

CONSTITUTIONAL CONVENTION RECORDS, 1894
Stenographic Record of Proceedings: 7
15th, 16th Days

CONSTITUTIONAL CONVENTION. 15TH DAY.

JUNE 19TH, 1894.

The Convention was called to order at 10 A.M. by President Dole.

Prayer was offered by the Chaplain.

The roll-call showed the following members present, viz: The President and Messrs. Ables, Carter, Horner, Iosepa, Kalua, Lyman, Mendonca, Pogue, Rice, Robertson, Vivas. (12).

Mr. Kalua. I move that the Convention take a recess until half past one, there being no quorum present.

Mr. Vivas. I second that.

The motion of Mr. Kalua is put and lost.

Mr. Kalua. I move that the Convention take a recess till II o'clock.

Mr. King. I second that.

The motion of Mr. Kalua is put and lost.

Mr. Vivas. I move we take a recess until 11 o'clock.

The President. We will have a quorum in a minute.

Mr. Waterhouse. I move we take a recess until twenty minutes to 11.

At 10.23 A.M. a quorum is obtained.

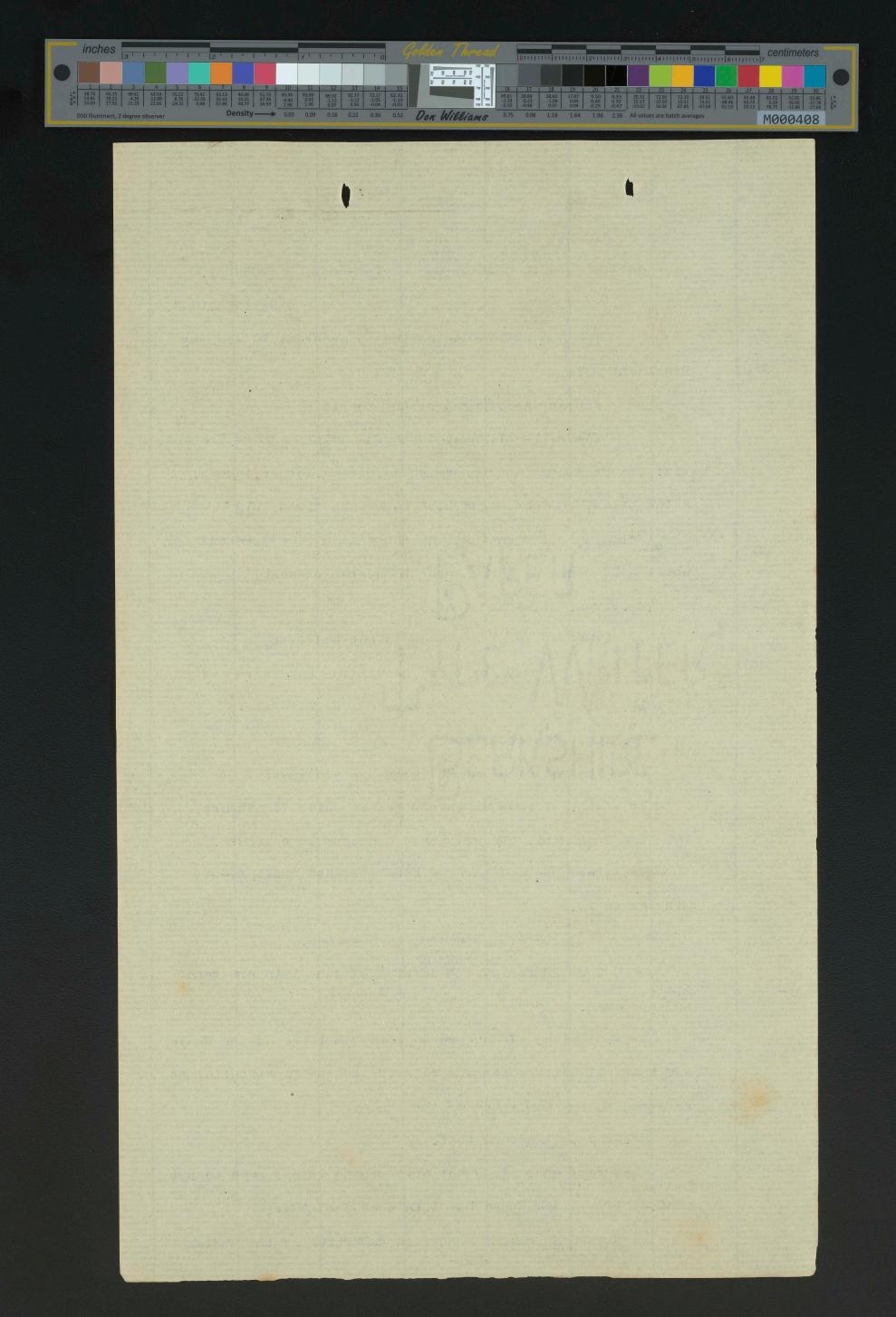
The minutes of the session of June 18th are read and approved.

Mr. W.O. Smith. I move we go into Committee of the Whole and that all matters pending relative to the Constitution be referred to the Committee of the Whole.

Mr. Brown. I second that.

The President. I do not think there is any need to put that. I will ask Judge Lyman to take the Chair.

> The Convention goes into Committee of the Whole -621-



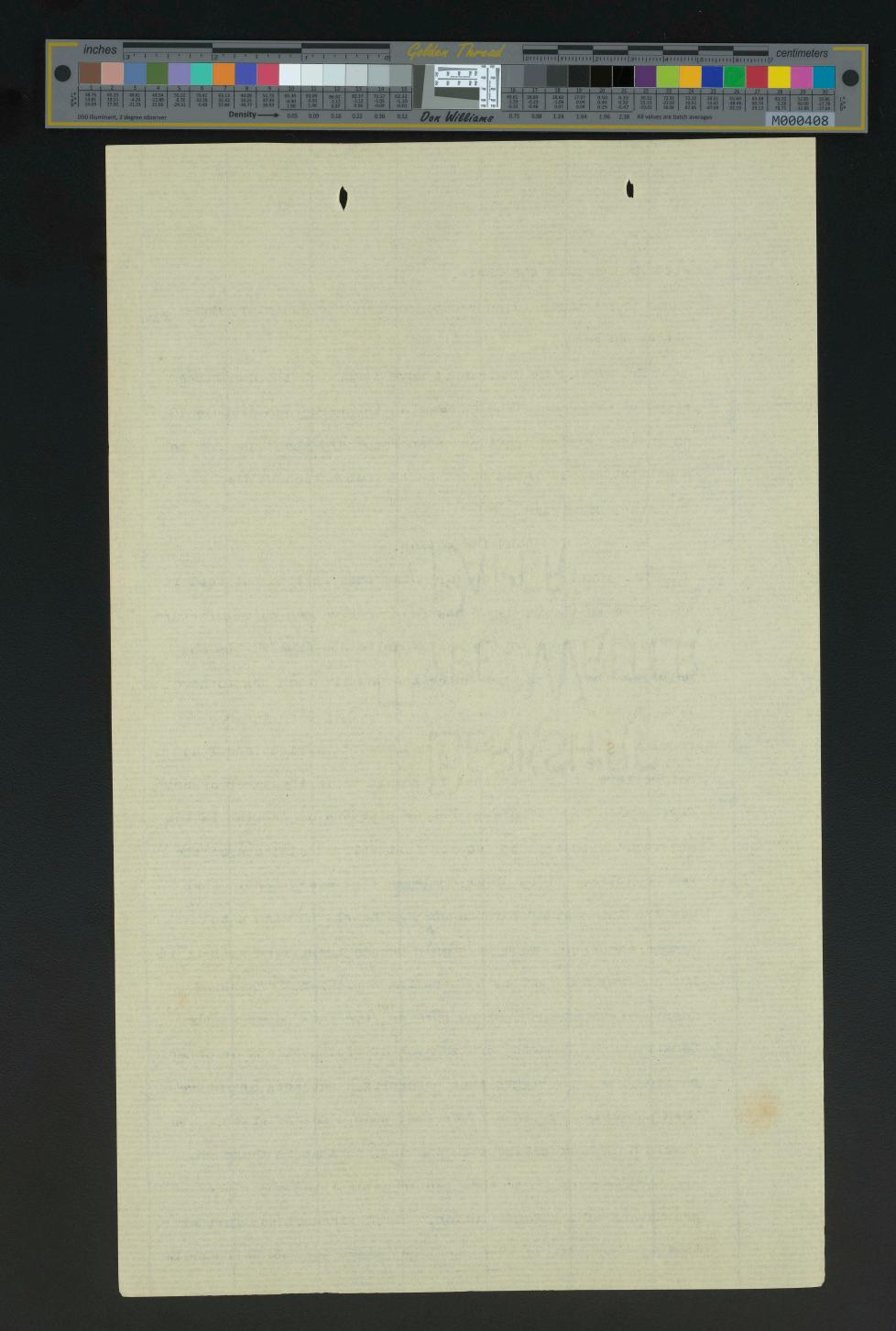
with Mr. Lyman in the Chair.

Article 19, as recommended by the Judiciary committee, is read.

Mr. Brown. Mr. Chairman, I move that when the Committee rise they recommend the Convention to strike out Article 19 as in the printed draft and also recommend the house not to adopt Article 19 recommended to the Convention by the Judiciary Committee.

Mr. Ena. I second the motion.

Mr. Brown. My reason for doing this is I do not feel it should be in the hands of any four or five men to manufacture voters or citizens of the new Republic and give rights and privileges which any man under the Constitution has to have lived here a certain time and to have fulfilled certain requisites to get. I do not believe it is right, and I do not believe it is fair that it should be in the power of any five men to manufacture voters or citizens other than in but one way, and that is by becoming naturalized subjects of the new Republic. I think, Mr. Chairman, that every person that has the interest of this country at heart and wishes to become identified with it should become identified with it in but one way and that is by becoming a citizen. "Kissing goes by favors", and just as sure as live this power in the Constitution of making citizens, or of giving aliens or other parties the same rights that naturalized subjects or native born subjects have, is a power that should not be given. should only have citizens in one way, and that is those who are born here or those that become naturalized under the provisions of the Constitution. Mr. Chairman, I say further that if this Article 19 passes they might just as well strike



out Article 18 and have no naturalization at all and let it be entirely in the hands of the Cabinet, not that I am saying one word against the present Executive. We want to legislate for the future; we do not want to legislate for the present; the present can take care of itself. It is the future that we want to take care of. And I therefore hope that this article on Denization will be stricken from the Constitution, as I do not think it is right.

Mr. Carter. I should like to hear the motion.

it recommend that Article 19 as in the draft be stricken out, and also that the substitute article recommended by the Judiciary Committee be recommended not to adopt it.

Mr.Carter. I would like to move an amendment to that motion by striking out the word "not" in the last paragraph, so that the motion shall read "when the Committee rise it recommend to the house to strike out the original Article 19 as in the draft, and that Article 19 as recommended by the Judiciary Committee be adopted."

Mr.W.O.Smith. I sedond that.

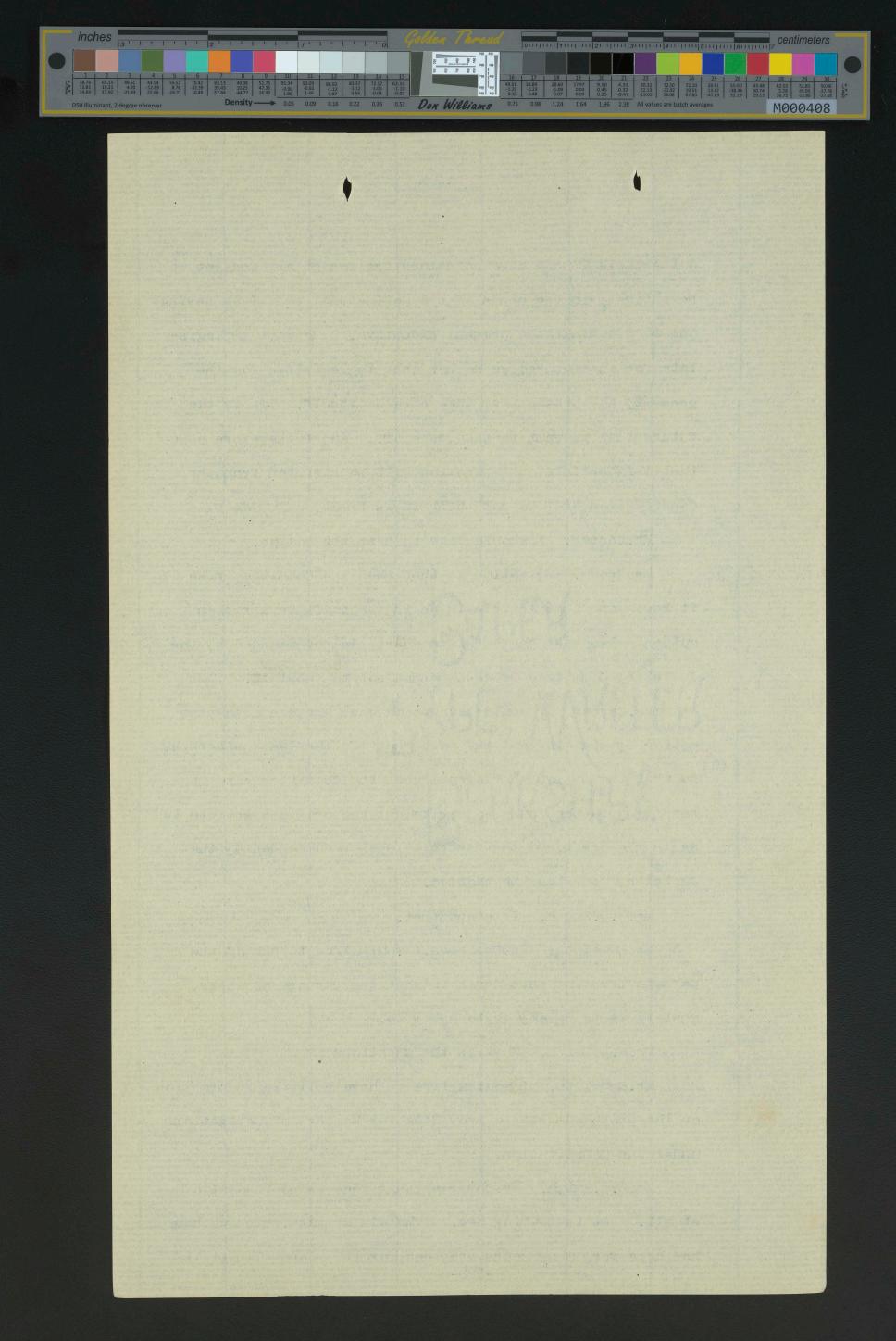
Mr. Emmeluth. Mr. Chairman, I would like to ask of the persons bringing this draft in what the purpose of it is, what it is to remedy or to apply to.

Mr.W.O.Smith. What is the question?

Mr. Emmeluth. I would' like to have a little information on the proposed Grticle providing for Letters of Denization under the Constitution.

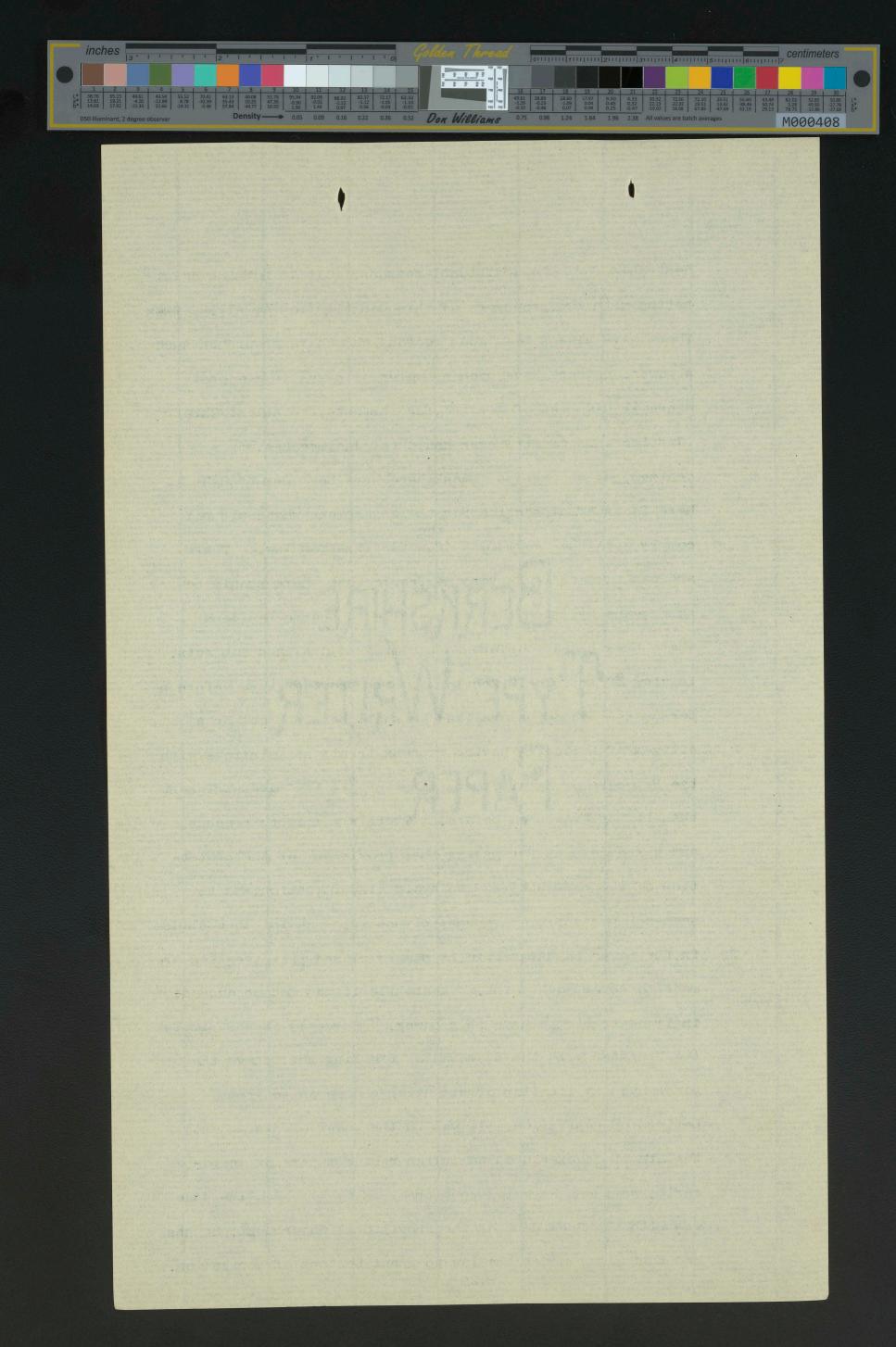
Mr.W.O.Smith. Mr.Chairman, this idea is no innovation at all. It is nothing new. The old statute, which we have had here very many years, provided for it. And also it is

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desirable for some additional reasons. It is nothing originating with the proposers of this Constitution at all. There There have always been good reasons why there should be such a power. There have been a number of cases in the past where it has been of service, for instance, the ablest Chief Justice this country ever had, Chief Justice Lee, was a denizen, and at various times there have been men brought here for special service for the government who could not comply with the provisions of naturalization law. are cases where it is very desirable that there should be some means by which they can be able to become denizens where they cannot conform to becoming naturalized subjects. In view of Article 18 Section 5, which provides that before a person can become naturalized he shall be a subject or a citizen of a country having express treaty stipulations with the Republic of Hawaii, that is making the law more stringent than it has ever been before. There are weighty reasons and valid reasons for making that provision for the protection of the community and to avoid discrimination, and it seemed important to have that clause in. Having that clause in, the power to naturalize is simply closed till treaties are made to cover such point. Meanwhile it may become exceedi ingly desirable to have this power. Formerly it was simply the Minister with the approval of the King shall have the power upon application of any alien and so on to grant Letters of Denization. It was in the power of His Majesty the King to confer upon any alien resident here or temporarily resident here to grant them, and it has been the same way with the President of the Provisional Government; he has had that power under the law to grant Letters of Denization.

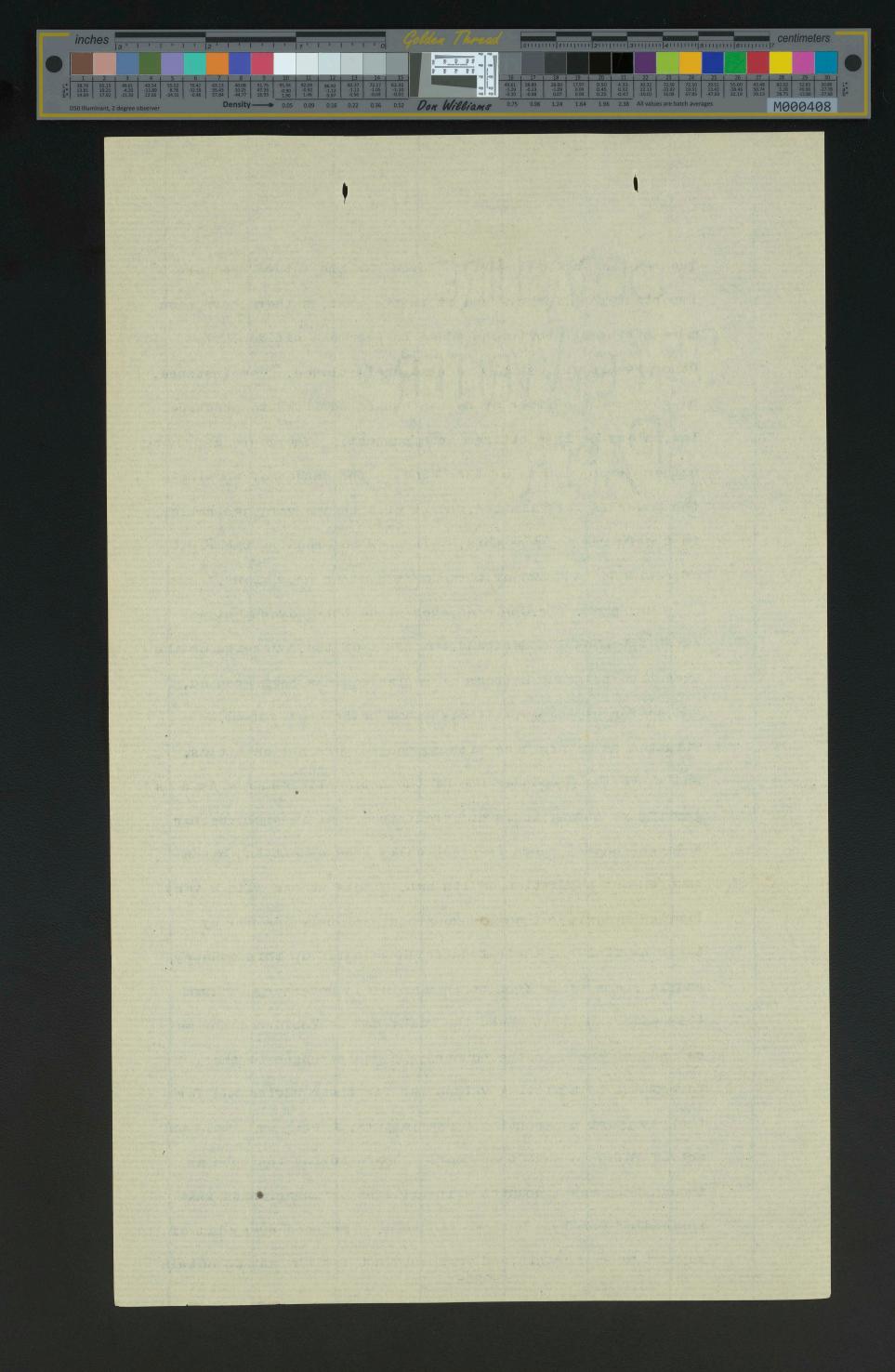
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The reasons for having it in force for the future are more important than to have had it in the past, as there have been more stringent provisions added to become a citizen.

Otherwise, it will simply be absolutely closed. For instance, no government officer, or no man can be admitted to practice law, unless he is a citizen or a subject. There are a number of provisions of that kind. The danger of abusing the power is very limited, and it will become very desirable in the future to have this. It does not require the right of residence and two or three of the other provisions.

Mr. Damon. Mr. Chairman, ever since this government was established, as I understand, the right of the sovereign or the Executive to grant Letters of Denization has been granted, and, so far as I know, that right has never been atused. Situated as we are here with so many divers nationalities, and where the preponderance of the nationalities from Asia is growing so strong, it is different from what it would be for a large country which is practically independent and has a homogeneous population of its own. Here we are with a very limited minority of anglesaxons and nationalities who by their capital and their industry have built up this country, and it seems to me that it is absolutely necessary to have this power, and that where the right can be conferred and we can add strength to the country and add strength to the government by admitting valued men for their advice and for their support by granting these letters, it will be simply an act of folly to shut that door. Wehre acting too much as though this was a country with millions of inhabitants xxxx instead of barely a hundred thousand. We need every bit of support we can obtain, and we should not bar the way to obtain

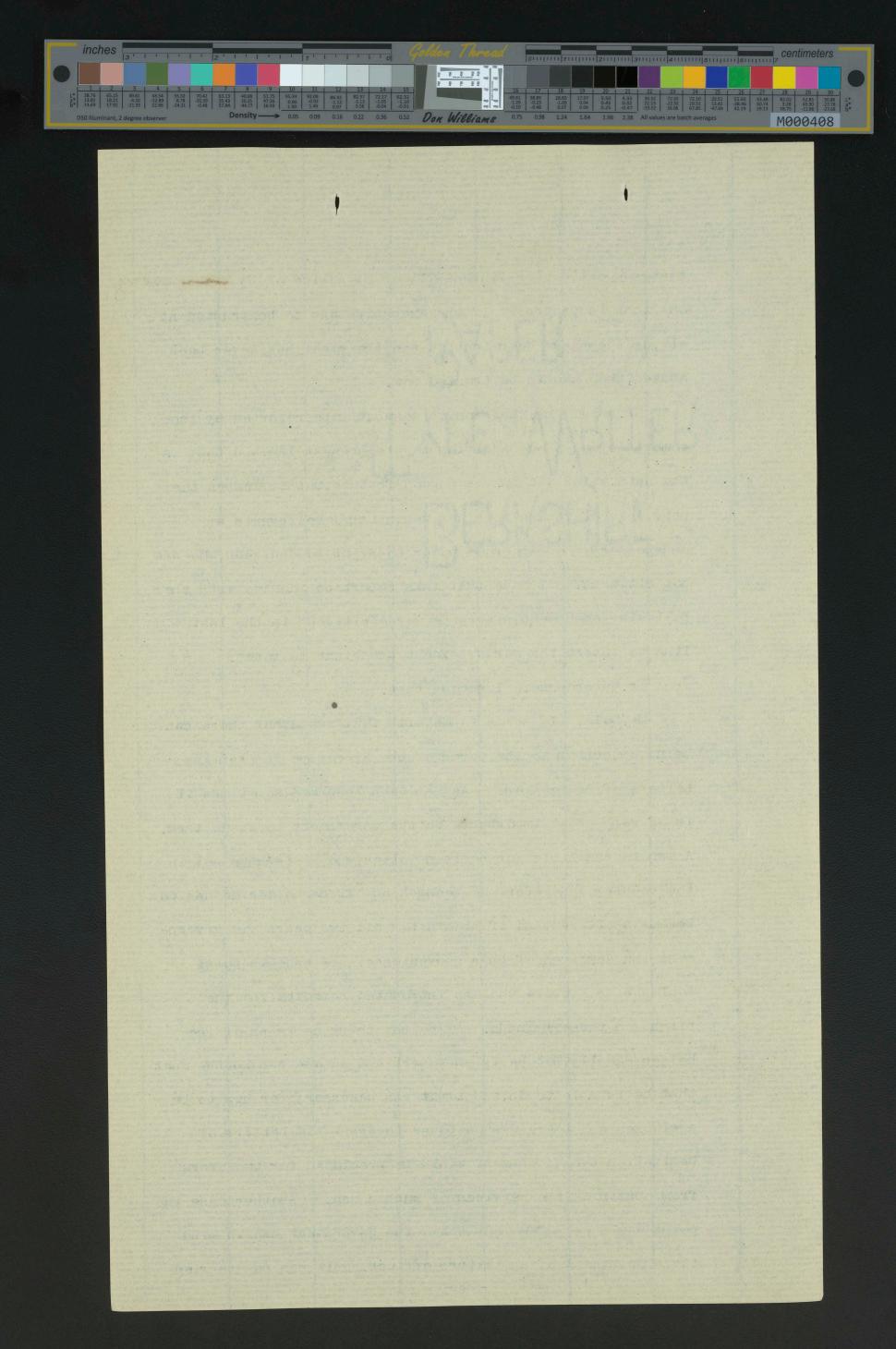


that support, either financially or by advice or by wither every one that is proper. If the Executive are to be trusted at all, as they have been trusted and the right has never been abused, they should be trusted now.

Mr.Dole. Mr.Chairman, this substitute reported by the committee makes one addition to the present law, and that is the oath, which I think is a good feature, but it leaves the privilege of voting to a denizen, which I believe is an unnecessary and dangerous power to grant to denizens who are not citizens. I move that this report be adopted with the following amendment, after the word "citizen" in the last line to insert the words "except the right to vote".

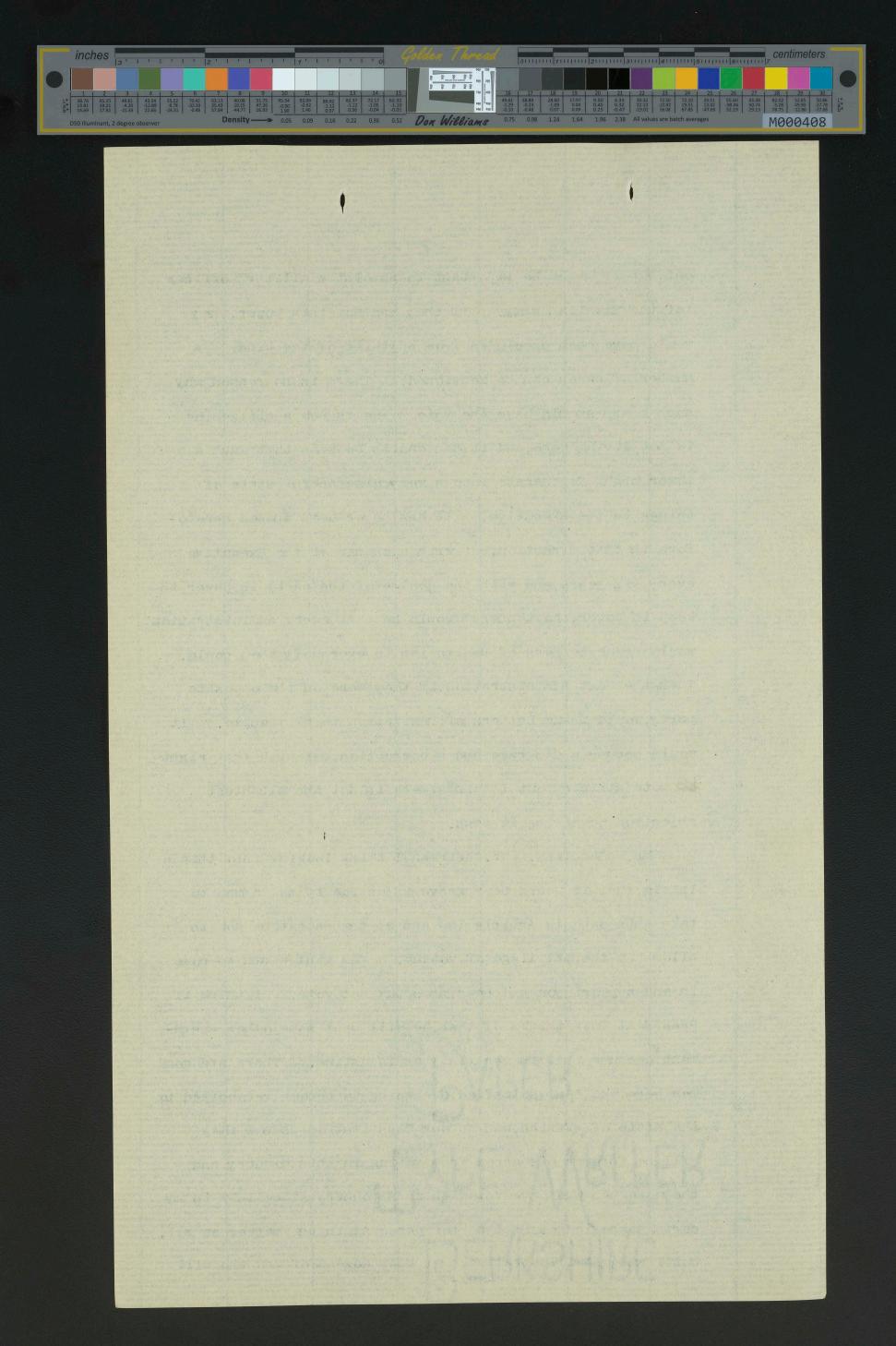
Mr. Waterhouse. I second that.

Mr. Dole. It seems to me with that amendment there can be no objection to the power of the Executive in granting Letters of Denization. As has been remarked, sometimes it is of very great importance to the government to issue them. A man is available for certain duties, who is perhaps not in the country, and before he becomes an office holder he has to become a citizen, and if he has to wait two years the government isk deprived of this convenience. A case in point would be Mr. Koebele who has introduced remedies for the blight on these Islands. I do not think he is an office holder exactly, but he is an expert and no one can do the work that he is able to do, and if it was necessary for him to be a citizen and there was no power to grant him Letters of Denization the government would be precluded for two years from obtaining the services of such a man. Another case in point would be a few months ago the government had in mind the appointment of a military officer. It was not carried



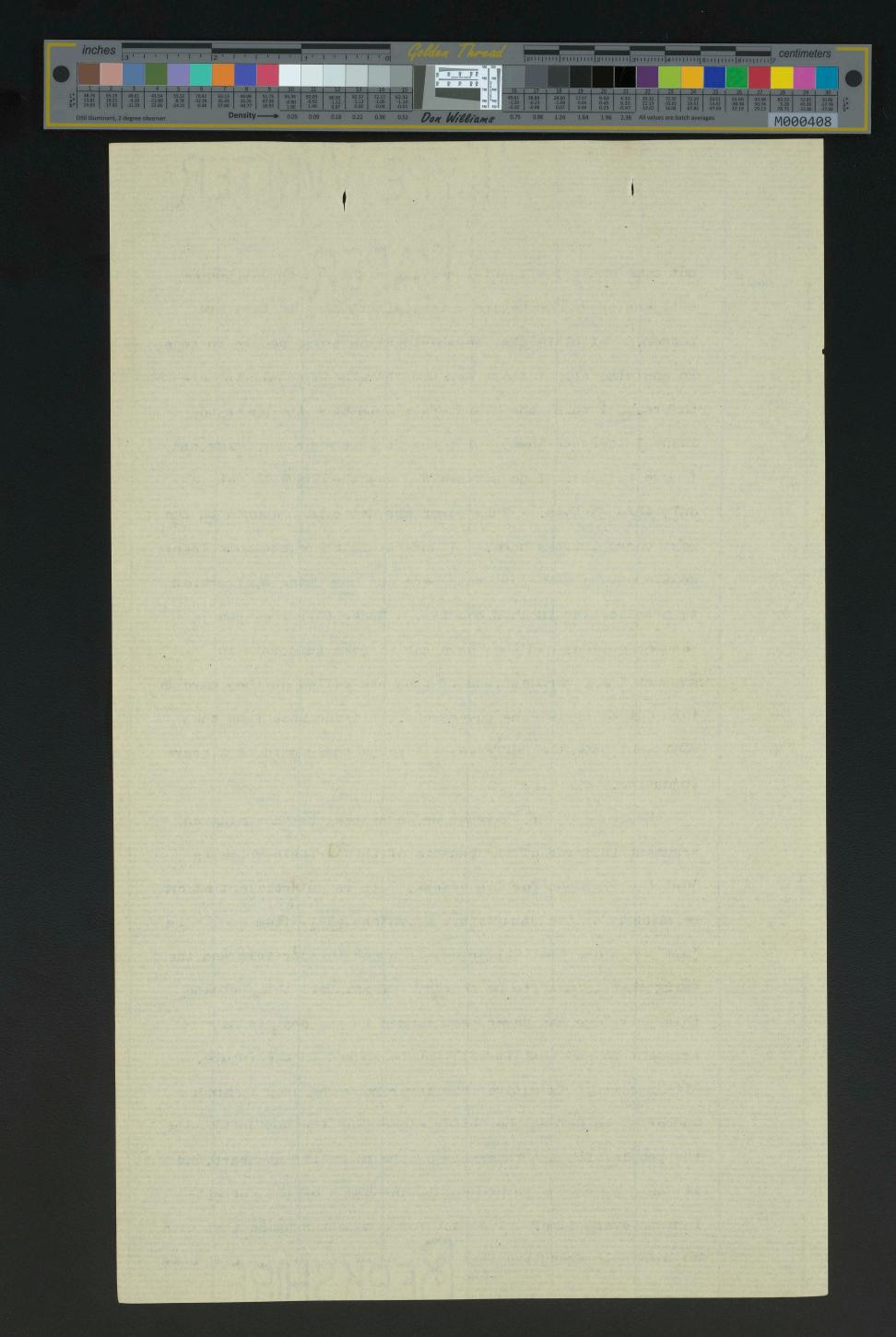
out, but it might be important to appoint a military officer of the Hawaiian army. If they had not this power, they would have been precluded from anything of the kind. A number of cases can be mentioned. There is no reason why such a man should have the vote. He is not a citizen, he is not living here, and it can easily be seen that such a power might degenerate into a very disgraceful state of things in the Executive. It has never been abused heretofore in that direction, but with a change of the Executive every six years, and with the desire of the party in power to keep in power, the tendency would be that every administration would issue Letters of Denization to everybody they could. Then the next administration, if they were on the opposite party, would issue Letters of Denization to all people. It would become a disgrace and a corruption, but with that right vote stricken out I think there is not the slightest objection to having it pass.

Mr. McCandless. Mr. Chairman, I think looking into this a little that it would be a grave injustice to ask a man to take this oath in Article 100 and at the same time not to allow him the privilege of voting. You want a man to come in and support you and bear arms but not vote. I think if President Dole thinks of that, he will want some other amendment, because that is certainly an injustice. There are good men here, who, I am satisfied, are going to become reconciled to the state of affairs, and as our Constitution is now they will be forever disbarred from voting in this country, and they are men who have voted in this country since 1887 to my certain knowledge.. I am not personal in the matter at all, but I am just illustrating. I know dozens of men who will



not come under the special service right and cannot become citizens, or cannot become voters, simply because they are barred. I claim that we should allow those people to come in and also all of those men that have been royalists hereto fore. I think the Ministers should have the power to issue letters to them. I think it is the proper thing, and I move it pass. I do not see any way they have to get in only through this. This power has never been abused in the most corrupt times here. I understand there are some legal gentlemen, who have just come here and have made application to practice law in this country. Under this they can become denizens and they have got to take this oath to support the government, and if they are called on they have to turn out to assist the government. At the same time they would not have the suffrage. I think that would be a grave injustice.

Mr. Tenney. Mr. Chairman, Mr. McCandless is advancing an argument in favor of the passage of this Grticle which is just the argument for its defeat. It is an article that can be abused for the manufacture of voters ad libitum and it is just the abuse that will creep in under this article and the thing that is most to be feared. I maintain that because this privilege has never been abused in the pasta is no argument to say that it will not be abused in the future. With a corrupt Executive this favor could be used in such a manner as to defeat the better element of the community and the people with the interests of the community at heart, and it would place the government in the hands of the corruptionists every time. I do not for a moment suppose that with an honorable Executive this thing would be abused, but what we

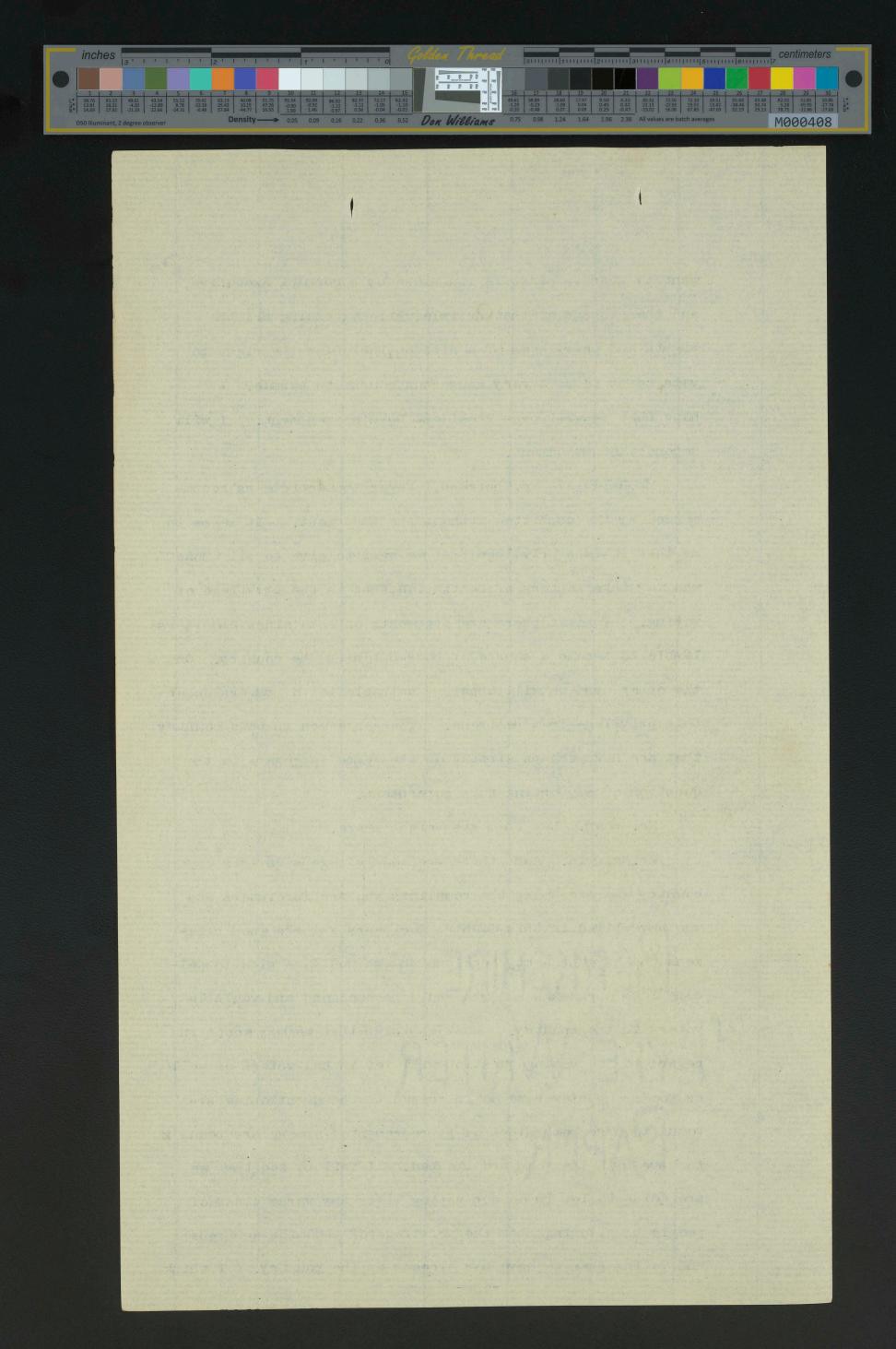


want to guard against is its abuse by a corrupt Executive, and the passage of that Article, while extending all the rights and privileges of a citizen, including the right to vote, seems to me avvery dangerous course to pursue. I hope that we will pass President Dole's amendment. I will second that amendment.

Mr.Baldwin. Mr.Chairman, I favor the Article as recommended by the committee without the amendment. It seems to me that it is a privilege that we want to give to all those who may take Letters of Denization, that is, the privilege of voting. I admit there are arguments on both sides and it is liable to become a source of corruption in the country. On the other hand, we will obtain a valuable lot of voters under this privilege from denizens. There are men in this country that are now perhaps sitting on the fence in regard to the question of supporting this government.

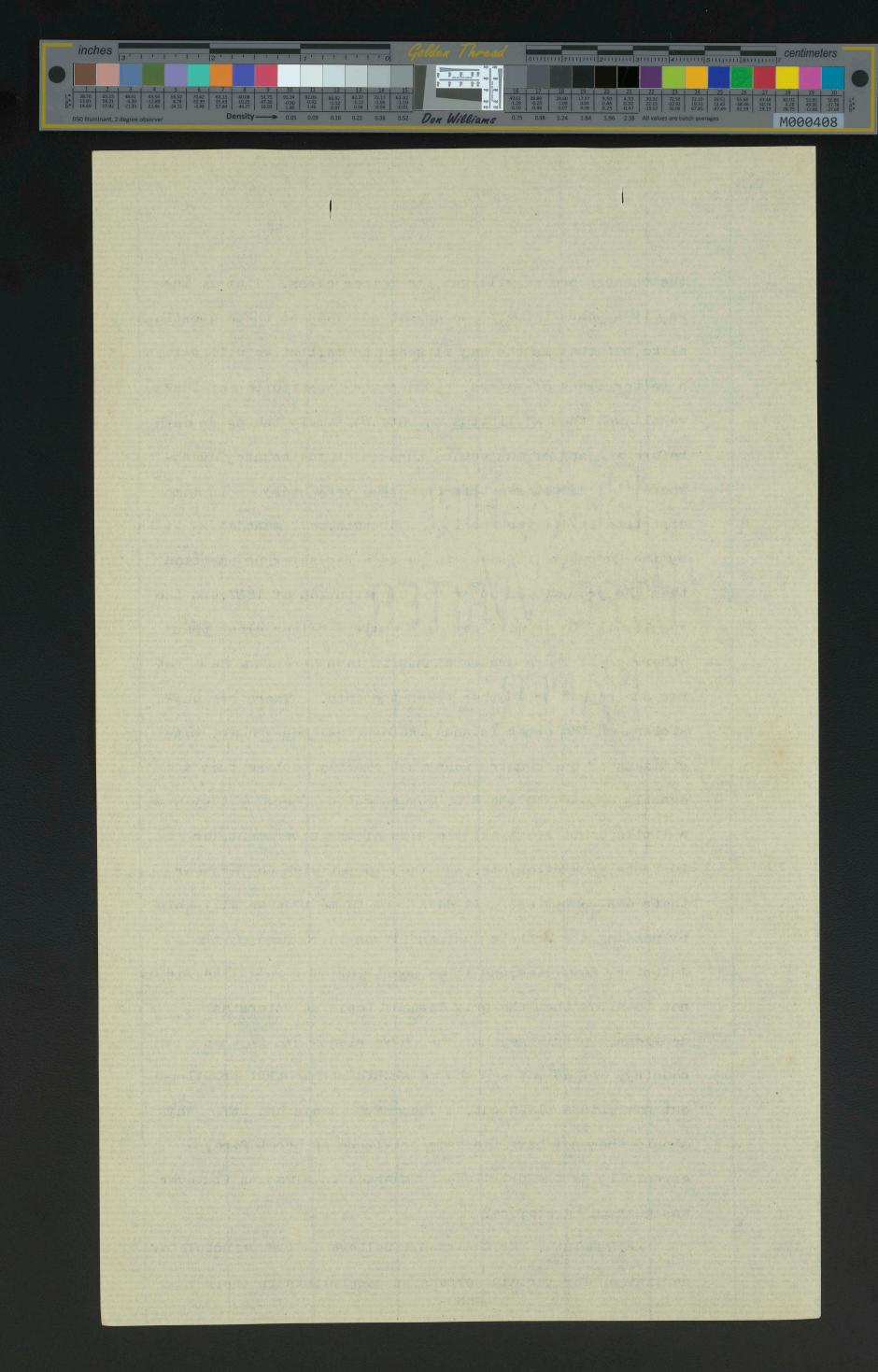
Mr. Brown. Let them stay right there.

Mr.Baldwin. And there are good citizens in this country who are among the royalists who are foreigners and who have lived in this country for years and are good citizens and have property here, and whom we would be glad to welcome into our ranks and who would become good and vaulable voters in the country. Most any plan that we may adopt in regard to the voting question will let in bad voters as well as good. Whatever we do in regard to the question, we are bound to have both sides of it represented and we are bound to have both the good and the bad. I fail to see that we are going to let in on our voting lists any worse class of people by allowing them the privilege of becoming demizens and voting than we have now already in the country. I think



the chances are we will get the better class. That is the way it appears to me. We do not all look at these questions alike, but that is the way it seems to me, that we will get in a better class of voters. Under the Constitution of 1887 we allowed them ad libitum to vote by simply taking an oath before a board of inspectors throughout the country everywhere. I do not see that it worked very badly. In some districts it did work badly. But this, well guarded as it is by the Executive, it seems to me is a far safer proposition than the proposition under the Constitution of 1887, and the result will be we will get as a whole a better class than otherwise. There are merchants in town here that have not for one reason or another taken the oath. There are physicians on the other Islands, professional men who are not citizens of the country today, not exactly because they are exactly opposed to the P.G. government, but because they have a little doubt about all the aims of the government, for instance, annexation, etc., and they do not wish to forswear their own countries. It does seem to me that we will gain by passing the Article just as it was introduced by the Judiciary Committee, and it is something of a injustice for us not to allow them the privilege of becoming voters as denizens, a privilege that the v have always had in this country. I do not see why we should strike that privilege They have a Iways had it. out now with a clean cut. should they not have the same privilege as heretofore? especially as the privilege is guarded in a way as it never was guarded heretofore?

Mr. Emmeluth. Mr. Chairman, I believe in the principle of denization for certain persons, as specialists in their

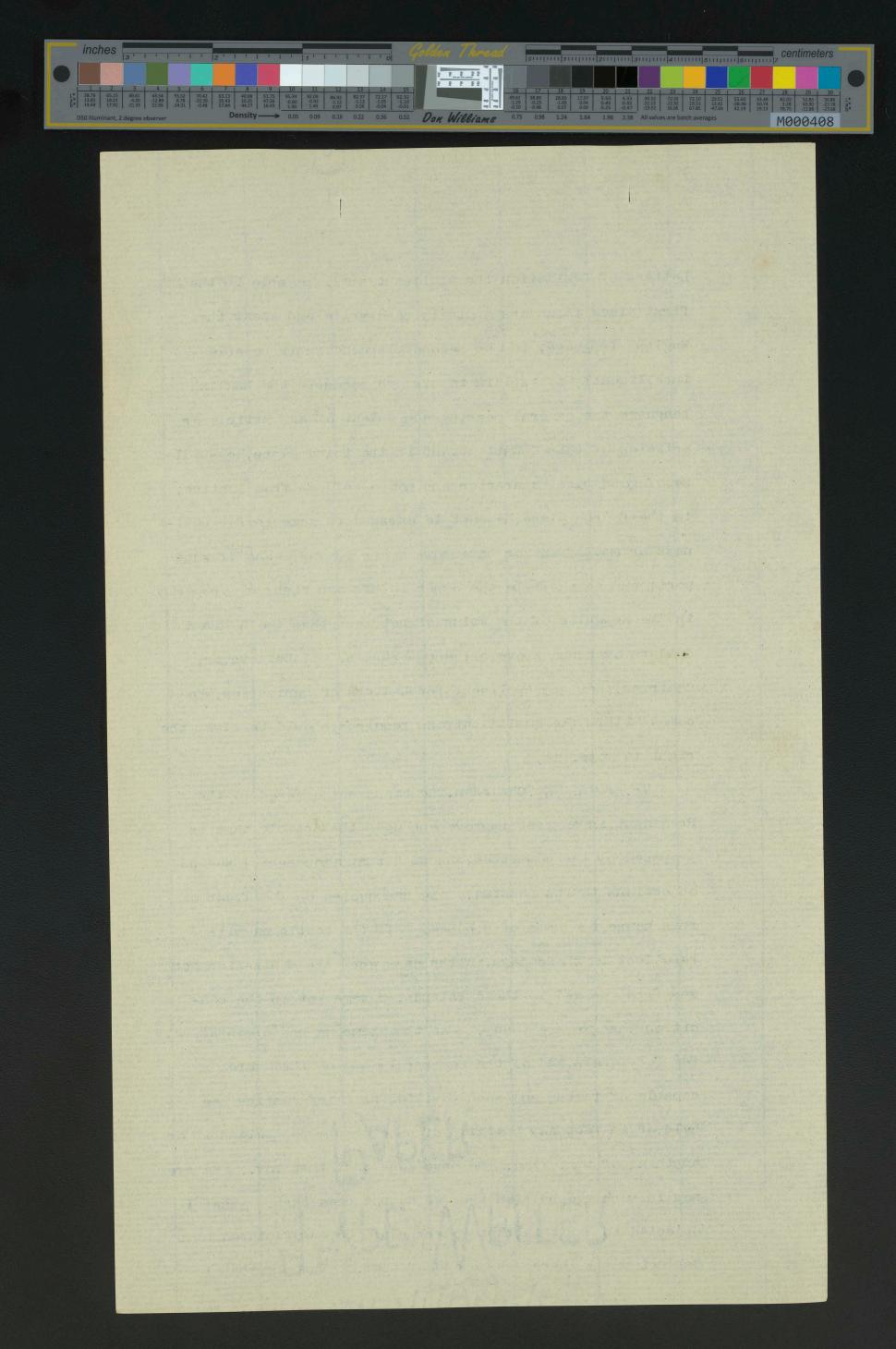


various lines that this country has need of available men in the community to fill the bill and to bring them in as denizens. I believe thoroughly in the principle providing for just such a contingency, but to make the proposition of denization as broad as what it is in this draft I am absolutely opposed to it, even with the provision that a man cannot vote. Mr. Baldwin has just said that we ought to let in all these people that are on the fence. Mr. Chairman, I have been charged with being averse to annexation right here in this room, but I stand here to say that I would like to see measures passed that would prevent any man from getting the franchise to vote that was not in favor of annexation. That is as far as I would like to go with it. And then make a proposition to give the people a little more leeway, not tie up the matter in the way that it is being tied up in the hands of the few to the detriment of the many. I believe that the proposition to allow these people to come in, based on the lines such as Mr. McCandless proposed and as Mr. Baldwin proposes, would be in a measure inviting the defeat of annexa-As Mr. Vivas said yesterday, I would sooner fight than see that done. Mr. Chairman, I am in favor of the amendment. submitted by the President, but I would like to see it still further amended.

Mr.Carter. Mr.Chairman, I am in favor of the Carticle as recommended by the committee and I am mt in favor of the amendment proposed by the President. Let us examine for a moment this Carticle in the light. If, instead of providing what of the qualifications should not be required, it had contained a description of those which should be required, the gentlemen will find that in order to become entitled to

Letters of Demization the applicant shall be able in the first place to understandingly read, write and speak the English language; in the second place, he shall be able intelligently to explain in his own words ain the English language the general meaning and intent of any article or articles of this Constitution; in the third place, he shall be of good moral character and not a refugee from justice; in the fourth place, he must be engaged in some lawful business or employment or have some other living means of support; and he shall be the owner in his own right of property in the Republic of the value of not less than two hundred dollars over and above all encumbrances. I believe, Mr. Chairman, that any applicant for Letters of Demization, who comes within the qualifications required, should be given the right to vote.

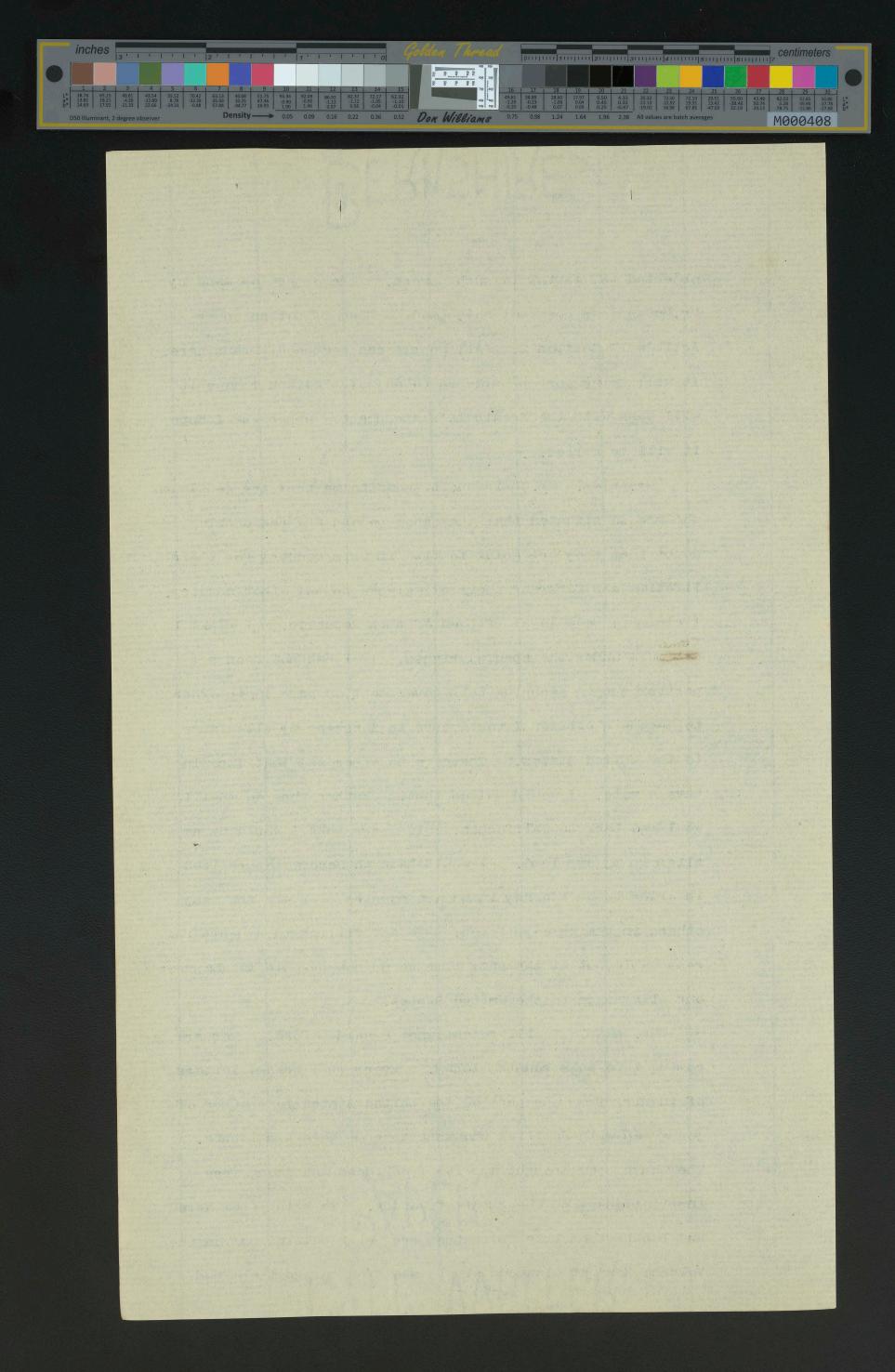
Mr.Brown. Mr.Chairman, the amendment offered by the President is a great improvement upon the article that is proposed by the committee, and with that amendment I see no objections to its passing. We had quoted on the floor of this house the name of W.L.Lee. If the gentlemen will recollect in those days, in the days when the denization act was first passed in these Islands, we were not in the condition that we are today. At that time we had comparatively few foreigners, and of the few hardly any of them were capable of taking any such position as Chief Justice Lee held, or in fact any position of note, or any physicianship or anything of that kind. We have gone past that now. We are now in such a condition that we do not need that. What I objected to was this, that voters could be manufactured by a Cabinet until there was no end of them. That is what I



objected to, leaving in such powers. The objection made by Mr.McCandless does not hold good. That is not so under Article 17 Section 2. All people can become citizens here. It will never work a hardship to any of them, and I hope it will pass with the President's amendment. Otherwise I hope it will be killed.

Mr. Ables. Mr. Chairman, it seems to me that the gentlemen who are so situated that they know be youd any reasonable doubt that they are going to live in this country for their lifetime can forswear their allegiance to any other country. I claim to be a loyal citizen of this Republic. I claim I in under the special rights. If I had not been a participant in securing this government, on page 18, in order to become a citizen I would have to forswear my allegiance to the United States. There is no other way that I could have a vote. I would not do that. Rather than do that I would go back to California. If I did that, I would be an alien in my own land. I would have to become naturalized in order to have a say in my own country. There are many others in the same position. We are willing to do anything reasonable, but at the same time we do not propose to for swear our allegiance to the Umited States.

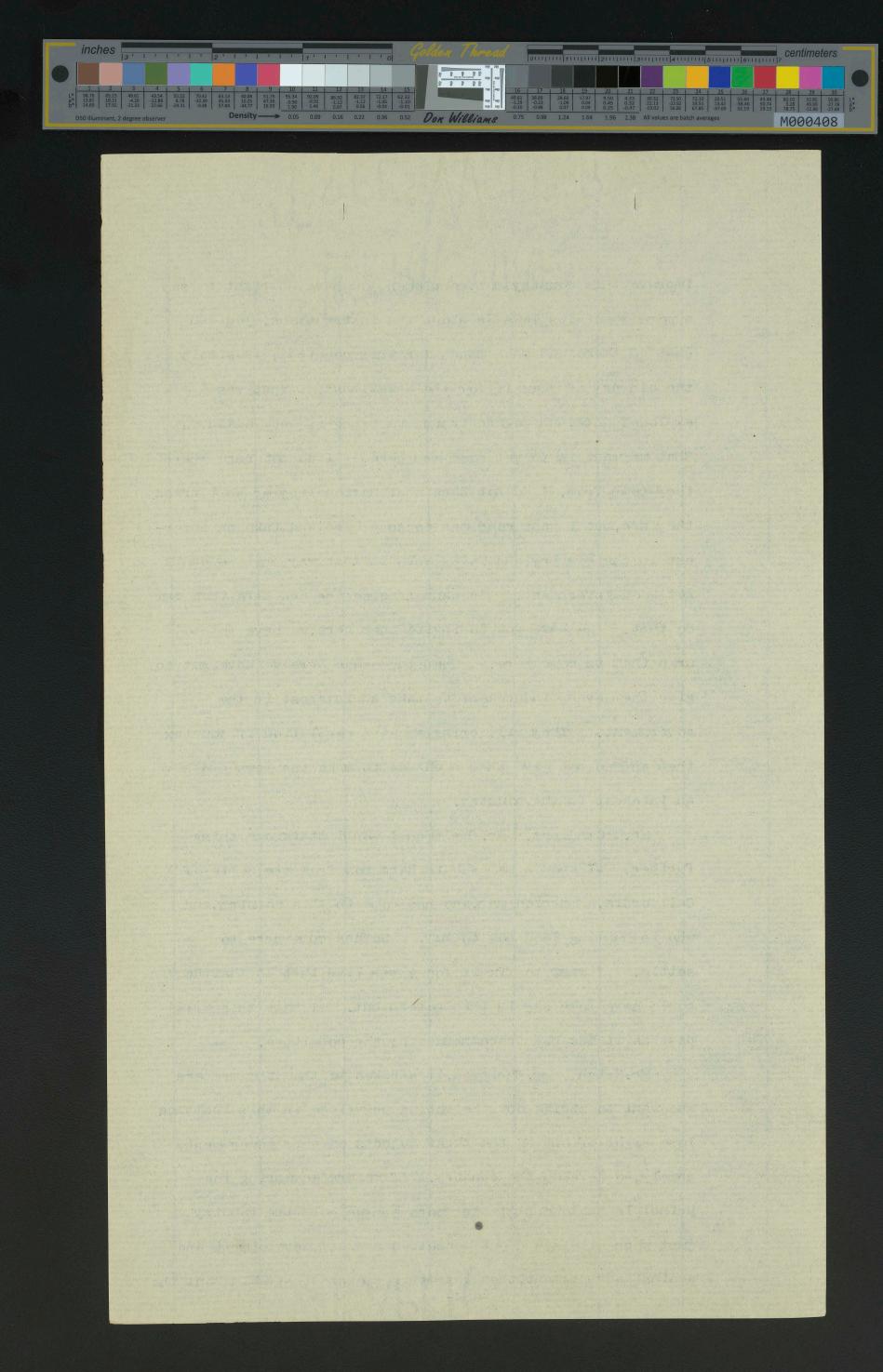
Mr.Damon. I will repeat what I said before. Men are coming into this country today. Every mail brings letters of inquiry from one part of the United States to another of young men with families who want to come here and locate. They have been brought up with free ideas and among free institutions with the right of voting. To bring them here and locate them, like those that are being settled now on the Volcano Road at Olaa, and simply say "You can go there and



improve this country, but, gentlemen, you have no right to say a word about its laws or about its institutions; you can just go there and make money for this country", is simply the old cry of "Hawaii for the Hawaiians". That was exploded once, and we are trying to bring it back again. What we want is to get good men here. I do not care where they come from, I do not care what nationality or what creed they are, but I want good men to come here and take an interest in the country, and it is only in that way that we can get good government. We cannot raise the men here that can do that. We have got to invite them here, we have got to urge them to come here. When they come here we have got to give them every inducement to take an interest in the government. They will bring about a revolution if you tax them and do not give them a chance to make the laws and have an interest in the country.

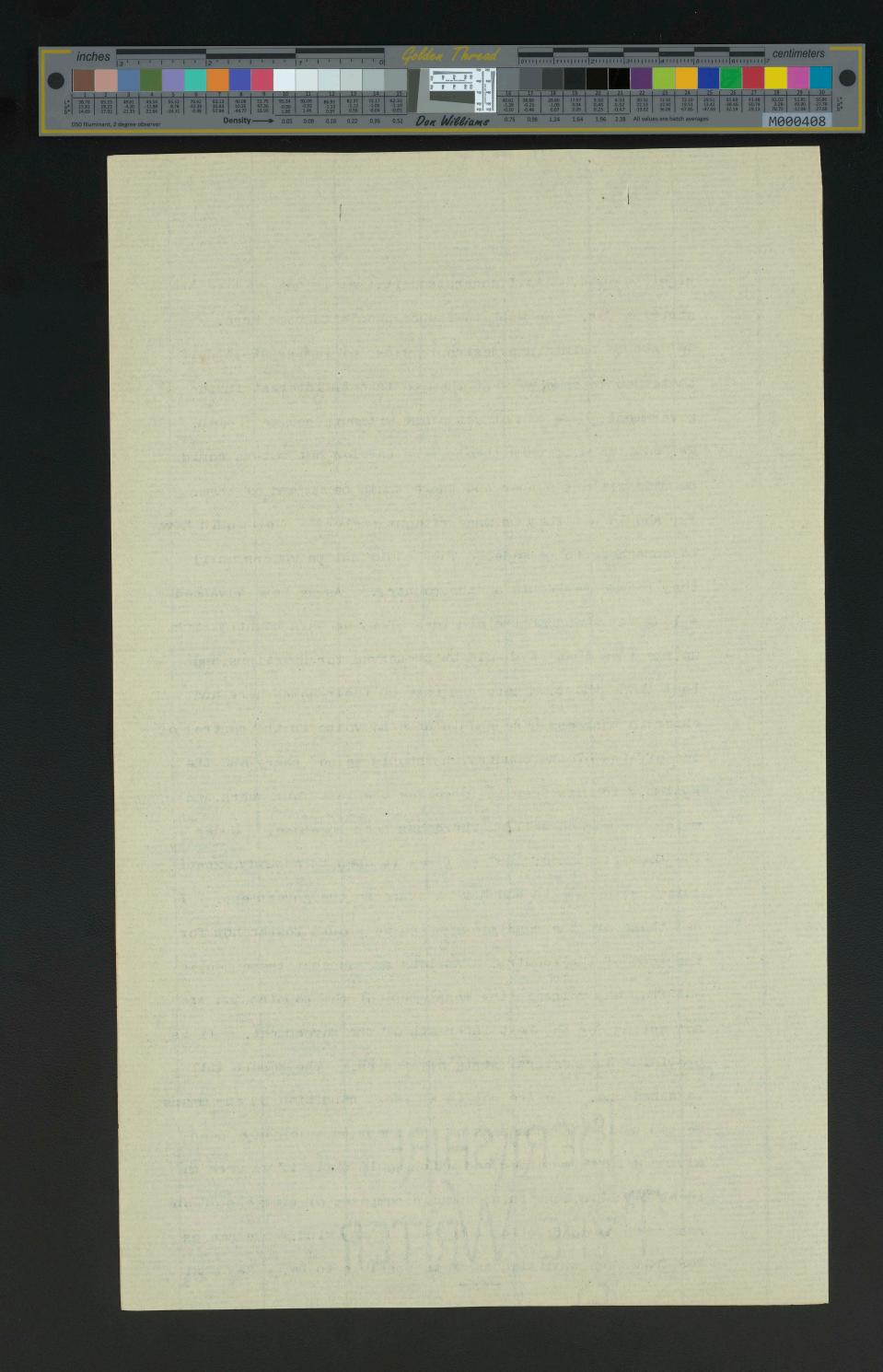
further. I know a man who is here now from the State of California, a married man, who has come to this country and who is hunting land now to buy. He has come here to settle. I want to fix it for a man like that so that he could have some say in this government. I hope this will pass as it has been recommended by the committee.

Mr. Hatch. Mr. Chairman, it strikes me that the members who want to strike out the voting privilege in this instance lose sight of one of the chief objects of this government, namely, to develop the country. If we are advancing the principle that we shut the doors and we hold the country just where it is and put ourselves against development and against advancement, then pass this amendment striking out the



right to vote. As I understand it, that is not what we are striving for. We want to induce people to come here. We want to bring in a desirable class of immigrants, and, if those people come, we want them to take an interest in the government. We cannot get along without them, gentlemen. Mr. Brown says, if this theory were carried out, voters could be made without number and there would be no end of them. Why should not they be made without number? The y would have to come here to be made. They could not be woters until they became residents of the country. As we have advanced a long way ahead of the old idea of tying this country right up, the idea that it should be preserved for Hawaiians, and that those who come here and take up their homes here and enter in business here should have no voice in the control of the affairs of the country, why should we not carry out the system, which has been in force for the last four years, and which has worked well? There has been no abuse. Under the Constitution of 1887 we threw it open to anybody, except Asiatics, to come in and have a share in the government. I say those are the conditions which we should foster now for the good of the country. As long as you shut these people out from any voice in the management of the country, you are not acting for the best interests of the government. It is providing an unnatural state of affairs. The result will be a bad one. We are not in an ideal condition by any means. We can admit the soundness of the theories, which have been advanced in this matter, and which would apoly if we were an ideal Republic, that is, a Republic composed of citizens of one race with no conflicting interests of any kind. We are as far from that condition as it is possible to be. Say what

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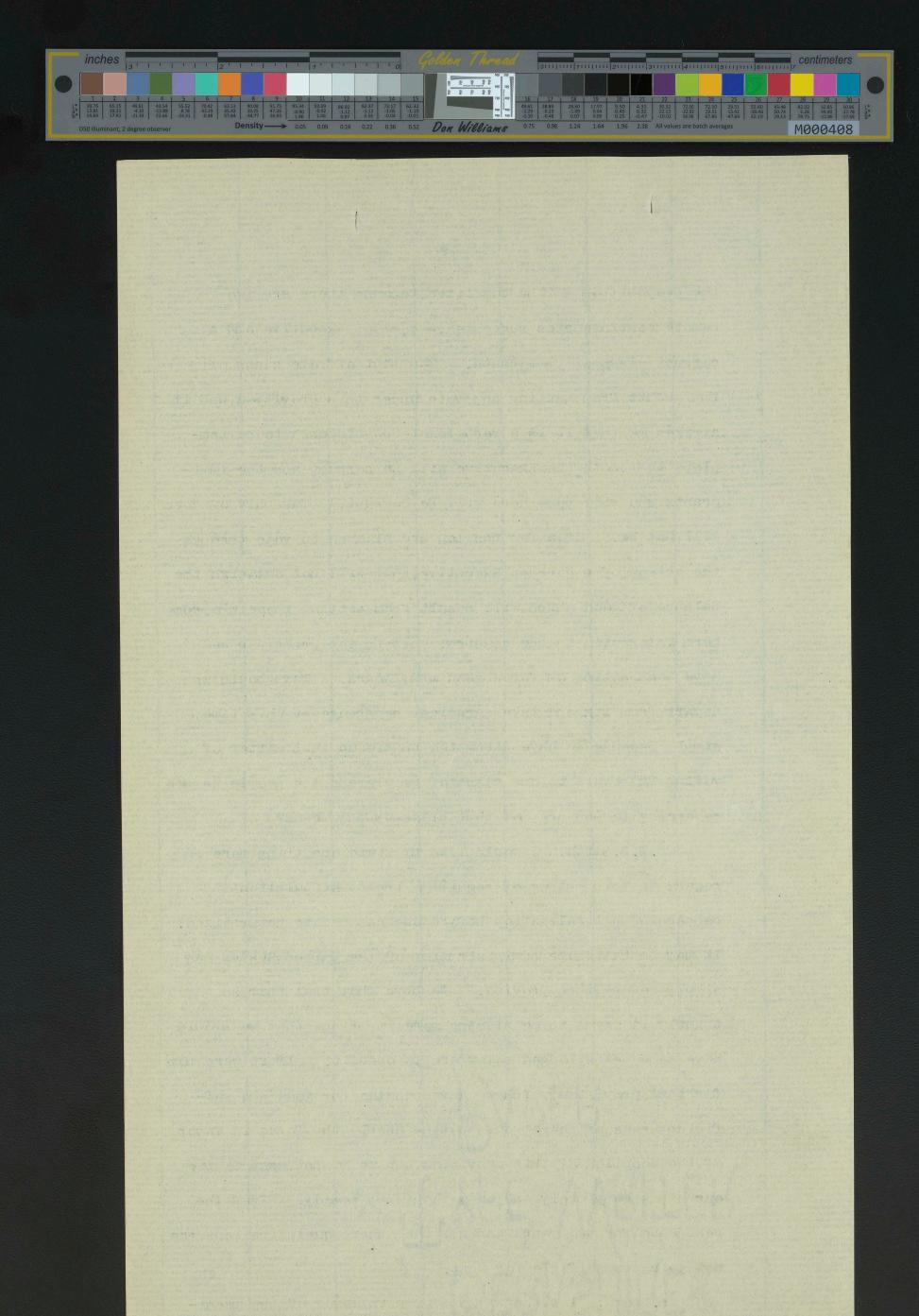


you will about getting naturalized, we have shut the door against naturalization for the present pretty effectually to accomplish some other purpose. But if the door were wide open admitting naturalization, we should not be blind to the fact that allegiance to one state or country is not readily thrown over. A great many people cherish their mative allegiance. It is something which we cannot all understand. It is a noble sent ment. How does it work in this case? Would we get people here, who, if they have been here some time, may become satisfied to become citizens, but during the early years of their residence they are shut out in matters of government. I say we should encourage them to take part in politics, because we need the vote of every responsible man who comes here and establishes himself in business and has an estate in the country. I cannot see anything to be gained by shutting the door against such people. If the Island develop, as we hope they will, and if an era of prosperity is about commencing, where would the largest immigration probably come from? It would probably come from the United States, and I say we are perfectly safe in taking the chances that the bulk of the immigration would be from the United States, and we are perfectly safe in giving the vote to every responsible citizen who comes here to engage in business and make his residence here, whether at the moment he comes he comes with the idea of throwing off his native allegiance, or he comes to look about and see how he . will make out and how he will get on: Though in the hands of a corrupt administration, this privilege may to a certain extent be abused, I say that that is not a sufficient or prominent or conspicuous enough to induce us to wote against

the proposition of the committee, because there are two remote contingencies suggested, a corrupt Executive and a corrupt class of immigrants. You shut off one class of immigrants from getting any vote under this provision, and it strikes me that it is a very remote contingency to contemplate that both the Executive will be corrupt and the immigrants who will come here will be corrupt. The bulk of them will not be. If a few bad men are allowed to vote through the action of a corrupt Executive, that will not outweigh the balance of good which will result from getting those who come here interested in the country. It is the principle we have been acting on for a good many years. Why should we depart from itx and take a radical departure at this time, simply because we have attempted to tie up this matter of voting in regard to one class of people, and the people we are referring to now are not that class by any means?

Mr.W.O.Saith. I would like to state one thing more in regard to this matter of requiring treaty stipulations concerning naturalization before one can become naturalized. It may be that some administration of the United States may simply refuse that proviso. We have shut that door so tightly it seems to me all the more important that we should have some means lodged somewhere to open it. If it were not for that provision, which we have adopted for good and sufficient reasons, there would not be nearly the force in favor of the adoption of this provision, but we do not want to the our hands completely and be without any remedy. Even the residence for two years and all the other qualifications are not going to sufficie for that.

Mr. Brown. I withdraw my motion in favor of the amend-



ment offered by the President.

Mr. Carter. I suppose my amendment to the original motion falls to the ground by that. I mowe to amend the motion of the President by striking out the words which he added to the draft as recommended by the Committee "except the right to vote".

The Chairman. I did not get Mr. Carter's amendment.

Mr.Carter. I move to amend the motion of the President by striking out the words in his motion "except the right to vote".

Mr.McCandless. I second that motion.

Mr.Baldwin. I do not think that is a proper motion.

The President has made a motion to adopt a certain amendment.

Another member makes a motion not to adopt that amendment.

Mr. Carter. The President moved we don't the article as recommended by the committee and added certain words. I moved to amend that motion by not adding those words.

Mr.Brown. Your motion should be to adopt the report of the committee alone.

Mr.Carter. My motion is an amendment, Mr.Chaimman.

Mr.Baldwin. I do not think Mr.Carter's motion is

proper.

Mr. Brown. I move the ayes and noes be called.

Mr. Emmeluth. I second the motion.

Mr. Brown. Mr. Chairman, it has become customary by the mode of procedure of this Convention to have the ayes and noes taken in Committee of the Whole. I am going to move it. I move the ayes and noes be taken upon the President's marking amendment.

Mr. Emeluth. I second that.

The motion of Mr. Brown is put and carried.

The amendment of Mr. Dole is adopted on the following division:

Ayes: - Messrs. Allen, Brown, Dole, Emmeluth, Ena, Fernandes,
Horner, Iosepa, Kahaulelio, Kalua, Kauhane, Mendonca, Morgan, Nott,
Pogue, Rice, Robertson, Tenney, Vivas, Waterhouse, A.S. Wilcox,
Young. (22).

Bolte,
Noes:- Messrs.Ables, Baldwin, Carter, Damon, Hatch, King,
Lyman, McCandless, D.B. Smith, W.O. Smith, G.N. Wilcox, Wilder. (13).

Article 19, as recommended by the Judiciary Committee, is passed as amended.

Section 1 of Article 91, as recommended by the Judiciary Committee, is read.

Mr.W.O.Smith. It seems to me the grammer of this is wrong.. It seems to be it ought to be every person holding an office shall continue etc. I move as an amendment that the words "Eevery person" be substituted for "All persons".

Mr.Dole. I second the motion.

The motion of Mr.W.O.Smith is put and lost.

Mr.Robertson. I move it pass as recommended.

Mr.Young. I second the motion.

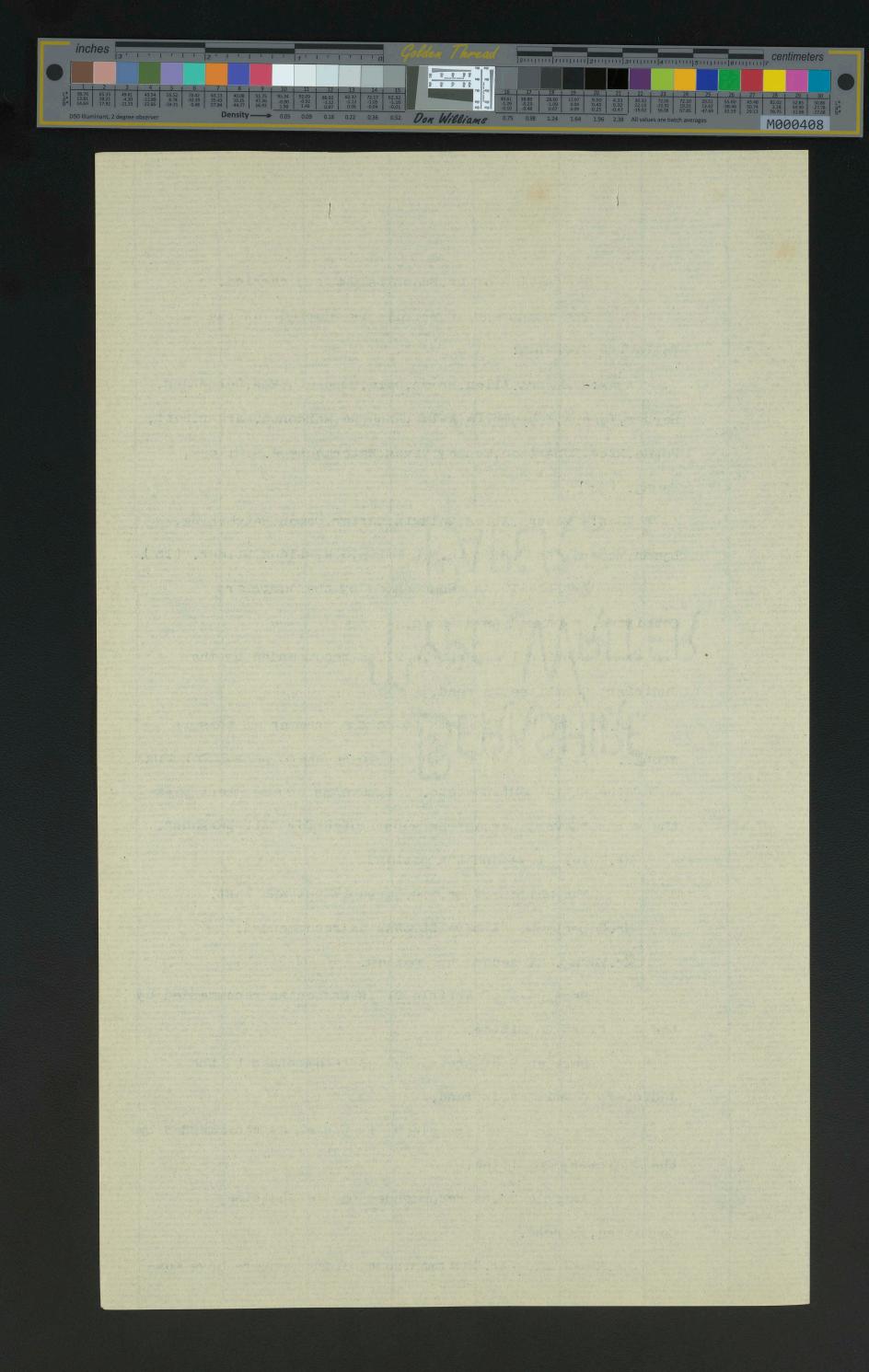
Section 1 of Article 91 is passed as recommended by the Judiciary Committee.

Section 2 of Article 91, as recommended by the Judiciary Committee, is read.

Section 2 of Article 91 is passed as recommended by the Judiciary Committee.

Article 94, as recommended by the Judiciary Committee, is read.

Mr. Emmeluth. Mr. Chairman, some of the members have con-



would like to ask how much power they are to have under that?

Mr.Brown. The Council of State is left out in that.

Mr.W.O.Smith. That would be like any other council.

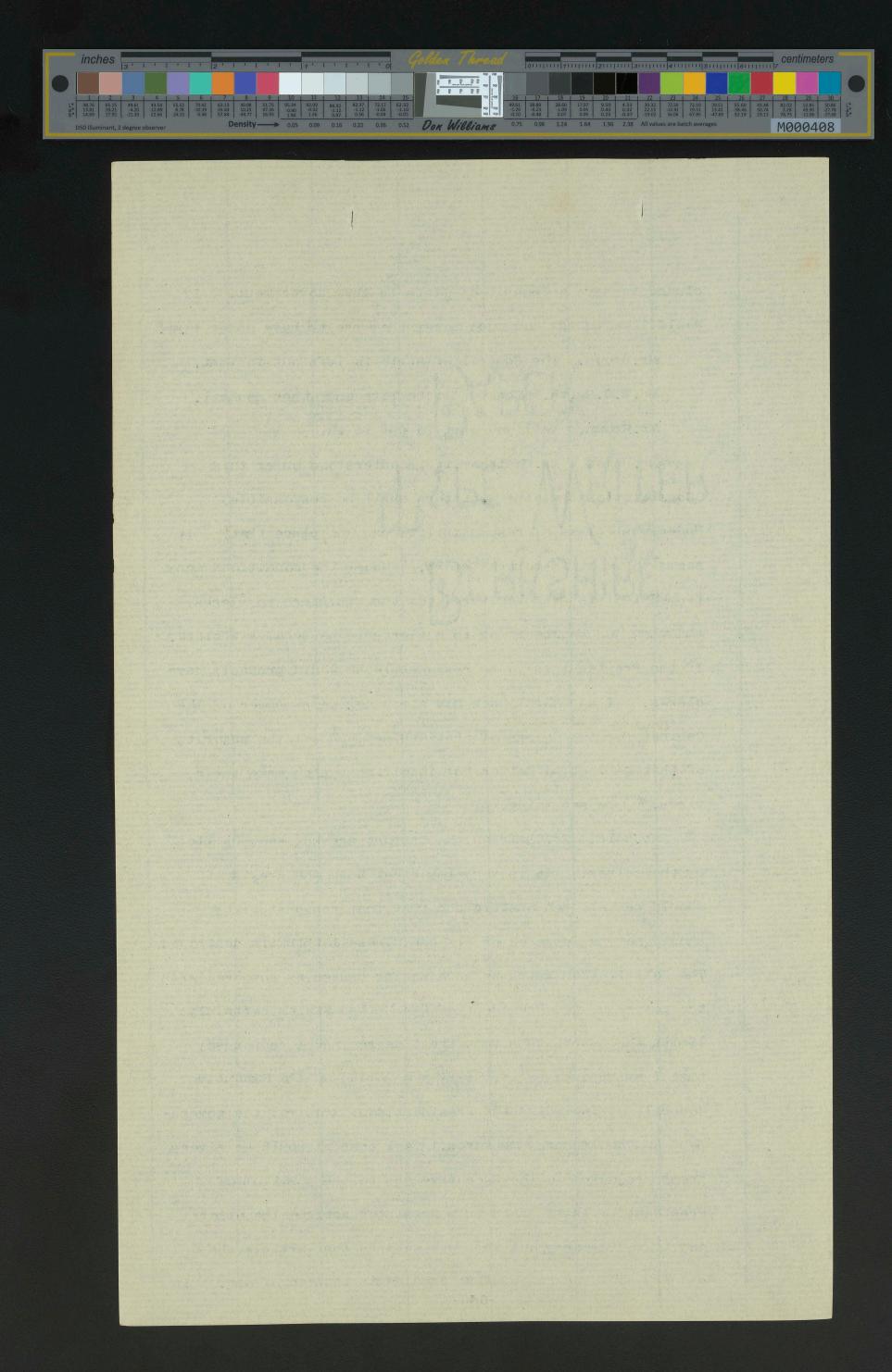
Mr.Brown. Well you want to put it in.

Mr.Damon. Mr.Chairman, it is understood under this
Constitution that the Ministers shall be responsible.

Under what class of responsibility can you place that? It
seems to me it is contradictory. Under the conditions mentioned in this Article it reduces the Ministers to clerks,
and when you reduce a man to a clerkship he becomes a clerk.

If the President is to be responsible, he would probably have
clerks. I can hardly see how a man can be a member of the
and be responsible
Cabinet for the doings of that Cabinet, and yet the majority
of that Cabinet, no matter how intelligent they make their
views, may be set aside.

Mr.Dole. Mr.Chairman, the Cabinet are not responsible by themselves. It is very important that the President should be held responsible and that that responsibility should not be lessened or his usefulness. I think, is destroyed. The Constitution which we have so far passed, as compared with the powers of the President of the United States, certainly limits the powers to a very great degree, and I cannot say that I am opposed to it, but if a majority of the Executive Council, not including the President, could control the government and could carry measures, I feel that it would be a very great prejudice to the Executive and to the position of President. As was said in a newspaper article the other day, it would carry out what was said in that article, the country would be run by five Presidents instead of one. It



would put the President exactly on a par with the members of his Cabinet. I think we have gone just as far in that direction limiting the powers of the President that we possibly can go without endangering it.

Mr. Emmeluth. I move to insert in the second line after "thereof" the words "of the Council of State".

Mr. Brown. I second the motion.

The motion of Mr. Emmeluth is put and carried.

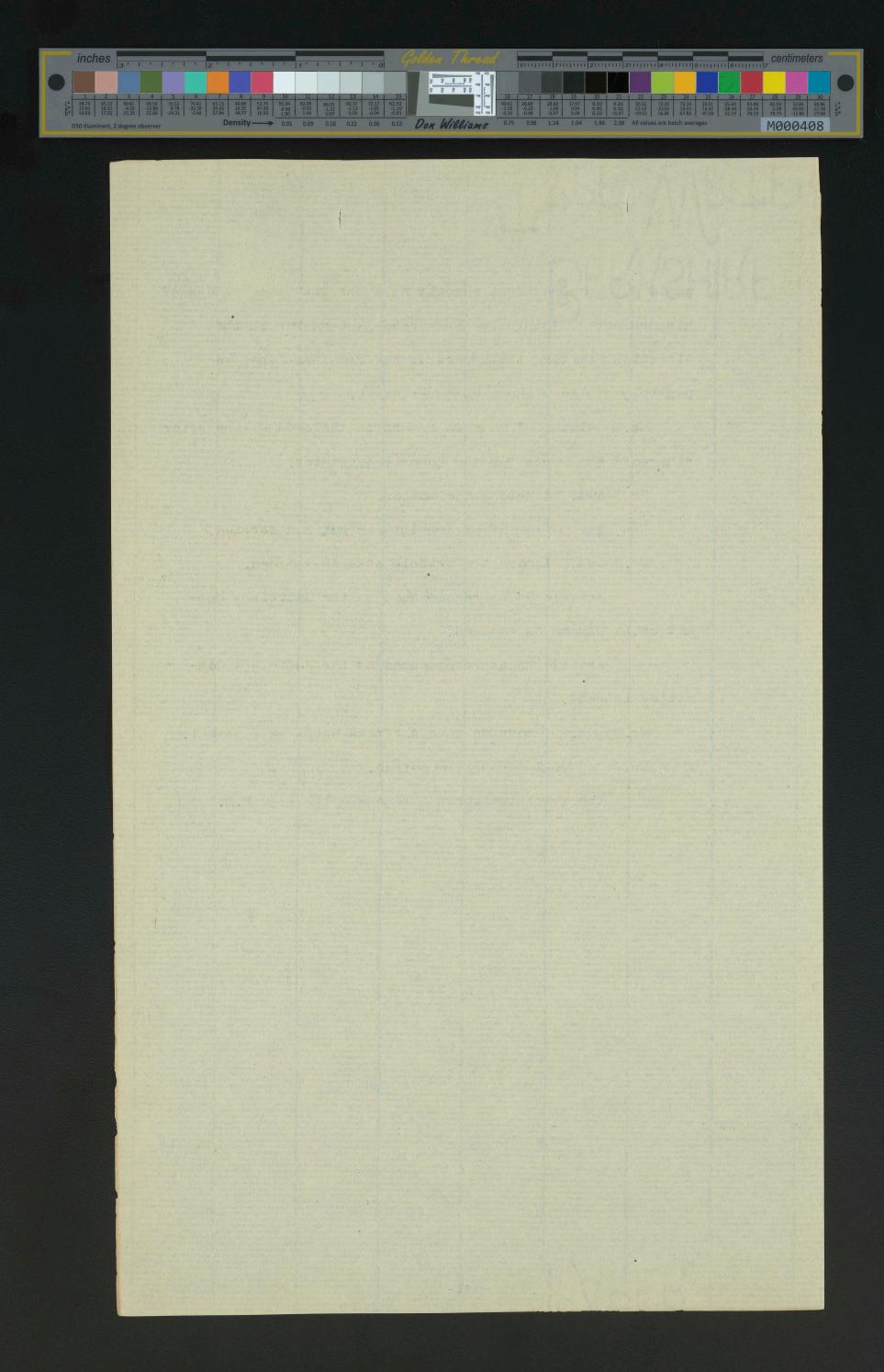
Mr. Brown. I move the article pass as amended.

Article 94, as recommended by the Judiciary Committee, is passed as amended.

Article 95, as recommended by the Judiciary Committee, is read.

Mr. Damon. I move we take a recess until half past 1.
Mr. Tenney. I second the motion.

The Committee takes a recess until 1.30 P.M.



AFTERNOON SESSION.

The Committee was called to order at 1.30 P.M. by the Chairman.

Article 95, as recommended by the Judiciary Committee, is read.

Mr. Damon. I move the adoption of this article.

Mr. Ables. I second that.

wish to say if this Convention shall cass this as it now stands it will be the means of removing from this Republic for all time to come one of the most serious causes of discontent and trouble. There are at least five different creeds and denominations, which are now receiving aid and support, and each year intensifies the desire to be we more. As we go on with the Republic every election, that will be held, there will be more and more desire from each denomination to be supported from the public purse. Though at the present time it may be ox that is gored, still I think it is our duty now to make the stand and to make it bravely and to stand by this article just as it is.

Mr.W.O.Smith. I believe in the principle that the government should have supervision or a certain amount of control of all schools which are aided from the public treasury, but I do not agree with the provision as set forth here that the government must have the exclusive control. I think that is going further than our conditions and circumstances here warrant. I do not believe in government aid being given to purely sectarian schools nor to any school in which they have not a certain amount of control and supervision, but the provision here "nor any school not under the

*

exclusive control of the government" I believe is going farther than we are justified in going. I appreciate the arguments and feelings of those who have taken the other view. I do not believe in permitting anything which will allow the government to be controlled or its finances by any sect. I therefore offer the following amendment to the recommendation of the committee, that all after the words "orivate school" in the 4th line be stricken out and substituted in place thereof the words "not under the supervision or control of the government". As has been stated in the arguments before, there is a kind of education being given to the young of this country by private schools which cannot be given by the government, and it is a great saving to the government that such a kind of education is given. As was also said, there are several schools, like the Kamehameha School, very largely endowed by the munificence of certain persons where such aid is not required, but there are many schools which have done a great deal in the past for the education of Hawaiians and will in the future, who with a little aid from the government can continue. I do not think that should be given unless the government has a supervision ka and a certain amount of control over them, but that it should be the exclusive control of the government I do not believe in. The government cannot establish and carry on schools of that kind. It cannot now, and I do not believe that it can in the future. The force of the government is directed to the common day school. While that kind of schools do a great deal of good, they do not accomplish the work that the other class are accomplishing, and the provision that private schools should come under the exclusive control of the government before they can receive any aid I do not think is just and I do not think is right.

proposed by the committee. I am not in favor of the amendment as proposed by the committee. I am not in favor of the amendment proposed just now, but am in favor of what is recommended by the committee, as I think we have a great many schools here that are good schools that ought to receive assistance from the government, but they should be under the supervision and control of the Board of Education. A great many people are talking about the Kawaiahao Seminary. All that is necessary for that seminary, as I understand it, in order to get assistance from the government, is to have the school placed under the control of the Board of Education, and then they may receive assistance. I therefore am in favor of the amendment proposed by the committee as printed.

Mr.McCandless. Mr.Chairman, I hope the motion of the Attorney General will not prevail. It is just taking the meat right out of it. We are trying to bar just such men as he is. They are the ones who want to put their hand in the treasury and take as much money as they can get for the private schools. That thing has been carried on in this country for a long time. I have been here ten years, and it has been a general deal all around to see who can get the most. We want to stop it, and now is the time to stop it.

Mr. Carter. Mr. Chairman, there is one feature in the

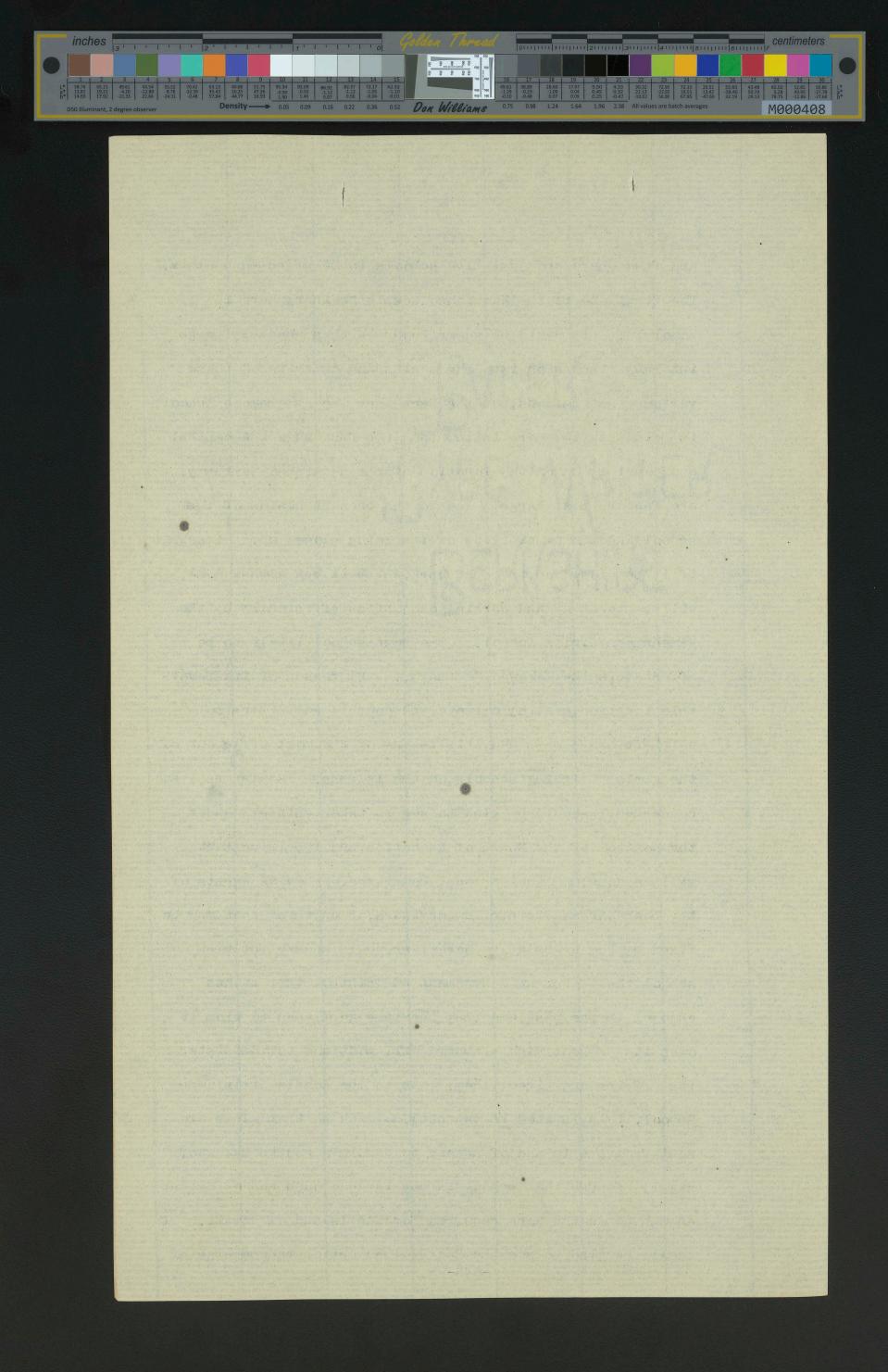
Attorney General's remarks that I would like to meet. The

Attorney General remarked there were a great many schools

that had done a great deal of good that were going to be

affected by it. As a member of this committee, before signing this report, I took some pains to investigate the facts

and find there are just five schools to be affected by this. The first one is the Kawaiahao Female Seminary here in Honolulu. It would be superfluous in this assembly to go into any discussion into the merits and demerits of these various institutions, but the fact that the Kame hameha School is being started here in town, and the fact xxxx the central and possibly unhealthy location of the Kawaiahao Seminary, are factors that largely led to the present status of that school and the possibility of its being closed up. I submit, if it be closed up, the good work, which it has always done, will be taken up and carried on just as efficiently by the Kamehameha Girl's School. The next school likely to be affected is the Makawao Seminary .. By reason of its favorable location, healthy climate and capable administration which it has always had, this is one of the most efficient of the girls' boarding schools on the Islands. So far as I am concerned, I should be glad to see it taken entirely under the control of the Board of Education, and I believe that will be done, and that a local committee, either as agents of the board, or as district supervisors, or anything that may be fixed by the Legislature, hereafter, would secure for that school the efficient management and control that it has enjoyed in the past, and that the same gentlemen to whom it owes its present high standard will continue to administer As to the Kohala Girls' its affairs and direct them. School, it is limited in capacity, so much so that girls are sent from the Island of Hawaii to Honolulu and to Makawao, simply because that school is not large enough and efficient enough to do the work required for the Island of Hawaii. I should be glad to see the Board of Education take charge of -645-



that school and add to its efficiency and capacity and make a school which can take care of all the girls who desire to go to a boarding school on the Island of Hawaii. There is no boarding school on the Island of Kauai for girls, and I should be glad to see one established there.

Mr.W.O.Smith. If they come under government control they cannot be run as they are now.

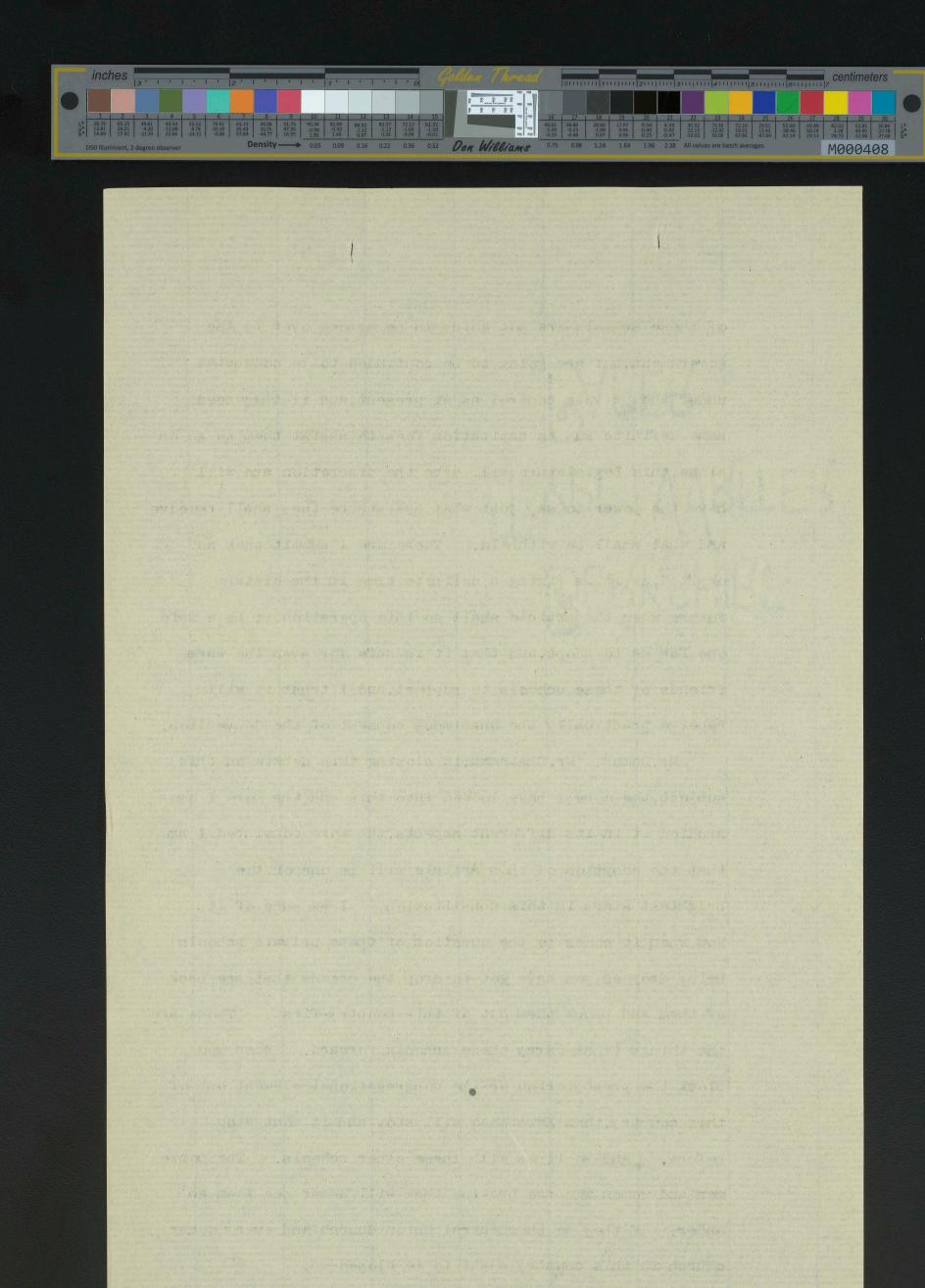
Mr. Carter. There can be no sectarian teaching, but the Board of Education is amply capable, and I submit, Mr. Chai man, that it would become its duty, to carry on this work, because it is perfectly clear that the government cannot go on assisting these various schools in the way that it has been doing, and that a halt must be called in this method of appropriating money at odd purposes and in unequal amounts for the various schools. The boys' schools that will be affected are the Hilo Boarding School, which I understand last year got four hundred dollars in capitation fees, a school that it cost several thousand dollars to run. I submit, Mr. Chairman, if affected at all, I do not think the Hilo Boys' Boarding School will be to any extent. It will continue to run just as it always has. The four hundred dollars a year is insignificant and does not amount to the pay of one teacher. As to the Kauai Industrial School, that is an institution which the Board of Education might well take And I think, Mr. Chairman, that it will be under its control. our duty to pass this Grticle and leave it to the good sense and the discretion of the Board of Education and the Legislature to say what part of this work the government shall take up and how it shall finally be disposed of. This first Legislature will have this work to do, Mr. Chal rman. If any

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of these schools are not going to be handed over to the government, but are going to be continued to be conducted under the private control as at present, and if they need some definite sum as capitation fees to assist them to go on alone, this Legislature will have the discretion and will have the power to say just what assistance they shall receive and what shall be withheld. Therefore I submit that as drafted, as it is fixing a definite time in the distant future when the article shall go into operation, it is a safe one for us to adopt, and that it is safe for even the warm friends of these schools to support, and I trust it will receive practically the unanimous consent of the Convention.

Mr. Damon. Mr. Chairman, in closing this debate on this subject, the more I have looked into this and the more I have studied it in its different aspects, the more convinced I am that the adoption of this article will be one of the brightest stars in this Constitution. I am sure of it. Now when it comes to the question of these private schools being dropped, you have got to drop the creeds that are back of them and block them out of this country first. Those are the things that carry these schools forward. When you block the presbyterian or the congregational element out of this country, then Kawaiahao will stop and it wont stop And so it is with these other schools. before. men and women who are backing them will never see them go under. If they do, the Central Union Church and every other church in this country ought to be closed up.

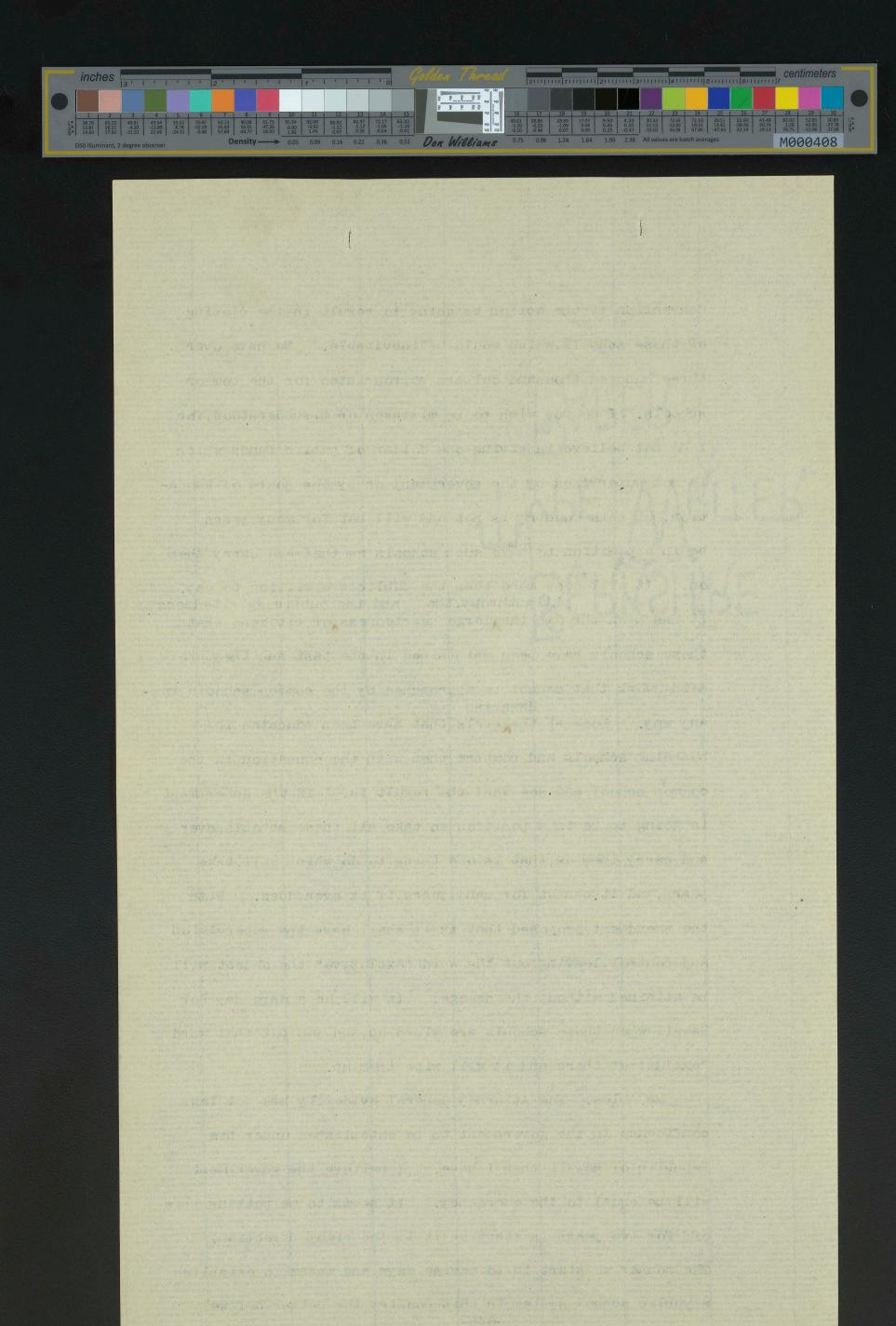
Mr.W.O.Smith. Further adding to the closing of this debate, I say it will be one of the darkest stars of the Constitution, and it will be one of the darkest days of the



Convention if the action is going to result in the closing of those schools, which would be inevitable. We have over three hundred thousand dollars appropriated for the common schools. I do not wish to be mistaken or misunderstood, for I do not believe in giving one dollar of public funds which is not supervised by the government or by the Board of Education, but this country is not and will not for many years be in a position to have such schools as that and carry them It will cost more than the public are willing to pay. philanthropy, the and the public spiritedness It has been through the large heartedness of citizens that those schools have been maintained in the past and they are doing work that cannot be approached by the common schools in Hawaiian Look at the girls that have been educated in boarding schools and compare them with the education in the common school and see what the result is. If the government is going to be in a position to take all these schools over and carry them on, that is one thing to do which will take years, and it cannot for many years, if it ever does. With the amendment proposed that the it shall have the supervision and control, leaving out the word "exclusive" the object will be attained without the damage. It will be a dark day for Hawaii when those schools are wiped up, and you put that word "exclusive" there and it will wipe them up.

Mr. Ables. The Attorney General evidently has got less confidence in the government to be established under the Republic of Hawaii than I have. I believe the government will be equal to the emergency. It seems to me putting this off for two years is starting it in the right direction.

The sooner we start in to devise ways and means to establish a public school system in this country the better off we



will be. I have more confidence in the Executive of this government evidently than the Attorney General. I believe it will be equal to it.

The amendment of Mr.W.O.Smith is put and lost.

Article 95 is passed as recommended by the Judiciary Committee.

Section 1 of Article 101, as recommended by the Legislative Committee, is read.

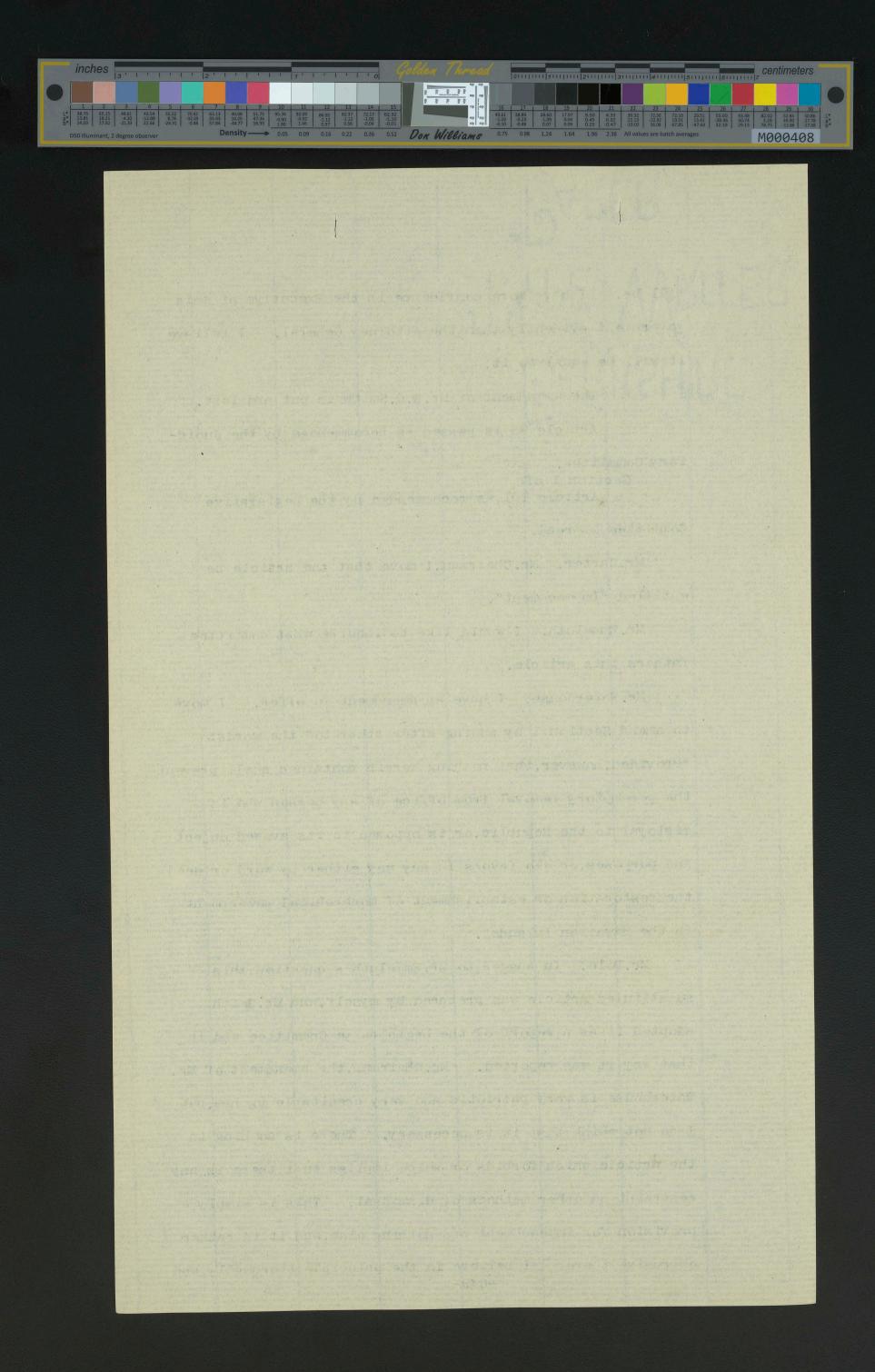
Mr. Carter. Mr. Chairman, I move that the article be entitled "Impeachment".

Mr. Emeluth. I would like to inquire what committee fathers this article.

Mr. Waterhouse. I have an amendment to offer. I move to amend Section 1 by adding after "thereto" the words:

"Provided, however, that nothing herein contained shall prevent the peremptory removal from office of any person who is disloyal to the Republic, or is opposed to its avowed object and purposes, or who favors in any way either by word or deed the restoration or establishment of monarchical government in the Hawaiian Islands".

Mr.Dole. In answer to Mr. Hmmeluth's question, this substituted article was prepared by myself, and Mr. Smith adopted it as a report of the Legislative Committee, and in that way it was reported. Mr. Chairman, the amendment of Mr. Waterhouse is very patriotic and very creditable to him, but I do not think that it is necessary. There is nothing in the article which forbids or which implies that there is any restraint on other methods of dismissal. This is simply a provision for impeachment and nothing else, and it is rather obtrusive there. I believe in the principle thoroughly, and



that principle to dismiss disloyal persons exists and always will exist. The article as it stands is not restrained or limited in any way whatever.

Mr. Wilder. Mr. Chairman, I merely rise to ask for information. As one of the offenses an office holder shall be dismissed or impeached for is "and assessment of office holders for partisan political expenses or being accessory thereto", will some man please explain to me what an officer has to do to be guilty of an assessment under that clause? I would like to have an explanation. If we mean by that that an office holder is never to be assessed in helping to pay political expenses or ask anybody else to or be accessory thereto, why I am opposed to any such principle entirely. I believe that the political expenses of a party have got to be carried on by those that support it. While I do not believe that an office holder should be assessed like they way they are in the United States, where they assess an office holder pro rata according to the amount he is paid, I believe every office holder should pay a certain sum towards the political expenses of his party.

Mr.Dole. The point, Mr. Chairman, is this, not that an office with holder should not contribute freely for his party expenses, not that party persons should not come to him with a subscription list and ask him for assistance, but this is to prevent the President or any head of a bureau or any officer who has the power of dismissal of any officer under him from compelling him or using his influence to compel him from fear of dismissal or fear of some prejudice to submit to an assessment. That is what it means, and that is what the words mean I think without any doubt. It is a matter which



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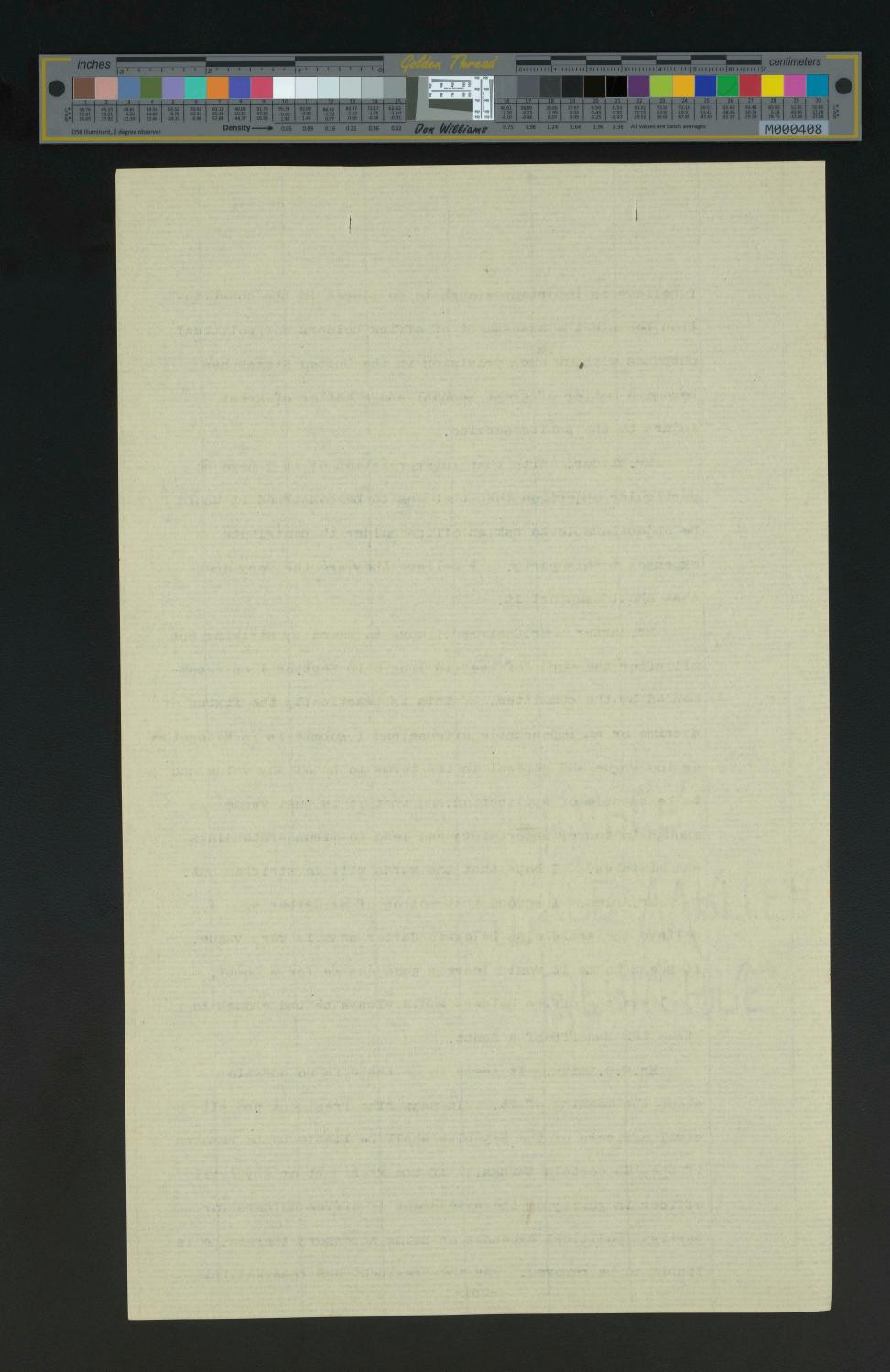
I believe is important enough to be placed in the constitution, because the assessment of office holders for political purposes without such provision in the United States has become a matter of great scandal and a matter of great injury to the public service.

Mr. Wilder. With that interpretation of it I have no particular objection that that was to be construed it would be objectionable to ask an office holder to contribute expenses to his party. I believe they are the very ones that should support it.

Mr. Carter. Mr. Chairman, I move to amend by striking out all after the word "office" in line 6 in Section 1 as recommended by the committee. This is practically the fixing of a crime or an impeachable offense, and I submit it is altogether too vague and general in its terms to be of any value and to be capable of application, and that it is just vague enough to conveyouncertainty and lead to misunderstandings and mistakes. I hope that the words will be stricken out.

Mr. Ables. I second that motion of Mr. Carter's. I believe the article, as Delegate Carter says, is very vague. It seems to me it would leave a good chance for a doubt. I believe the office holders would always be bad enough to take the benefit of a doubt.

Mr. W.O. Smith. It seems to me there is no question about the meaning of it. It says The President and all civil officers of the Republic shall be liable to be removed if they do certain things. If the President or any civil officer is guilty of the assessment of office holders for partisan political expenses or being accessory thereto, he is liable to be removed. As the President has remarked, this



does not mean at all any reasonable contributions for the proper purpose. But when it comes down to the President or any civil officer assessing, -there is a well-defined meaning of assessing, -any officer of the Republic, it is degrading the whole power of his office. It is one of the worst features of American politics. A subordinate cannot assess a superior one. It might be some subordinate officer would be guilty of assessing his superior or assessing the President himself. The meaning is perfectly clear when you take it as a whole. The President and all civil officers of the Republic shall not be guilty of assessment of other officers for partisan political purposes. I know it is not in accord with some political methods, but it is in accord with clean government. The assessment is a well-understood word and has a clearly defined meaning. You pay up or you suffer the consequences. When we say assessment of taxes, you pay your taxes or suffer the consequences. It does not mean that they should not contribute, but they shall not be assessed by their superior officers for partisan purposes, and it is in the interest of clean government that that should be there.

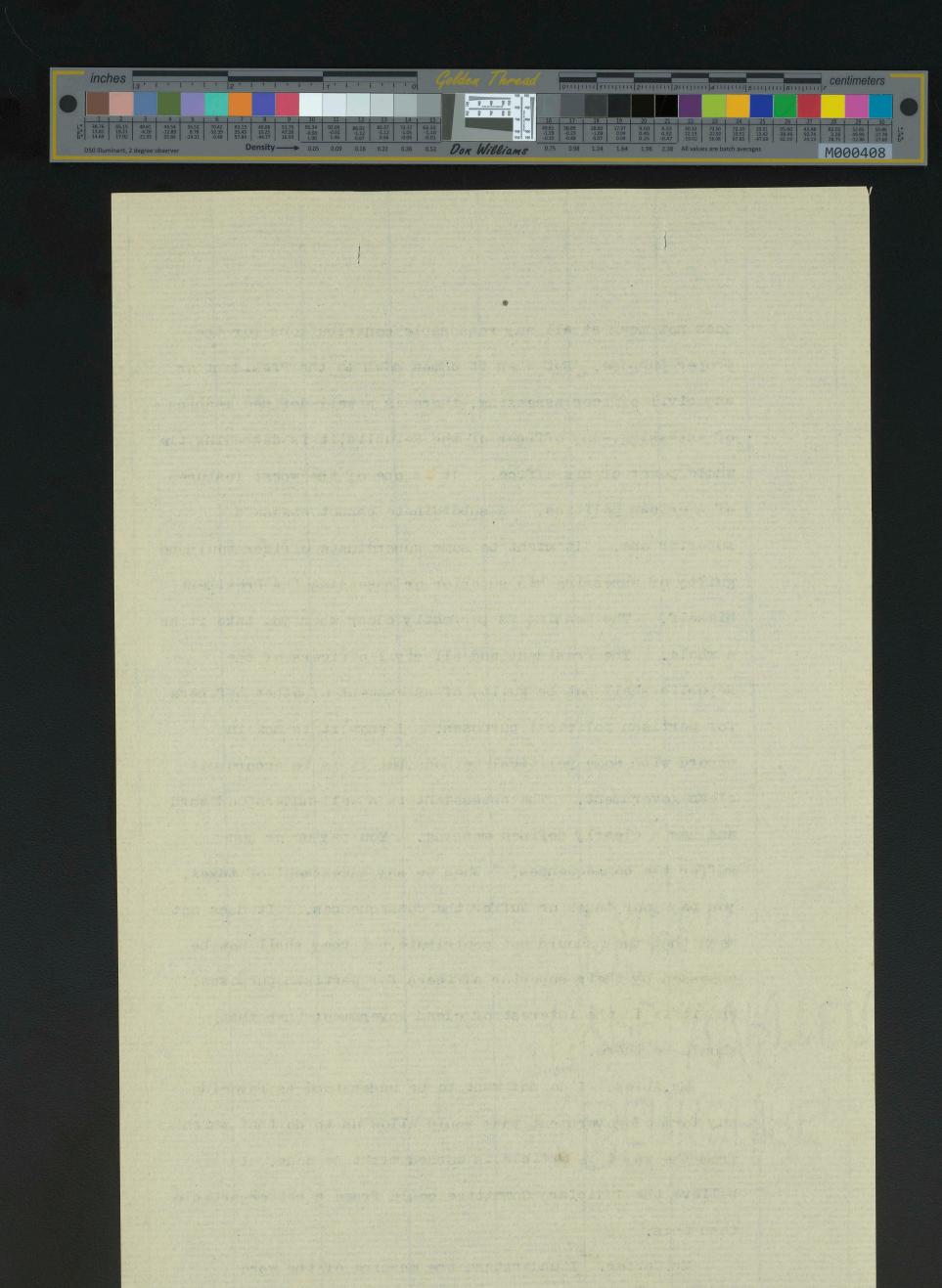
Mr. Ables. I do not want to be understood as favoring any form of government that would allow us to do that which from the way this Article is worded might be done. I believe the Judiciary Committee could frame a better article than this.

Mr. Carter. I understand the meaning of the word

"assessment", there arek two classes of assessment; one is a

contribution levied under and by force of law like the

assessment of taxes, which is done in consequence of legisla
-652-



tive enactment, and the other definition of the word assessment is a contribution either voluntarily or by the use of persuasion.

Mr.W.O.Smith. You cannot find that in the dictionary.

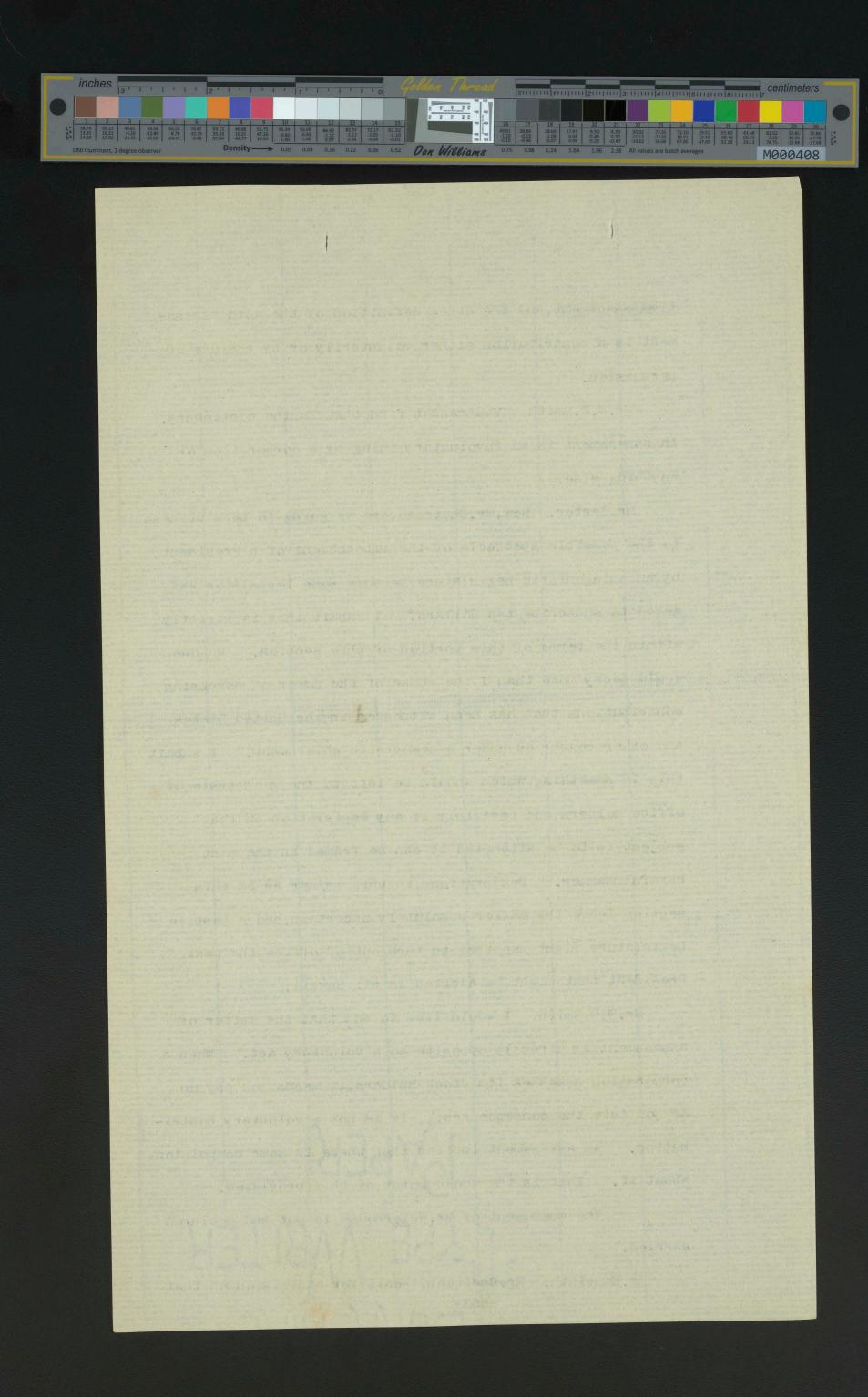
An assessment is an involuntary thing by a corporation or anything else.

Mr.Carter. Now, Mr.Chairman, are we going to be a wtiness to the possible spectacle of the impeachment of a President by an antagonistic Legislature, because some legislator was asked to subscribe ten dollars. I submit that is strictly within the terms of this portion of this section. No one would decry more than I the abuse of the power of assessing contributions that has been witnessed in the United States and other countries under a democratic government. I submit this is something which should be left to the good taste of office holders, and certainly if any begislation on that subject is to be attempted it can be framed in the most careful manner. Declarations in this manner as in this section leave the matter absolutely uncertain, and a hostile Legislature might use that to turn out of office the best President that might be elected in all Hawaii.

Mr.W.O.Smith. I would like to add that the matter of assessment is directly opposite to a voluntary act. When a corporation assesses its stock-holders, it means you pay up or you take the consequences. It is not a voluntary contribution. An assessment implies that there is some compulsion about it. That is the whole point of this provision.

The amendment of Mr. Waterhouse is put and declared carried.

Mr. Emmeluth. Mr. Chairman, I call for a division on that



vote.

Mr.McCandless. Mr.Chairman, I call for the ages and noes on that proposition. I want to put them on record.

If there is anybody here in favor of keeping that class of people there, let us know it right here.

them there more than Mr.McCandless under certain conditions. I am not opposed to the proposition to expel persons not in sympathy with the government or in sympathy with the intents and purposes of the government, but I do not want to see that tail tacked on in regard to monarchy. You knock off that tail and I will vote for it as quick as Mr.McCandless or any member of the Convention. I do not want to see monarchy mentioned in the constitution.

Mr. Vivas. I am ready to vote to strike out anything for Republic.

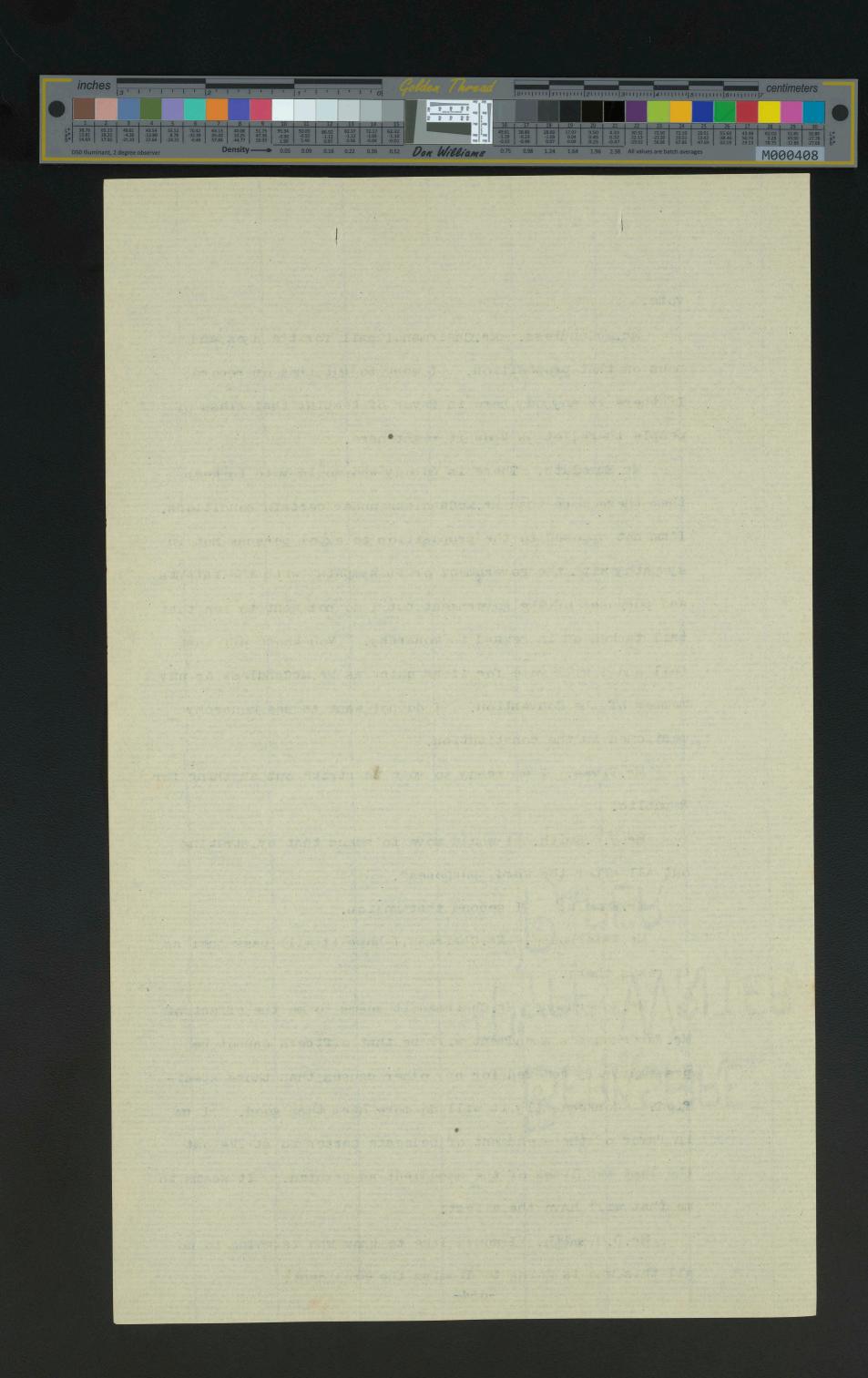
Mr.W.O.Smith. I would move to amend that by striking out all after the word "purposes".

Mr. Emmeluth I second that motion.

Mr. Waterhouse. Mr. Chairman, I hope it will pass just as it reads there.

Mr. Robertson. Mr. Chairman, it seems to me the effect of Mr. Waterhouse's amendment will be that officers cannot be precemptorily removed for any other causes than those specified. Consequently, it will do more harm than good. I am in favor of the amendment of Delegate Carter to strike out the last two lines of the amendment as printed. It seems to me that will have the effect:

Mr.D.B.Smith. I would like to know who is going to do all this, who is going to dismiss the President!



Mr. Waterhouse. It is provided in the constitution.

Mr. Dole. Mr. Chairman, Mr. Robertson's suggestion is well
worthy of consideration. A specification of the causes of
removal by the common rule of construction excludes all
others. And the danger will be that it will be limited
outside of impeachment on the grounds of disloyalty alone.

The Chairman. The first motion is Mr. Carter's motion.

Mr.Dole. If that is to be put now, I wish to read to the house the meaning of the word assessment according to the Century dictionary. Assessment, the act of assessing, determining or adjusting the amount of taxation, charge, damages, etc., to be paid by an individual, a company or a community. I do not think the word assessment can be confused with voluntary contributions possibly. It has a distinct technical meaning. It means in this case the determining of an amount to be paid in this case by an individual in office.

The motion of Mr. Carter is put and the vote is a tie.

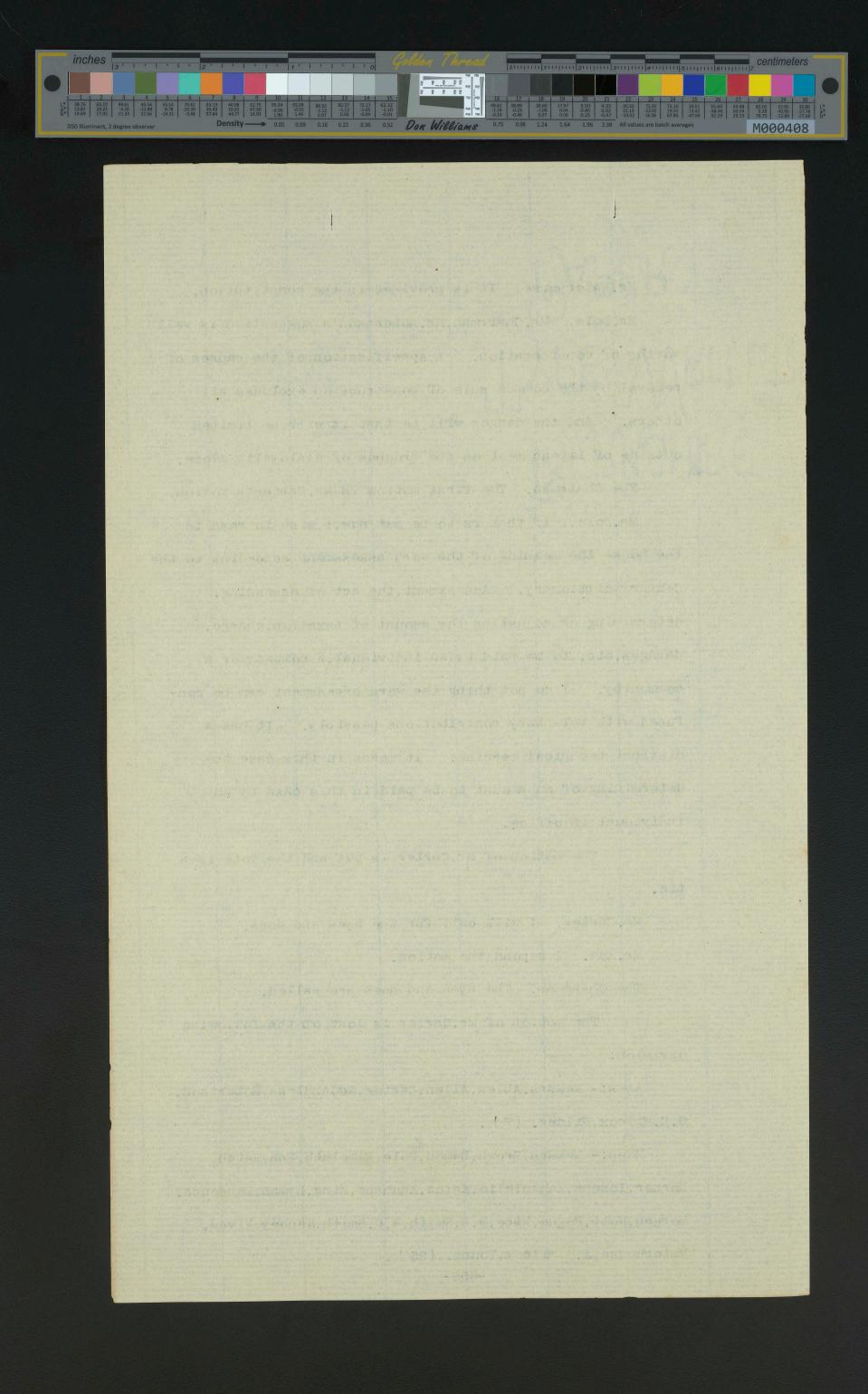
Mr.Carter. I will call for the ayes and noes.
Mr.Ena. I second the motion.

The Chairman. The ayes and noes are called.

The motion of Mr. Carter is lost on the following division:

Ayes: - Messrs. Ables, Allen, Carter, McCandless, Robertson, G.N. Wilcox, Wilder. (7).

Noes: - Messrs. Brown, Damon, Dole, Emmeluth, Ena, Hatch,
Horner, Iosepa, Kahaulelio, Kalua, Kauhane, King, Lyman, Mendonca,
Morgan, Nott, Pogue, Rhce, D.B. Smith, W.O. Smith, Tenney, Vivas,
Waterhouse, A.S. Wilcox, Young. (25).



Mr.Dole. Mr.Chairman, the vote on Mr.Waterhouse's amendment was questioned and a division called for.

Mr. Waterhouse. I think the motion on my amendment was carried.

Mr. Emmeluth. Mr. Chairman, pending the decision by the Chair in regard to a division there was a motion made by Mr. Vivas to strike out all after the word "purpose" in Mr. Waterhouse's amendment, which amendement I seconded.

Mr.Carter. Mr.Chairman, as there seems to be an honest question as to whether or not this is the proper place in the Constitution in which this provision should appear, and as to its legal effect, I move the amendment as offered be referred to the Committee of the Legislature.

Mr.W.O.Smith. I cannot see any question about that.

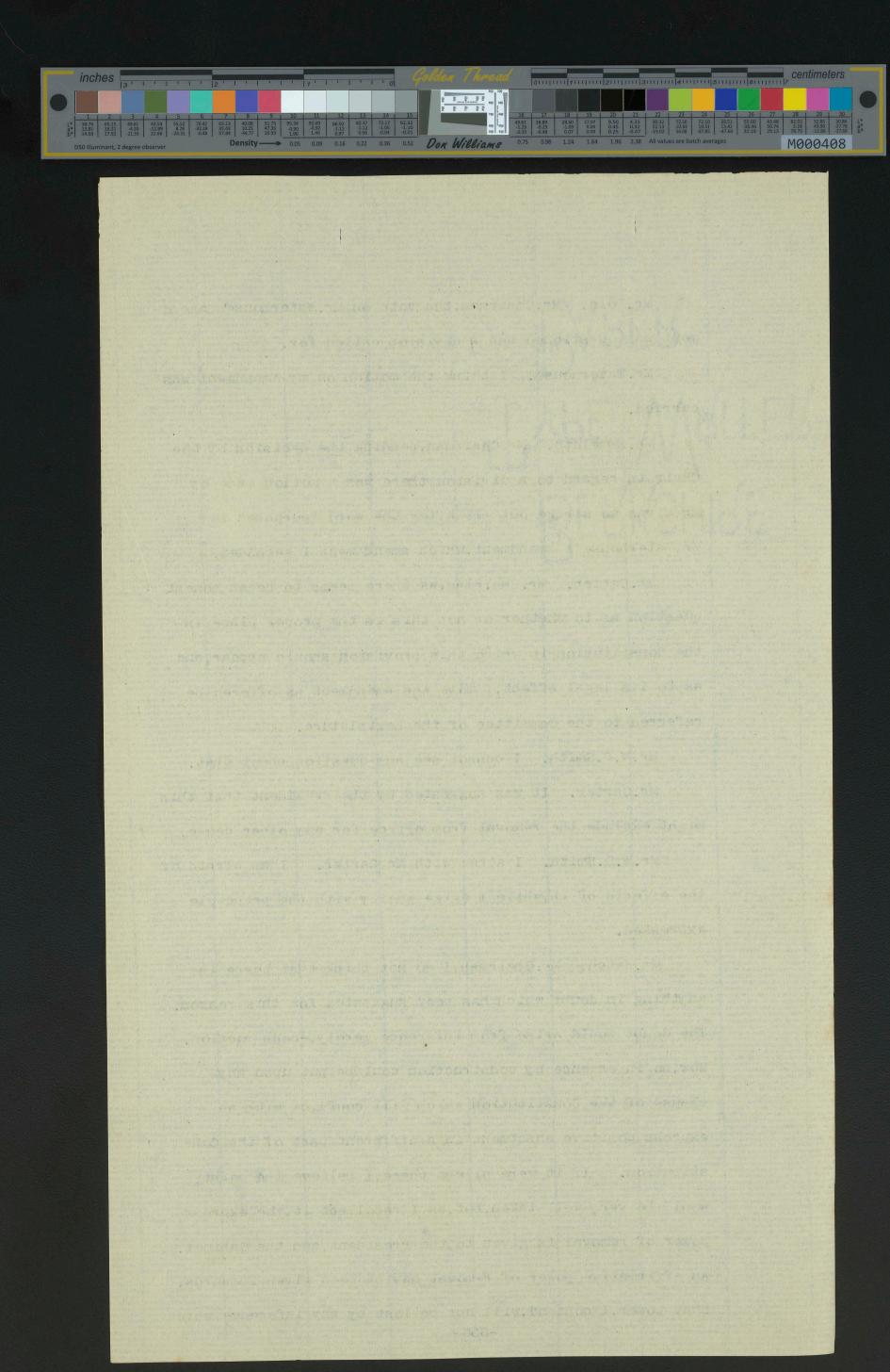
Mr.Carter. It was suggested by the President that this
might exclude the removal from office for any other cause.

Mr.W.O.Smith. I agree with Mr.Carter. I am afraid of the effects of it, while I agree wholly with the principle expressed.

Mr.Hatch. Mr.Chairman,I do not think that there is anything in doubt which has been suggested for this reason. The doubt would arise from inference merely,-construction.

Now,no inference by construction could be put upon any clause of the Constitution which will conflict with an express positive enactment in a different part of the Constitution. If it were silent there,I believe the point would be very well taken, but, as I recollect it, the express power of removal is given to the President and the Cabinet.

An affirmative power of removal having been given in words, that power,I contend, will not be lost by any inference which



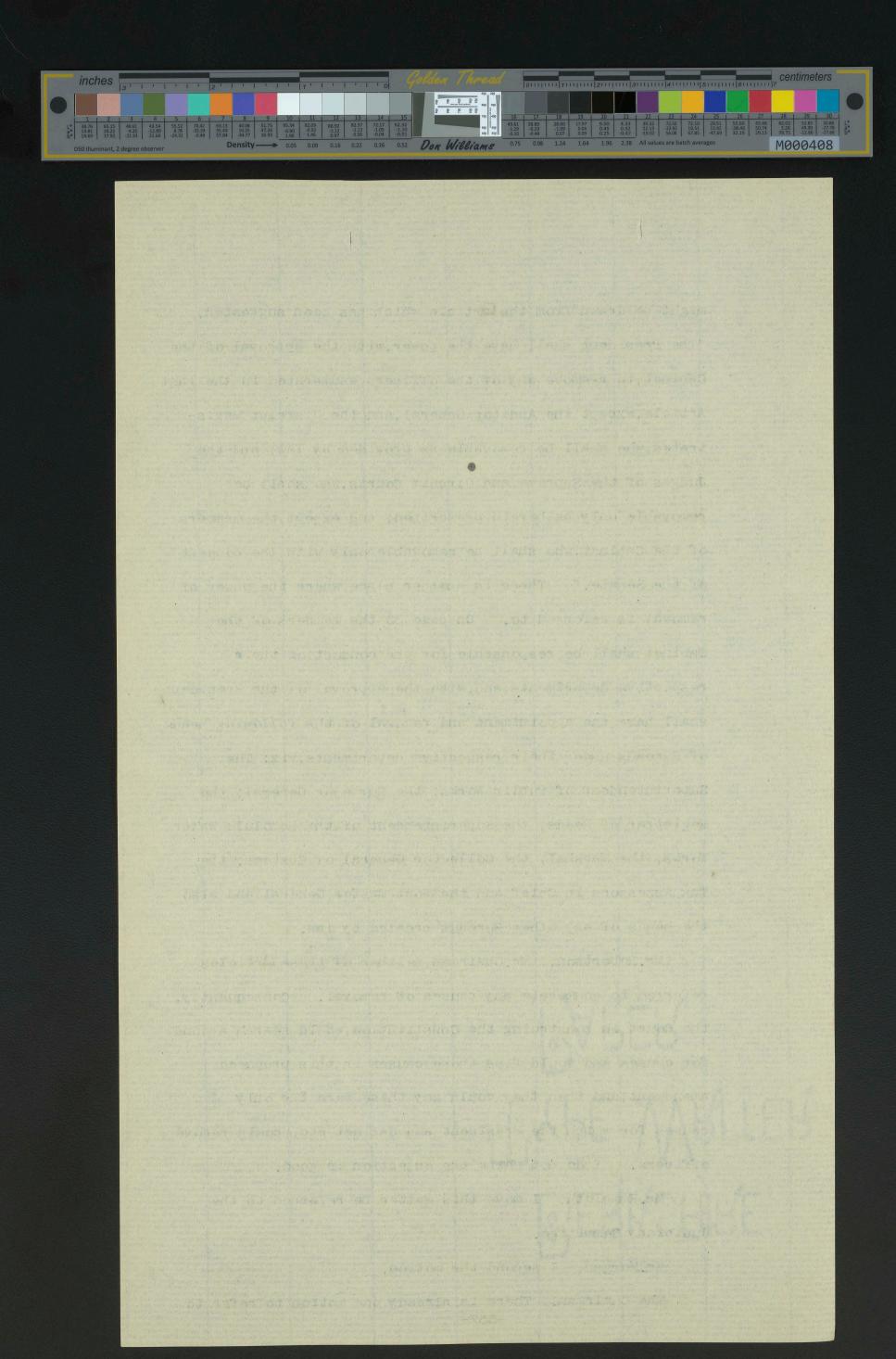
might be drawn from the article which has been suggested. "The President shall have the power, with the approval of the Cabinet, to remove any of the officers enumerated in the last Article, except the Auditor General, and the District Magistrates, who shall be removable as provided by law; and the Judges of the Supreme and Circuit Courts, who shall be removable only as herein prescribed; and except the members of the Cabinet, who shall be removable only with the consent of the Senate." There is another place where the power of removal is referred to. On page 33 the members of the Cabinet shall be responsible for the conduct of their respective departments, and, with the approval of the President, shall have the appointment and removal of the following heads of Bureaus under their respective departments, viz: The Superintendent of Public Works; the Surveyor General; the Registrar of Deeds; the Superintendent of the Homolulu Water Works; the Marshal; the Collector General of Customs; the Tax Assessors in Chief and the Post Master General, and also the heads of any other Bureaus created by law.

Mr.Robertson. Mr.Chairman, neither of these Articles referred to enumerate any causes of removal. Consequently, the Court, in construing the Constitution, would search around for causes and would find those causes in this proposed amendment, and then they would say these were the only causes for which the President and Cabinet etc. could remove officers. I do not think the objection is good.

Mr. Emmeluth. I move this matter be referred to the Judiciary Committee.

Mr. Morgan. I second the motion.

The Chairman. There is already one motion to refer to -657-



the Legislative Committee.

Mr.Carter. I moved it be referred to the Legislative Committee so that we would have the benefit of the Attorney General.

The motion of Mr. Carter is put and carried.

Mr.Dole. Mr.Chairman, I do not understand the whole Article is referred, but only this amendment. I move that on the 6th line the word "and" be changed to "or", being necessaryk to carry out the meaning.

Mr. Ables. I have an amendment I would like to offer to this article before it goes to that committee.

The motion of Mr. Dole is put and carried.

Mr.Ables. Mr.Chairman, I want to offer the following amendment, after the word "expenses" in the second to the last line to strike out the words "or being accessory thereto", so that it will read "orm assessment of office-holders for partisan political expenses" and then stop right there.

Mr. Waterhouse. I second that.

Mr.Carter. Mr.Chairman, I hope this amendment will pass. the
I think all of the article with reference to vagueness applies with particular force to this portion, its being accessory thereto. It is a matter exceedingly difficult to prove, and it will give the opportunity for partisanship to work the utmost mischief.

The amendment of Mr. Ables is put and carried.

Mr. Carter. I move that Section 1 as reported and amended be adopted for recommendation.

Mr. Dole. There is an amendment to this section which has been referred to the Committee of the Legislature, so it cannot be adopted.



. Brillian all life to the lot the feet The sand has you at a like the latter of the Mr. Carter. I withdraw that motion.

Mr.Brown. I move the section as amended be recommitted to the Committee on the Legislature.

Mr.W.O.Smith. I second the motion.

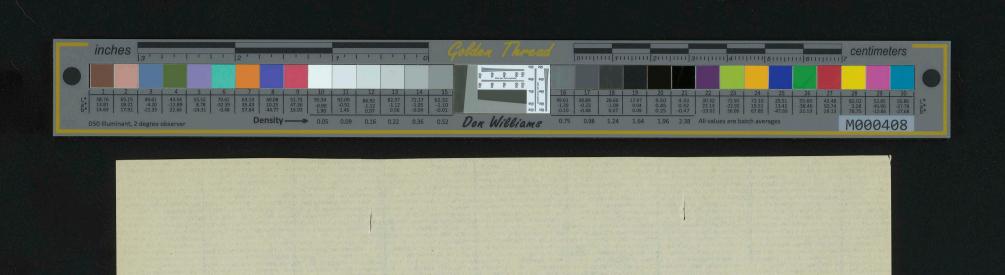
The motion of Mr. Brown is put and carried.

Article 12, as recommended by the Legislative Committee is read.

Mr.Brown. I move the Committee recommend the house to adopt it.

Mr. Waterhouse. I would like to hear the minority report of the committee.

Mr. W.O. Smith. The report of the committee was signed by two. It is the report of Mr. Brown and myself. The other two members of the committee took exception to the introduction of railways and also that the taking for private use should be confined to rights of way. I introduced the KERMAN report favoring it as it is now printed on this slip. For the sake of bringing it before the Convention I would offer the following amendment, which has not originated by myself, but has been suggested and may cover the whole ground, after the words "public use" in the first line to strike out the words "and may be used by others" and substitute in place thereof the following words "and rights of way may be obtained across the way lands of others". And then it will read as follows: "Private property may be taken for public use, and rights of way may be obtained by others than the owners thereof for railwaysxxx" etc. The two of the committee who reported in favor of the Article as printed on this slip were of the opinion that the taking that may be used by others for these purposes simply did give a right of -659-

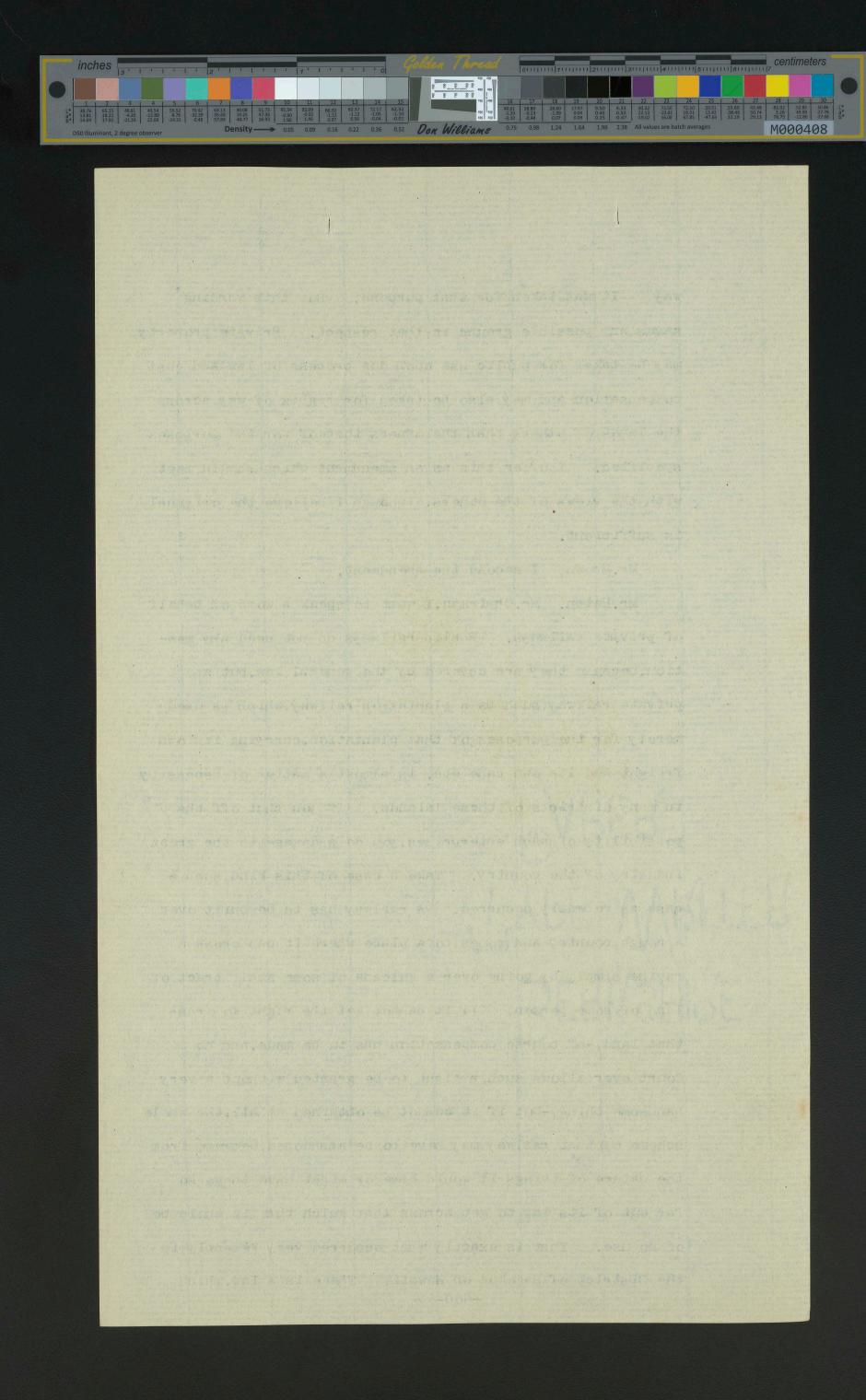


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way. It was taken for that purpose. But this wording saves any possible ground in that respect. Private property may be taken for public use upon due process of law and just compensation and may also be taken for rights of way across the lands of others than the owners thereof for the purposes specified. I offer this as an amendment which should meet with the views of the others, although I believe the original is sufficient.

Mr. Brown. I second the amendment.

Mr. Hatch. Mr. Chairman, I want to speak a word on behalf of private railways. Public railways do not need any mention, because they are covered by the general law, but a private railway, such as a plantation railway, which is used merely for the purposes of that plantation, carrying its own freight and its own cane etc. is almost a matter of necessity in many districts of these Islands. If you shut off the possibility of such enterprises, you do a damage to the great industry of the country. Take a case of this kind, such a case as recently occurred. A railway has to be built over a rough country and comes to a place where it can cross a ravine simply by going over a kuleana of some small tract of land of some person. If it cannot get the right to cross that land, -of course compensation has to be made, and no Court ever allows such a right to be granted without a very handsome thing, -but if it cannot be obtained at all, the whole scheme of that railway may have to be abandoned, because from the nature of things it would have or might have to go so far out of its way to get across that gulch that it would be of no use. That is exactly what occurred very recently in the District of Hamakua on Hawaii. There is a law, which



has been on the statute book for some time, authorizing private railroads to be laid out and giving them the power of acquiring rights of way, but that law has a very doubtful constitutionality in the absence of some express provision in the Constitution granting the Legislature that power.

I think it is a reasonable power to grant to a Company who are carrying on their agricultural enterprises on a large scale. In case of necessity they should have the right to carry such road across private property of individuals.

Mr.Damon. This amendment meets the objections which I raised at a previous sitting of the Convention, and I think it has carefully guarded the rights of property holders of every nature. It is no more than right that railways and the carrying of flumes and ditches across the gulches should be allowed. It is, to a certain extent, a public benefit. I heartily approve of the amendment as proposed by the Attorney General.

The amendment of Mr. W.O. Smith is put and carried.

Mr.Brown. I move the article as amended now pass.
Mr.Vivas. I second that.

Mr.McCandless. I do not think this goes quite far enough. It does not say anything here about manufacturing purposes. It does not say anything here about a railroad for transportation purposes.

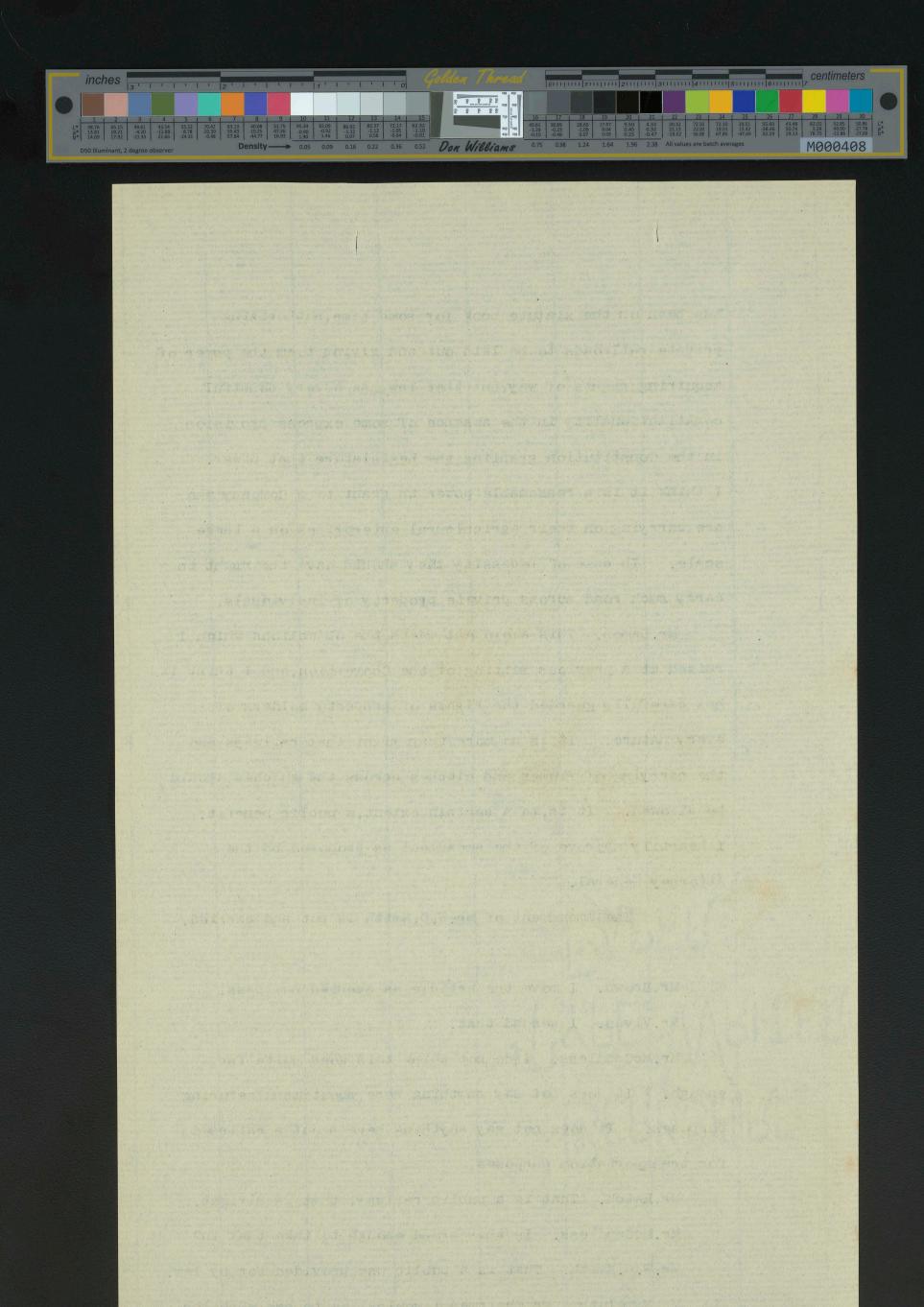
Mr.Hatch. That is a public railway; that is alright.

Mr.McCandless. Is this broad enough to take that in?

Mr.W.O.Smith. That is a public use provided for by law.

Mr.Emmeluth. Mr.Chairman, I would like to ask what the

words commencing with "public use shall include" are put in



article on Eminent Domain for.

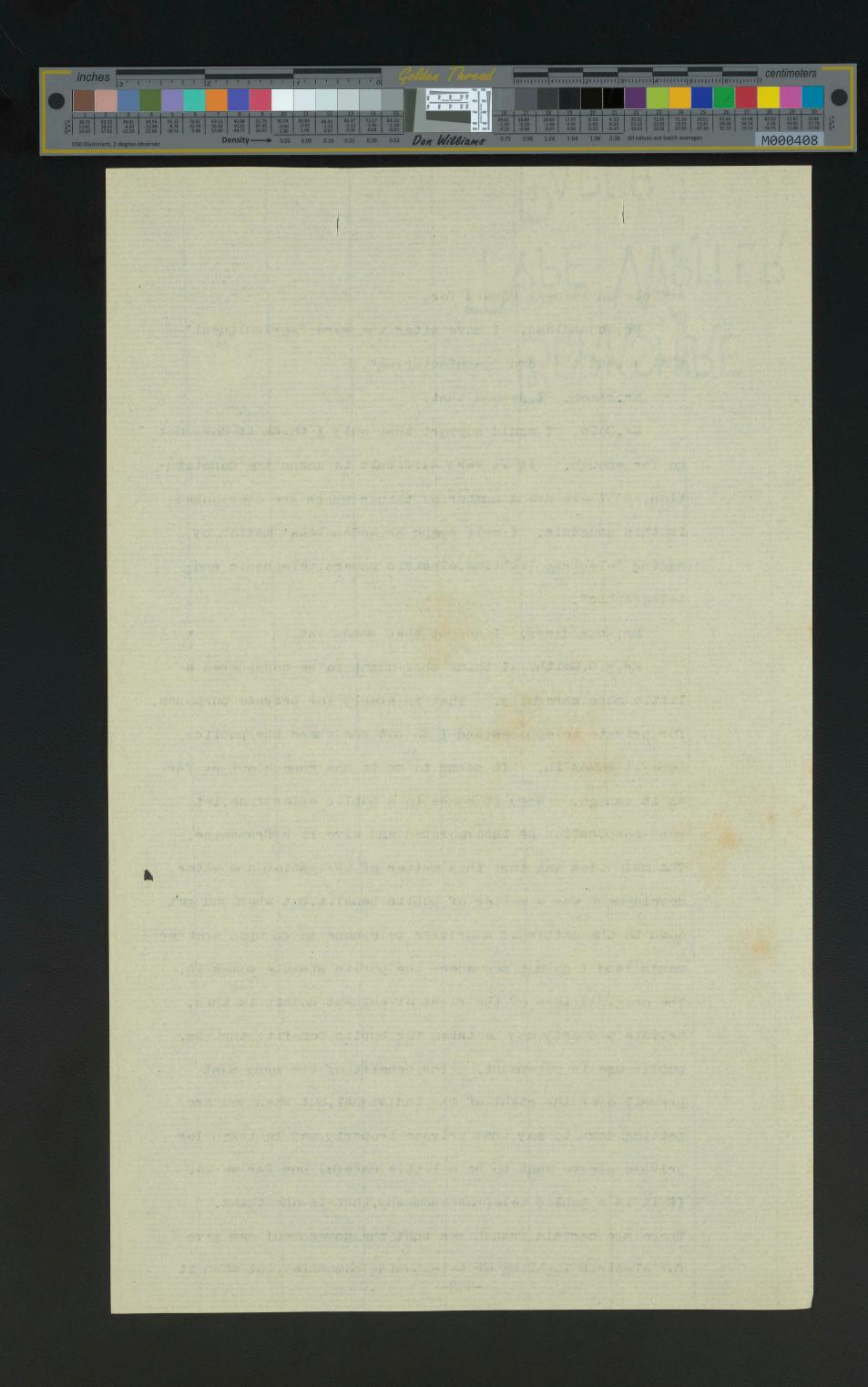
Mr.McCandless. I move after the word "agricultural" that we add the word "manufacturing".

Mr. Damon. I second that.

Mr.Dole. I would support that only I think it does not go far enough. It is very difficult to amend the Constitution, and there are a number of things which are overlooked in this schedule. I will amend Mr.McCandless' motion by adding "electric lighting, electric powers, telephonic and telegraphic".

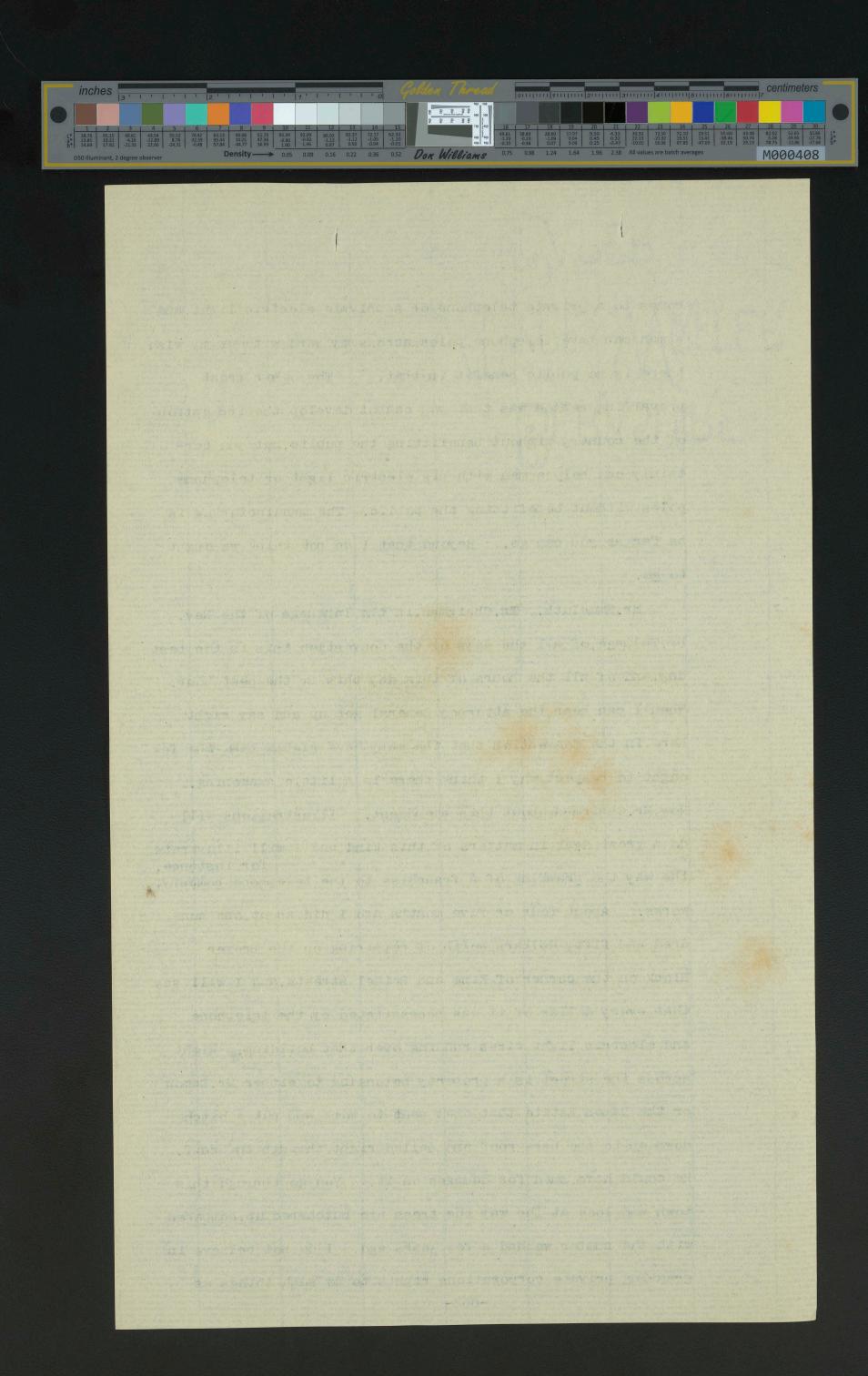
Mr.McCandless. I accept that amendment.

Mr. W.O. Smith. I think that ought to be considered a little more carefully. That is simply for private purposes, for private telephones, and I do not see where the public benefit comes in. It seems to me it has gone about as far as it can go. When it comes to a public enterprise, let such corporation be incorporated and give it a franchise. The main idea was that this matter of irrigation and water development was a matter of public benefit, but when you get down to the matter of a private telephone to go upon another man's land I do not see where the public statute comes in. The original idea of the right of eminent domain is this, private property may be taken for public benefit; that is, public use is paramount. The benefit of the many must prevail over the right of the individual, but when you are getting down to say that private property may be taken for private use we want to be a little careful how far we go. If it is a public telephone company, that is one thing. There are certain franchises that the government can give for electric lighting or telephoning companies, but when it



comes to a private telephone or a private electric light, and a man can have telephone poles across my yard without my wish there is no public benefit in that. The other great prevailing reason was that you cannot develop the irrigation of the country without benefitting the public, but you certainly can help a man with his electric light or telephone poles without benefitting the public. The manufacturing is as far as you can go. Beyond that I do not think we ought to go.

Mr. Emmeluth. Mr. Chairman, in the language of the Rev. Dr. Talmage of all the days of the Convention this is the best day, and of all the hours of this day this is the best hour. When I can hear the Attorney General get up and say right here in the Convention that the many have rights that the few ought to respect, why I think there is a little awakening. Now, Mr. Chairman, about this amendment. Illustrations will do a great deal in matters of this kind, and I will illustrate for instance. the way the granting of a franchise to the telephone company, About four or five months ago I did about one hunworks. dred and fifty dollars worth of repairing on the Brewer Block on the corner of King and Bethel streets, and I will say that every dollar of it was necessitated by the telephone and electric light wires running over that building. Right across the street is a property belonging to either Mr. Damon or the Damon Estate that they went to work and put a hitch down on to the bare roof and nailed right through the roof. He could have sued for damages on it. You go through this town and look at the way the trees are butchered up, compared with the number we had a few years ago. I do not believe in granting private corporations rights to do such things as

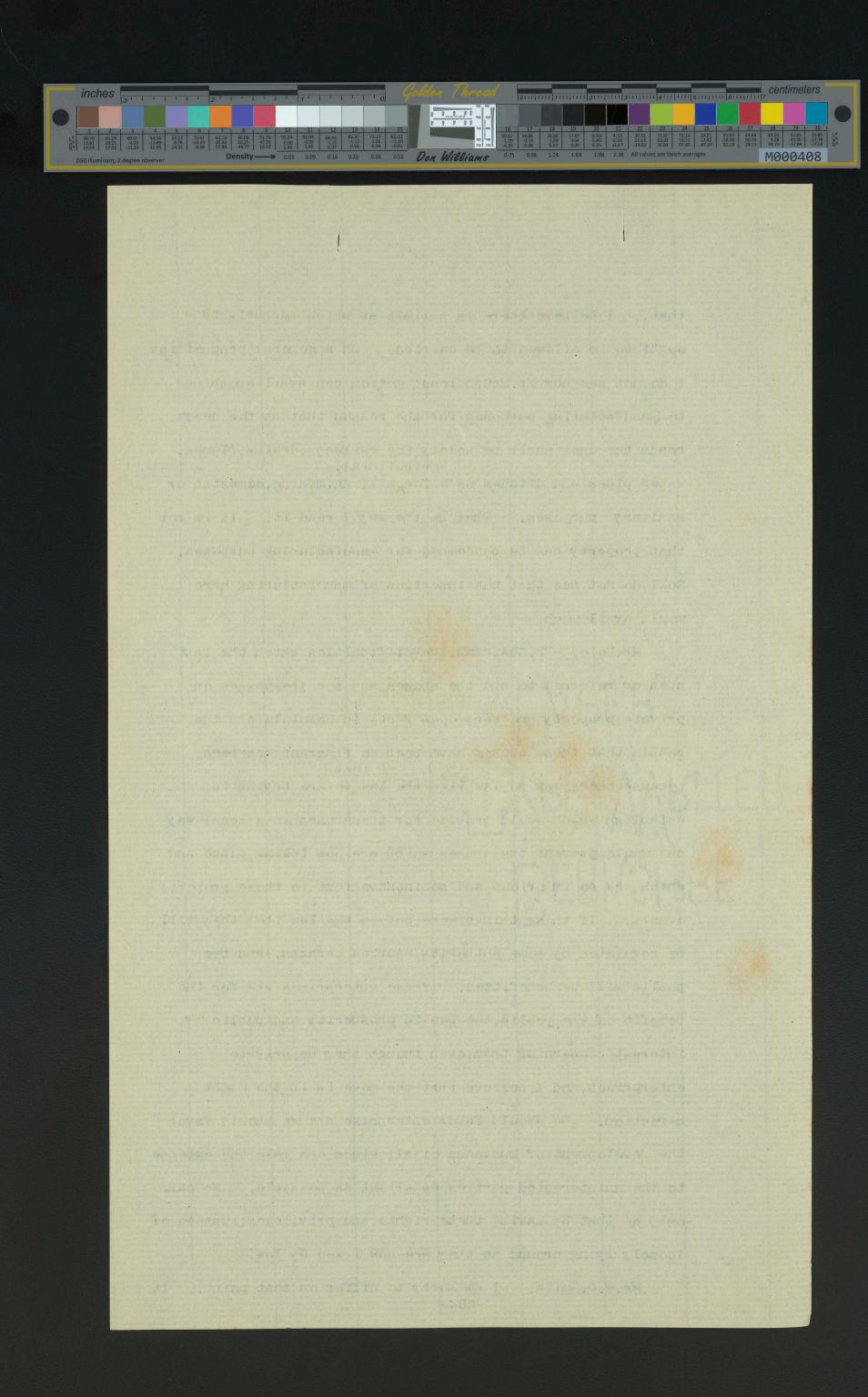


ought to be allowed to be carried. On a general proposition I do not see how Mr.McCandless' motion can avail anything to manufacturing purposes for the reason that as the draft reads the uses shall be solely for railways, drains, flumes, agricultural, water pipes and ditches used for milling, mining, domestic or sanitary purposes. That is the way I read it. It is not that property can be condemned for manufacturing purposes.

So I do not see that the insertion of manufacturing here would avail much.

Mr. Dole. Mr. Chairman, the difficulties which the last speaker referred to and the abuses and the trespasses on private property are very open facts in Honolulu, and the reason that those abuses have been so flagrant has been because there was no law like the law we are trying to establish which would provide for these uses in a legal way and would prevent the abuses which are now taking place and which are so injurious and so inconvenient to those property owners. If these things were put in the law then they will be regulated by some authority, -juries perhaps, -and the public will be benefitted. These enterprises are for the benefit of the public, the public prosperity and public interest concerning them, even though they be private enterprises, and I believe that the move is in the right direction. We should favor enterprise and we should favor the development of business of all kinds and make the expense to the uninterested parties as slight as possible. We can only do that by having these rights and privileges, instead of loosely lying around as they are now, fixed by law.

Mr.W.O.Smith. I am sorry to differ on that point. It

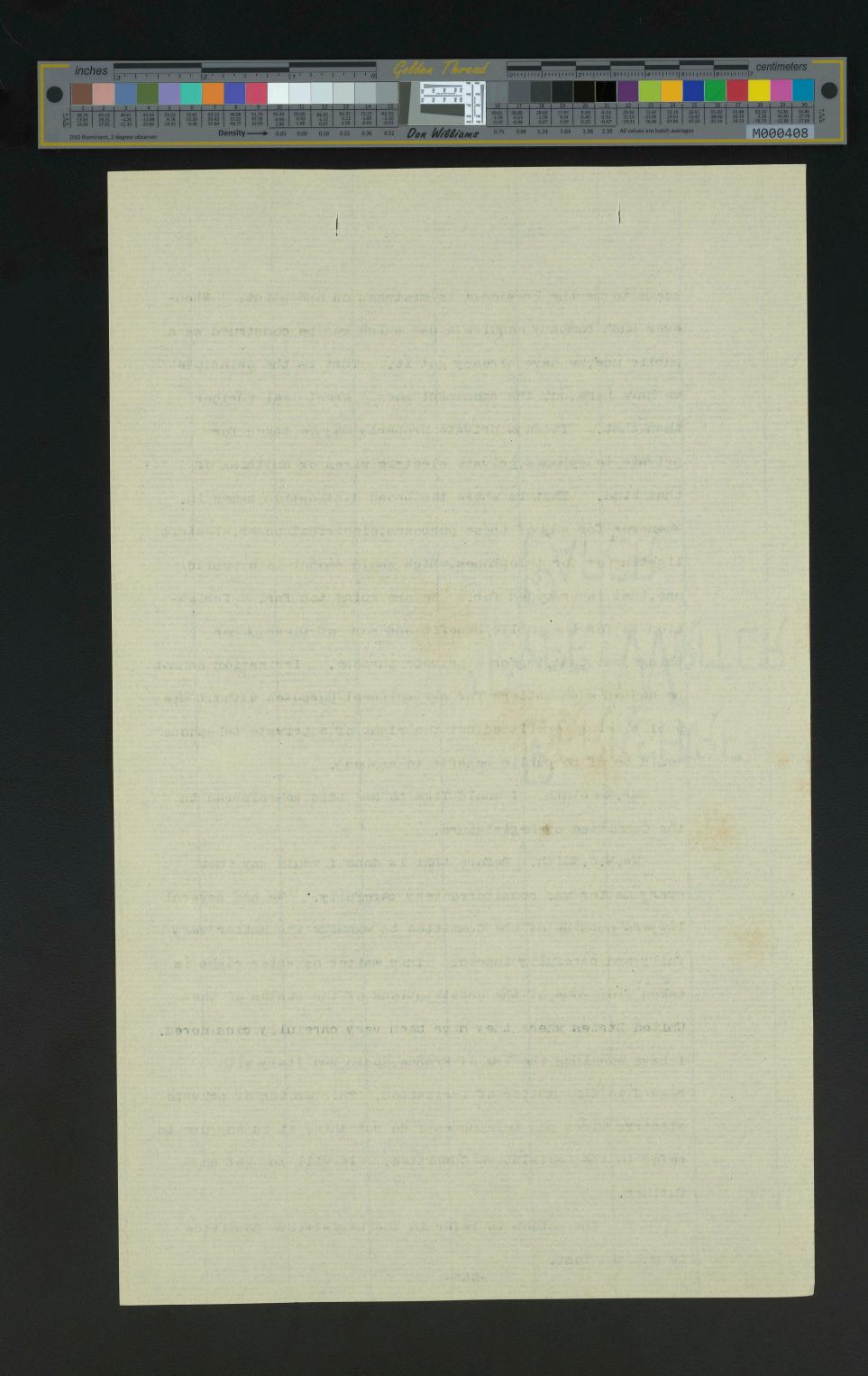


seems to me the President is mistaken on one point. Whenever such company require a use which can be construed as a public use, we have already got it. That is the principle we have here, but the amendment goes a great deal further than that. It says private property may be taken for private telephones, private electric wires or anything of that kind. That is where the broad distinction comes in. Whenever for any of these purposes, electrical power, electric lighting or for telephones, which would amount to a public use, that is provided for. We are going too far. Irrigation is for the public benefit and some of these of her things, but that, is for a private purpose. Irrigation cannot be had on such matters for agricultural purposes without the public being benefitted, but the right of a private telephone would be of no public benefit to anybody.

Mr.Emmeluth. I would like to see this re-referred to the Committee of Legislature.

Mr.W.O.Smith. Before that is done I would say that
every matter was considered very carefully. We had several
lawyers outside of the Committee to examine the matter very
fully and carefully indeed. This matter of water right is
taken from some of the constitutions of the states of the
United States where they have been very carefully considered.
I have examined the law of France, Spain and Italy with
regard to this matter of irrigation. This matter of private
electric wires and telephones I do not think it is any use to
refer to the Legislative Committee. It will not get any
further.

The motion to refer to the Legislative Committee is put and lost.



Mr.Robertson. Mr.Chairman, I move to strike out all the words after "manufacturing" in the proposed amendment. So I make Mr.McCandless' original motion again.

Mr. Young. I second that.

The motion of Mr.Robertson is put and carried.

Mr.Emmeluth. I move to strike out all from the word

"public" in the 6th line.

The Chairman. We have this motion before us. The motion is to add to the 3rd line the word "manufacturing".

The motion to add the word "manufacturing" in the 3rd line is put and carried.

Mr. Emmeluth. Mr. Chairman, I move to strike out in line 6 beginning with "Public use" to the end. My reason for that is that parties have said in the rear of the hall here that this was directed solely toward a certain private person owning private rights in that way. If any foreign community wants to come in here and buy up, let them take their risks with the rest of us.

Mr.Brown. That is all very well. But suppose a piece of land is worth so much and is person is offered three or four hundred dollars an acre and he wants more. If a man a wants million for some land that is worth about ten thousand dollars, it is just to cover such contingencies as that that this is in there.

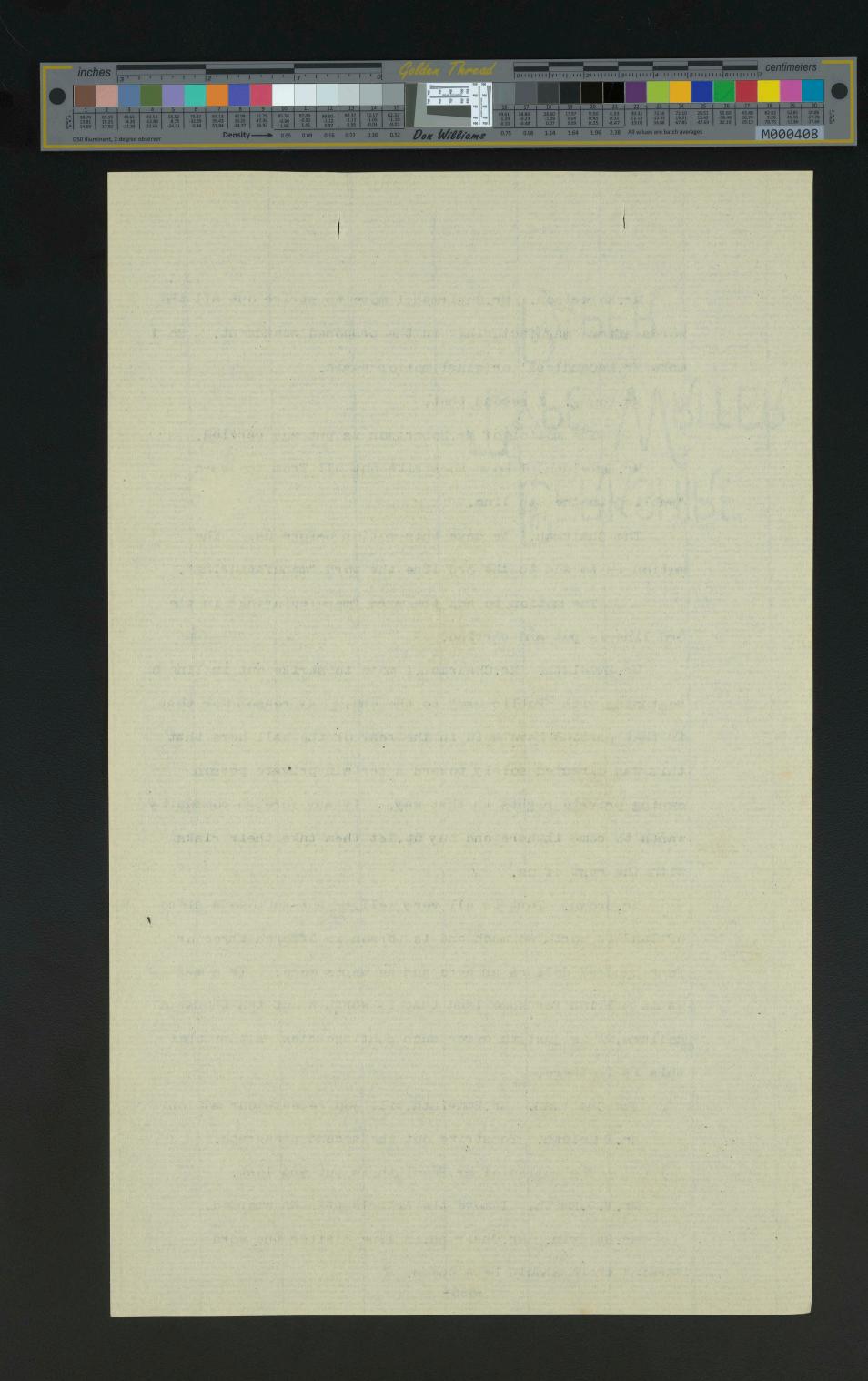
The Chairman. Mr. Emmeluth, will you repeat your motion?
Mr. Emmeluth. To strike out the second paragraph.

The motion of Mr. Emmeluth is put and lost.

Mr.W.O.Smith. I move the Article pass as amended.

Mr.Baldwin. Mr.Chairman, in line 3 after the word

"drain" there should be a comma.



Mr. Brown. I move the section pass as amended.
Mr. W. O. Smith. I second that.

Article 12 is passed as recommended by the Legislative Committee and amended.

Mr.Kalua. I would like to ask the Chairman whether a motion can be made in committee to reconsider a vote that has been taken by the committee. The reason why I ask the question is because I know that the committee has been doing a great many things that really they had no right to do, and we have got in the habit of acting contrary to the rules, and I thought if this was out of order we might do it once more. I wish to reconsider the vote that was taken just before recess relating to Article 19.

The Chairman. I suppose the effect of it is simply to recommend the Convention to refer these Articles to a Committee when the committee rise.

Mr.Kalua. I wish to reconsider the vote taken on the amendment proposed by President Dole, which was added to the end of Article 19. I think the committee has made a mistake, and for my part I want to rectify any mistakes I have made. If any one will look at Article 18 subdivision 5 with the amendment we added to Article 19 that the demizers shall not vote, any one can see it will be perhaps two years until we get new treaties with all these powers before any one really can vote. I know from my former experience as a member of the Legislature that where the committee has already passed on some question and adopted it as in this case, it cannot reconsider it. It has to go back to the house and then a motion can be made in the house to amend the report of the committee. I know that is the rule. But in this Conven-



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rule and we have done a great many things that the rules really do not allow us to do, and therefore on that proposition we would go on and transgress the rules once more by reconsidering this matter in committee.

The Chairman. I suppose we cannot reconsider it.

Mr.Kalua. That is all. I wanted to get a ruling. If
the committee rules it is out of order, I will wait until the

Mr.W.O.Smith. The idea is that Article 90 as in the draft would be Section 1 and these amendments would be Sections 2 and 3.

Article 90 is read.

matter is referred to the house.

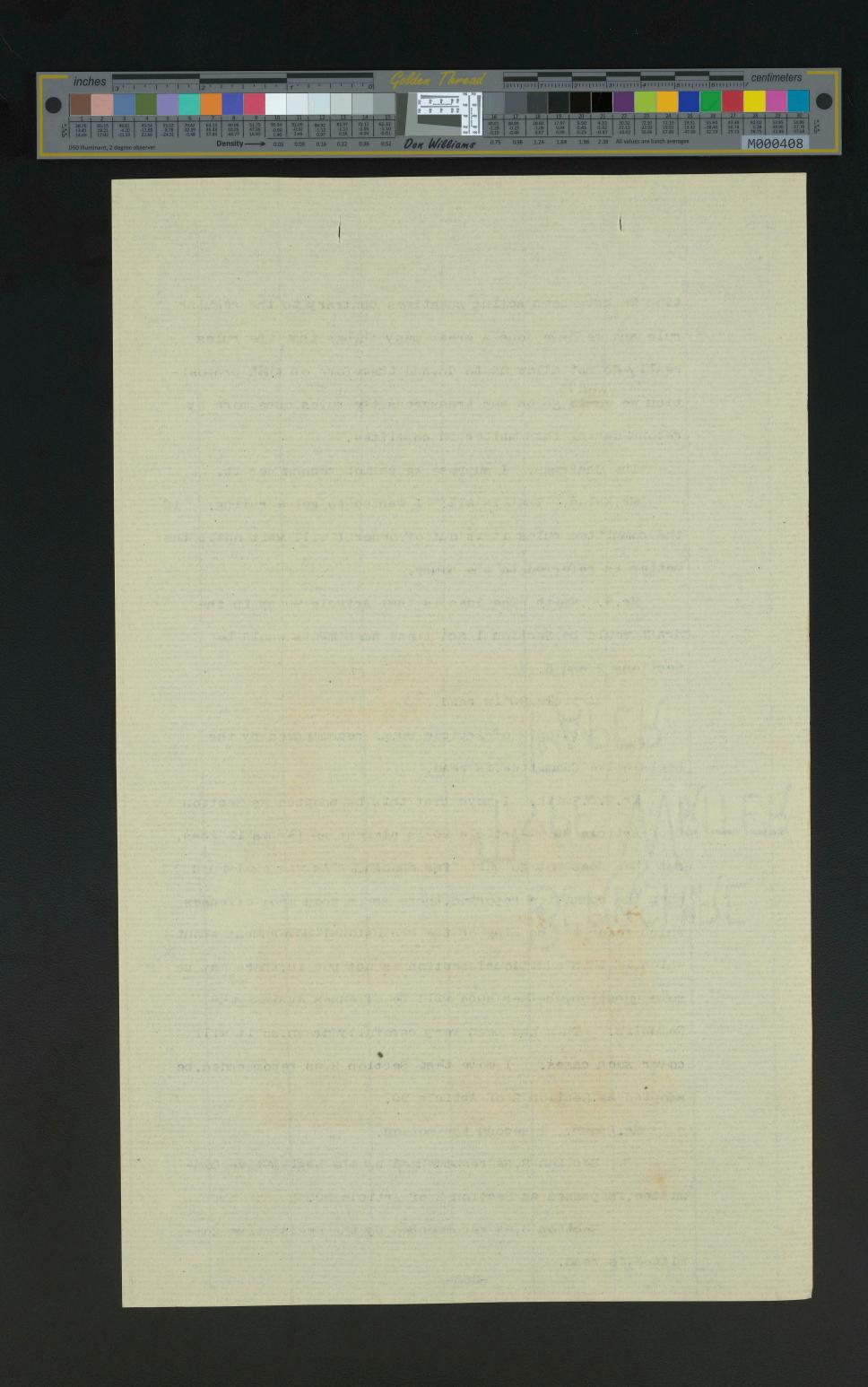
Section 2 of Article 90, as recommended by the Legislative Committee, is read.

Mr.W.O.Smith. I move that this be adopted as Section 2 of Article 90. Article 90 is alright as far as it goes, but that does not go quite far enough. As was explained when the committee reported, there are a good many offenses which refer to the King or the Provisional Government about which, if this additional section is not put in, there may be some question, whether such will be offenses against the Republic. This has been very carefully drawn, so it will cover such cases. I move that Section 2, as recommended, be adopted as Section 2 of Article 90.

Mr. Brown. I second the motion.

Section 2, as recommended by the Legislative Committee, is passed as Section 2 of Article 90.

Section 3, as recommended by the Legislative Committee, is read.



Mr.W.O.Smith. I move the section pass.

Mr. Vivas. I move on line 6 it read "pending" instead of "depending".

Mr. W. O. Smith. It is all the same.

Section 3, as recommended by the Legislative Committee, is passed as Section 3 of Article 90.

Mr.W.O.Smith. If I am not mistaken, Articles 57 and 58
were deferred relating to the Representatives and Representative Districts etc. I move that they now be taken up.
Mr.Brown. I second the motion.

The motion of Mr. W.O. Smith is put and carried.

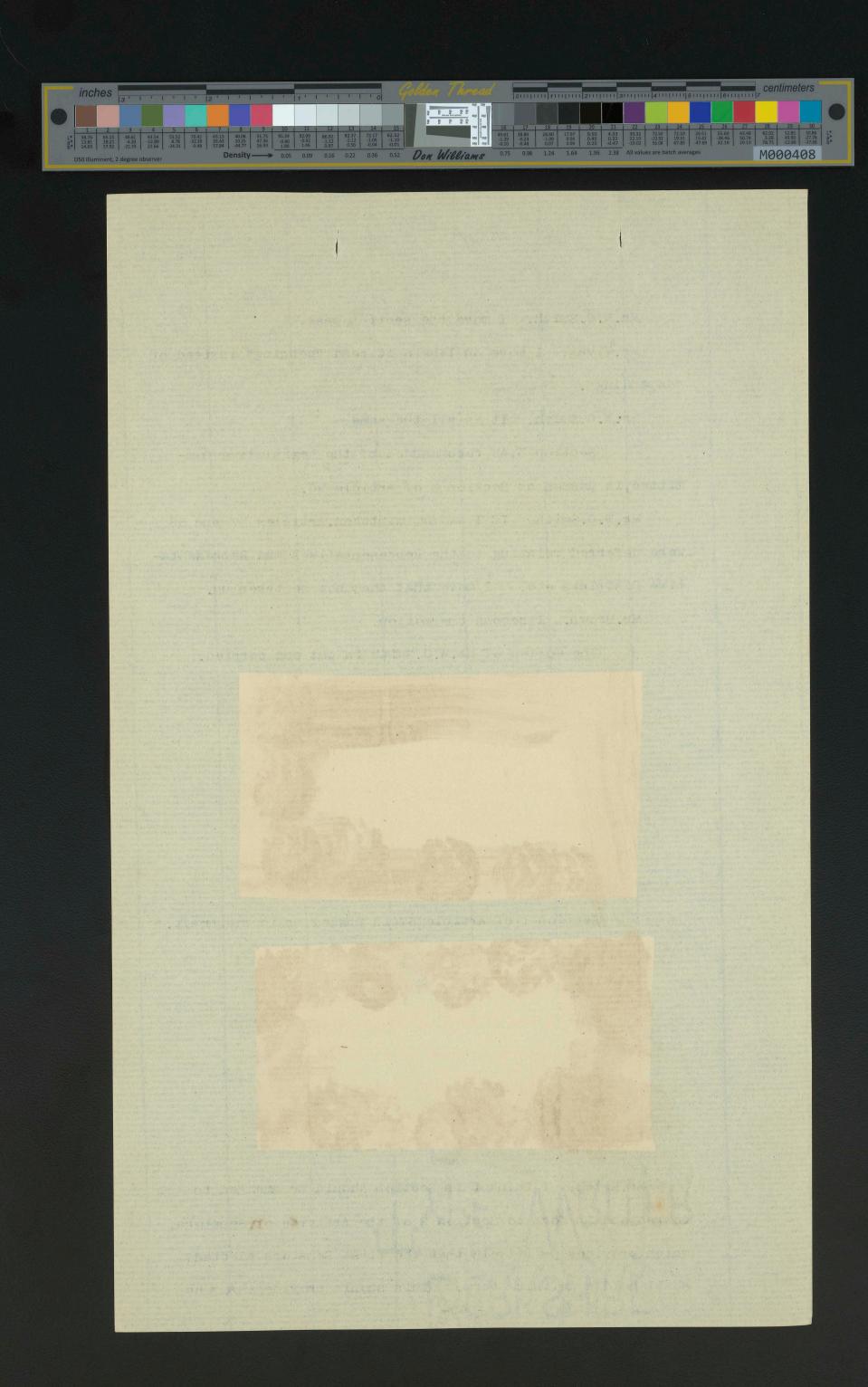
THE HOUSE OF REPRESENTATIVES.

- 1 ARTICLE 57.-NUMBER OF REPRESENTATIVES-REPRE-
- 2 SENTATIVE DISTRICTS.
- 3 Section 1. The House of Representatives shall be
- 4 composed of fifteen members, elected, except as herein
- 5 provided, every second year.

Section 1 of Article 57 is passed as in the draft.

- TERM OF OFFICE.
- 7 Section 2. The term of office of the Representatives
- 8 elected at the first election held under this Constitu-
- 9 tion, or who may hereafter be elected at general or
- 10 special elections, shall be until the next general elec-
- 12 tion held thereafter.

Mr. Hatch. I think this Section should be amended to correspond in form to Section 2 of the Article of Senators, which provides positively that the first Senators elected shall hold a definite term. This should provide that the

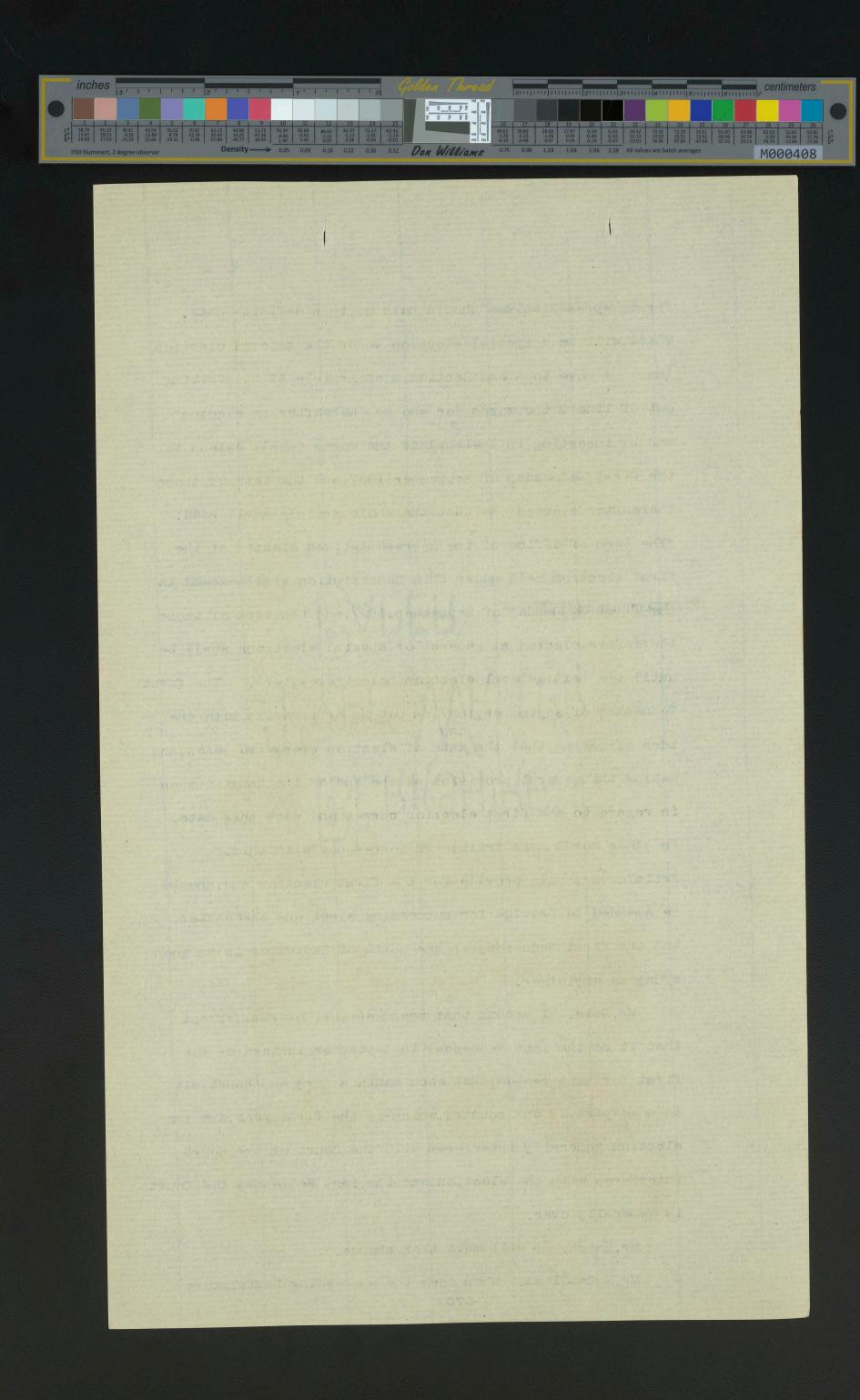


first Representatives should hold up to a definite date. There will be a special election under the general election I move to amend Section 2 of Article 57 by striking law. out of line 9 the words "or who may hereafter be elected" and by inserting in their place the words "shall extend to the first Wednesday of September, 1897, and the term of those thereafter elected", so that the whole Article shall read: "The term of office of the Representatives elected at the first election held under this Constitution, shall extend to the first Wednesday of September, 1897, and the term of those thereafter elected at general or special elections shall be until the next general election held thereafter". The first Wednesday of September, 1897, is put in arbitrarily with the idea of making that the dake of election every two years, and making the general provision at the end of the Constitution in regard to the first election correspond with this date, in other words make Article 98 correspond with this. Article 98 should provide for the first election and should be amended to provide for succeeding elections thereafter, and the first Wednesday in the month of September is as good a day as any other.

Mr.Dole. I second that amendment, Mr. Chairman, except that it be the last Wednesday in September instead of the first for this reason, that each month a jury and court sit in some part of the country, which is the first week, and the election generally interferes with the Court or the Court interferes with the election, and the last Wednesday the Court is generally over.

Mr. Hatch. I will make that change.

Mr.McCandless. When does the succeeding Legislature



sit, in 1898?

Mr. Hatch. The elections are in the odd years and the sessions are in the even years.

Mr.McCandless. Why do you not follow the American method of extending the time of these Representatives until the next convening of the regular session instead of terminating on election day. In the United States they will elect this Fall for Congress, and the old Congress continues to sit until the 4th day of March next. Then the new Congress begins. If we are going to put our election in September, why not continue the old house until the first day of January or February of 1896?

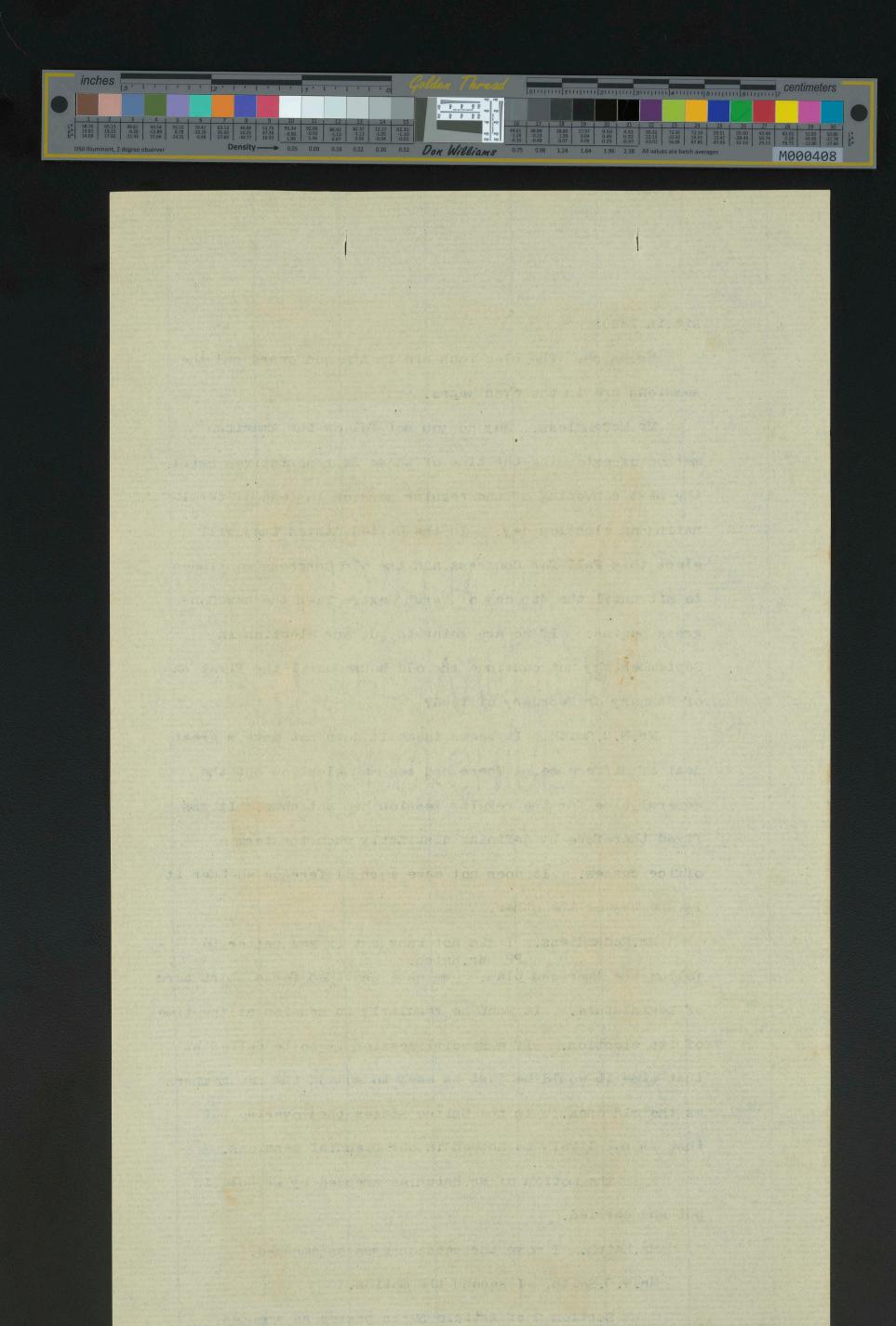
Mr.W.O.Smith. It seems to me it does not make a great deal of difference. There had been an election but the general time for the regular session had not come. It was fixed therefore by defining distinctly when the term of office ceases. It does not make much difference whether it is one way or the other.

Mr.McCandless. I did not know but it was better to PP Mr.Hatch. follow the American plan. We have provided for a short term of Legislature. It wont be regularly in session at the time of its election. If a special session is to be called at that time it would be just as easy to summon the new members as the old ones. In the United States they overlap but that is not likely to happen in our biennial sessions.

The motion of Mr. Hatch, as amended by Mr. Dole, is put and carried.

Mr.W.O.Smith. I second the motion.

Section 2 of Article 57 is passed as amended.



- 13 Section 3. Vacancies caused by death, resignation
- 14 or otherwise, shall be filled at special elections, for the
- 15 unexpired term.

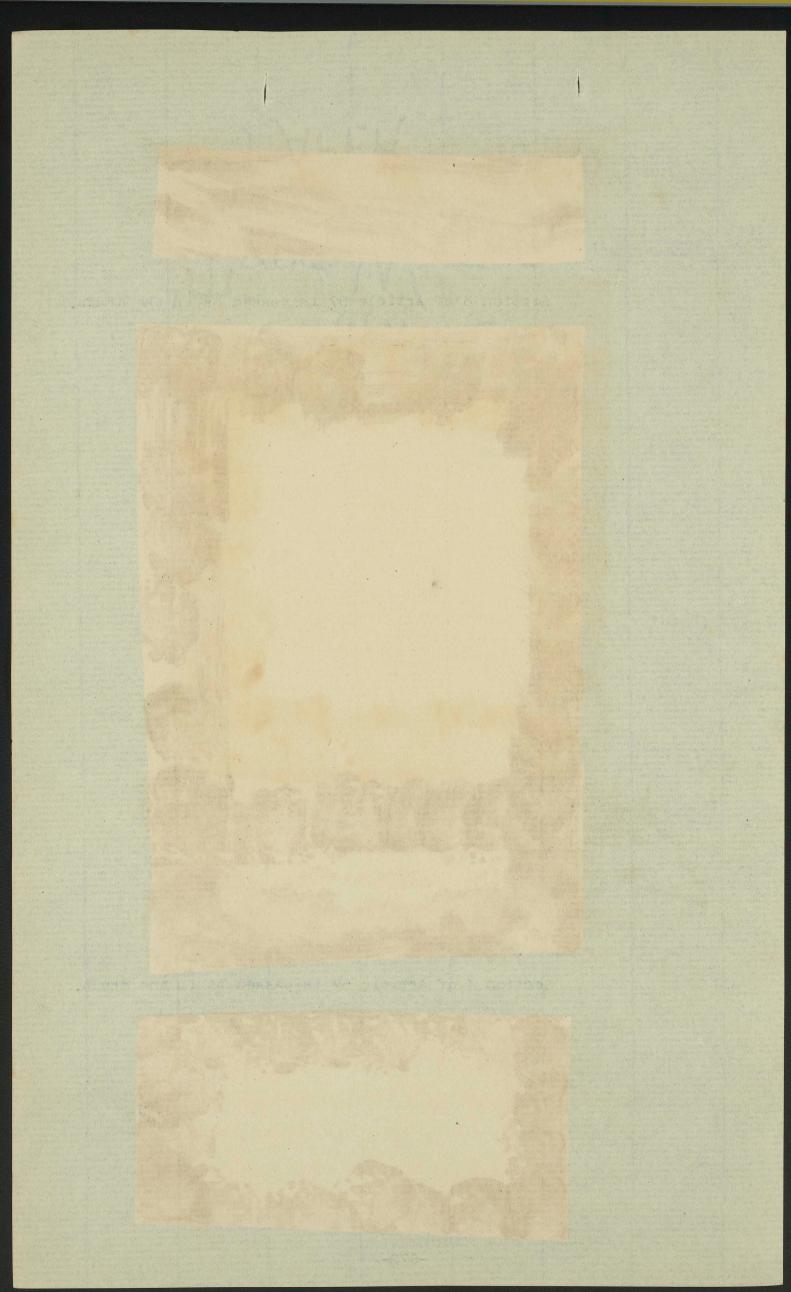
Section 3 of Article 57 is passed as in the draft.

- 16 Section 4. For the purpose of representation in the
- 17 House of Representatives, until otherwise provided by
- 18 law, the Republic is divided into the following Repre-
- 19 sentative Districts, viz.:
- 20 First District; that portion of the Island of Hawaii
- 21 known as Puna, Hilo and Hamakua.
- 22 Second District; that portion of the Island of Hawaii
- 23 known as Kau, Kona and Kohala.
- 24 Third District; the Islands of Mani, Molokai, Lanai
- 25 and Kahoolawe.
- 26 Fourth District; that portion of the Island of Oahu
- 27 lying east and south of Nuuanu street, and a line
- 28 drawn in extension thereof from the Nuuanu Pali to
- 29 Mokapu point.
- 30 Fifth District; that portion of the Island of Oahu
- 31 lying west and north of the fourth district.
- 32 Sixth District; the Islands of Kauai and Niihau.

Section 4 of Article 57 is passed as in the draft.

- 33 Section 5. The electors in the said districts shall be
- 34 entitled to elect Representatives as follows:
- 35 In the First District, two;
- 36 In the Second District, two:
- 38 In the Third District, three;
- 39 In the Fourth District, three;





- 40 In the Fifth District, three;
- 41 In the Sixth District, two.

Section 5 of Article 57 is passed as in the draft.

- 1 ARTICLE 58.—QUALIFICATIONS OF REPRESENTATIVES.
- 2 In order to be eligible to be a member of the House of
- 3 Representatives, a person shall, at the time of election:
- 4 Have attained the age of twenty five years;
- 5 Be a male citizen of the Republic;
- 6 Be able understandingly to read, write and speak the
- 7 English or Hawaiian language;
- 8 Have resided in this country not less then three
- 9 years;
- 10 And shall either own property in the Republic worth
- 11 not less than One Thousand Dollars over and above all
- 12 encunbrances, or have received a cash income of not less
- 13 than Six Hundred Dollars during the twelve months
- 14 immediately preceding the date of election.

Mr. Vivas. Mr. Chairman, I move to insert on line 8 the word"five" for "three". Mr. Chairman, I do not think that a man that has resided in this country for three years knows enough about the country to be a Representative.

Mr. Tenney. I second the motion.

The motion of Mr. Vivas is put and declared carried.

Mr.Dole. Mr.Chairman, I call for a division on this matter.

Mr. Vivas. I wish to explain in connection with the residence required for Senators that I had overlooked it. I intended also to raise the length of residence.

Mr. W. O. Smith. The result of that will be this, a man -673-



having been in the country three years can vote for Senators, but he cannot be a Representative unless he resides here five years. I think three years is long enough.

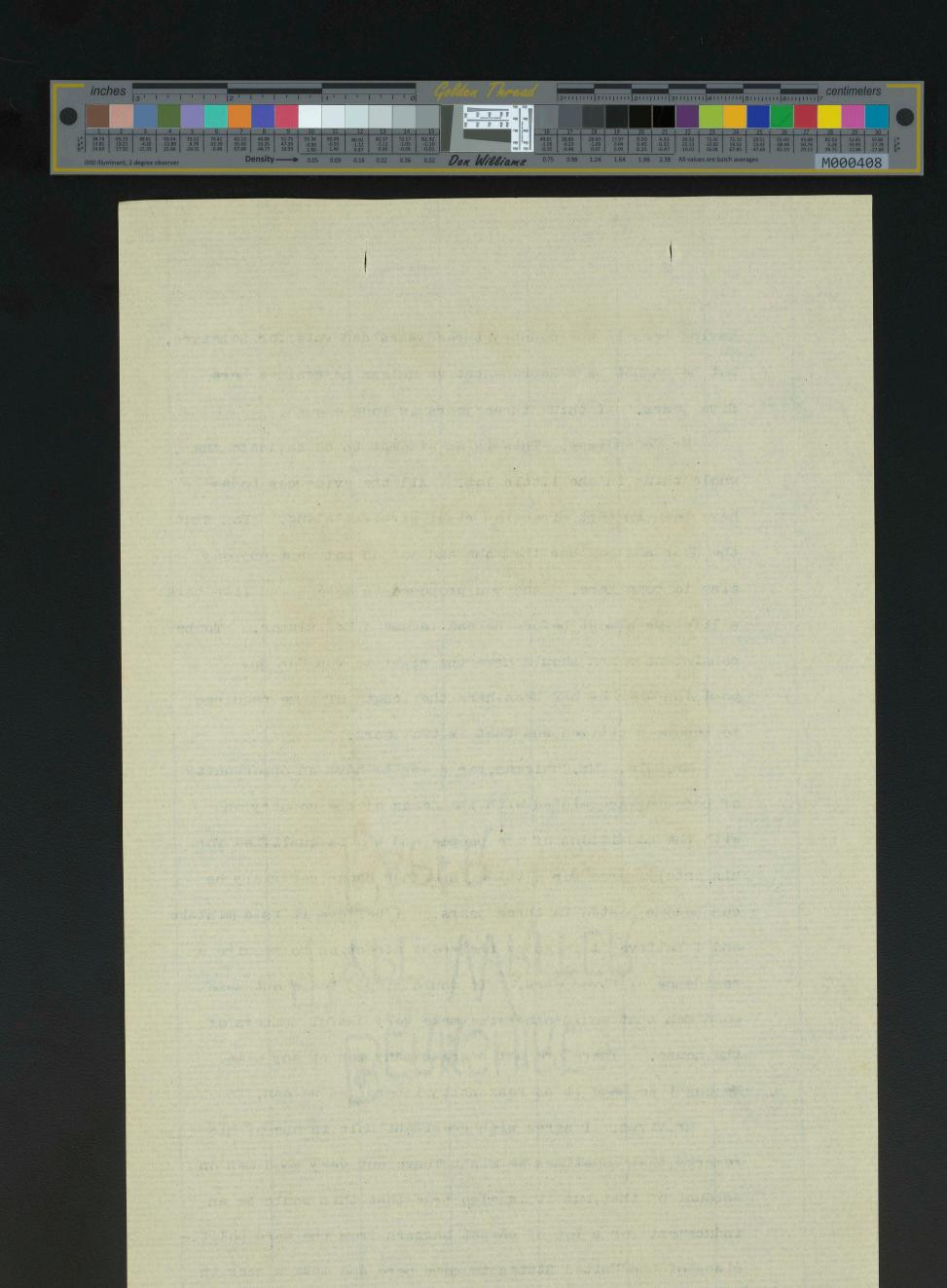
Mr.McCandless. This is an attempt to consolidate the whole thing in one little lot. All the evidences today have been in that direction right straight along. You shut the door and you bar them out and you do not want anybody else to come here. And you proposed to make a man live here a lifetime almost before he can become a Legislator. To be consistent a man should have the right to run for any position when he has been here the length of time required to become a citizen, and that is two years.

Mr.Dole. Mr.Chairman, for a man to have an opportunity of becoming acquainted with the needs of the country and with the conditions of the people, and who is qualified for his intelligence for sitting in either house, certainly he can become posted in three years. I believe it is a mistake and I believe it is going the wrong direction to require a residence of five years. It would simply leave out some good men that would otherwise make very useful members of the house. There are not a great many men at any time.

We ought to make it as reasonably liberal as we can.

Mr. Vivas. I agree with President Dole in one of his remarks, that sometimes we might leave out very good men on account of that, but it is also true that this would be an inducement for a lot of carpet baggers from the ward politicians of the United States to come here and make a sack in two or three years and go back.

A rising vote is taken on the motion of Mr. Vivas, with the result that it is carried 15 to 14.



Mr.Brown. I have an amendment on line 13 to strike out the word "six" and insert the word "three", so that anybody who has an income of three hundred dollars or a thousand dollars worth of property over and above encumbrances may become a Representative of the people.

Mr. Iosepa. I am in favor of having it pass as in the printed copy. Three hundred dollars is altogether too low.

And I think the honorable member will withdraw his motion if he thinks about it a little bit.

The motion of Mr. Brown is put and lost.

Mr.W.O.Smith. I move the Article pass as amended.

Mr.Kalua. I second the motion.

Article 58 is passed as amended.

Mr. Vivas. I move the Committee rise, report progress and ask leave to sit again.

Mr. Tenney. I second that.

Mr.W.O.Smith. I would like to ask what is remaining.

I do not know of anything except that matter which was rereferred to the Legislative Committee this afternoon.

The Secretary. I think that is all.

The motion of Mr. Vivas is put and carried.

The Committee rises.

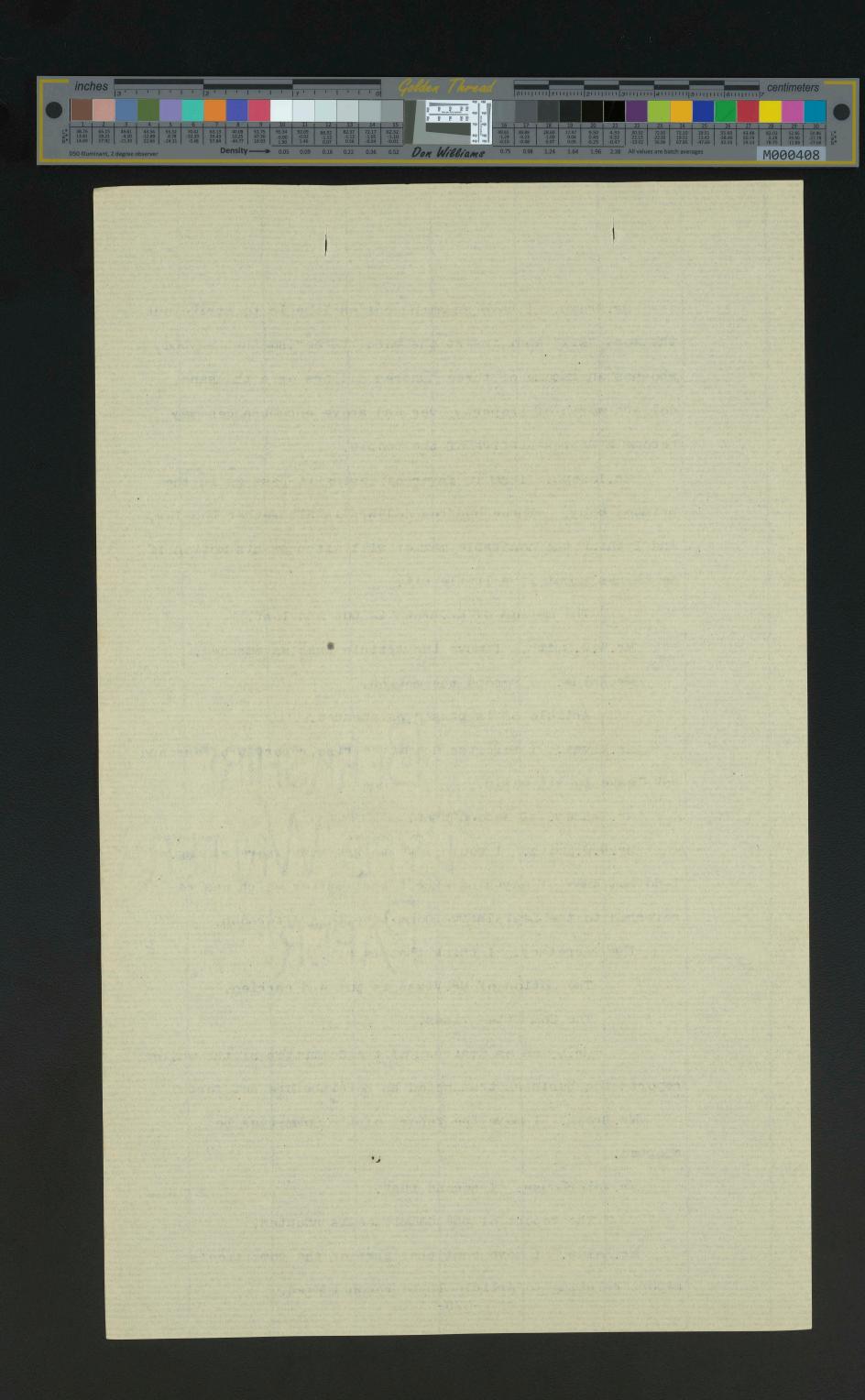
Mr.Lyman as Chairman of the Committee of the whole reports the business transacted as hereinbefore set forth.

Mr.Brown. I move the report of the Committee be adopted.

Mr. Waterhouse. I second that.

The report of the Committee is adopted.

Mr.Kalua. I move that that part of the committee's report relating to Article 19 be reconsidered.



Mr.Brown. The delegate is too late. The vote has already been taken and the announcement was made by the presiding officer. The only way is to move a reconsideration of the vote taken confirming the report of the committee.

Mr.Kalua. Before the motion was put I had the floor.

Mr.Brown. The only way is to move a reconsideration.

Mr.Baldwin. I move that the report of the committee be reconsidered.

Mr. Young. I second that.

The motion of Mr. Baldwin is put and carried.

Mr.W.O.Smith. I move that the report be amended by recommending a reconsideration of Article 19 and with that amendment the report of the committee be adopted.

Mr. Carter. I would like further to amend the report of the committee by moving that the amendment in line 8 in Article 58 be reconsidered.

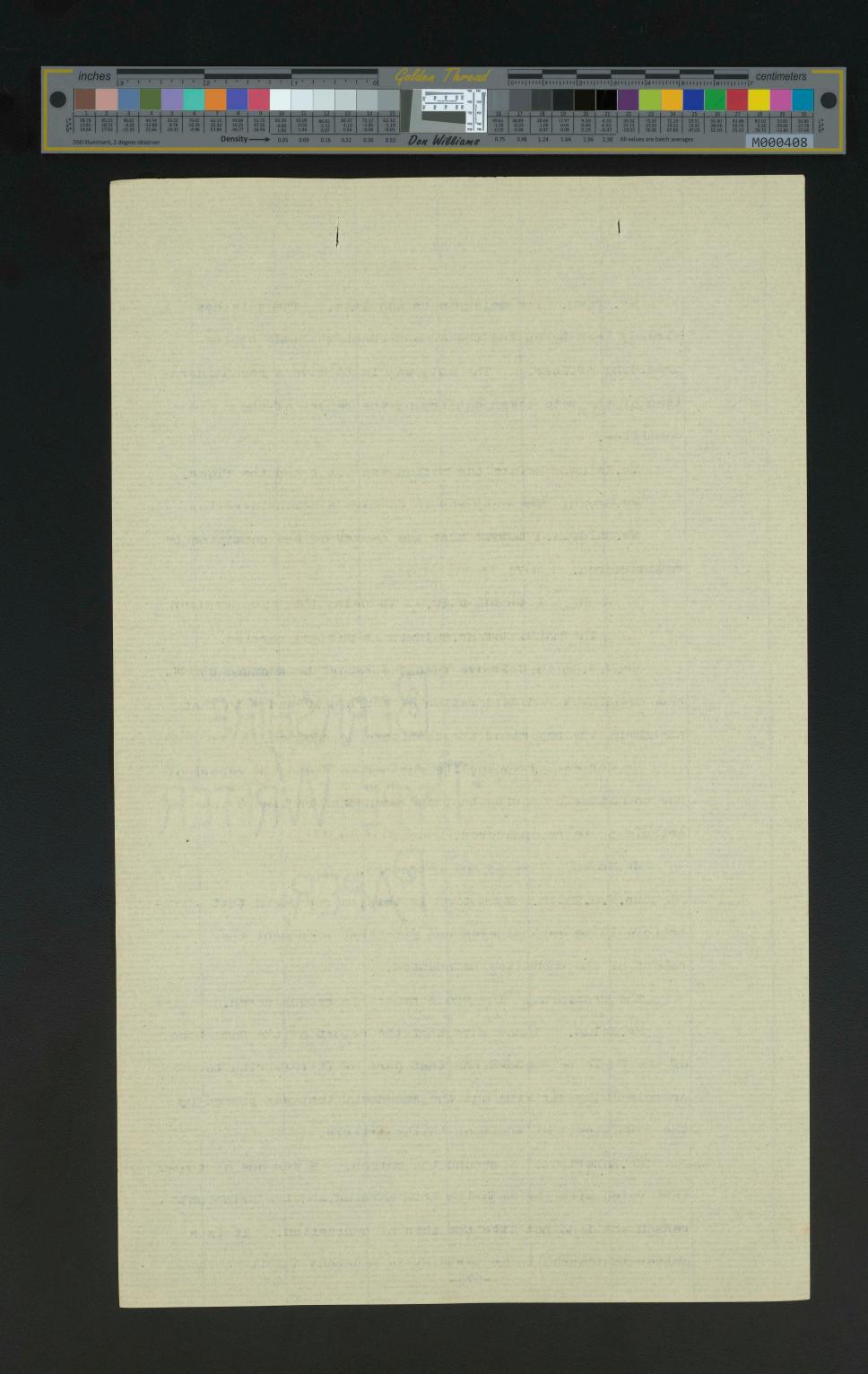
Mr. Brown. That is not necessary.

Mr.W.O.Smith. My motion is this, to recommend that Article 19 be reconsidered and with that amendment the report of the committee be adopted.

The President. The whole report is reconsidered.

Mr.Kalua. I now move that the report of the Committee of the Whole be amended, and that part of it referring to Article 19, by striking out the amendment that was passed by the committee, that addition to the Article.

Mr.Robertson. I second the motion. I was one of those that voted with the majority this morning, and the principal reason was I do not like the idea of denization. It is a matter that seems to me pertains to monarchy and it has no -676-



place in a republican form of government. But, at the same time, we have to adopt many provisions here that are not properly republican in theory, and I believe this is one of them. The way the matter was decided this morning it would prevent the acquisition of new voters in this country from other countries whose assistance would probably be required. Therefore I support the motion.

Mr.Brown. I move the matter be taken up tomorrow on Article 19. I move we adjourn.

The motion of Mr. Brown to delay the consideration of this matter till tomorrow is put and carried.

Mr. Brown. I move we adjourn to tomorrow at 10 o'clock.

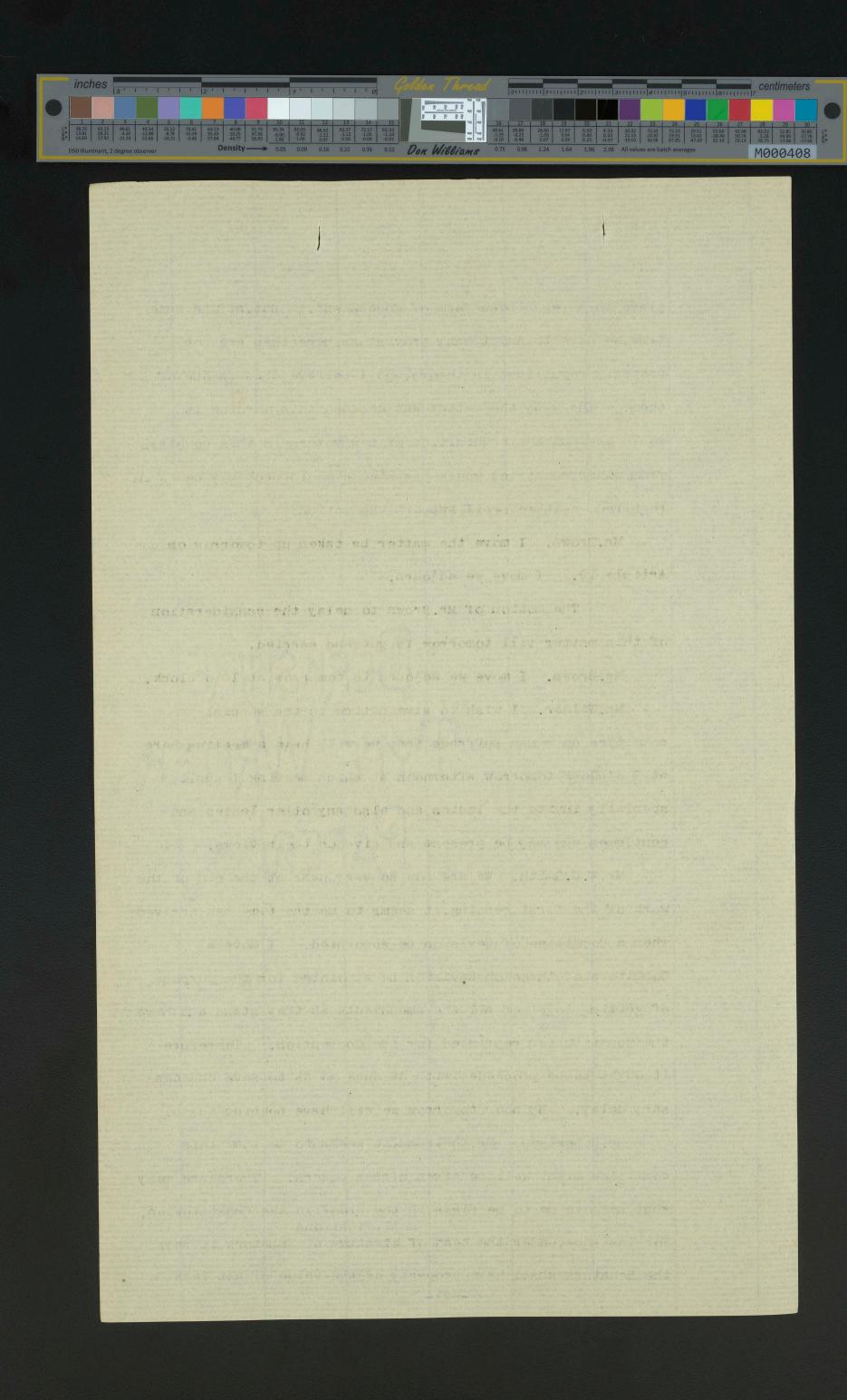
Mr. Wilder. I wish to give notice to the special committee on woman suffrage that we will have a meeting here at 2 o'clock tomorrow afternoon at which meeting I shall specially invite the ladies and also any other ladies and gentlemen who may be present and give us their views.

Mr.W.O.Smith. We are now so very near at the end of the work of the first reading, it seems to me the time has arrived when a Committee of Revision be appointed. I move a Committee of three on Revision be appointed for the purpose of getting together all the amendments as they stand and have the Constitution reprinted for the Convention. Therefore it ought to be proceeded with at once so as to save unnecessary delay. By noon tomorrow we will have nothing to do.

Mr.Robertson. Mr.Chairman, it seems to me that this committee might well be given higher powers. There are many what seem to me to be flaws in the proof in the Constitution.

qualifications

For instance, under the head of makerekan of Senators, it says the Senators shall have property of the value of not less



so many thousand dollars. Under the head of qualifications for Representatives shall have property worth not less than one thousand dollars. We are using different terms to express the same ideas. When we mean the same thing in different places, it should be the same thing. I think this committee should have authority to propose such amendments in that line as they seek fit.

The President. This resolution should be in writing to define the powers of the Committee.

Mr.W.O.Smith. It seems to me that is not wise. What one member may consider a proper change of wording may perhaps be a change of sense in some respect. This committee on revision might go over it and when their attention is called to such matters can very properly bring them up on the second reading.

Mr. Robertson. I would like to explain. I did not propose to give this committee the power to make the change but to recommend.

Mr. W. O. Smith. I second that.

The motion to appoint a Committee of Revision to collate the changes that have been made and to prepare a printed copy of the Constitution as amended, with power to correct clerical errors and to suggest improvements in the language, is put and carried.

The President. I will appoint on this Committee Messrs. Brown, Horner and Carter.

Mr.W.O.Smith. Before the house adjourns I would like to give notice to the Legislative Committee to meet at once on this Article 101, which was referred to them, so that we can report in the morning and have that acted upon.

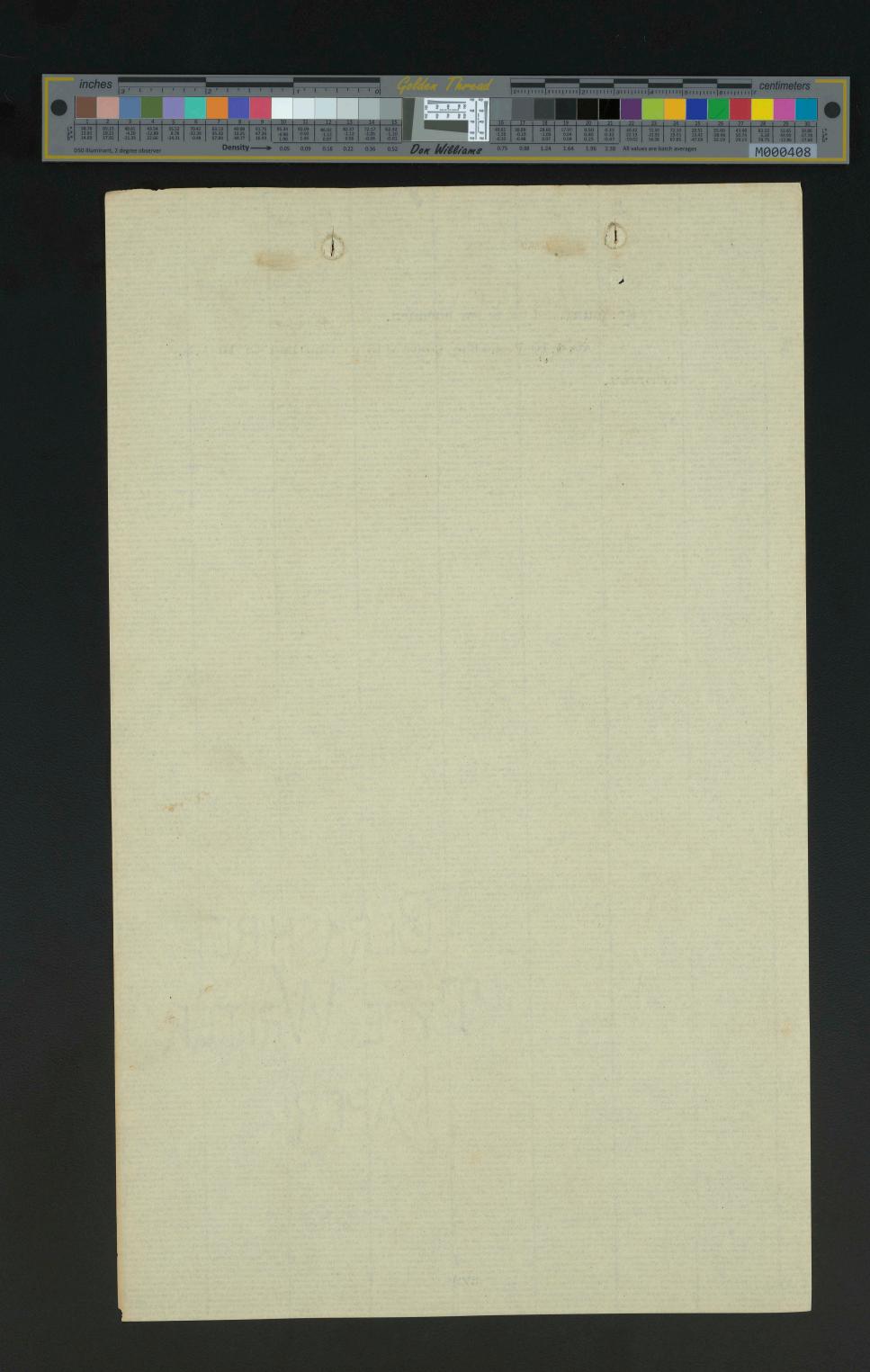
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Mr. Young. I move we adjourn.

At 4.10 P.M. the Convention adjourned to 10 A.M.

tomorrow.



CONSTITUTIONAL CONVENTION. 16TH DAY. WEDNESDAY. JUNE 20TH, 1894.

The Convention was called to order at 10.06 A.M. by President Dole.

Prayer was offered by the Chaplain.

The roll-call showed the following members present, viz: The President and Messrs. Ables, Allen, Baldwin, Brown, Carter, Ena, Horner, Iosepa, Kahaulelio, Kalua, Kauhane, Lyman, McCandless, Mendonca, Morgan, Pogue, Rice, Robertson, D. B. Smith, Tenney, Vivas, Waterhouse, A.S. Wilcox, G.N. Wilcox, Wilder, Young. (26).

The minutes of the session of June 19th are read and approved.

Mr.W.O.Smith. I have two reports, but they are not signed yet. I would like to state in regard to the matter of the proposed amendment to Article 101 there are two amendments. I gave notice of a meeting and after the house adjourned a meeting was held. Mr. Waterhouse was not present, and I think I shall have to present this minority report signed by Mr. Brown and myself. There is only four on the committee now. The report of Mr. Brown and myself is as follows:

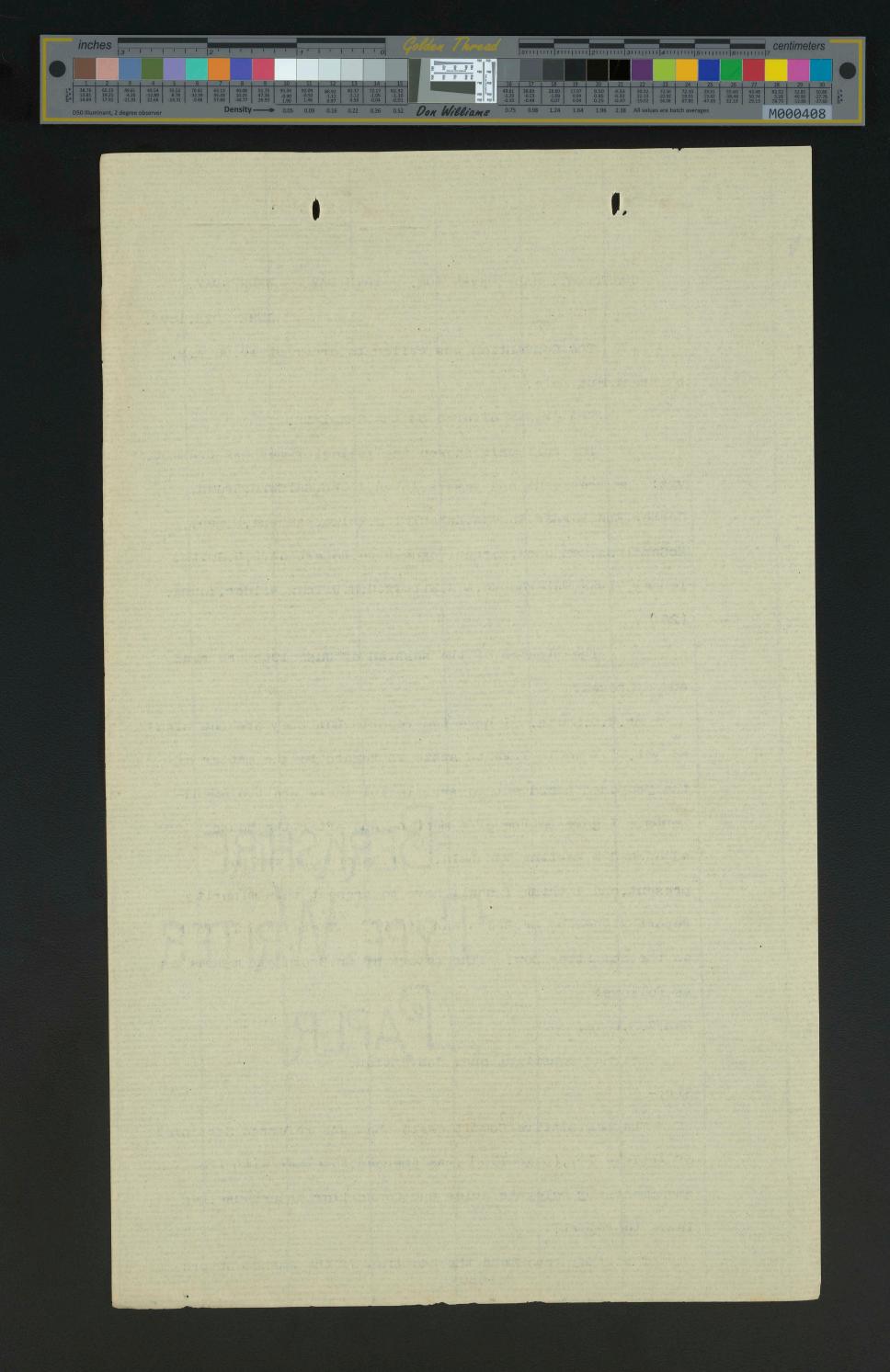
Hon.S.B.Dole,

Chairman Constitutional Convention. Sir:-

The Legislative Committee to whom was referred Section 1 of Article 101, (page 110), as amended, to gether with the amendments by Delegate Ables and Councillor Waterhouse, beg leave to report.

That they recommend the adoption of the amendment pro-

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posed by Mr. Ables, so that after the word "duty" in line 6
the remainder of the section shall read "mal-administration
in office or assessment of office-holders for partisan or
political expenses".

In the opinion of the committee the amendment proposed by Mr. Waterhouse is unnecessary and out of place in this Section.

The Article relates to the power of the Legislature to impeach public officers and not to the executive power to remove subordinates from office. The addition of the proposed amendment in this connection might be capable of mis-construction.

We therefore recommend that Mr. Waterhouse's amendment be laid upon the table.

Honolulu, June 20,1894.

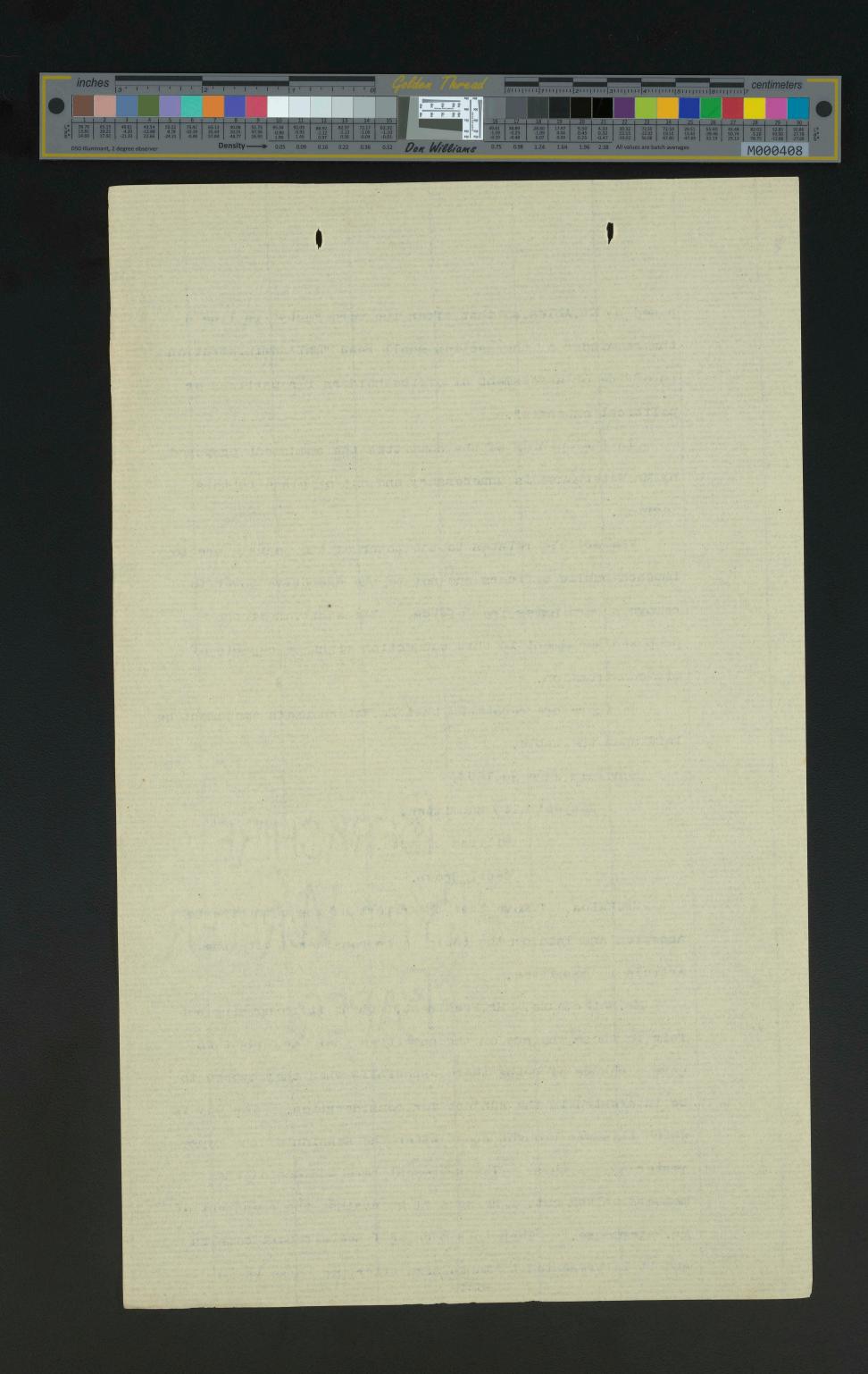
Respectfully submitted,

William O.Smith.

Cecil Brown.

Mr.Kalua. I move that the report of the committee be accepted and laid on the table to be considered with the Article in committee.

Mr.Waterhouse. Mr.President, I think it is nothing but fair to those who are on the committee that they ought to have a chance of being there, especially when they happen to be interested in the subject for consideration. The way in which this was brought about after the session of the house yesterday was this. I was present here and one of the members walked out. He says "I am against the amendment of Mr.Waterhouse." Then this morning I see a report come in and it is presented to me to sign after the house is in -681-



session. I claim that that is not a proper way to treat the amendment. I have reasons for bringing in this amendment, and I think that I ought to have been considered in the matter.

Mr.W.O.Smith. I felt that it was important that the work should be done, and I could not compel members to come by force. Mr.Waterhouse was notified.

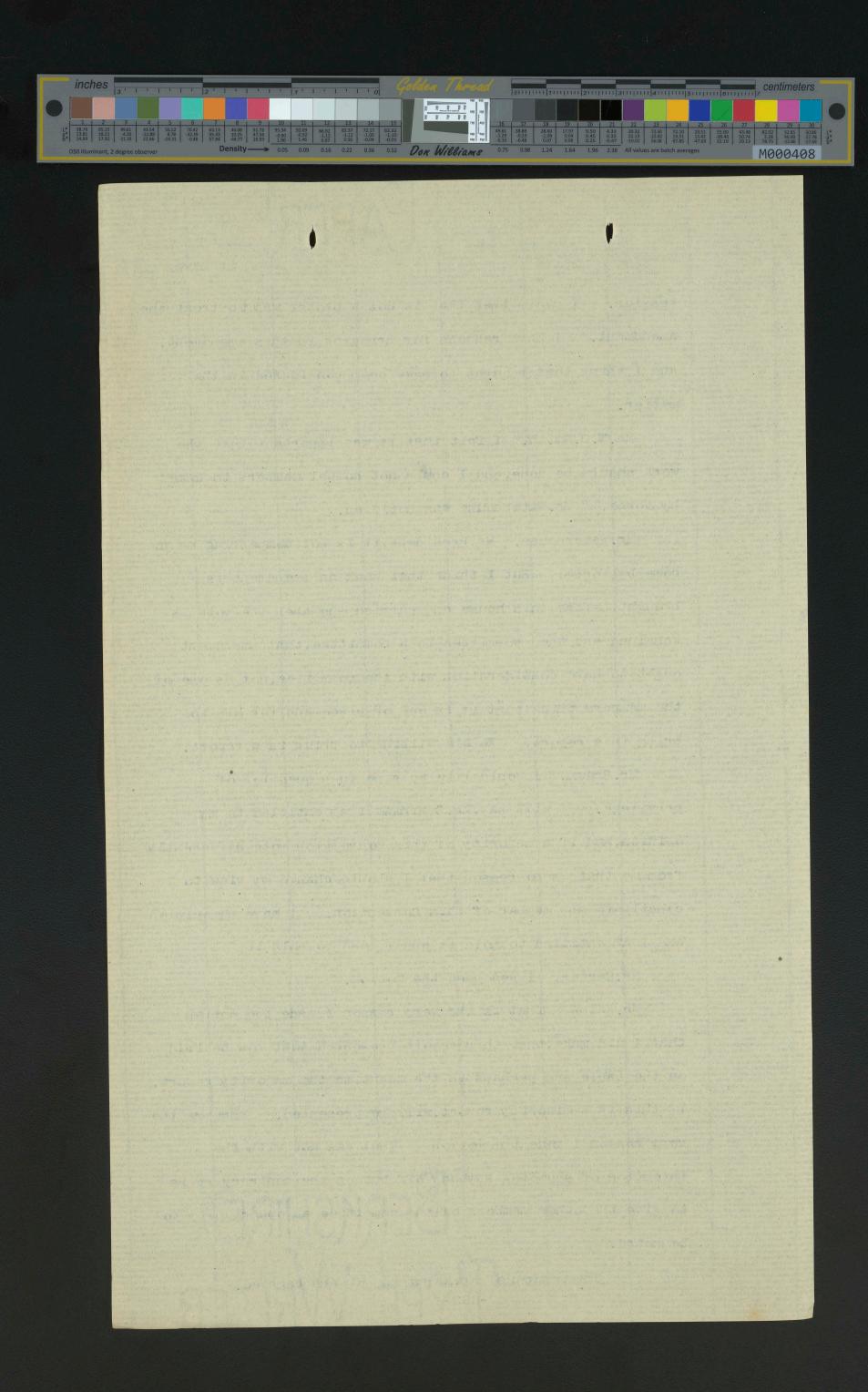
Mr. Waterhouse. Mr. President, it is not compelling me to come by force. But I think that when an amendment is brought before this house and carried and then the vote is kanaluad and then submitted to a committee, that amendment ought to have consideration with the committee, not as one of the members think that it is out of place and for him to bring in a report. We are willing to bring in a report.

Mr.Brown. I would like to rise to a question of privilege. I will say, Mr. Chairman, I am entitled to my opinion, and if a majority of this Convention vote differently from me that is no reason that I should change my view to conciliate any member of this Convention. I have my opinion and I am entitled to hold it and I mean to hold it.

Mr. Carter. I seconded the motion.

Mr.Kalua. That is the very reason I made the motion that I did make, that this report presented just now be laid on the table and perhaps in the meantime the majority report, if this is a minority report, will be presented. That is the very reason I made the motion. That was not with the intention of shutting anybody off, but on the contrary it is to give the other members of the committee an opportunity to be heard.

The motion of Mr. Kalua is out and carried.



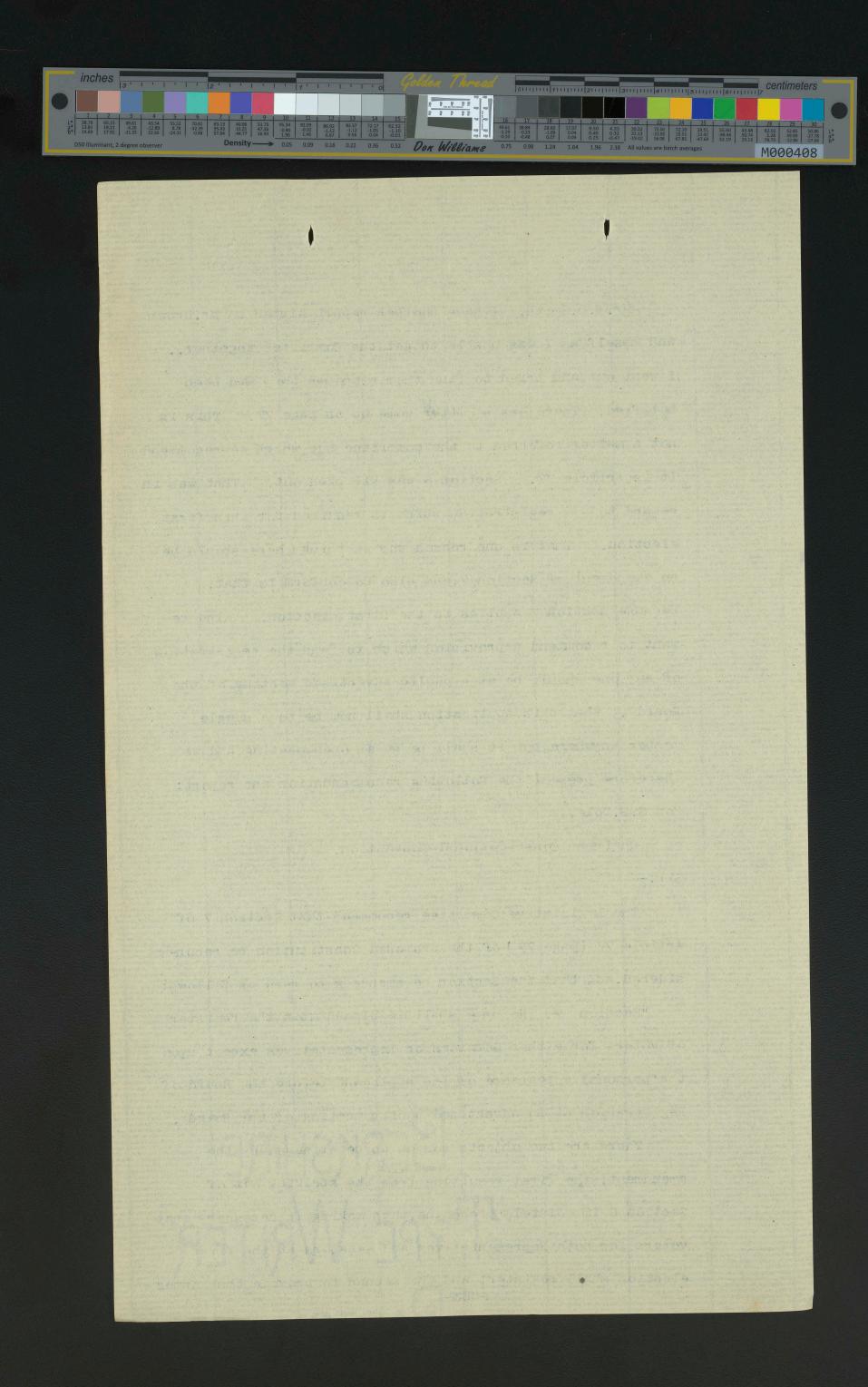
Mr. W. O. Smith. I have another report signed by Mr. Brown and myself, as I was unable to get the Committee together .. I went out and tried to find them, although the y had been notified. There has a matter come up on page 77. This is not a matter referred to the committee but which we recommend. It is Article 77. Section 6 was stricken out. That was in regard to old registration which is required for this first election. That is one reason why we think there should be an amendment of Section 7, and also to conform to that, because Section 7 applies to the first election. Also we want to recommend a provision which is "and the registration of any one should be at a public advertised meeting of the Board".; that this application shall not be to a single member anywhere, but it shall be at an open meeting, and we therefore present the following recommendation and report: Hon.S.B.Dole,

Chairman Constitutional Convention.
Sir:-

The Legislative Committee recommend that Section 7 of Article 77 (page 77) of the proposed Constitution be reconsidered, and that the Section be amended to read as follows:

"Section 7. No name shall be placed upon the register of voters for either Senators or Representatives except upon the personal appearance of the applicant before the Board of Registration at an advertised public meeting of the Board".

There are two objects sought to be obtained by the amendment; the first resulting from the striking out of Section 6 immediately preceding, thus making it necessary that voters for both Representatives and Senators at the first election shall register; and the second to provide that names



shall be placed upon the register only at advertised public meetings of the Board, thus insuring publicity to all registrations.

Honolulu, June 20,1894.

Respectfully submitted,

William O.Smith,

Cecil Brown.

Mr.Kalua. I think the report of the committee is out of order. It is a piece of assumption on the part of this committee. This committee is one of the regular standing committees of this Convention. This Section 7 was not referred to them but has been adopted by the Committee of the Whole. I think there are only two ways that the committee can get this Article to consider it again. One is to bring in a resolution that the consideration of this Section be reconsidered or to wait until the second reading of the Constitution and then amend it. These Standing Committees are appointed to do the work the Convention gives them to do. They cannot take work upon themselves and voluntarily make recommendations and suggestions on their own account.

Mr.W.O.Smith. Allow me to explain for one moment. It is not presented as a report. It is simply a recommendation that the rules be suspended. The committee thinks it is something which ought to be attended to. It think it covers the province of the committee as well as anything else.

The President. The rule is that a motion to reconsider must be made not less than on the succeeding day. This Article 777 was considered about ten days or a week ago, and therefore any motion to reconsider is out of order, but the

motion to suspend the rules is in order.

Mr. Baldwin. Mr. President, I agree with Delegate Kalua in regard to this matter. This report is out of order. It is taking up a section that was not referred to the committee, and there is ample time when it comes on the second reading to take kink up that section. I move this report be returned to the committee.

Mr. W. O. Smith. I am sorry for all this waste of time. It is within the province of every standing committee to make any recommendation in the line of their duty. They report upon the things referred to them, and they can make recommendations as much as anybody can. It is clearly established. I am surprised at the ignorance of the members.

Mr. Waterhouse. I second Mr. Baldwin's motion.

The President. I feel that a committee or any ondividual member has the right to ask that the rules be suspended at the proper time and to make recommendations and to introduce resolutions for anything at the proper time, and it is a matter of great advantage to the house that the standing committees should have this privilege in making recommendations, because their work brings them into close investigation of the draft of the Constitution and they are constantly liable to come across errors which ought to be called to the attention of the house. It is a matter which facilitates business. The house can vote down their recommendations if they wish or they can do what they please with them.

Mr.W.O.Smith. I ask leave to withdraw this amendment. The President. It is really in the nature of a resolution.

Mr. W. O. Smith. I have a resolution I would like to

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present on the same matter just spoken of. It is entirely a personal matter. It seemed to Mr.Brown and myself that would be a desirable amendment to make there. It makes the thing more complete. We have provided in other places that meetings shall only be held in public and the registration This shall be in public. **Exxx**, the matter of the personal appearance of the applicant, has reference more particularly to the registering of voters for Senators, not so much in regard to Representatives. We have stricken out Section 6, so that clearly ought to be amended. Therefore I will move the rules be suspended for the purpose of making that motion.

Mr.Brown. I second the motion.

The motion of Mr.W.O.Smith is put and carried.

Mr.W.O.Smith. I now move a reconsideration of Section

7 of Article 77.

Mr. Brown. I second the motion.

Mr.W.O.Smith. I now move that the Section be amended to read as follows: "Section 7. No name shall be placed upon the register of voters for either Senators or Representatives except upon the personal appearance of the applicant before the Board of Registration at an advertised public meeting of the Board."

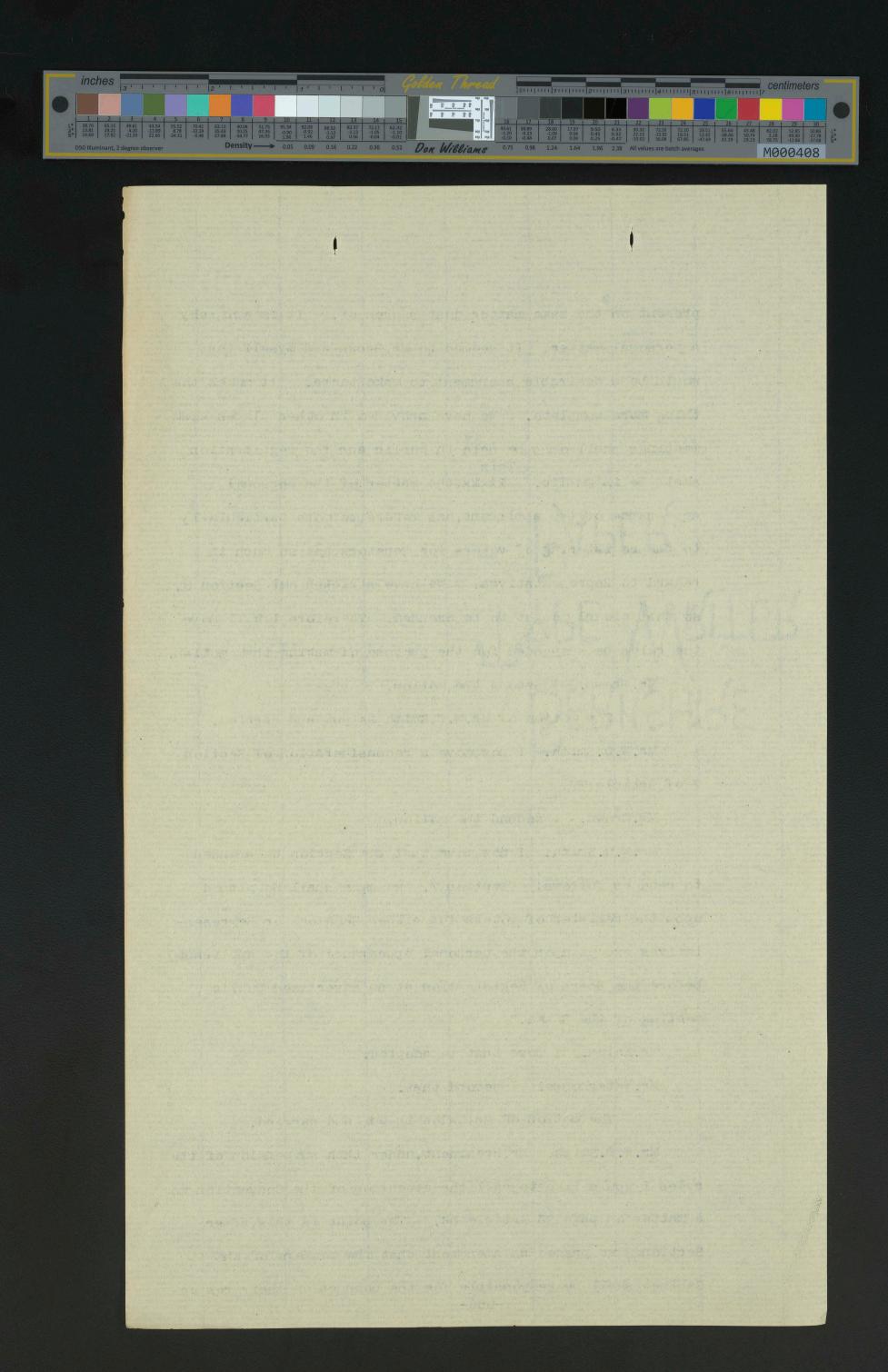
Mr. Kalua. I move that be adopted.

Mr. Waterhouse. I second that.

The motion of Mr. Kalua is put and carried.

Mr.W.O.Smith. Mr.President, under this suspension of the rules I would like to call the attention of the Convention to a matter on page 23 Article 34. The point is this, after Section 2 we passed an amendment that the members of the Cabinet shall be responsible for the conduct of their respec-

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tive departments and with the approval of the President, shall have the appointment and removal of the following heads of bureaus, the idea being that the appointment and removal of heads shall be with the approval. Then in the next section, each head they, shall be responsible for the conduct of the bureau and have the appointment of appointment, leaving out removal.

The President. How about lines 30 and 31?

Mr.W.O.Smith. K did not notice that last line. I

think that covers every point I want to put in.

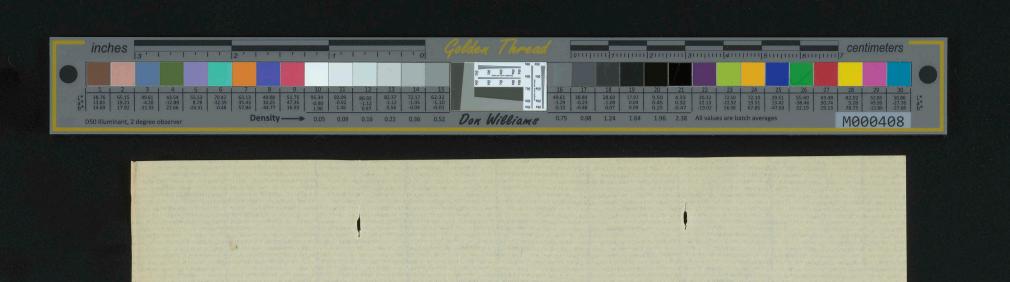
Mr.McCandiess. Mr.President, the rules are still suspended I believe. I move that in place of Article 16 on page 13 we substitute the following: "Them national ensign shall not be changed except by act of the Legislature"

I think there are some good things in the old Constitution and this is one of them. I do not believe in tying this up.

The President. The motion adopting the report of the Committee of the Whole was reconsidered at the end of the session yesterday. The motion was laid over until today. This is the business now before the house.

Mr.Kalua. Mr.President, I move to amend the report of the the Committee of the Whole to the Convention in that part relating to Article 19 by striking out the addition that was made to it, "except the right to vote".

Mr.Carter. Mr.Chairman, I move to amend the report of the Committee of the Whole by substituting for the words "the right to vote" in Article 19 at the end of the Article the words "the right to be President and member of the Cabinet or the Legislature", so the Article shall conclude as follows: "and shall thereupon become entitled to all the rights, privileges and immunities of a citizen except the



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right to be President and member of the Cabinet or the Legislature."

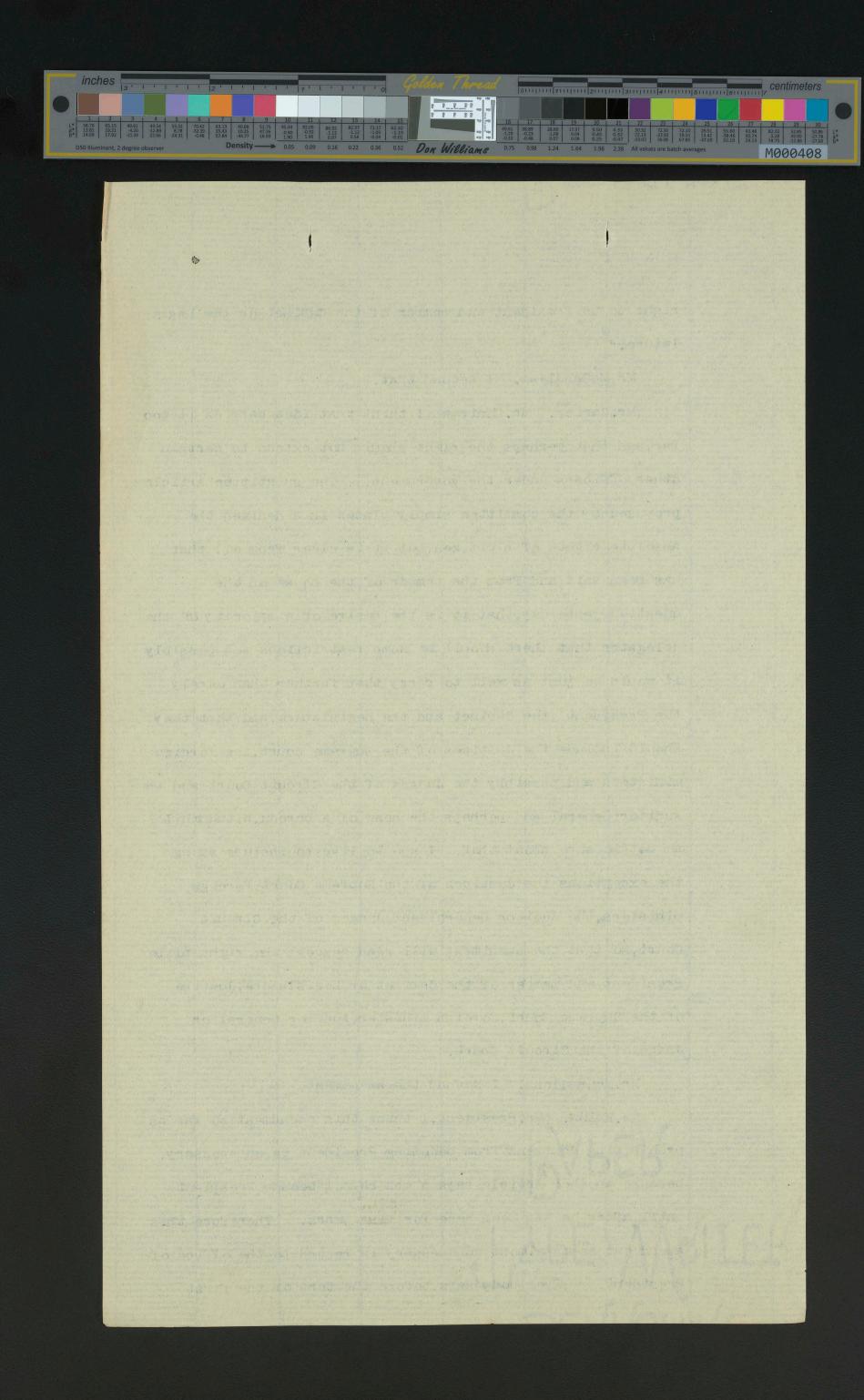
Mr.McCandless. I second that,

Mr. Carter. Mr. Chairman, I think that idea carries it too far, and that perhaps the right should not extend to certain other officers under the government. The substitute Article proposed by the committee simply places in a denizen the absolute rights of a citizen, but it is clear from all that has been said and from the temper of the house on the question yesterday, that it is the desire of a majority of the delegates that there should be some restrictions and possibly it would be just as well to carry that farther than merely the President , the Cabinet and the Legislature, and that they should include the Justices of the Supreme Court, the foreign ministers and possibly the Judges of the Circuit Court and the Auditor General and perhaps the head of a bureau, although I am not so sure about that. I should like to include among the exceptions the Justices of the Supreme Court, foreign ministers, the Auditor General and Judges of the Circuit Court, so that the ameniment will read "except the right to be President and member of the Cabinet or Legislature, Justice of the Supreme Court, foreign minister, Auditor General or Judge of the Circuit Court."

Mr.McCandless. I second the amendment,

Mr.Kalua. Mr.President, I think this amendment so far as prohibiting denizens from becoming President is unnecessary, because another Article says a man cannot become President until after he has been here for the years. Therefore this amendment seems almost unnecessary in regard to the office of President. Everybody says before the term of the first

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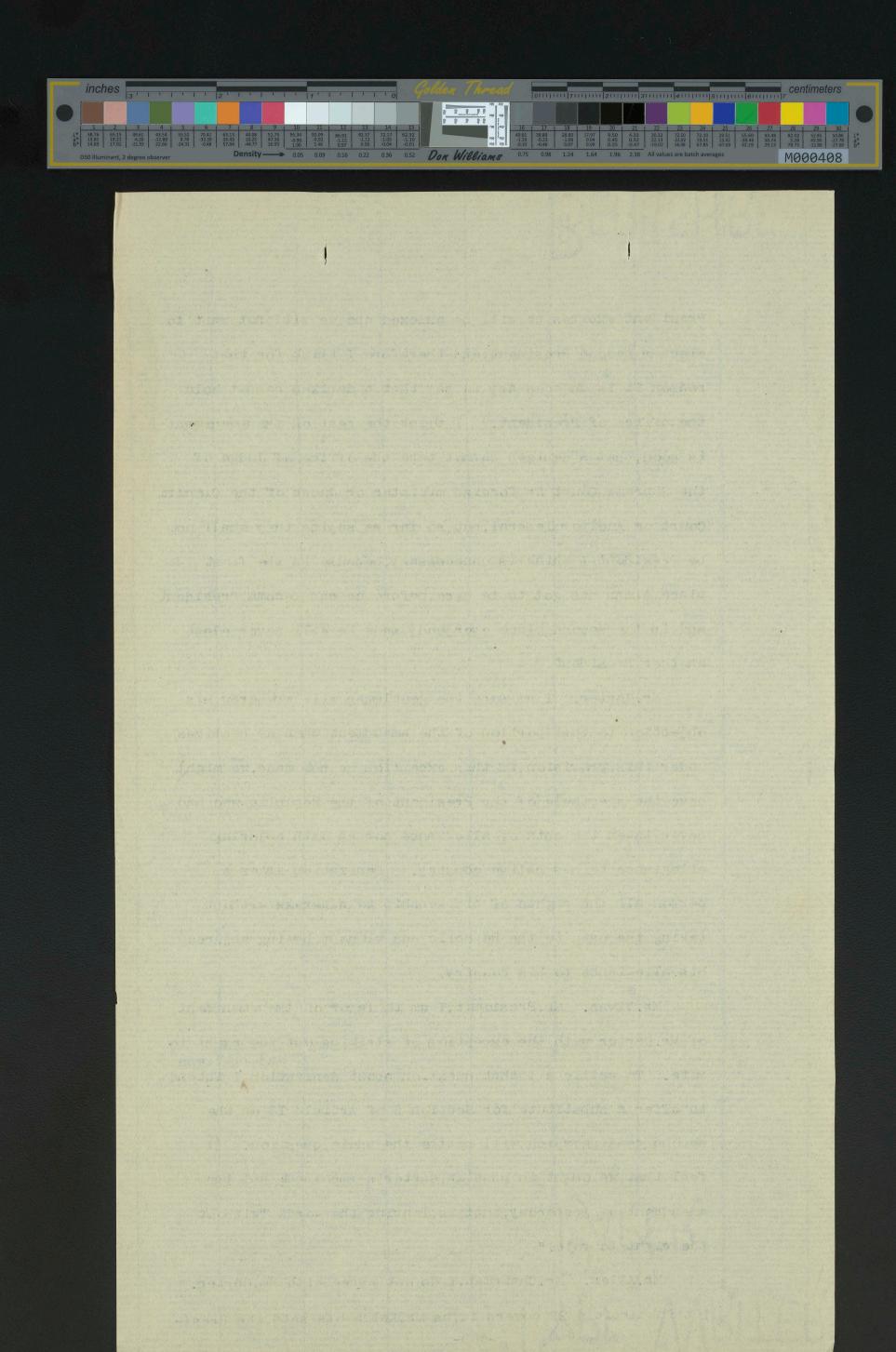
President expires we will be annexed and we will not want to elect a second President, and therefore I think for that reason it is unnecessary to say that a denizen cannot hold the office of President. I think the rest of the amendment is good, that a denizen cannot take the office of Judge of the Supreme Court or foreign minister or Judge of the Circuit Court or Auditor General, but so far as saying they shall not be President I think is unnecessary, because in the first place a man has got to be here before he can become President and in the second place everybody says we will never elect another President.

Mr.Carter. I am sure the gentleman will withdraw his objection to that portion of the amendment when he realizes under this provision, if this exception be not made, we might have the spectacle of the President of the Republic who had never taken the oath of allegiance nor an oath abjuring allegiance to his native country. Denization gives a person all the rights of citizenship kaxaxaxaxax without taking the oath to the Republic and without having abjured his allegiance to his country.

Mr. Vivas. Mr. President, I am in favor of the amendment of Mr. Carter with the exception of striking out the right to and citizens vote. To settle all that question about denization, I intend to offer a substitute for Section 5 of Article 18 on the second reading, which will settle the whole question. I feel that we ought to pass Mr. Carter's amendment and the amendment of yesterday, that is, leaving the words "without the right to vote."

Mr. Allen. Mr. Chairman, I do not agree with Mr. Carter.

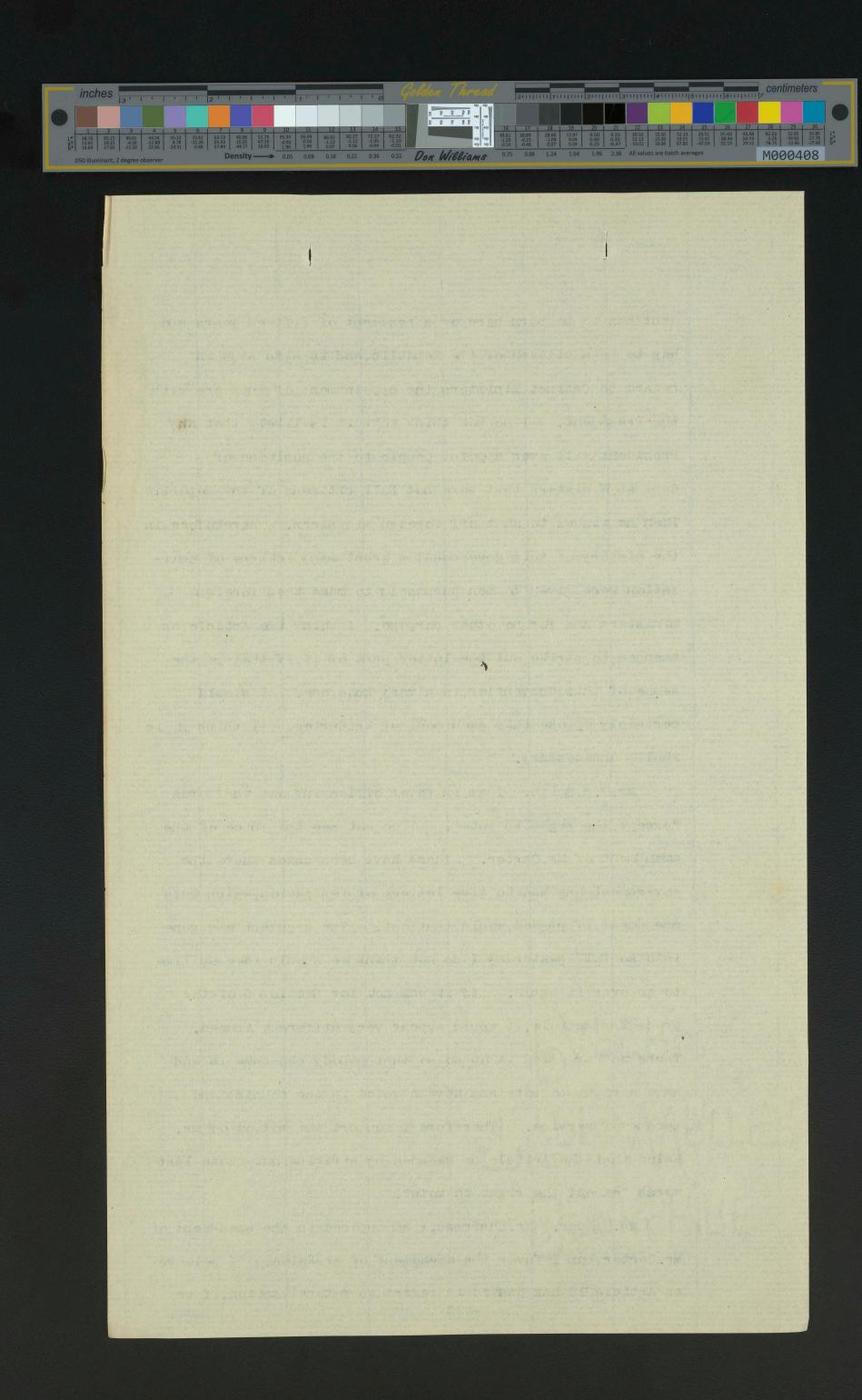
I think Article 22 covers it, as Mr. Kalua has said, the Presi-



dent has to be born here or a resident of fifteen years and has to be a citizen of the Republic, and it also says in regard to Cabinet Ministers the appointment of them are with the President. I do not think that it is likely that any President will ever appoint people to the position of Cabinet Ministers that were not full citizens of the Republic. Then he wishes to shut off foreign ministers. Heretofore in the history, of this government a great many letters of denization were given to men purposely to make then foreign ministers and for no other purpose. I think the Article as amended to strike out the latter part of it, if that is the sense of this Convention, is a very good one. I should certainly oppose this amendment of Mr. Carter. I think it is wholly unnecessary.

Mr.W.O.Smith. I am in favor of leaving out the words "except the right to vote". I do not see the force of the amendment of Mr.Carter. There have been cases where the government has had to give letters of demization, which this amendment, if passed, would shut out. The argument was gone into so full yesterday I do not think we should take up time to go over it again. If it was not for Section 5 of the preceding Article, it would appear very different indeed. There we have tied it up so so that nobody can come in and have a right to vote and have a voice in the country and become of service. Therefore I support the motion of Mr. Kalua that the Article be amended by striking out those last words "Except the right to vote".

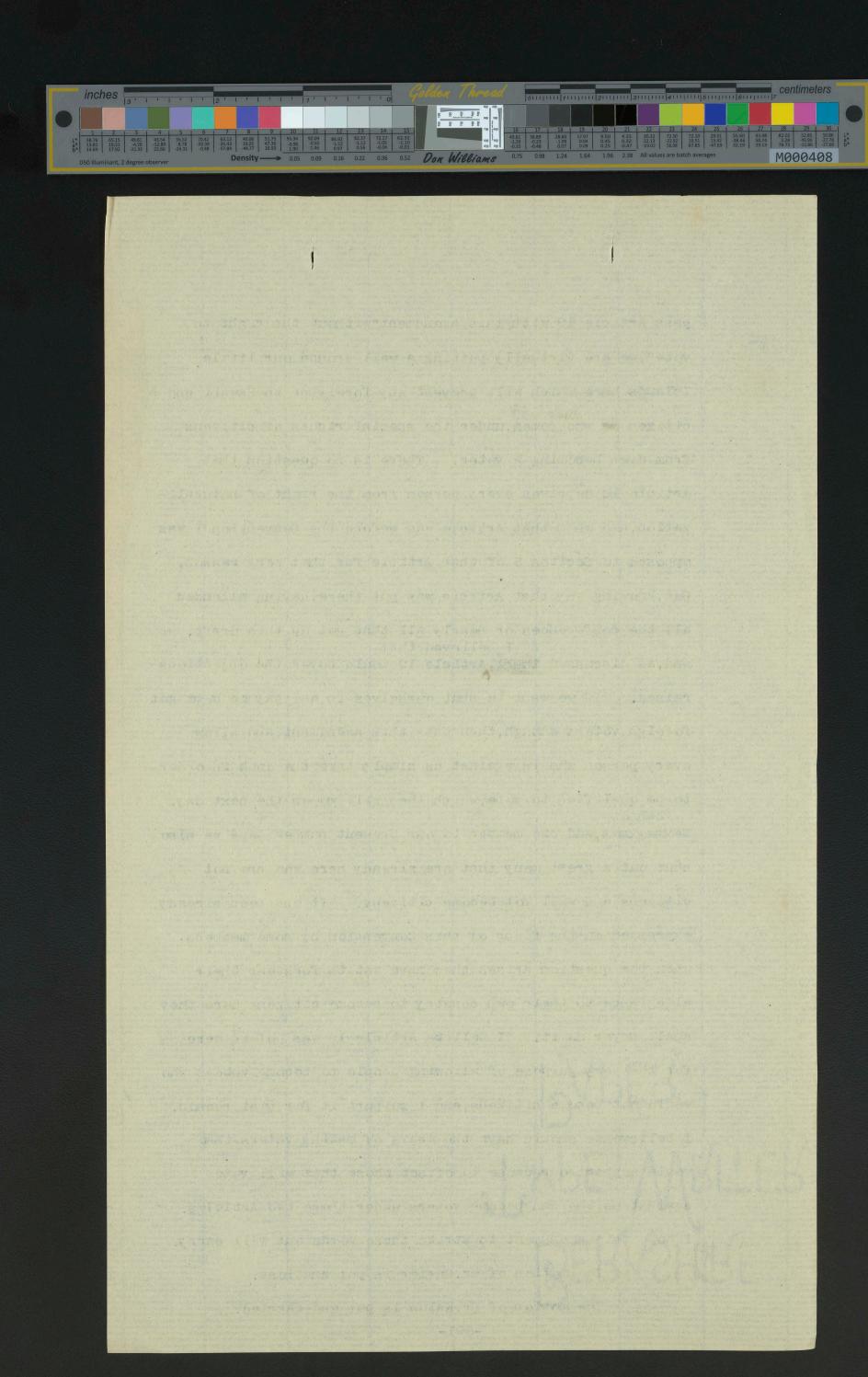
Mr. Wilder. Mr. Chairman, I am opposed to the amendment of Mr. Carter, but I favor the amendment of Mr. Kalua. I believe as Article 18 has passed in regard to a turalization, if we -690-



pass Article 19 with this amendment "without the right to vote", we are virtually putting a wall around our little Islands here which will prevent any foreigner in Hawaii and a citizen who comes under the special rights of citizens from ever becoming a voter. There is no question that Article 18 deprives every person from the right of naturalization, and when that Article was before the Convention I was opposed to Section 5 of that Article for that wery reason. But, knowing why that Article was put there, having attended all the conferences or nearly all that got up this draft, I believed that and, as discussed there; Article 19 would cover the objections If we want to shut ourselves in and say we have got foreign voters enough, then pass this amendment, and allow every person who is against us simply take the oath in order to be qualified to vote, which they will do on the next day. Wexneyxxxx add one member to our present number and we also shut out a great many that are already here who are not citizens and will not become citizens. It has been already expressed on the floor of this Convention by some members when the question arises they have got to forswear their allegiance to their own country to become citizens here they shall never do it. I believe Article 19 was put in here for the very purpose of allowing people to become voters who would not become citizens, and I support it for that reason. I believe we should have the means of making voters that would support our cause to offset those that will vote against us who can become voters under those two Articles. I hope this amendment to strike these words out will carry.

The motion of Mr. Carter is put and lost.

The motion of Mr. Kalua is put and carried.



Mr.Kalua. I move that the report of the Committee of the Whole be adopted as amended.

Mr.Carter. Mr.Chairman, I have another amendment to offer to the report of the committee. In Article 58 in line 8 I move that the report of the committee be amended by striking out the word "five" and substituting the word "three".

Mr. Wilder. I second that motion.

extremely inconsistent for this assembly to throw down, as it did, the guards about the matter of Senators, which were recommended by the Executive, and then pile this up upon Representatives. I think one year longer than the term an required for naturalization is ample protection. I trust this amendment will prevail.

The motion of Mr. Carter is put and carried.

Mr.Kalua. I now move that the report of the committee be adopted as amended.

Mr. Waterhouse. I second it.

The motion of Mr. Kalua is put and carried.

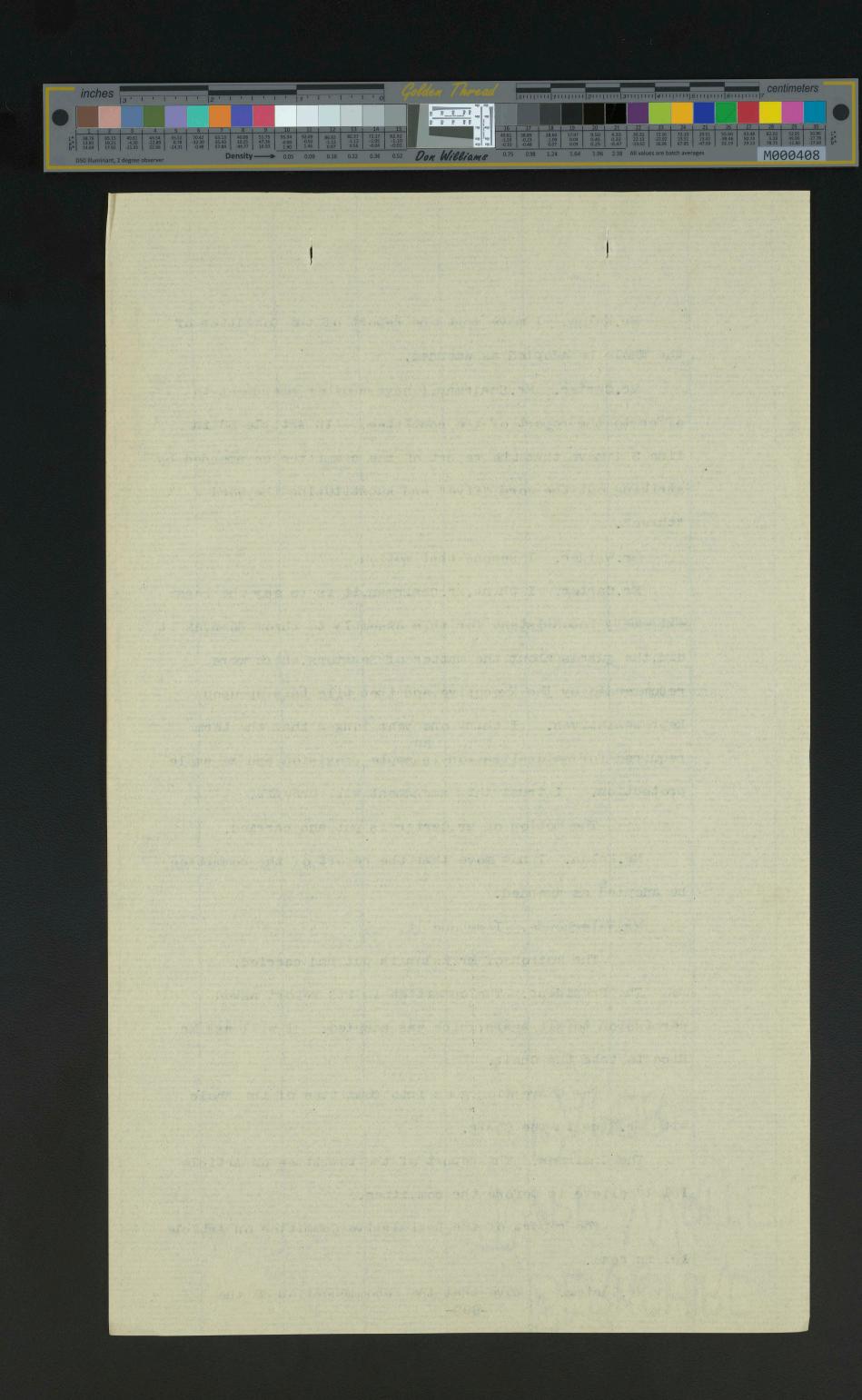
The President. The committee in its report asked permission to sit again, which was adopted. I will ask Mr. Rice to take the Chair.

The Convention goes into Committee of the Whole with Mr. Rice in the Chair.

The Chairman. The report of the committee on Article
101 I believe is before the committee.

The report of the Legislative Committee on Article
101 is read.

Mr.Carter. I move that the recommendation of the



committee be adopted.

Mr. Vivas. I second it.

The motion of Mr. Carter is put and carried.

Mr. Kalua. There is nothing more except to dispose of the question on female suffrage, and I understand the chairman of that committee has called a meeting of that committee this afternoon. Therefore I move that the committee rise, report progress and ask leave to sit again.

Mr. Vi vas. I second that.

The motion of Mr. Kalua is put and carried.

The Committee rises.

Mr. Rice as Chairman of the Committee of the Whole transacted reports the business as hereinbefore set forth.

Mr. Waterhouse. I move that the report be laid upon the table.

Mr. Baldwin. I move the report be adopted.

Mr. Allen. I second the motion.

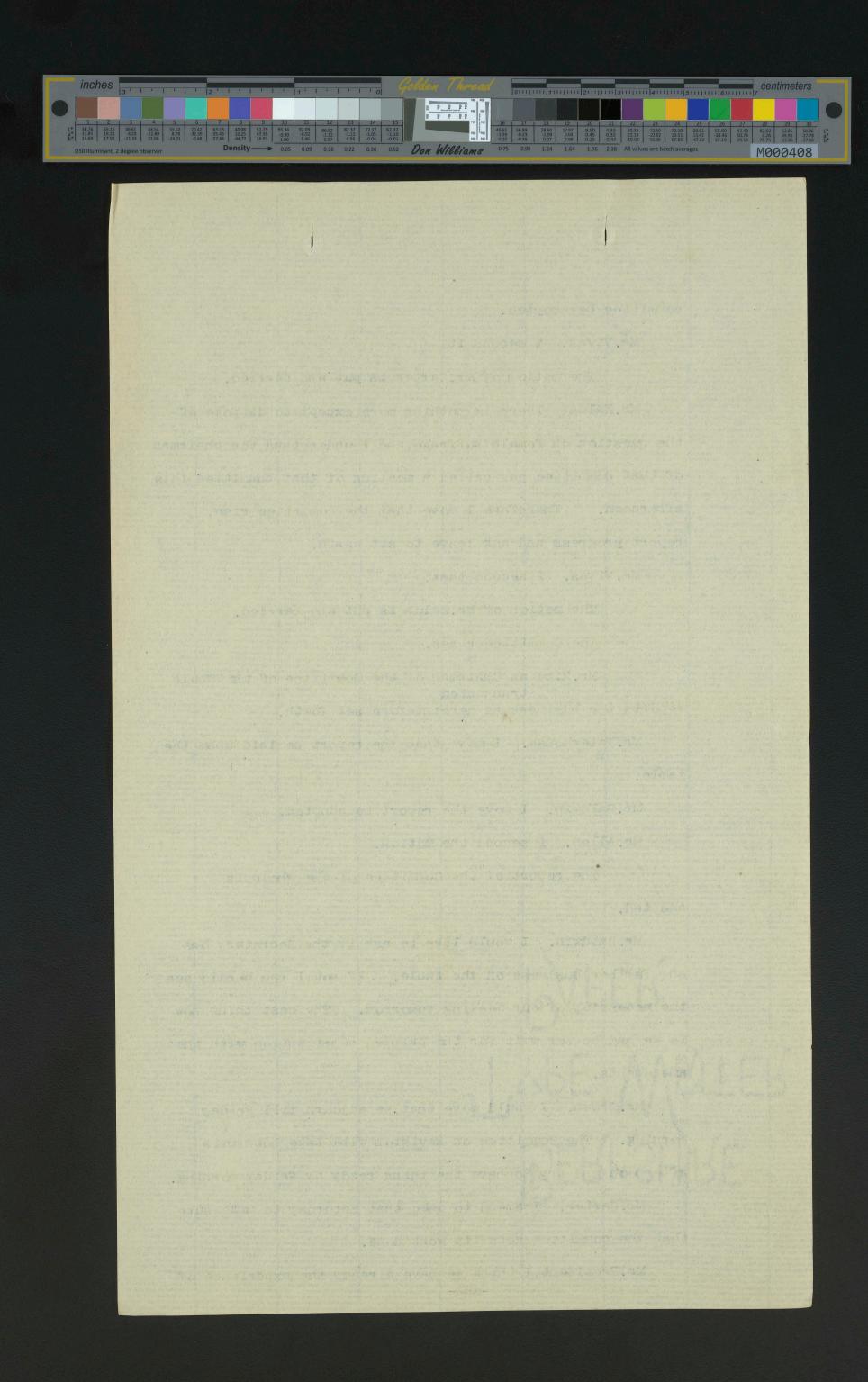
The report of the Committee of the Whole is adopted.

Mr. Baldwin. I would like to ask if the Secretary has any further business on the table. If not, I can hardly see the necessity of our meeting tomorrow. The best thing now is we had better wait for the printed constitution with the amendments.

Mr. Brown. I would move that we adjourn till Friday morning. The Committee on Revision will take hold this afternoon and try to have the thing ready by Friday morning.

Mr. Carter. I amend to make that Saturday to make sure that the committee gets its work done.

Mr. President, I think we have already the experience of



the disadvantage of taking up the draft of the Constitution that is only in piecemeal. I think it is far better to give the Committee on Revision ample time and let them have the whole work before us, so that we can go fairly to work upon it and expedite the passage of the document on the second reading.

Mr. Brown. I move the house twill Monday morning.
Mr. Ena. I second the motion.

Mr.Brown. Then we can finish it in a week and we can have the Constitution ready to be promulgated on the 4th day of July, 1894. (Applause.)

Mr.W.O.Smith. We want to get through the work as soon as possible, and by Friday morning if the work is ready why not go on that day? There may be something in regard to woman suffrage that will want to be mentioned. I think more time will be saved by adjourning to Friday, and if not ready then we can adjourn to Monday.

Mr.D.B. Smith. The Convention is respectfully invited to attend a meeting of the American League tonight.

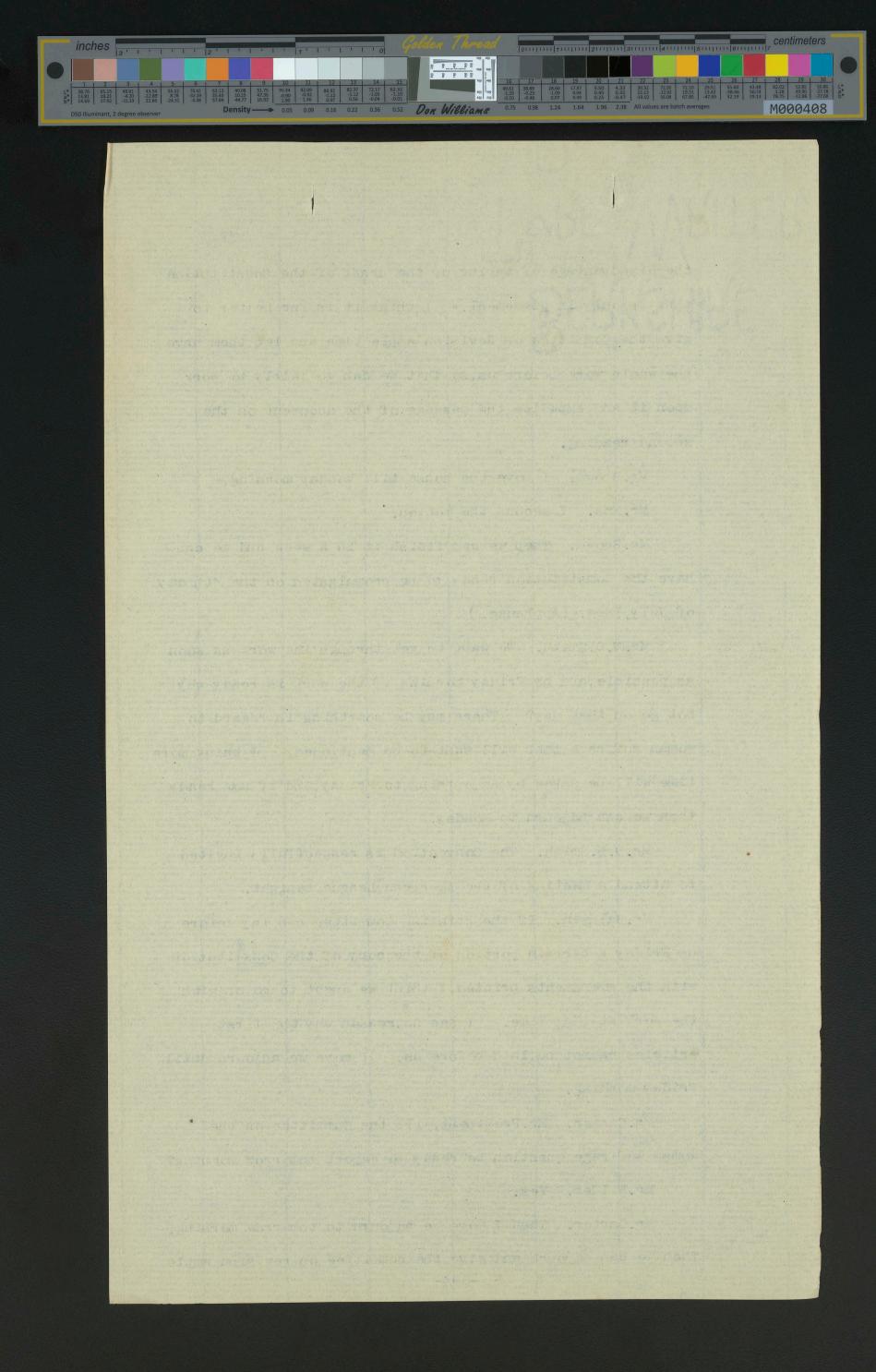
Mr.Baldwin. If the Printing Committee can lay before us Friday a certain portion of the copy of the Constitution with the amendments printed, I think we ought to go on with the work at that time. I see no reason why the first articles cannot be laid before us. I move we adjourn until Friday morning.

Mr. Carter. Mr. President, will the Committee on the 'woman suffrage question be ready to report tomorrow morning?

Mr. Wilder. Yes.

Mr.Carter. Then I move we adjourn to tomorrow morning.

Then we can adjourn and give the committee on revision ample



time to prepare the draft.

Mr. Brown. I accept that amendment.

At 11.20 A.M. the Convention adjourned to 10 A.M.

tomorrow.

