Judgments in cases of impeachment shall not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the State; but the person convicted may nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

## ARTICLE IV

### THE EXECUTIVE

#### Establishment of The Executive

SECTION 1. The executive power of the State shall be vested in a governor.

The governor shall be elected by the qualified voters of this State at a general election. The person receiving the highest number of votes shall be the governor. In case of a tie vote, the selection of the governor shall be determined in accordance with law.

The term of office of the governor shall begin at noon on the first Monday in December next following his election and end at noon on the first Monday in December, four years thereafter.

No person shall be eligible to the office of governor unless he shall be a qualified voter, have attained the age of thirty-five years and have been a citizen of the United States for twenty years and a resident of this State for five years next preceding his election.

The governor shall not hold any other office or employment of profit under the State or the United States during his term of office.

**Lieutenant  
Governor**

SECTION 2. There shall be a lieutenant governor, who shall have the same qualifications as the governor. He shall be elected at the same time, for the same term, and in the same manner, as the governor. He shall perform such duties as may be prescribed by law.

**Compensation,  
Governor,  
Lieutenant  
Governor**

SECTION 3. The compensation of the governor and of the lieutenant governor shall be prescribed by law, but shall not be less than eighteen thousand dollars, and twelve thousand dollars, respectively, per annum. Such compensation shall not be increased or diminished for their respective terms, unless by general law applying to all salaried officers of the State. When the lieutenant governor succeeds to the office of governor, he shall receive the compensation for that office.

**Succession to  
Governorship;  
Absence or  
Disability of  
Governor**

SECTION 4. When the office of governor is vacant, the lieutenant governor shall become governor. In the event of the absence of the governor from the State, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon the lieutenant governor during such absence or disability.

When the office of lieutenant governor is vacant, or in the event of the absence of the lieutenant governor from the State, or his inability to exercise and discharge the powers and duties of his office, such powers and duties shall devolve upon such officers in such order of succession as may be provided by law.

In the event of the impeachment of the governor or of the lieutenant governor, he shall not exercise the powers of his office until acquitted.

**Executive  
Powers**

SECTION 5. The governor shall be responsible for the faithful execution of the laws. He shall be commander in chief of the armed forces of the State and may call out such forces to execute the laws, suppress or prevent insurrection or lawless violence or repel invasion. He shall, at the beginning of each session, and may, at other times, give to the legislature information concerning the affairs of the State and recommend to its consideration such measures as he shall deem expedient.

The governor may grant reprieves, commutations and pardons, after conviction, for all offenses, subject to regulation by law as to the manner of applying for the same. The legislature may, by general law, authorize the governor to grant pardons before conviction, to grant pardons for impeachment and to restore civil rights denied by reason of conviction of offenses by tribunals other than those of this State.

The governor shall appoint an administrative director to serve at his pleasure.



**Executive and  
Administrative  
Offices and  
Departments**

SECTION 6. All executive and administrative offices, departments and instrumentalities of the state government and their respective functions, powers and duties shall be allocated by law among and within not more than twenty principal departments in such manner as to group the same according to major purposes so far as practicable. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall hold office for a term to expire at the end of the term for which the governor was elected. The governor may, by and with the advice and consent of the senate, remove such single executive.

Whenever a board, commission or other body shall be the head of a principal department of the state government, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of such members shall be as prescribed by law. Such board, commission or other body may appoint a principal executive officer, who, when authorized by law, may be ex officio a voting member thereof, and who may be removed by a majority vote of the members appointed by the governor.

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise made by this constitution or by law. The legislature may provide for the suspension or removal for cause, by the governor, of any officer for whose removal the consent of the senate is required by this constitution.

When the senate is not in session and a vacancy occurs in any office, appointment to which requires the confirmation of the senate, the governor may fill the office by granting a commission which shall, unless such appointment is confirmed, expire at the end of the next session of the senate; but the person so appointed shall not be eligible for another interim appointment to such office if the appointment shall have failed of confirmation by the senate.

No person who has been nominated for appointment to any office and whose appointment has not received the consent of the senate shall be eligible to an interim appointment thereafter to such office.

All officers appointed under the provisions of this section shall be citizens of this State and shall have been residents of the State for at least three years next preceding their appointment.

ARTICLE V  
THE JUDICIARY

**Judicial Power**

SECTION 1. The judicial power of the State shall be vested in one supreme court, circuit courts, and in such inferior courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law.

**Supreme Court**

SECTION 2. The supreme court shall consist of a chief justice and four associate justices. When necessary, the chief justice shall assign a judge or judges of a circuit court to serve temporarily on the supreme court. In case of a vacancy in the office of chief justice, or if he is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in his stead.

**Appointment of Judges**

SECTION 3. The governor shall nominate and, by and with the advice and consent of the senate, appoint the justices of the supreme court and the judges of the circuit courts. No nomination shall be sent to the senate, and no interim appointment shall be made when the senate is not in session, until after ten days' public notice by the governor.

**Qualifications**

No justice or judge shall hold any other office or position of profit under the State or the United States. No person shall be eligible to such office who shall not have been admitted to practice law before the supreme court of this State for at least ten years. Any justice or judge who shall become a candidate for an elective office shall thereby forfeit his office.

**Tenure**

The term of office of a justice of the supreme court shall be seven years and that of a judge of a circuit court shall be six years. They shall receive for their services such compensation as may be prescribed by law, which shall not be diminished during their respective terms of office, unless by general law applying to all salaried officers of the State. They shall be retired upon attaining the age of seventy years. They shall be included in any retirement law of the State. They shall be subject to removal from office upon the concurrence of two-thirds of the membership of each house of the legislature, sitting in joint session, for such causes and in such manner as may be provided by law.

**Compensation****Retirement****Removal****Retirement for Incapacity**

SECTION 4. Whenever a commission or agency, authorized by law for such purpose, shall certify to the governor that any justice of the supreme court or judge of a circuit court appears to be so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a board of three persons to inquire into the circumstances and on their recommendation the governor may retire the justice or judge from office.

**Administration**

SECTION 5. The chief justice of the supreme court shall be the administrative head of the courts. He may assign judges from one circuit court to another for temporary service. With the approval of the supreme court he shall appoint an administrative director to serve at his pleasure.

**Rules**

SECTION 6. The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law .

## ARTICLE VI

**TAXATION AND FINANCE****Taxing Power  
Inalienable**

SECTION 1. The power of taxation shall never be surrendered, suspended or contracted away.

**Taxation of  
Non-Resident  
Citizens**

SECTION 2. The land and other property belonging to citizens of the United States residing without the State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof.

**Debt Limitations**

SECTION 3. All bonds and other instruments of indebtedness issued by or on behalf of the State or a political subdivision thereof must be authorized by the legislature, and bonds and other instruments of indebtedness of a political subdivision must also be authorized by its governing body.

Sixty million dollars is established as the limit of the funded debt of the State at any time outstanding and unpaid. Bonds and other instruments of indebtedness in excess of such limit may be issued when authorized by a two-thirds vote of all the members to which each house of the legislature is entitled, provided such excess debt, at the time of authorization, would not cause the total of state indebtedness to exceed a sum equal to fifteen percent of the total of assessed values for tax rate purposes of real property in the State, as determined by the last tax assessment rolls pursuant to law.

Instruments of indebtedness to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, which shall be payable within one year, and bonds or other instruments of indebtedness to suppress insurrection, to repel invasion, to defend the State in war or to meet emergencies caused by disaster or act of God, may be issued by the State under legislative authorization without regard to any debt limit.

A sum equal to ten percent of the total of the assessed values for tax rate purposes of real property in any political subdivision, as determined by the last tax assessment rolls pursuant to law, is established as the limit of the funded debt of such political subdivision at any time outstanding and unpaid. The

aggregate, however, of such debts contracted by any political subdivision during a fiscal year shall not exceed two percent of the total of such assessed values in such political subdivision.

Instruments of indebtedness to meet appropriations for any fiscal period in anticipation of the collection of revenues for such period or to meet casual deficits or failures of revenue, which shall be payable within one year, may be issued by any political subdivision under authorization of law and of its governing body, without regard to the limits of debt hereinabove provided.

All bonds or other instruments of indebtedness for a term exceeding one year shall be in serial form maturing in substantially equal annual installments, the first installment to mature not later than five years from the date of the issue of such series, and the last installment not later than thirty-five years from the date of such issue. Interest and principal payments shall be a first charge on the general revenues of the State or political subdivision, as the case may be.

The provisions of this section shall not be applicable to indebtedness incurred under revenue bond statutes by a public enterprise of the State or political subdivision, or by a public corporation, when the only security for such indebtedness is the revenues of such enterprise or public corporation, or to indebtedness incurred under special improvement statutes when the only security for such indebtedness is the properties benefited or improved or the assessments thereon.

Nothing in this section shall prevent the refunding of any indebtedness at any time.

### **The Budget**

SECTION 4. Within such time prior to the opening of each regular session as may be prescribed by law, the governor shall submit to the legislature a budget setting forth a complete plan of proposed general fund expenditures and anticipated receipts of the State for the ensuing fiscal period, together with such other information as the legislature may require. The budget shall be compiled in two parts, one setting forth all proposed operating expenditures for the ensuing fiscal period and the other, all capital improvements expenditures proposed to be undertaken during such period. The governor shall also, upon the opening of the session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. Such bills shall be introduced in the legislature upon the opening of each regular session.

### **Legislative Appropriations; Procedure**

SECTION 5. No appropriation bill, except bills recommended by the governor for immediate passage, or to cover the expenses of the legislature, shall be passed on final reading until the bill authorizing operating expenditures for the ensuing fiscal period, to be known as the general appropriations bill, shall have been transmitted to the governor.

**Appropriations  
for Private  
Purposes  
Prohibited**

SECTION 6. No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 3 of Article I of this constitution.

**Expenditure  
Controls**

SECTION 7. Provision for the control of the rate of expenditures of appropriated state moneys, and for the reduction of such expenditures under prescribed conditions, shall be made by law.

**Auditor**

SECTION 8. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of all transactions and of all accounts kept by or for all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report his findings and recommendations to the governor and to the legislature at such times as shall be prescribed by law. He shall also make such additional reports and conduct such other investigations as may be directed by the legislature.

**ARTICLE VII****LOCAL GOVERNMENT****Political  
Subdivisions:  
Creation,  
Powers**

SECTION 1. The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws.

**Local  
Self-Government;  
Charter**

SECTION 2. Each political subdivision shall have power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be prescribed by law.

**Taxation and  
Finance**

SECTION 3. The taxing power shall be reserved to the State except so much thereof as may be delegated by the legislature to the political subdivisions, and the legislature shall have the power to apportion state revenues among the several political subdivisions.

**Mandates;  
Accrued Claims**

SECTION 4. No law shall be passed mandating any political subdivision to pay any previously accrued claim.

**Statewide Laws**

SECTION 5. This article shall not limit the power of the legislature to enact laws of statewide concern.

## ARTICLE VIII

**PUBLIC HEALTH AND WELFARE****Public Health**

SECTION 1. The State shall provide for the protection and promotion of the public health.

**Care of Handicapped**

SECTION 2. The State shall have power to provide for treatment and rehabilitation, as well as domiciliary care, of mentally or physically handicapped persons.

**Public Assistance**

SECTION 3. The State shall have power to provide assistance for persons unable to maintain a standard of living compatible with decency and health.

**Slum Clearance, Rehabilitation and Housing**

SECTION 4. The State shall have power to provide for, or assist in, slum clearance and the development or rehabilitation of substandard areas, including housing for persons of low income.

**Public Sightliness and Good Order**

SECTION 5. The State shall have power to conserve and develop its natural beauty, objects and places of historic or cultural interest, sightliness and physical good order, and for that purpose private property shall be subject to reasonable regulation.

## ARTICLE IX

**EDUCATION****Public Education**

SECTION 1. The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution.

**Board of Education**

SECTION 2. There shall be a board of education, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor from panels submitted by local school advisory councils to be established by law. At least part of the membership of the board shall represent geographic subdivisions of the State.

**Powers of the Board of Education**

SECTION 3. The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system through its executive officer, the superintendent of public instruction, who shall be appointed by the board and shall be ex officio a voting member thereof.

**University of  
Hawaii**

SECTION 4. The University of Hawaii is hereby established as the state university and constituted a body corporate. It shall have title to all the real and personal property now or hereafter set aside or conveyed to it, which shall be held in public trust for its purposes, to be administered and disposed of according to law.

**Board of  
Regents;  
Powers**

SECTION 5. There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. At least part of the membership of the board shall represent geographic subdivisions of the State. The president of the university and the superintendent of public instruction shall be ex officio voting members of the board. The board shall have power, in accordance with law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board.

## ARTICLE X

## CONSERVATION AND DEVELOPMENT OF RESOURCES

**Resources;  
Conservation,  
Development  
and Use**

SECTION 1. The legislature shall promote the conservation, development and utilization of agricultural resources, and fish, mineral, forest, water, land, game and other natural resources.

**Natural Resources;  
Management and  
Disposition**

SECTION 2. The legislature shall vest in one or more executive boards or commissions powers for the management of natural resources owned or controlled by the State, and such powers of disposition thereof as may be authorized by law; but land set aside for public use, other than for a reserve for conservation purposes, need not be placed under the jurisdiction of such a board or commission.

The mandatory provisions of this section shall not apply to the natural resources owned by or under the control of a political subdivision or a department or agency thereof.

**Sea  
Fisheries**

SECTION 3. All fisheries in the sea waters of the State not included in any fish pond or artificial inclosure shall be free to the public, subject to vested rights and the right of the State to regulate the same.

**General Laws  
Required;  
Exceptions**

SECTION 4. The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, a political subdivision, or any department or agency thereof.

**Farm and Home  
Ownership**

SECTION 5. The public lands shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law.

## ARTICLE XI

**HAWAIIAN HOME LANDS****Hawaiian Homes  
Commission Act**

SECTION 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature, provided, that, if and to the extent that the United States shall so require, said law shall be subject to amendment or repeal only with the consent of the United States and in no other manner, provided, further, that, if the United States shall have been provided or shall provide that particular provisions or types of provisions of said Act may be amended in the manner required for ordinary state legislation, such provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms of said Act, and the legislature may, from time to time, make additional sums available for the purposes of said Act by appropriating the same in the manner provided by law.

**Compact with the  
United States**

SECTION 2. The State and its people do hereby accept, as a compact with the United States, or as conditions or trust provisions imposed by the United States, relating to the management and disposition of the Hawaiian home lands, the requirement that Section 1 hereof be included in this constitution, in whole or in part, it being intended that the Act or Acts of the Congress pertaining thereto shall be definitive of the extent and nature of such compact, conditions or trust provisions, as the case may be. The State and its people do farther agree and declare that the spirit of the Hawaiian Homes Commission Act looking to the continuance of the Hawaiian homes projects for the further rehabilitation of the Hawaiian race shall be faithfully carried out.

## ARTICLE XII

**ORGANIZATION, COLLECTIVE BARGAINING****Private  
Employees**

SECTION 1. Persons in private employment shall have the right to organize for the purpose of collective bargaining.

**Public  
Employees**

SECTION 2. Persons in public employment shall have the right to organize and to present and make known their grievances and proposals to the State, or any political subdivision or any department or agency thereof.



ARTICLE XIII

STATE BOUNDARIES, CAPITAL FLAG

- Boundaries**                   SECTION 1. The State of Hawaii shall include the islands and territorial waters heretofore constituting the Territory of Hawaii.
- Capital**                     SECTION 2. Honolulu, on the Island of Oahu, shall be the capital of the State.
- State Flag**                 SECTION 3. The Hawaiian flag shall be the flag of the State.

ARTICLE XIV

GENERAL AND MISCELLANEOUS PROVISIONS

- Civil Service**             SECTION 1. The employment of persons in the civil service, as defined by law, of or under the State, shall be governed by the merit principle.
- Employees Retirement System**       SECTION 2. Membership in any employees' retirement system of the State or any political subdivision thereof shall be a contractual relationship, the accrued benefits of which shall not be diminished or impaired.
- Disqualification for Disloyalty**       SECTION 3. No person who advocates, or who aids or belongs to any party, organization or association which advocates, the overthrow by force or violence of the government of this State or of the United States shall be qualified to hold any public office or employment.
- Oath of Office**           SECTION 4. All public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as ..... to the best of my ability." The legislature may prescribe further oaths or affirmations.
- Intergovernmental Relations**       SECTION 5. The legislature may provide for cooperation on the part of this State and its political subdivisions with the United States, or other states and territories, or their political subdivisions, in matters affecting the public health, safety and general welfare, and funds may be appropriated to effect such cooperation.
- Federal Lands**           SECTION 6. The United States shall be vested with or retain title to or an interest in or shall hold the property in the Territory of Hawaii set aside for the use of the United States and remaining so set aside immediately prior to the admission of this State, in all respects as and to the extent set forth in the act or resolution providing for the admission of this State to the Union.

**Compliance  
with Trust**

SECTION 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation.

**Administration  
of Undisposed  
Lands**

SECTION 8. The lands and other property, the final determination and disposition of which shall not have been made by the Congress upon the admission of this State, shall, pending such determination and disposition, continue to be administered in accordance with the laws applicable thereto immediately prior to the admission of this State, except as the Congress may consent to any amendment of said laws, and no provision of this constitution for the exercise of powers or functions other than in accordance with such laws shall, without the consent of the Congress, apply to the lands or property so administered.

**Federal Property,  
Tax Exemption**

SECTION 9. No taxes shall be imposed by the State upon any lands or other property now owned or hereafter acquired by the United States, except as the same shall become taxable by reason of disposition thereof by the United States or by reason of the consent of the United States to such taxation.

**Hawaii National  
Park**

SECTION 10. All provisions of the act or resolution admitting this State to the Union, or providing for such admission, which reserve to the United States jurisdiction of Hawaii National Park, or the ownership or control of lands within Hawaii National Park, are consented to fully by the State and its people.

**Judicial Rights**

SECTION 11. All those provisions of the act or resolution admitting this State to the Union, or providing for such admission, which reserve to the United States judicial rights or powers are consented to fully by the State and its people; and those provisions of said act or resolution which preserve for the State judicial rights and powers are hereby accepted and adopted, and such rights and powers are hereby assumed, to be exercised and discharged pursuant to this constitution and the laws of the State.

**Titles, Subtitles,  
Personal Pronouns;  
Construction**

SECTION 12. Titles and subtitles shall not be used for purposes of construing this constitution.

Whenever any personal pronoun appears in this constitution, it shall be construed to mean either sex.

**General Power**

SECTION 13. The enumeration in this constitution of specified powers shall not be construed as limitations upon the power of the State to provide for the general welfare of the people.

**Provisions  
Self-Executing**

SECTION 14. The provisions of this constitution shall be self-executing to the fullest extent that their respective natures permit.

## ARTICLE XV

## REVISION AND AMENDMENT

**Methods of  
Proposal**

SECTION 1. Revisions of or amendments to this constitution may be proposed by constitutional convention or by the legislature.

**Constitutional  
Convention**

SECTION 2. The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If any ten-year period shall elapse during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of such period.

**Election  
of Delegates**

If a majority of the ballots cast upon such question be in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XIV, any qualified voter of the district concerned shall be eligible to membership in the convention.

Unless the legislature shall otherwise provide, there shall be the same number of delegates to such convention, who shall be elected from the same areas, and the convention shall be convened in the same manner, as nearly as practicable, as required for the Hawaii State Constitutional Convention of 1950.

**Organization;  
Procedure**

The convention shall determine its own organization and rules of procedure. It shall be the sole judge of the elections, returns and qualifications of its members and, by a two-thirds vote, may suspend or remove any member for cause. The governor shall fill any vacancy by appointment of a qualified voter from the district concerned.

**Ratification;  
Appropriations**

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate, but no such revision or amendments shall be effective unless approved at a general election by a majority of all of the votes tallied upon the question, such majority constituting at least thirty-five percent of the total vote cast at such election, or at a special election by a majority of the total vote tallied upon such question, such majority constituting at least thirty-five percent of the total number of registered voters; provided, that no constitutional amendment altering this proviso or the representation from any senatorial district in the senate shall become effective unless it shall also be approved by a majority of the votes tallied upon the question in each of a majority of the counties.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation.

**Amendments  
Proposed by  
Legislature**

SECTION 3. The legislature may propose amendments to the constitution by adopting the same, in the manner required for legislation, by a two-thirds vote of each house on final reading at any session, after either or both houses shall have given the governor at least ten days' written notice of the final form of the proposed amendment, or, with or without such notice, by a majority vote of each house on final reading at each of two successive sessions.

Upon such adoption, the proposed amendments shall be entered upon the journals, with the ayes and noes, and published once in each of four successive weeks in at least one newspaper of general circulation in each senatorial district wherein such a newspaper is published, within the two months' period immediately preceding the next general election.

At such general election the proposed amendments shall be submitted to the electorate for approval or rejection upon a separate ballot.

The conditions of and requirements for ratification of such proposed amendments shall be the same as provided in Section 2 of this article for ratification at a general election.

**Veto**

SECTION 4. No proposal for amendment of the constitution adopted in either manner provided by this article shall be subject to veto by the governor.

ARTICLE XVI

SCHEDULE

**Representative Districts**

**Description:  
Number of  
Members**

SECTION 1. As provided in Section 3 of Article III until the next reapportionment, the representative districts and the number of members to be elected from each shall be as follows:

First representative district: that portion of the island of Hawaii known as Puna, one representative;

Second representative district: that portion of the island of Hawaii known as South Hilo, four representatives;

Third representative district: that portion of the island of Hawaii known as North Hilo and Hamakua, one representative;

Fourth representative district: that portion of the island of Hawaii known as Kau and South Kona and that portion of North Kona, for convenience herein referred to as Keauhou, more particularly described as follows: from a point at the seashore between the lands of Holualoa 1 and 2 and Puapuaa 2 running northeasterly along the boundary of Holualoa 1 and 2 to Puu Laalaa; (2) easterly in a straight line to a point called

"Naohuelelua" being the common corner of the lands of Puuanahulu, Kaohe and Keauhou 2nd; (3) southeasterly along the common boundary between Hamakua and North Kona districts to the summit of Mauna Loa; (4) westerly along the common boundary between Kau and North Kona districts to the easterly boundary of South Kona district; (5) northerly and westerly along the boundary between North and South Kona districts to the seashore; and (6) northerly along the seashore to the point of beginning; one representative;

Fifth representative district: that portion of the island of Hawaii known as Kohala and that portion of North Kona not included in the fourth representative district, one representative;

Sixth representative district: the islands of Molokai and Lanai, one representative;

Seventh representative district: the islands of Maui and Kahoolawe, five representatives;

Eighth representative district: that portion of the island of Oahu known as Koolaupoko and Koolauloa, two representatives;

Ninth representative district: that portion of the island of Oahu known as Waialua and Wahiawa, two representatives;

Tenth representative district: that portion of the island of Oahu known as Ewa and Waianae, two representatives;

Eleventh representative district: that portion of the island of Oahu, for convenience herein referred to as Kalihi, more particularly described as follows: from the intersection of Kalihi and Auiki Streets running westerly along Auiki Street to Mokauea Street; (2) southwesterly along Mokauea Street Extension extended to a point on the outer edge of the reef; (3) westerly along the outer edge of the reef to a point on the Moanalua-Halawa boundary; (4) northerly and northeasterly along the Moanalua-Halawa boundary to the top of Koolau Range; (5) southeasterly along the top of Koolau Range to a place called "Puu Lanihuli"; (6) southwesterly along the top of the ridge between the lands of Kalihi, Kapalama and Nuuanu to Kalihi Street; and (7) southwesterly along Kalihi Street to the point of beginning, three representatives;

Twelfth representative district: that portion of the island of Oahu, for convenience herein referred to as upper Nuuanu, more particularly described as follows: from the intersection of King and Kalihi Streets running northeasterly along Kalihi Street to the ridge between the lands of Kalihi, Kapalama and Nuuanu; (2) northeasterly along the top of said ridge to a point on the Koolau Range called "Puu Lanihuli"; (3) easterly along the top of said Range to Pali Road at the Nuuanu Pali; (4) southwesterly along Pali Road to Nuuanu Avenue and southwesterly along Nuuanu Avenue to School Street; (5) northwesterly along School Street to the center line of the Kapalama Drainage Canal (Waikiki Branch); (6) southwesterly along said Canal to the center line of the main Kapalama

Drainage Canal; (7) southwesterly along said Canal to King Street; and (8) northwesterly along King Street to the point of beginning, three representatives;

Thirteenth representative district: that portion of the island of Oahu, for convenience herein referred to as Kapalama, more particularly described as follows: from the junction of the Honolulu Harbor Channel and the reef running westerly along the outer edge of the reef to Mokauea Street Extension extended, (2) northeasterly along Mokauea Street Extension extended to Sand Island Road; (3) northeasterly along Mokauea Street Extension to Auiki Street; (4) easterly along Auiki Street to Kalihi Street; (5) northeasterly along Kalihi Street to King Street; (6) southeasterly along King Street to the center line of the main Kapalama Drainage Canal; (7) northerly along said Canal to the center line of the Kapalama Drainage Canal (Waikiki Branch); (8) northeasterly along said Canal to School Street; (9) southeasterly along School Street to Nuuanu Avenue; (10) southwesterly along Nuuanu Avenue to the sea, and (11) southwesterly along the middle of Honolulu Harbor and Honolulu Harbor Channel to the point of beginning, three representatives;

Fourteenth representative district: that portion of the island of Oahu, for convenience herein referred to as Pauoa, more particularly described as follows: from the junction of the Honolulu Harbor Channel and the outer edge of the reef running northeasterly along the middle of Honolulu Harbor Channel and Honolulu Harbor to the intersection of Queen Street and Nuuanu Avenue; (2) northeasterly along Nuuanu Avenue to Pali Road and northeasterly along Pali Road to the top of the Koolau Range at the Nuuanu Pali; (3) easterly and southerly along the top of the Koolau Range to a point called "Puu Konahuanui"; (4) southwesterly along the top of the ridge between the lands of Nuuanu, Pauoa and Manoa to a mountain peak called "Puu Ohia" or "Tantalus"; (5) southwesterly along the top of the ridge between the lands of Makiki and Kalawahine to the intersection of Nehoa Street and Lewalani Drive; (6) southerly along Lewalani Drive and Piikoi Street to Wilder Avenue; (7) easterly along Wilder Avenue to Punahou Street; (8) southerly along Punahou Street to King Street; (9) westerly along King Street to Kalakaua Avenue; (10) southerly along Kalakaua Avenue to the center line of the Ala Wai Canal; (11) westerly along said Canal and along the line of said Canal extended to the outer edge of the reef; and (12) westerly along the outer edge of the reef to the point of beginning, five representatives;

Fifteenth representative district: that portion of the island of Oahu, for convenience herein referred to as Manoa and Waikiki, more particularly described as follows: from the intersection of Kalakaua Avenue and the center line of the Ala

Wai Canal running northerly along Kalakaua Avenue to King Street; (2) easterly along King Street to Punahou Street; (3) northerly along Punahou Street to Wilder Avenue; (4) westerly along Wilder Avenue to Piikoi Street; (5) northerly along Piikoi Street to Lewalani Drive; (6) northerly along Lewalani Drive to Nehoa Street; (7) northeasterly along the top of the ridge between the lands of Makiki and Kalawahine to a mountain peak called "Puu Ohia" or "Tantalus"; (8) northeasterly along the top of the ridge between the lands of Pauoa, Manoa and Nuuanu to a point on the Koolau Range called "Puu Konahuanui"; (9) southeasterly along the top of said Range to a place called "Mt. Olympus"; (10) southwestwardly along the top of Waahila Ridge to the top edge of Palolo Valley; (11) southwestwardly along the top edge of said Valley to the forest reserve boundary; (12) southwestwardly along the southeasterly boundary of St. Louis Heights Tract, Series 2 (File Plan 464) to the southerly boundary of said Tract 100 feet southeasterly from Alencastre Street; (13) southwestwardly parallel to and 100 feet from Alencastre Street and St. Louis Drive to Waialae Avenue; (14) westerly along Waialae Avenue to Kapahulu Avenue extended; (15) southerly across Waialae Avenue and along Kapahulu Avenue to Kalakaua Avenue; (16) westerly along Kapahulu Avenue extended to the outer edge of the reef; (17) northwestwardly along the outer edge of the reef to a point on the line extended of the center line of the Ala Wai Canal; and (18) easterly along said line to the point of beginning, six representatives;

Sixteenth representative district: that portion of the island of Oahu, for convenience herein referred to as Kaimuki and Kapahulu, more particularly described as follows: from a point at the seacoast at a place called "Black Point" running westerly along the seacoast to Kapahulu Avenue extended to the sea; (2) easterly across Kalakaua Avenue and easterly and northerly along Kapahulu Avenue to Waialae Avenue; (3) easterly along Waialae Avenue to a point 100 feet easterly of St. Louis Drive; (4) northeasterly across Waialae Avenue then parallel to and 100 feet from St. Louis Drive and Alencastre Street to the southerly boundary of St. Louis Heights Tract, Series 2 (File Plan No. 464); (5) northeasterly along the southeasterly boundary of said Tract to the forest reserve boundary; (6) northeasterly along the top ridge of Palolo Valley to the top of Waahila Ridge; (7) northeasterly along the top of Waahila Ridge to a point on Koolau Range called "Mt. Olympus"; (8) easterly along the top of the Koolau Range to the top of the ridge between the lands of Waialae Nui and Palolo; (9) southwestwardly along the top of said ridge to a place called "Kalepeamo'a"; (10) southwestwardly along Mauumae Ridge to Sierra Drive; (11) southwestwardly along Sierra Drive to Waialae Avenue; (12) easterly along Waialae Avenue to 13th Avenue;

(13) southwesterly along 13th Avenue and Ocean View Drive to Kilauea Avenue; (14) westerly along Kilauea Avenue to Makapuu Avenue; (15) southwesterly along Makapuu Avenue to Diamond Head Road; and (16) southeasterly along Diamond Head Road to the Military Road and along the Military Road extended to the point of beginning, four representatives;

Seventeenth representative district: that portion of the island of Oahu not included in any other representative district on the island of Oahu, together with all other islands not included in any other representative district, three representatives;

Eighteenth representative district: the islands of Kauai and Niihau, four representatives.

Wherever a roadway, or the intersection of one or more roadways, is designated as a boundary in any of the above descriptions, the center line of such roadway or intersection is intended as such boundary.

### TRANSITIONAL PROVISIONS

#### Continuity of Laws

SECTION 2. All laws in force at the time this constitution takes effect and not inconsistent therewith, including, among others, acts of the Congress relating to the lands in the possession, use and control of the Territory of Hawaii, shall be the laws of the State and remain in force, mutatis mutandis, until they expire by their own limitation, or are altered or repealed by the legislature.

Except as otherwise provided by this constitution, all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected notwithstanding the taking effect of this constitution, except that the State shall be the legal successor to the Territory in respect thereof, and may be maintained, enforced or prosecuted, as the case may be, before the appropriate or corresponding tribunals or agencies of or under the State or of the United States, in the name of the State, political subdivision, person or other party entitled to do so, in all respects as fully as could have been done prior to taking effect of this constitution.

#### Debts

SECTION 3. The debts and liabilities of the Territory shall be assumed and paid by the State, and all debts owed to the Territory shall be collected by the State.

#### Bond Acts

SECTION 4. All acts of the legislature of the Territory authorizing the issuance of bonds by the Territory or its political subdivisions are approved, subject, however, to amendment or repeal by the legislature, and bonds may be issued by the State and its political subdivisions pursuant to said acts. Whenever in said acts the approval of the President or of the Congress is required, the approval of the governor shall suffice.



**Continuance  
of Officers**

SECTION 5. Except as otherwise provided by this constitution, all executive officers of the Territory or any political subdivision thereof and all judicial officers who may be in office at the time of admission of this State to the Union shall continue to exercise and discharge the powers and duties of their respective offices until their successors shall have qualified in accordance with this constitution or the laws enacted pursuant thereto.

**Lieutenant  
Governor;  
Secretary**

SECTION 6. Unless otherwise provided by law, the lieutenant governor shall exercise and discharge the powers and duties of the secretary of the Territory.

**Residence, other  
Qualifications**

SECTION 7. Requirements as to residence, citizenship or other status or qualifications in or under the State prescribed by this constitution shall be satisfied pro tanto by corresponding residence, citizenship or other status or qualifications in or under the Territory.

**Allocation of  
Departments**

SECTION 8. The provisions of Section 6 of Article IV shall not be mandatory until four years from the date of admission of this State to the Union. The legislature shall within three years from said date allocate and group the executive and administrative offices, departments and instrumentalities of the state government and their respective functions, powers and duties among and within the principal departments pursuant to said section.

If such allocation and grouping shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation and grouping.

**Condemnation  
of Fisheries**

SECTION 9. All vested rights in fisheries in the sea waters not included in any fish pond or artificial inclosure shall be condemned to the use of the public upon payment of just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the State not otherwise appropriated.

**FIRST OFFICERS, PROCEDURES****Elections**

SECTION 10. In case the people of the Territory ratify this constitution and the same is approved by the duly constituted authority of the United States whose approval thereto may be required, the governor of the Territory shall, within thirty days after receipt of the official notification of such approval, issue a proclamation for primary and final elections, as hereinafter provided, at which officers for all state elective offices provided for by this constitution shall be nominated and elected; but the officers so to be elected shall in any event include two senators and two representatives to the Congress, and unless and until otherwise required by law, said representatives shall be elected at large.

**Election  
Procedure;  
Certification**

SECTION 11. Said primary election shall take place not less than sixty nor more than ninety days after said proclamation, and the final election shall take place within forty days after the primary election. Such elections shall be held and the qualifications of voters thereat shall be as prescribed by this constitution and by the laws relating to the election of members of the legislature at primary and general elections. The returns thereof shall be made, canvassed and certified in the manner prescribed by law with respect to the election for the ratification or rejection of this constitution. The governor shall thereupon certify the results thereof to the President.

**Proclamation of  
Admission;  
Assumption  
of Office**

SECTION 12. Upon the issuance by the President of a proclamation announcing the results of said election and the admission of this State to the Union, the officers elected and qualified shall proceed to exercise and discharge the powers and duties pertaining to their respective offices.

**Governor and  
Lieutenant  
Governor**

SECTION 13. The first governor and lieutenant governor shall hold office for a term beginning with their election and ending at noon on the first Monday in December following the second general election.

**Certification,  
United States  
Senators and  
Representatives**

SECTION 14. The governor of the State and secretary of state shall certify the election of the senators and representatives to the Congress in the manner required by law. For this purpose, the lieutenant governor of this State shall be deemed secretary of state.

**First  
Legislature;  
Term of Office**

SECTION 15. The terms of office of the members of the first legislature shall be as follows:

Members of the house of representatives shall hold office for a term beginning with their election and ending on the day of the second general election held thereafter.

Members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, three; second district, one; third district, two; fourth district, three; fifth district, two; and sixth district, two. Members of the first class shall hold office for a term beginning with their election and ending on the day of the third general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term beginning with their election and ending on the day of the second general election held thereafter.

**First Session  
of Legislature**

SECTION 16. Ten days after the admission of this State to the Union, the legislature shall convene in special session.

**Salaries of  
Legislators**

SECTION 17. Until otherwise provided by law in accordance with Section 10 of Article III, the salary of members of the legislature shall be as follows: the sum of two thousand five hundred dollars for each general session, the sum of one thousand five hundred dollars for each budget session and the sum of seven hundred and fifty dollars for each special session.

**Compensation of  
Judges**

SECTION 18. Until the legislature shall otherwise provide under Section 3 of Article V, the chief justice, justices of the supreme court and judges of the circuit courts shall receive as compensation for their services the sums of seventeen thousand five hundred dollars, seventeen thousand dollars and fifteen thousand dollars per annum, respectively, which shall, notwithstanding the provisions of Article V of this constitution, be subject to increase or decrease by the first session of the legislature.

**EFFECTIVE DATE**

This constitution shall take effect and be in full force immediately upon the admission of Hawaii into the Union as a State.

Done in Convention, at Iolani Palace, Honolulu, Hawaii, on the twenty-second day of July, in the year one thousand nine hundred fifty, and of the Independence of the United States of America the one hundred and seventy-fifth.

## APPENDIX B

## INDEX OF CONGRESSIONAL HEARINGS ON STATEHOOD FOR HAWAII

Twenty-two congressional investigations on the question of admitting Hawaii to statehood have been made since 1935. The date, authorization, and locale of these hearings are as follows:

- (1) 1935: May 31, H.R. 3034, Washington.
- (2) 1935: October 7-18, H.R. 3034, Hawaii.
- (3) 1937: October 6-22, Senate Concurrent Resolution 18, Hawaii.
- (4) 1946: January 7-18, House Resolution 236, Hawaii.
- (5) 1946: June 4, H.R. 3643, Washington.
- (6) 1947: March 7-19, H.R. 49 and 10 identical bills, Washington.
- (7) 1948: January 5-20, H.R. 49 and S. 114, Hawaii.
- (8) 1948: April 15, H.R. 49 and S. 114, Washington.
- (9) 1948: November 1-12, H.R. 49, and S. 114, Hawaii.
- (10) 1949: March 3 and 8, H.R. 49 and related bills, Washington.
- (11) 1950: May 1-5, H.R. 49, Washington.
- (12) 1953: February 23-27, H.R. 49, Washington.
- (13) 1953: March 6, S. 49, Washington.
- (14) 1953: June 29, 30, July 1, 2, 3, 6, 7, 9, 11, and January 7 and 8, 1954, Senate committee on S. 49, S. 51, and H.R. 3575, Washington.
- (15) 1954: January 13-15 and 19, Senate committee on S. 49; S. 51, and H.R. 3575, Washington.
- (16) 1954: December 16 and 17, House subcommittee (public hearings), Hawaii.
- (17) 1955: January 25, 27, 28, February 2, 4, 7, 8, 14, 16, House on H.R. 2535 (Hawaii-Alaska), Washington.
- (18) 1955: February 21, 22, 28, Senate on S. 49 (Hawaii-Alaska), Washington.
- (19) 1957: April 1 and 2, Senate subcommittee on S. 50, Washington.
- (20) 1957: April 8, 9, and 16, House subcommittee on H.R. 49, Washington.
- (21) 1958: November 24 to December 8, Special House subcommittee on H.R. 49, Hawaii.
- (22) 1959: January 26, 27, 28, and February 4, House Interior Committee on H.R. 50 and 23 related bills (including H.R. 4221), Washington.
- (23) 1959: February 25, 26, Senate Subcommittee on S. 50, Washington.
- (24) 1959: March 3, Senate Committee on S. 50, Washington.

## APPENDIX C

## THE PRINTED VOLUMES OF HOUSE AND SENATE HEARINGS AND REPORTS ON HAWAII STATEHOOD

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2. Hearings before House Territories Committee, May 31, 1935.....	20
3. Statehood for Hawaii. Hearings before House Subcommittee on Territories, October 7 to 18, 1935.....	343
4. Statehood for Hawaii. Hearings before joint committee, Oct. 6 to 22, 1937.....	735
5. Statehood for Hawaii. Report from chairman joint committee, Jan. 5, 1938.....	100
6. Statehood for Hawaii. House subcommittee, Jan. 7 to 18, 1946.....	909
7. Statehood for Hawaii. Hearing, House Territories Committee, June 4, 1946.....	75
8. Statehood for Hawaii. Hearing of Committee on Lands, Mar. 7 to 19, 1947.....	310
9. House Report 194, Public Lands Committee, Mar. 27, 1947.....	40
10. Cordon Report on H.R. 49 and S. 114, Jan. 5 to 20, 1948, Hawaii.....	18
11. Statehood for Hawaii. Senate Interior Subcommittee, Apr. 15, 1948.....	497
12. Statehood for Hawaii. Report by Mr. Butler, June 21, 1948.....	15
13. Statehood for Hawaii. House subcommittee, Mar. 3 to 8, 1949.....	77
14. Report 254, Committee on Public Lands, Mar. 10, 1949.....	27
15. Statehood for Hawaii. Senate Interior, Insular Committee, May 1 to 5, 1950.....	550
16. Statehood for Hawaii. Senate Interior, Insular report, June 29, 1950.....	59
17. Supplemental Report, Senate Interior Committee, Aug. 28, 1950.....	29
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23. Statehood for Hawaii. Senate hearings, Insular Affairs, Jan. 13, 14, 15, 19, 1954.....	86
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30. Statehood for Hawaii. Senate Report 1164, Aug. 29, 1957, and minority views.....	72
31. Statehood for Hawaii. House Report 2700, Aug. 23, 1958.....	78
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## APPENDIX D

JOINT RESOLUTION NO. 55 (55th Cong.) To provide for annexing the Hawaiian Islands to the United States

Whereas the Government of the Republic of Hawaii, having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided,* That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Until Congress shall provide for the government of such islands, all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have the power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

Senate joint resolution adopted July 7, 1898 (30 Stat. 750).

Population of Hawaii by race, 1900-1950<sup>1</sup>

Race	1900 <sup>2</sup>		1910 <sup>3</sup>		1920 <sup>3</sup>		1930 <sup>3</sup>		1940 <sup>3</sup>		1950 <sup>3</sup>	
	Population	Percent	Population	Percent	Population	Percent	Population	Percent	Population	Percent	Population	Percent
1. Hawaiian.....	28,718	18.6	26,041	13.6	23,723	9.3	22,636	6.1	14,375	3.4	(4)	-----
2. Part-Hawaiian.....	9,536	6.2	12,506	6.5	18,027	7.0	28,224	7.6	49,935	11.8	486,091	17.2
3. Caucasian.....	26,252	17.1	39,158	20.4	49,140	19.3	73,702	20.0	103,791	24.5	114,793	23.0
4. Chinese.....	25,762	16.7	21,674	11.3	23,507	9.2	27,179	7.4	28,774	6.8	32,376	6.5
5. Japanese.....	61,115	39.7	79,675	41.5	109,274	42.7	139,631	37.9	157,905	37.3	184,611	36.9
6. Korean.....			4,533	2.4	4,950	1.9	6,461	1.8	6,851	1.6	(5)	-----
7. Filipino.....			2,361	1.2	21,031	8.2	63,052	17.1	52,569	12.4	61,071	12.2
8. Puerto Rican.....			4,890	2.5	5,602	2.2	6,671	1.8	8,296	2.0	(6)	-----
9. Negro.....			695	.4	348	.1	563	.2	255	.1	(7)	-----
0. Other.....	2,618	1.7	376	.2	310	.1	217	.1	579	.1	20,852	4.2
Total.....	154,001	100.0	191,909	100.0	255,912	100.0	368,336	100.0	423,330	100.0	499,794	100.0

<sup>1</sup> Statehood for Hawaii, hearings before the Committee on Interior and Insular Affairs, U. S. Senate, 81st Cong., 2d sess., on H. R. 49 (Washington, U. S. Government Printing Office, 1950), p. 91.

<sup>2</sup> United States census figures, except that the number of Hawaiians and part-Hawaiians has been corrected in accordance with the 1937 report of the Joint Committee on Hawaii,

S. Doc. No. 151, 75th Cong., 3d sess., p. 38.

<sup>3</sup> United States census.

<sup>4</sup> This classification, in 1950, includes all persons who are part-Hawaiian as well as full-blooded Hawaiians.

<sup>5</sup> Included in "Other" for 1950.



## APPENDIX F

### SURFACE TRANSPORTATION

Memorandum prepared by the Department of the Interior, March 13, 1953

#### ECONOMIC REGULATION

The Federal Maritime Board currently exercises regulatory jurisdiction over common carriers by water engaged in transportation between ports of the continental States, its Territories and possessions, and ports in Hawaii. The Board also exercises such jurisdiction over common carriers by water engaged in transportation wholly within the Territory of Hawaii (46 U.S.C., 1946 ed., secs. 801, 843, 845b). The Board's jurisdiction extends to the regulation of the rates and practices of such carriers. It does not issue certificates of public convenience and necessity.

If Hawaii were to become a State, in the absence of any provision to the contrary in the enabling legislation, regulatory jurisdiction over vessels engaged in commerce between Hawaii and another State would be exercised by the Interstate Commerce Commission, which now regulates common carriers engaged in water transportation between the States (49 U.S.C., 1946 ed., secs. 902(i), 902(k)). The Commission does not exercise any jurisdiction over intrastate surface transportation, and it would have no authority to do so in the case of Hawaii. The Interstate Commerce Commission's interstate jurisdiction extends to the regulation of rates, fares, charges, and practices (49 U.S.C., 1946 ed., sec. 905), as well as to the issuance of certificates of public convenience and necessity, without which vessels may not usually engage in interstate surface transportation (49 U.S.C., 1946 ed., sec. 909).

The Federal Maritime Board's jurisdiction over carriers engaged in transportation between points in Hawaii would cease with the termination of Hawaii's Territorial status. The Board has no jurisdiction over intrastate surface transportation. It therefore presumably would not be significant for purposes of the Board's jurisdiction, whether the channels between the islands of Hawaii are or are not defined or considered to be a part of the State. It appears that the Board's current authority over surface transportation by water wholly within Hawaii does not depend upon whether the waters are or are not a part of the Territory.

It appears, also, that the jurisdiction of the Interstate Commerce Commission would not be affected by a provision specifying that the channels between the islands of Hawaii either do or do not constitute a part of the State. The Commission's jurisdiction extends to transportation "wholly by water from a place in a State to a place in any other State \* \* \*," as well as to other transportation not here relevant (49 U.S.C., 1946 ed., sec. 902(i)(1)). A vessel engaged in transportation by water from a place in Hawaii to another place in Hawaii and not entering another State or its waters would not be engaged in interstate commerce. Merely to cross waters not within the State would not make such transportation interstate, and would not subject the carrier to regulation by the Interstate Commerce Commission.

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### APPLICATION OF THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION TO INTERISLAND TRANSACTIONS IN HAWAII

Memorandum prepared by the Department of the Interior, March 27, 1953

This memorandum is directed to exploring certain aspects of the legal situation that would result if Hawaii were to be admitted as a State with boundaries that did not include the waters separating the various islands. It seeks to determine the extent to which the State could, consistently with the Federal Constitution, regulate and tax interisland commerce in the event the channels between the islands were to be considered outside the State.

It is clear that transportation necessitating passage through waters not under the jurisdiction of a State, even though both termini of the voyage lie within the borders of that State, is not intrastate commerce; where the waters traversed are a part of the high seas such transportation is foreign commerce for the purposes of the commerce clause of the Constitution. In *Lord v. Steamship Co.*, (102 U.S. 541 (1880)), it was held that a ship transporting goods from San Francisco to San Diego was engaged in foreign commerce, even though both termini were in the State of California, since the ship of necessity passed outside the 3-mile limit of California's jurisdiction. This interpretation of the meaning of "Commerce with foreign Nations, and among the several States" has been repeatedly reaffirmed, as, for example, in *Hanley v. Kansas City Southern Ry. Co.* (187 U.S. 617 (1903)).

From these decisions it follows that the Congress would have full authority to regulate interisland traffic in Hawaii in the circumstances here assumed. However, it does not follow that the State would be deprived of the authority to regulate such traffic should the Congress choose to refrain from exercising its own superior authority. The principle is well established in our constitutional law that, in the silence of Congress, the States may regulate those aspects of interstate or foreign commerce that are chiefly of local significance, provided the regulation does not discriminate against such commerce in favor of intrastate commerce. Thus, in *Wilmington Transportation Co. v. California R. R. Co.* (236 U.S. 151 (1915)), it was held that sea transportation between the mainland of California and Santa Catalina Island (also in that State) was a matter over which the State could take jurisdiction, notwithstanding that such transportation necessitated passage over waters outside California's boundaries, but it was also clearly implied that the Congress had the right to impose its superior authority if it should desire to do so. Mr. Justice Hughes, in rendering the opinion of the Court in that case, pointed out that there was a well-established distinction between those matters of interstate or foreign commerce where, if any legislation should be enacted at all, it ought to be of a national or general character, and those other matters of interstate or foreign commerce which are distinctly local in character and in which it would be proper for States to act in a reasonable manner to meet the needs of suitable local protection in the absence of Federal action. In line with earlier decisions involving ferries operating across interstate or foreign boundary waters, traffic by vessels operating solely between Santa Catalina Island and the mainland was held to fall within the latter of these two categories.

The circumstances of interisland transportation in Hawaii seem sufficiently akin to those considered in the Wilmington case to bring such transportation within the principle of that case. If so, the State could regulate the interisland transportation, provided it did so in a nondiscriminatory manner, and provided no inconsistent action had been taken by the Congress.

With respect to the validity of State taxation of interisland commerce, somewhat different concepts are applicable. While the States may tax the property used in carrying on interstate and foreign commerce or the net profits derived from such commerce, they may not tax the commerce itself. Thus, a State may not impose a gross-receipts tax on revenues derived from the sale of interstate or foreign transportation services unless the tax is properly apportioned. In the application of these principles ferries across boundary waters are treated the same as other carriers (*Glouster Ferry Co. v. Pennsylvania*, 114 U.S. 196 (1885)).

Situations where the transportation begins and ends within the same State have the subject of a number of decisions. In *Lehigh Valley R.R. Co. v. Pennsylvania* (145 U.S. 192 (1892)), it was held that, though the commerce in question (transportation between two points in Pennsylvania through New Jersey) was interstate, it could be taxed by the State within which both ends of the journey were located. This view was more precisely stated in *Central Greyhound Lines, Inc. v. Mealey* (334 U.S. 653 (1948)), in which it was held that the State within which both termini of a bus journey were located could levy a tax on that part of the gross receipts from the transportation services which was proportionate to the part of the journey performed within the State, but not on the total gross receipts. A tax levied upon the total gross receipts, it was held, would unduly burden interstate commerce.

The cases cited in the foregoing paragraph indicate that Hawaii could impose a tax upon the gross receipts from interisland transportation services if the tax was an "apportioned" one, that is, measured by the portion of the receipts attributable to the portion of the services performed within the State. It is

possible, however, that Hawaii might be able to tax the total gross receipts, without apportionment, for reasons indicated below.

In *Cornell Steamboat Company v. Sohmer* (235 U.S. 549 (1914)), a tax imposed by the State of New York upon the total gross receipts from water transportation between two points in that State was sustained, notwithstanding that the territorial waters of New Jersey were traversed in the course of the voyage. The court stated that "transportation between the ports of the State is not interstate commerce, excluded from the taxing power of the State, because as to a part of the journey, the course is over the territory of another State." This language was sharply criticized in the *Central Greyhound* case. The Court there said (pp. 661 and 662) that the tax could have been sustained on the ground that it was not a burden, in the constitutional sense, on interstate commerce, and should not have been sustained on the ground, which the court regarded as fictional, that interstate commerce was not involved. The court further stated (p. 662) that New Jersey's relation to the water transportation involved in the *Cornell* case was "very different" from the relation of that State to the highway transportation involved in the *Central Greyhound* case. As so distinguished, the *Cornell* case would appear to support the proposition that a State can tax the total gross receipts from transportation that begins and ends within the State, but goes outside of it in the course of the journey, provided the circumstances of the out-of-State part of the journey are such that interstate commerce will not be burdened if the receipts from that part of the journey are included in the measure of the tax.

In the application of this proposition, a factor of key importance would seem to be whether the out-of-State part of the journey could be taxed by another State or foreign country, thus leaving the door open to dual taxation if apportionment is not required. In the *Central Greyhound* case, the right of the States through which the bus traveled to tax the part of the journey performed on their highways was conceded, and clearly influenced the conclusion of the court that the gross receipts tax imposed by New York must be similarly apportioned. In the *Cornell* case, on the other hand, it is doubtful whether New Jersey could have taxed any part of the gross receipts, as the transportation within that State was confined to passage through the navigable waters along its boundary, and did not involve the use of any facility provided by the State. Since interisland transportation in Hawaii presents no possibility of dual taxation, it could be argued with considerable force of reason that such transportation would come within the principle of the *Cornell* case, even as distinguished in the *Central Greyhound* case.

Another line of decisions governs the extent to which the State could apply its sales or use taxes to the value or sales price of goods sold by a vendor on one island for delivery to a purchaser on another island. It is well settled that goods are not exempted from State taxation merely because they have been brought into the State through the channels of interstate or foreign commerce. Where the goods originated in a foreign country, they cannot be taxed while they remain in the hands of the importer and in their original packages. Where the goods originated in another State, they cannot be taxed until the interstate transportation has ended and they have become a part of the common mass of property within the State. Once these requirements have been fulfilled, a State sales or use tax may be imposed on subsequent transfers of the goods between parties within the taxing State, so long as the tax does not discriminate against the goods because of their out-of-State origin, *Henneford v. Silas Mason Co.* (300 U.S. 577 (1936)).

In *McGoldrick v. Berwind-White Co.* (309 U.S. 33 (1940)), the Court was called upon to decide the question whether New York City could impose its retail sales tax upon certain sales of coal made by a vendor in that city to a purchaser in that city. The coal in question was sold under contracts made in New York City that provided for delivery of the coal at the purchaser's facilities in the city. After the contracts were made the vendor caused the coal to be moved from its mines in Pennsylvania, through New Jersey, to the purchaser's facilities in New York City. The Court upheld the application of the tax to these sales, saying, in the words of Mr. Justice Stone:

"Respondent, pointing to the course of its business and to its contracts which contemplate the shipment of the coal interstate upon orders of the New York customers, insists that a distinction is to be taken between a tax laid on sales made, without previous contract, after the merchandise has crossed the State boundary, and sales, the contracts for which when made contemplate or require the transportation of merchandise interstate to the taxing State. Only the

sales in the State of destination in the latter class of cases, it is said, are protected from taxation by the commerce clause, a qualification which respondent concedes is a salutary limitation upon the reach of the clause since its use is thus precluded as a means of avoiding State taxation of merchandise transported to the State in advance of the purchase order or contract of sale.

"But we think this distinction is without the support of reason or authority. A very large part, if not most of the merchandise sold in New York City, is shipped interstate to that market. In the case of products like cotton, citrus fruits and coal, not to mention many others which are consumed there in vast quantities, all have crossed the State line to seek a market, whether in fulfillment of a contract or not. That is equally the case with other goods sent from without the State to the New York market, whether they are brought into competition with like goods produced within the State or not. We are unable to say that the present tax, laid generally upon all sales to consumers within the State, subjects the commerce involved where the goods sold are brought from other States, to any greater burden or affects it more, in any economic or practical way, whether the purchase order or contract precedes or follows the interstate shipment. Since the tax applies only if a sale is made, and in either case the object of interstate shipment is a sale at destination, the deterrent effect of the tax would seem to be the same on both. Restriction of the scope of the commerce clause so as to prevent recourse to it as a means of curtailing State taxing power seems as salutary in the one case as in the other."

The logic of this decision would appear to impel a conclusion that interisland sales of goods in Hawaii would be subject to the taxing jurisdiction of that State, even though the goods had to move across waters outside the State in the course of their delivery from the vendor to the purchaser, provided the jurisdiction was exercised in a manner that did not discriminate against the interisland sales.

